

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

In the matter of the Petition of the )  
Nebraska Telecommunications Association )  
For Investigation and Review of Processes ) Application No. NUSF-77  
And Procedures Regarding the Nebraska )  
Universal Service Fund )

COMMENTS IN RESPONSE TO PROGRESSION ORDER NO. 9

ON BEHALF OF

WINDSTREAM NEBRASKA, INC. (“WINDSTREAM”)

October 11, 2013

### **Windstream's Comments**

Windstream hereby files the following responses to questions posed by the Nebraska Public Service Commission ("Commission") on October 1, 2013. The Commission set forth a series of questions for public comment addressing various types of caps. In response, Windstream proposes that the Commission impose a presumptive minimum for funds available to wireline technology and proposes middle-mile fiber projects that address copper-fed central offices be considered a Priority 1 wireline (fiber) request. The Commission should adopt a mechanism to assure that the limited funds are appropriately assigned to a variety of technologies to encourage diversity of broadband in Nebraska. It is critical that the Commission focus resources on those communities where all residents are limited to copper-fed facilities and thereby are severely constrained in how they can benefit from broadband offerings. Windstream also argues that the Commission should not impose a funding cap based on an individual company, the size of an individual project, or the cost per household associated with any project.

**1. Should the Commission institute a company cap which would limit the amount of support awarded to a single company? Such a cap would be utilized after the Commission staff prioritized the projects and would be used to ensure that funding was available to more than one or two applicants in a given funding year.**

**a. If you recommend a company cap should be utilized what is the appropriate company cap percentage?**

For reasons articulated in response to 1.c. below, Windstream does not recommend that the Commission adopt a cap on an individual company's support.

Windstream, however, does recommend that the Commission ensure that at least 50 percent, if not more, of the NEBP funding available in 2014 is dedicated to wireline providers' deployment of robust fiber facilities – which effectively would mean that wireless entities funding should be equal to less than 50 percent of funds available. Deploying fiber deeper into

rural areas will produce significant benefits efficiently for both wireline and wireless end user consumers. Wireless broadband consumers would collaterally benefit from the wireline providers' newfound ability to offer wholesale fiber connectivity to wireless towers, as wireless providers will be able to expand their broadband reach by leveraging fiber deployments enabled by wireline providers' receipt of Nebraska funds.

A historic imbalance in funding by technology, especially when considered with the described benefits of middle mile fiber, also favors the proposed wireline minimum allocation for 2014. While the Dedicated Wireless Fund began in 2008 and has awarded \$30M from 2008 to 2013 exclusively to wireless carriers for expanding coverage in rural Nebraska, the NEBP – which is not exclusive to wireline, but at least permits wireline applications – did not begin offering funds until 2012. So far only \$2.2M in Nebraska funding has been awarded to wireline providers, while nearly \$32M has been awarded to wireless providers.

*b. If the Commission imposed a 20% cap for example, a single company would be limited to \$1.8 million in NEBP support for 2014. Would 20% be an appropriate company cap? Please explain.*

**c. If you do not believe a company cap should be used, please explain.**

Windstream does not recommend a cap on the amount of funding a single company may receive. The proposed cap may prove counterproductive to the primary NEBP objective of ensuring that Nebraska consumers realize benefits of universal service in the form of reasonable access to and rates for advanced services. A company cap may pose an undue deterrent to beneficial proposals, not based on the merits of the proposal, but simply because a company's total request in a given year may be determined to be too great. Likewise, a one-size-fits-all cap could lead to rejection of projects that offer greater consumer benefits than other proposals, simply by virtue of the provider that would be offering service to consumers.

Rather than allow one factor (the provider requesting funds) influence all others, the success or failure of an application should depend on multiple scoring criteria for the Commission's already formulated strategy, which is that funding "specific and targeted projects in unserved and underserved areas will be the best method to close the broadband availability gap."<sup>1</sup> These criteria should include consideration of consumer, anchor institution, and small and medium business benefits; cost per location; area density; and robustness/scalability of services deployed. Such an approach is consistent with the prior Commission decision where the agency refused to impose a matching requirement that would create a barrier to beneficial projects.<sup>2</sup>

**2. In addition to, or in the alternative, should the Commission institute a per project cap? This cap would be applied on the front end of the Commission staff's analysis and would limit the size of projects to a certain funding level. The Commission believes a per project cap may encourage applicants to be more selective when designing discrete broadband projects.<sup>3</sup> per project support cap be reasonable? If not, why wouldn't this amount be appropriate?**

**a. If a per project support cap is established, should projects where more than \$300,000 in NEBP support is sought be placed in a lower priority group assignment compared to the projects that are at or under the \$300,000 proposed project support cap?**

No, for the reasons provided in response to Question 2.d. below.

**b. If a per project support cap is established should the Commission find the project would be supported up to, but not in excess of, the cap amount? If not, why not?**

There is already a support cap in the sense that, with the Commission-required 25% matching requirement, the Commission will only fund up to 75% of a project's costs. That

---

<sup>1</sup> Progression Order No. 3, entered June 14, 2011, at p. 7.

<sup>2</sup> See Progression Order No. 4, entered September 27, 2011, at p. 11 ("[T]he matching requirement should not be structured in a way that it creates a barrier for some providers having a very beneficial project. The Commission believes that a 25 percent match requirement would be an appropriate balance . . . .")

aside, for the reasons provided in response to Question 2.d below, an additional cap on total project support is unnecessary.

- c. *If a per project support cap is established and projects where more than the cap is sought are placed in a lower priority group assignment, should the applicant be allowed to seek support up to, but not in excess of, the cap amount in order to receive a higher priority group assignment?*
- d. **If you do not believe a per project support cap should be used, please explain.**

Just as the Commission should not impose a company cap, the Commission should avoid imposing a per-project cap. A project cap would not take into account the aggregate merits of an application, and could foreclose very beneficial projects. Indeed, those projects that require the most funding also very likely may do the most good toward closing broadband gaps in the state. A larger project, intuitively, likely will equate to a larger number of customers served and/or address locations in areas where high-cost conditions will continue to prevent broadband deployment absent government support. Both scenarios may present compelling cases for state broadband funding. In addition, a project cap could undermine economies of scale inherent in larger projects and possibly encourage economically inefficient behaviors as applicants attempt to avoid the cap by “phasing” a project over multiple years, incurring redundant construction costs, such as for contractor mobilization, and resulting in duplicative rights-of-way disruption.

**3. In addition to, or in the alternative, should the Commission institute a cost per household support cap? The purpose of this proposed cap would be to ensure that NEBP support is based upon reasonable and efficient use of grant funds.**

- a. *If the Commission adopts a household support cap what would the appropriate per household cap be?*
- b. *Would \$5,000 per household be reasonable? The Commission estimates a cap of \$5,000 per household exceeds the average per household amount of all projects submitted in 2013. If the Commission adopts a cost per household cap should it be used to determine the priority assigned to the project by the Commission in a manner that does not preclude a project that exceeds the proposed cap? If a per household cap is established should the Commission find the project would be supported up to,*

*but not in excess of, the cap amount?<sup>4</sup> If the Commission adopts a cost per household cap that is used to determine the priority assigned to the project but does not preclude a project that exceeds the proposed cap, should the applicant be allowed to seek support up to, but not in excess of, the cap amount in order to receive a higher priority group assignment? If not, why not?*

**c. If you do not believe a cost per household support cap should be used, please explain.**

The Commission should not adopt a support cap per household. The Commission long ago determined that per household cost should be a criterion in the review process.<sup>5</sup> Windstream agrees with that settled principle. The cost per household should thus remain a scoring factor, with appropriate weighting, not the factor for consideration of some applications. Not every beneficial project will have a low per household cost, since some areas are more rural than others. It is appropriate for the Commission to weigh per household cost alongside other such factors, such as density and type of customers served. The overall merits of a project should determine its disposition.

**4. Interested parties may comment on the issues described above and may comment on any other issues germane to this subject matter.**

Windstream respectfully requests that the Commission treat projects that would upgrade copper facilities to central offices with fiber as an essential predicate to provision of sufficient broadband access in rural areas, and thereby include these middle-mile fiber backhaul projects in Priority Group 1, as was described in the NEBP workshop on September 10th. There can be no robust broadband services without fiber backhaul. So far, each of Windstream's proposed projects has been to upgrade copper interoffice facilities with fiber. After these interoffice fiber

---

<sup>4</sup> Again, the project would not be considered disqualified because of the per household cap. However, the cost of the project in excess of the cap amount would be assumed by the applicant.

<sup>5</sup> See, e.g. Progression Order No. 3, entered June 14, 2011, at pp.11 – 12,

facilities are placed, Windstream can provide not only DSL services to residential customers, but also a wide variety of anchor institution and business broadband services as well as backhaul for other carriers, including those serving wireless end users. Without such upgrades, an entire community – both residences and anchor tenants – would lack meaningful access to broadband functionality demanded by the modern-day economy.

The scalability and utility of fiber make it a future-proof investment for public funds. Fiber can extend significant distances without repeaters and provide bandwidth several orders of magnitude greater than that of copper, capable of meeting the current and future bandwidth demands posed by streaming and evolving applications. In contrast, copper-fed central offices and DSLAMs are taxed by ever-increasing demands for more bandwidth, and areas so served, though currently considered underserved, may become unserved as bandwidth congestion builds. Fiber can help avert this outcome as well as allow the provider to serve new broadband customers. Moreover, interoffice projects, such as those proposed by Windstream, realize significant efficiencies by leveraging existing network components and infrastructure. Existing network components may be utilized as a part of these new broadband deployments. Further reducing overall deployment costs, fiber deployments that augment copper routes may be able to use existing network infrastructure (e.g. rights-of-way, conduit).

Finally, as alluded to earlier in these comments, much of the middle mile fiber needs of wireless broadband providers can be addressed with the second and middle mile fiber deployments of a wireless provider. Fiber is the enabler for wireless carriers to deploy their highest speed services in rural areas, where the wireless carriers rely heavily upon the local exchange carrier's fiber facilities. Fiber deployments have the potential to reduce funding demands for both wireline and wireless services in future years, as wireless carriers utilize same

for tower connectivity and thus will have a greater opportunity to make an economic case for additional wireless broadband investment.

Respectfully submitted this 11<sup>th</sup> day of  
October, 2013.

/s/ Matthew Feil  
Matthew Feil  
Senior Counsel  
Windstream  
1201 West Peachtree Street  
Suite 610  
Atlanta, GA 30309  
(678) 420-3878  
matthew.feil@windstream.com