

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public )  
Service Commission, on its Own Motion, )  
To Administer the Nebraska Universal )  
Service Fund Broadband Program. )

Application No. NUSF-92  
Progression Order No. 8

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Public Service Commission

**REPLY COMMENTS OF UNITED STATES CELLULAR CORPORATION**

United States Cellular Corporation ("U.S. Cellular") hereby files these Comments for the Nebraska Public Service Commission's ("Commission") consideration in the above-captioned docket, NUSF-92, P.O. 8. These Comments are being filed pursuant to the Commission Order entered in this docket on August 6, 2019.

First, U.S. Cellular thanks the Commission for establishing a rural broadband program that allows wireless companies the opportunity to receive Nebraska Universal Service Fund ("NUSF") support. Over the last decade, the NUSF Dedicated Wireless Program has brought improved wireless broadband service to rural areas across the state to customers who would otherwise not be receiving such service. U.S. Cellular has participated in the dedicated wireless program since 2010.

Second, U.S. Cellular files these Comments to focus on two issues that were discussed at the workshop held July 30, 2019 to provide additional information. Those issues being whether to increase the rural threshold figure from 4.5 households per square mile, and whether to require a 25% match of applicants.

**U.S. Cellular Supports Increasing the Rural Density Threshold**

U.S. Cellular supports increasing the current population density threshold from 4.5 households per square mile. Whether the Commission uses a metric of households per square mile, or a density test based on population per square mile, U.S. Cellular does

not have a strong preference. However, U.S. Cellular urges the Commission to adopt a figure that continues to focus on rural areas, but is not so low that it excludes current rural sites that are uneconomic to serve from being eligible for consideration. The current standard of 4.5 households per square mile prevents many presently unserved and underserved rural areas from being considered for funding due to the architectural design of wireless facilities.

For a wireless network to function optimally, towers are engineered to intentionally link to nearby existing tower(s) so there is some overlap of coverage to prevent calls from dropping and to prevent dead zones. Accordingly, as a result of the engineering design some worthy locations are removed from consideration because a level of overlap will occur with a nearby small town. The rural area is uneconomic to serve, yet it does not qualify for NUSF support under the current 4.5 households per square mile due to its proximity to a larger, nearby town. This has created a gap excluding many unserved and underserved rural areas from the opportunity of receiving NUSF wireless funding.

U.S. Cellular previously filed Comments herein and indicated at the workshop a recommendation of 50 people per square mile, which equates to approximately 20 households per square mile. This figure is half the amount the FCC has defined as rural for the Mobile Wireless Competition Report. However, even increasing the threshold to 10 households per square mile, would bring the benefit of the wireless broadband services to new small, rural communities while still maintaining the integrity of the rural focus and purpose of the program.



### **A 25% Match Should Be Optional, Not Mandatory**

The wireless program has operated, except for a few years when the wireless program was merged with the wireline program, under the principle that a match was not required as wireless carriers do not receive ongoing maintenance and operations costs. In other words, full support is provided for capital construction expenses, with operating and maintenance expenses being the responsibility of the wireless provider. Operation and maintenance are a substantial investment. U.S. Cellular is not seeking a change in the present structure to become reimbursed for maintenance and operating expenses, although that would be welcomed. Rather, U.S. Cellular is seeking the continuation of the present practice whereby the wireless program allows the 25% match to be optional, and in the event of a tie, preference is given to the entity that offered a match.

U.S. Cellular and CTIA continue to support the current program which does not require a match. At the workshop, Viaero seemed to support a match, although such a position is contradictory from its previous Comments<sup>1</sup> that stated: "Viaero has consistently argued that the Commission should not impose a 25 percent matching requirement in the NEBP program."<sup>2</sup> Viaero stated:

Rather, the Commission should evaluate applications based upon realistic cost estimates. This requirement will prevent applicants from submitting unrealistically low-cost applications that simply leverage other subsidy monies, or are submitted for anti-competitive purposes.<sup>3</sup>

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<sup>1</sup> *In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Application No. NUSF-77, Progression Order No. 8, Comments of N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless at 7 (May 24, 2013).

<sup>2</sup> *See In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Application No. NUSF-77, Progression Order No. 3, Comments of N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless (July 15, 2011) and Reply Comments of N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless (July 29, 2011).

<sup>3</sup> *In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Application No. NUSF-77, Progression Order No. 8, Comments of N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless at 7-8 (May 24, 2013).



In the entry of its NUSF-77 Order, the Commission summarized Viaero's Comments as follows:

Viaero has consistently argued that the Commission should not impose a 25 percent match requirement in the NEBP program. Viaero expressed its concern that a carrier could block a competitor's access to NEBP funding by leveraging its own financial assets or those received from other universal service fund sources. Viaero also argued that the 25 percent match requirement will significantly deter investment in unserved areas and thereby slow down the Commission's ability to reach more consumers at a faster pace.<sup>4</sup>

Viaero's concern regarding a match was subsequently reiterated in its NUSF-92 Comments saying a match may, in some circumstances, serve as a formidable economic barrier to the construction of certain projects in areas where there is no viable economic model to construct and operate wireless facilities.<sup>5</sup>

After consideration of the Comments, the Commission concluded in its NUSF-92 Order in 2016 the following:

The Commission previously sought comment on whether to require a 25 percent (25%) match from the applicant. The wireless commenters indicated a match requirement could be a barrier to constructing towers and providing service in the most uneconomic areas. These areas are most likely the locations where service would not exist absent support. Upon consideration of the comments filed, the Commission finds a fixed match of 25 percent (25%) match should not be a bright line requirement.<sup>6</sup>

The Commission reaffirmed its position in 2017 stating:

In addition, we clarify that going forward a carrier's proposed match will not be used to give priority in the ranking and scoring of projects unless there is a tie between two carriers, where one would receive support and the other would not

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<sup>4</sup> *In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Application No. NUSF-77, Progression Order No. 8, Order (Sept. 4, 2013).

<sup>5</sup> *In the Matter of the Nebraska Public Service Commission, on its Own Motion, to Administer the Nebraska Universal Service Fund Broadband Program*, Application No. NUSF-92, Progression Order No. 5, Comments of N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless at 7-8 (Nov. 20, 2015).

<sup>6</sup> *In the Matter of the Nebraska Public Service Commission, on its Own Motion, to Administer the Nebraska Universal Service Fund Broadband Program*, Application No. NUSF-92, Order (Jan. 26, 2016).



because of the exhaustion of support. The match and the degree of match will break a tie in that instance.<sup>7</sup>

U.S. Cellular urges the Commission to maintain its present practice of allowing the match to be optional. As the CTIA pointed out in its Comments, there is no evidence that circumstances have changed such that the Commission's prior determination should be disturbed, or that wireless applicants should be subject to a matching requirement to which wireless applicants are not.<sup>8</sup> If a carrier wishes to offer a match, U.S. Cellular has no objection, and that in the event of a tie due to the exhaustion of support the offering of a match is used a tie-breaker, as is done currently. The robust strength of the program lies in the fact that the Commission has repeatedly acknowledged that but for NUSF support, these rural towers would not otherwise be built. Wireless carriers contribute substantially in their commitment to the wireless program by agreeing to be financially responsible for all operation and maintenance expenses after construction has been completed. Furthermore, only after construction has been completed and the necessary paperwork and receipts submitted to Commission Staff for review are NUSF funds awarded to a wireless company. The wireless program offers full accountability and transparency, and is an exemplary model of a collaborative effort between the Commission and companies to bring improved wireless broadband service to rural areas.

In closing, U.S. Cellular thanks the Commission for providing wireless providers the opportunity to receive NUSF support, and it looks forward to continued participation of bringing the benefits of wireless broadband services to rural Nebraska.

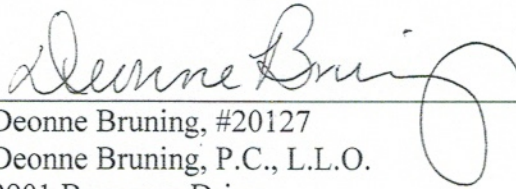
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<sup>7</sup> *In the Matter of the Nebraska Public Service Commission, on its Own Motion, to Administer the Nebraska Universal Service Fund Broadband Program*, Application No. NUSF-92, Progression Order No. 6, Order Setting Application Deadline (Aug. 1, 2017).

<sup>8</sup> *In the Matter of the Nebraska Public Service Commission, on its Own Motion, to Administer the Nebraska Universal Service Fund Broadband Program*, Application No. NUSF-92, Progression Order No. 8, Comments of CTIA at 6 (June 20, 2019).

Respectfully submitted this 9<sup>th</sup> day of September, 2019.

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**Certificate of Service**

The undersigned hereby certifies that on this 9<sup>th</sup> day of September, 2019, an original of the Reply Comments of United States Cellular Corporation was hand-delivered to the Nebraska Public Service Commission, 300 The Atrium, 1200 N Street, Lincoln NE and a copy of the same was e-mailed to the following:

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