

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)
Public Service Commission, on its)
own motion, to consider)
implementing a program to)
incentivize new fiber construction)
for E-Rate eligible entities.)
)

Application No. NUSF-117
Progression Order No. 1

ORDER SEEKING COMMENT

Entered: April 11, 2023



REPLY COMMENTS FROM EDUCATIONAL SERVICE UNIT 9

Regarding the Issues for Comment in NUSF-117, Progression Order No. 1, I have chosen not to address them in order, but instead to use real experiences to explain my thoughts on the various issues in the form of multiple scenarios. To clarify my comments, I will parenthetically cite the issues (*Issue #*) at the proper locations in the explanation. In the interest of disclosure, a component of my work is to act as an E-rate consultant for area schools.

Regarding Fiber Projects and Bidding Processes

Currently, NUSF-117 funds only new fiber construction that is also approved by the federal E-rate program. The following experience happened in 2016 but would match the conditions for participation in the program if it happened today.

One of my schools, called "Anytown Elementary School" for this illustration, worked with me as an E-rate consultant to procure fiber in 2016. The district has an 80% discount on E-rate applications. School administration chose to connect the school to another building in the district rather than request separate fiber service for each building, and had worked with the city to acquire permission to utilize existing poles. Five bids were received. While the incumbent carrier did not bid, it is possible that some bids were from a PSC Certificated Carrier. As allowed by E-rate, the bids were a mix of leased lit fiber, leased dark fiber, and self-provisioned fiber. (E-rate also requires entities to entertain qualifying non-fiber bids, but none were received.) In this case, the self-provisioned fiber bid was less than half the price of the next-lowest bid, and was one-third of the other bid that included Special Construction costs as encouraged by NUSF-117.

Anytown Elementary School wisely chose the least cost solution, and would have been hard pressed in any scoring rubric to select any other option. Still, in the current environment and presuming a Certificated Carrier, the school could have chosen the other Special Construction bid with a \$0 out-of-pocket cost instead of the chosen solution where they had to pay 20%. Due to situations like this one, I would encourage the PSC to consider alternative providers to Certificated Carriers (*Issue 4*) in the instance where an E-rate evaluation favors leased dark or self-provisioned fiber. The PSC could require evidence of federal E-rate invoicing and/or reimbursement prior to PSC reimbursement of the applicant in these circumstances, avoiding direct payment to providers who are not Certified by the Commission.

Additionally, the use of an E-rate consultant is not to be taken lightly. Roughly 30% of Nebraska public libraries apply for E-rate, while all Nebraska public K-12 schools do so. A significant number of schools use E-rate consultants to complete the paperwork. After factoring the cost of a consultant, schools recognize that while they have to subtract consultant fees, they still save money through receipt of E-rate funds which only occurs when paperwork is completed properly. Further, relative to other applications, fiber installations contain a more cumbersome review process and are intimidating to applicants. Adding the timing and additional paperwork of the NUSF-117 application process complicates things even more. If the Nebraska Library Commission and regional libraries share the Commission's goal of increasing applications (**Issue 1**), they would do well to work with and recommend E-rate consultants for these applications. Regional consortia working with independent E-rate consultants would be the fastest way to implement the desired increase in participation. If a consultant is well-chosen and works for the best interest of the libraries, it should also be the most efficient use of taxpayer funds. While the process described is not the business of the Commission, I believe it to be the best answer to the questions asked regarding Nebraska E-rate Program participation (**Issue 1**).

Regarding Libraries and Broadband Priorities

The Governor has declared his commitment to broadband and to community anchor institutions specifically in a visit to the Clay Center Public Library on April 26. Knowing the level of that commitment and the degree of interest that will generate, the PSC should anticipate renewed interest in NUSF-117. A deadline extension at least through the time frame associated with the Broadband Office initiative to connect libraries and/or other anchor institutions is completely appropriate (**Issue 3**). An ongoing commitment would not be out of line. Finally, while all libraries will benefit from having fiber connectivity, a connected statewide network such as the schools utilize is likely not necessary and the associated staffing through Network Nebraska membership fees is certainly not affordable for most libraries. Any coordinated library bid process should be appropriate to the difference between library and school needs. (**Issue 1**)

Library funding in small communities can be a significant issue, so the Commission consideration increasing the State match to federal E-rate dollars is appropriate (**Issue 2**). The same concept applies to any schools who do not yet have fiber connectivity. While it is difficult to know whether automatically matching special construction costs to 100% is the best solution, current participation levels suggest that could be achieved without over-burdening the fund. If the Commission wishes to consider a middle alternative, I encourage an upper threshold. It could be in the form of a required local match (e.g., 10% for all entities whose E-rate discount is 60% or lower) or a maximum (e.g., 30% of the project total) that would be paid by the Nebraska E-rate fund. Allowances reducing the match requirement could be made for any projects with excessively high cost if such a definition can be established.

Regarding NUSF-117 Extension and Expansion

Fiber connectivity turns out to be only part of the equation. An Internet connection contains an ongoing cost. If not included by the fiber provider, firewall and internal wireless (and wired?) technologies are also important. Further, they are allowed expenses in the federal E-rate

program (*Issue 2*). As mentioned before, schools and consortia have organized around this program and apply regularly. Given that federal E-rate offers no separation between school and library applications, can the Commission arbitrarily do so? If not, the Commission should strongly consider that any match to existing Category 1 and 2 applications beyond Special Construction could quickly deplete allocated funds.

The PSC need not concern itself with E-rate Category 2. Other potential sources of funding are available that line up with internal infrastructure expenses for libraries who need them. For instance, rural libraries can benefit from USDA RUS grants such as the Distance Learning and Telehealth Program and the Community Connect Program. The Nebraska Broadband Office or other agencies could identify opportunities for the State to designate matching funds for these grants to enhance internal connectivity in libraries and other community anchor institutions if such a need is established in its planning process. Furthermore, any foray into federal Category 2 matching funds would quickly demonstrate a need for an alternative to the Certificated Carrier reimbursement (*Issue 4*), which would greatly increase the administrative burden of the PSC and bring up other questions regarding suppliers who maintain no presence or office in Nebraska.

On the other hand, NUSF-117 could be reasonably expanded to assist any entities who are currently “Unserved” or “Underserved” in their Internet connectivity (*Issues 1, 2, and Other*). Because most libraries do not apply for E-rate, the best source of library connection data is the annual and publicly available Nebraska Library Commission survey. Unfortunately, the categories of bandwidth in the survey do not line up with common broadband measurements used elsewhere, such as the 25 Mbps down / 3 Mbps up federal threshold, below which Nebraska considers to be “Unserved,” or the 100 Mbps down/100 Mbps up Nebraska threshold, below which is “Underserved.” Even so, 74 libraries are at 24 Mbps or below, with another 48 at 50 Mbps or below (See Table). The vast majority (65) of Unserved libraries are in rural communities less than 1,000, forcing patrons without service at home to travel farther for access.

Library Internet Connection Type	
Fiber Optic	95
Cable	37
Satellite Broadband	4
DSL	63
Area Wireless	26
Other - specify using the State Note	3
Library Connection Speed	
1.5 Mbps or less	7
1.51 Mbps - 3.0 Mbps	11
3.1 Mbps - 6.0 Mbps	9
6.1 Mbps - 12.0 Mbps	15

12.1 Mbps - 18.0 Mbps	14
18.1 Mbps - 24.0 Mbps	9
18.1 Mbps - 24.0 Mbps	9
24.1 Mbps - 50.0 Mbps	48
50.1 Mbps - 100.0 Mbps	61
100.0 Mbps - 1 Gbps	48
Over 1 Gbps	3
Unservd (<25Mbps)	74

For the more than half of Nebraska libraries whose broadband is considered unserved or underserved (and any underserved schools), the Commission could consider assisting with a portion of costs not covered by E-rate. Assist with upgrades should remain the purpose; the assistance should only apply to new or upgraded connections that move an entity into “adequate” service. To achieve the goal quickly, such funding should also be made available regardless of the technology used (*Issue 2*). While library funding is generally paying for existing service, perhaps the library budget is not large enough for an upgrade. At the same time, only 30% of libraries are utilizing federal E-rate funds (*Issue 1*).

Funding the upgrade on a graduated schedule (for instance, 75% of the cost after federal USF reimbursement the first year, 50% the second, and 25% the third) would encourage libraries to simultaneously pursue a bandwidth upgrade and begin to utilize the E-rate process. Each library would have multiple years of NUSF-117 funds to assist with any budget issues while also growing accustomed to the federal E-rate process for longer term support. Further, the Certificated Carrier reimbursement process would not need to be revised (*Issue 4*). (I would encourage the same reimbursement exceptions for self-provisioned networks as noted earlier.) If implemented, the Commission should also consider whether any entity should be allowed to utilize both Special Construction and this new aspect of NUSF-117.

Final Remarks

In conclusion, NUSF-117 has thus far served a small number of entities well, and now with an established process, the fund can now be increasingly used for other entities in need of connectivity upgrades and enhancements. Continuing the fiber Special Construction Program and beginning an Unserved / Underserved Entity Program could help E-rate eligible entities continue their role as anchor institutions for broadband use in Nebraska without an undue burden on NUSF funds or administrative processes. NUSF-117 also lines up with other State priorities as emphasized recently by the Governor and the Broadband Office.

Respectfully Submitted,
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