

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

<b>In the Matter of the Nebraska Public</b>	)	
<b>Service Commission, on its Own Motion,</b>	)	<b>Application No. NUSF-108</b>
<b>to make adjustments to its high-cost</b>	)	<b>Progression Order No. 6</b>
<b>distribution mechanism and make</b>	)	
<b>revisions to its reporting requirements.</b>	)	
	)	

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**INITIAL COMMENTS OF WINDSTREAM**

Windstream Nebraska, Inc. and its affiliates (“Windstream”) hereby respectfully file these comments as permitted by the Order Opening Docket and Seeking Comment (the “Order”) issued by the Nebraska Public Service Commission (“Commission” or “PSC”) on April 21, 2021, and state as follows:

**I. Introduction**

Windstream appreciates the opportunity to provide comments in this docket and supports the Commission’s continued evaluation of Nebraska Universal Service Fund (“NUSF”) high-cost programs. The Order solicits comments on a number of aspects of the NUSF high-cost programs, but Windstream’s comments will focus on ongoing support, speed requirements, the state broadband cost model, and affordability of service offerings.

**II. Response to the Commission’s Questions**

**A. Ongoing Support**

Windstream reiterates its support for transitioning all NUSF programs to a grant-based process and prioritizing deployment of broadband services in underserved and unserved areas in Nebraska. Ongoing support is certainly contemplated under the NUSF. Unfortunately, we continue to see some carriers making a windfall with funds they receive from the federal and state universal service funds. These windfalls are used to provide payouts to coop members or customers, and to overbuild in areas outside of the carriers’ territories. It is clear such surplus funds – at least partially

– exist in part due to the support received from the federal and state universal service funds. Carriers are well aware of the limited funds available in the NUSF. Windstream continues to strive to be a good steward of the NUSF by upgrading or expanding services in areas where the most people can benefit with the least amount of cost to the NUSF. These projects serve the spirit and purpose of the NUSF. Payouts to coop members and overbuild of other provider territories do not.

Accordingly, Windstream recommends reducing or eliminating ongoing support allocations. The PSC has already begun to move toward more grant-based support, and both the executive and legislative branches have shown a strong preference for new broadband infrastructure investments. For example, Governor Ricketts established the Remote Access Rural Broadband Grant program with dollars received under the federal Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) to support buildout of fiber-to-the-home projects and stewarded introduction of the Nebraska Broadband Bridge Act (LB388 (2021)) to provide additional grant funding for scalable broadband projects. The Unicameral recently passed LB388 into law. In addition, the Unicameral passed LB338 (2021), which increased the minimum speed requirement for advanced telecommunications services and directs NUSF funds going to new broadband infrastructure be committed to scalable, high-speed projects. The Order rightly points to legislation introduced during the 2021 session as a guide for where state policymakers are focused, and such legislation conforms with recent efforts already made by the Commission. The Commission should continue its work to promote fiber deployment via grant-based programs.

## **B. Speed Requirements**

Given the passage of LB338, questions asked in the Order regarding minimum speed requirements are largely moot. However, Windstream recommends the Commission establish more detailed guidelines for speed test results submitted under Section 5 of LB338, either to create

a standard set of criteria for requested speed tests or establish what criteria must be included in a request from the Commission to conduct speed tests. Section 5 only requires speed tests “be conducted for one week using a random sample of locations of consumers who subscribe to services provided over infrastructure for which ongoing high-cost support is received.” Helpful criteria for satisfying a request might include how many locations must be tested, when or how frequently a speed tests must be performed, and the geographic scope of the speed test, if necessary.

### **C. State Broadband Cost Model**

Windstream recommends the Commission retain the current State Broadband Cost Model (“SBCM”), but revisit the SBCM in the next few years. As noted in the Order, the Federal Communications Commission’s (“FCC”) implementation of the Digital Opportunity Data Collection mechanism will collect more detailed data regarding broadband deployment. As the mechanism is more widely utilized, the PSC may find that it can rely on data from the FCC without a need to supplement with its own data collection effort. Alternatively, the Commission may find that a more concerted effort needs to be made to increase use of the FCC Speed Test app by Nebraska consumers – either through an initiative of the PSC or in partnership with in-state carriers.

Contemporaneous to the FCC data collection effort, carriers are also benefiting from a large influx of federal and state support for broadband deployment, particularly fiber-to-the-home. CARES Act funds, support from the Rural Digital Opportunity Fund (“RDOF”), and likely funds from the American Rescue Plan of 2021, are all being used to expand high-speed broadband access for underserved and unserved areas of Nebraska. Completion of projects supported with these dollars, including funds from the NUSF, are likely to significantly change the broadband landscape

in Nebraska within a relatively short period of time. Moreover, access to utilize licensed spectrum and continued improvements in fixed wireless products continue to create opportunities to improve existing fixed wireless infrastructure as a complement to fiber-to-the-home projects. These factors suggest the PSC may find that speed tests for broadband delivered by older forms of fixed wireless equipment become less critical in the coming years.

#### **D. Affordability of Service Offerings**

Windstream agrees that affordability of service is an important component to broadband adoption though the extent to which affordability is a barrier to broadband access has not yet been clearly quantified. Windstream recommends the Commission undertake a study to better determine the scope of the problem before endeavoring to create parameters or benchmarks for carriers. Existing programs such as the Lifeline and Emergency Broadband Benefit Program may be sufficient to address affordability barriers. Likewise, there may be a federal affordability program implemented in the near future which could provide additional support to consumers.

### **III. Summary**

For the reasons stated above, Windstream urges the Commission to reduce or eliminate ongoing support from the NUSF and move entirely to grant-based programs. In addition, the Commission should consider the ongoing impact of increased state and federal support on the evolution of the broadband landscape in determining what and when reforms may be appropriate. Finally, Windstream encourages the Commission to conduct a more comprehensive study of the role affordability plays in expanded broadband deployment.

Respectfully submitted this 28th day of May, 2021.

WINDSTREAM NEBRASKA, INC.,

*s/ Mary Jacobson*

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**Certificate of Service**

The undersigned hereby certifies that on this 28th day of May, 2021, one (1) paper copy of the foregoing Initial Comments of Windstream was delivered to the Nebraska Public Service Commission at 1200 N St. #300, Lincoln, NE 68508 via first class mail and an electronic copy was emailed to the following:

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*s/ Mary Jacobson*

Mary Jacobson