

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public)	Application No. NUSF-99
Service Commission, on its Own Motion, to)	Progression Order 2
Administer the Universal Service Fund)	
High-Cost Program)	FURTHER COMMENTS
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The Rural Telecommunications Coalition of Nebraska (“RTCN”),¹ by and through its attorneys of record, submits these Comments (“Further Comments”), as allowed by the Order Seeking Further Comment, entered by the Public Service Commission (“Commission”) June 30, 2020.

Commission Proposal

In its Order of June 30, 2020, in the present investigatory proceeding (“June 30 Order”), the Commission makes a wide-ranging proposal for the establishment of a system of deployment and high-cost support for price cap carriers that is largely consistent with the system it established in NUSF-108 for rate-of-return carriers.

The Commission’s proposal is based on its investigation, which started November 13, 2019. The November order reopening this proceeding made general proposals for the price cap support mechanism and solicited comments from the public. Several communications providers, including the RTCN, submitted comments responsive to the Commission’s proposals. The June 30 Order summarizes the contents of the comments and addresses many of them.

¹ For purposes of this proceeding, the RTCN is made up of the following carriers: Benkelman Telephone Company, Inc., Cambridge Telephone Company, Cozad Telephone Company, Diller Telephone Company, Glenwood Network Services, Inc., The Glenwood Telephone Membership Corporation, Hemingford Cooperative Telephone Co., Mainstay Communications, Plainview Telephone Company, Southeast Nebraska Communications, Inc., Stanton Telecom, Inc., Wauneta Telephone Company, and WesTel Systems f/k/a Hooper Telephone Company.

As it has throughout this proceeding, the RTCN largely supports the Commission's general proposal. In a nutshell, there is no reason the support system for price cap carriers should not be modernized as the Commission has done for rate-of-return carriers. Unfortunately, the Covid-19 pandemic has delayed the Commission's progress in this proceeding. The Commission's overhaul of its systems of incentives, begun under Commissioner Frank Landis's leadership, has been based on solid principles and objectives, but it has taken too long. Future reform, while it should always be measured, must not be as laborious. Current events sometimes bring us to realize urgencies of which we were before unaware. Reform must continue, and with more alacrity.

The Covid-19 pandemic has emphasized dramatically the need for broadband connectivity in rural areas. It was not a crisis, however, that created the need. Rural Nebraskans need Internet connectivity on par with Nebraskans in urban areas at all times. That fact was acknowledged by the Nebraska Legislature in 1997, when it established the Nebraska Telecommunications Universal Service Fund ("NUSF"). The Legislature's vision for Nebraska at that time was advanced services, as broadband was then referred to, throughout the state. It has been 23 years since the Legislature declared its vision and objectives. Substantial progress has been made. Many carriers responsibly used the millions of dollars of support they received to invest in rural fiber. They trenched fiber to farms and ranches throughout their rural territories, some more than fifty miles from the central office.

Other carriers, which received proportionally the same amount of support, did not invest to the same extent in rural fiber. The proof is in the ground. The recent CARES Act program administered by the Department of Economic Development brought to startling light that many Nebraska cities and villages do not have fiber-to-the-premises, let alone the rural areas.

Historically, as the Commission has pointed out in NUSF-108, its practice has been to target support to areas outside of Nebraska's cities and villages. In NUSF-108, the Commission specifically directed support for truly rural areas. This precedent was established in recognition that a business case could be made for service to cities and villages. Ratepayer funds should not subsidize a business that can profit on its own.

Recognizing the digital divide between territories of carriers that invested in fiber and those that did not, the Commission improved its accountability standards in NUSF-108. It demanded deployment of broadband-capable infrastructure before it would award support. It tied support not only to the provision of reliable voice services, but also the provision of broadband, as it is presently defined. In some areas of the state, even reliable voice services were not available by a landline connection, a clear violation of both state law and stringent Commission regulations.

The Commission should continue that reform in this proceeding, and it should accelerate the pace of reform, not because of Covid-19, but because of the critical public need for broadband connectivity.

Definition of Broadband

Consistent with current Nebraska law and the comments it received, the Commission proposes a broadband standard of 25/3 that must be satisfied before a carrier can receive support.

The RTCN has consistently supported a 25/3 standard for both rate-of-return carriers, like members of the RTCN, and for price cap carriers. But the public reaction to the final guidelines of the CARES Act grants indicates clear animus for a 25/3 standard, especially in cities and villages. There has also been significant criticism leveled at the award of grants to incumbent carriers that had not deployed fiber in cities and villages they had duties to serve

as a carrier of last resort (“COLR”) and an eligible telecommunications carrier (“ETC”), despite the clear policy directives of the NUSF Act.

The Commission should immediately undertake a study of what service packages are available in all urban areas, including components such as the speed, symmetry, and latency. Upon findings in that investigation, the Commission should seek legislation if necessary and undertake further reforms to ensure comparable speeds are provided in rural areas.

Perhaps first, the Commission should consider a pilot program for funding rural communities at speeds derived from its comparability study so that the state is better prepared should Covid-19, or something else, force future shutdowns. Incumbents that have not provided broadband services to those communities should not be eligible for pilot grants. Funding for such a pilot program should not jeopardize funding for ongoing support to carriers that have deployed broadband-capable infrastructure. As will be addressed more below, the RTCN respectfully respects that funding for such a pilot program come from past allocations to price cap areas that has not been committed.

The RTCN, in light of observations of comments about the proposed CARES Act guidelines, as well as about the RDOF program, anticipates that public pressure will soon cause federal regulators and the Nebraska Legislature to adopt higher speed requirements in order to qualify for support or subsidies of any nature. As it has done for rate-of-return carriers, the Commission should maintain flexible standards and guidelines, as opposed to formal regulations, so that it can be responsive to the rapid evolution of technologies. The 25/3 standard could be obsolete in a year.

Timeframes

The Commission next proposes timelines for both requesting and utilizing deployment support. The RIC has been rightly critical of the Commission in the past for not insisting that

support be utilized within a specified period of time. Specifically, the Commission proposes the following:

- One-year deadline to file requests for deployment support; and
- Two-year deadline for using support, extension allowed for good cause.

The RTCN supports this simple and straight-forward method. When the Commission considers good cause, it should consider the scope of the project. Little cause should be tolerated for delays of smaller projects.

The RTCN also supports the Commission's proposal of a requirement that 95% of deployment support must be used within the two years. This threshold is reasonable.

The RTCN further supports the Commission's proposal to immediately subject forfeited support to a reverse auction or other vehicle to redirect support. Consistent with what it has advocated previously, the RTCN strongly recommends that forfeited support be used only in the exchange to which it is allocated.

Allocation

The Commission proposes to make allocations of deployment support on an exchange basis. The RTCN supports an exchange-based approach to allocation, at least for the present time. The RTCN encourages the Commission to maintain its wide discretion to approach allocation on a smaller scale once more location-specific information is available.

The RTCN recommends that allocations be made annually, as they are done under NUSF-108. The RTCN supports the proposal to utilize SBCM modeled costs to project support levels. Finally, the RTCN urges the Commission to adopt a budget control mechanism consistent with what it has established and adopted under NUSF-108.

Eligible locations

The Commission proposes to fund locations that are (i) rural; (ii) not presently capable of receiving 25/3 service, including from an unsubsidized competitor; and (iii) not eligible for RDOF funding. The RTCN supports the first two of these three eligibility criteria, subject to what was stated above relating to speed criteria. The third should be removed. The RTCN encourages the Commission to withhold judgment on eligibility of RDOF-eligible areas until after RDOF awards have been determined. The Commission should not foreclose the possibility of supplementing (without duplicating) RDOF support with deployment support and, once deployment has been completed, ongoing state support.

The RTCN recommends the Commission not provide deployment support to CAFII Auction areas and refrain from making a final decision about eligibility of those areas for ongoing support until analyzing progress of deployment.

The Commission proposes that the technology supported must serve every location in the area of support.

Consistent with administration of CARES Act support by the Nebraska Department of Economic Development, areas receiving CARES Act support should be ineligible for ongoing high-cost support if the incumbent carrier, as the COLR and ETC, or its affiliate received a CARES Act grant.

Past NUSF-99 Support

The Commission proposes “to make available in the first year of this program any support that has not been allocated through the NUSF-99 program.”

The RTCN recommends that past NUSF-99 deployment support that was allocated, but not committed, be used to fund the community pilot project program (see above) in the same price cap territory for which it was allocated. As the Commission undertakes to determine allocations on an exchange-by-exchange and more granular basis, it should

determine a manner in which to proportionally redirect any past allocated, but uncommitted support, on such basis as well.

For the benefit of the public, the Commission should identify the amount of funds previously allocated to price cap carriers, specifically identifying the amounts that have been requested, and the amounts that have been used for fiber deployment and the amounts that have been used for other technologies.

Issues for further comment

Commission Prioritization of Areas for Deployment

The RTCN recommends that the Commission consider prioritization of both price cap and rate-of-return areas that remain unserved and underserved in a separate but expedited proceeding.

The proceeding might investigate cities and villages that remain underserved and make immediate determinations as to what should be done with support previously dedicated to the carriers responsible for the exchanges that includes such cities and villages.

Prioritization of such exchanges should not come at the expense of ongoing support for infrastructure that has already been deployed in rural areas, but it should guide any future deployment support.

Other Modifications Similar to NUSF-108

Accountability for ongoing support

Consistent with all past comments, the RTCN recommends that EARN Form Accountability should be applied by the Commission to all carriers receiving support.

RDOF

Once RDOF support is redirected by this fall's reverse auction, the Commission should open an investigation as to the best ways to ensure that future state support supplements


and assists RDOF support without duplicating such support, and that the integrated support effectively and efficiently utilizes ratepayer funds.

DATED: July 30, 2020.

**RURAL TELECOMMUNICATIONS
COALITION OF NEBRASKA**

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Telephone Company, Diller Telephone
Company, Glenwood Network Services,
Inc., The Glenwood Telephone
Membership Corporation, Hemingford
Cooperative Telephone Co., Mainstay
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that an original and electronic copy of the above ***Further Comments*** of the Rural Telecommunications Coalition of Nebraska were filed with the Public Service Commission on July 30, 2020, and a copy was served via electronic mail, to the following:

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