

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

In the Matter of the Nebraska Public )  
Service Commission, on its Own Motion, )  
to Consider Appropriate ) Application No. NUSF-139  
Modifications to the High-Cost Distribution )  
and Reporting Mechanisms in its )  
Universal Service Fund Program in )  
Light of Federal and State Infrastructure Grants )  
)

**COMMENTS OF QWEST CORPORATION D/B/A CENTURYLINK QC**

**Part II.B – Goals and Strategic Plan Update**

**1. Should the Commission revise its strategic plan relative to universal service funding to include a goal of affordable broadband service? Why or why not?**

Affordable service is a laudable goal sought by many in the telecommunications industry. Based on CenturyLink’s experience, a competitive market is more effective and efficient at setting affordable prices than regulation.

The analysis begins with defining “affordable” given that affordability is multi-faceted. From the customer’s perspective, affordability depends on income and demand for the service. From the provider’s perspective, affordability depends on the cost of providing that service in a given area – the customer’s affordability benchmark may be less than the cost to provide service, so bridging that gap is imperative to reach the ultimate goal of ensuring universal service. Although the FCC and NTIA have undertaken extensive work to ensure access to “affordable” service, neither institution has provided a firm definition of the term, in part because “affordability” hinges on each consumer’s circumstances. CenturyLink suggests following the FCC and NTIA’s lead on this topic, and not focus on retail price discussions. It is also worth noting that the Biden Administration has recommended, and Congress is currently considering, appropriating additional funding for the Affordable Connectivity Program, which provides eligible households with a \$30 discount on broadband service. This benefit, combined with low-cost service offerings that many providers are already offering to ACP-eligible customers, can make broadband free to the end user. Please contact your Congressional Representatives to assist in funding this key benefit. In other instances, action by the Nebraska legislature to provide funding to assist in reducing the cost of broadband service may be the only path to reduce or eliminate the gap between affordability and the cost of providing the service.

Further, imposing additional regulations on broadband service providers could ultimately thwart progress by distorting deployment and discouraging the investment necessary to develop services in costly areas where the level of demand may be less than expected. Finally, additional regulatory burdens could dissuade new competitors from entering the market.

- 2. Additionally, first among the universal service legislative policies in Neb. Rev. Stat. § 86-323 is the statement that *quality* telecommunications and information services should be available at just, reasonable, and affordable rates. (Emphasis added). Should the Commission update this goal in a manner to specifically ensure a certain level of quality access to broadband and telecommunications services is being provided? If so, please describe how this goal should be updated?**

The FCC as recent as October 19, 2023, adopted a Notice of Proposed Rulemaking (NPRM) to initiate a new open internet or net neutrality proceeding. The NPRM proposes to reclassify Broadband Internet Access Service (BIAS) as a telecommunications service and to reinstate the 2015 net neutrality rules. One of the goals considered by the NPRM is network resiliency. The NPRM tentatively concludes that reclassifying BIAS as a telecommunications service would enhance the FCC's ability to ensure the nation's communications networks are resilient and reliable. In particular, the reclassification may allow the FCC to require that BIAS providers report network outages to the Network Outage Reporting System (NORS).<sup>1</sup>

CenturyLink believes it is in the best interest of states and providers of BIAS to minimize the potential for additional or conflicting regulation than that which may be imposed as part of the ongoing efforts of the FCC. Additional or conflicting regulation could create uncertainty and confusion, which could lead to increased costs and decreased investment in broadband infrastructure or lead to a patchwork of regulations across different states making it difficult to provide consistent service across the country.

The Commission should also define what "quality access to broadband" really means. Does that mean every household has access to 100/100Mbps broadband service, or access to 100/20Mbps broadband service? Since it appears Nebraska has been underfunded in the BEAD program, the Commission should reconsider these goals after the BEAD program has been completed and the Commission can identify how many areas lack landline-based broadband service.

- 3. The FCC specifically declined to adopt goals related to reliability, sustainability, adaptability, and cybersecurity. The FCC generally agreed that such goals were important, but considered these goals were within the existing definition of availability. Even though the FCC did not adopt these goals, are these goals the Commission should explicitly consider and adopt?**

No, CenturyLink does not believe the Commission should explicitly consider or adopt goals that the FCC considers covered by existing regulations. The Nebraska PSC should work to ensure the goals considered for adoption do not burden the services being assessed with additional administrative complexity and cost. Such costs may disincentivize broadband expansion to high-cost areas and deter providers from participating in grant programs.

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<sup>1</sup> <https://crsreports.congress.gov/product/pdf/IF/IF12513>

If the Commission ultimately decides to adopt such goals, it should focus on prioritizing types of networks and quality installation practices that inherently support reliability.

- The PSC could prioritize deployments of fiber optic infrastructure based on its enhanced resilience and reliability.
- The PSC could enhance its focus on proper installation and most common causes of failure post installation (CBYD and locates), submission of successful test results upon completion of network build. Performance related issues should be represented at this time given fiber's inherent reliability if installed properly.<sup>2</sup>

The Nebraska PSC should coordinate with other governmental agencies, including NTIA, to create consistent guidelines and requirements among broadband programs as conflicting or competing requirements would create additional and unnecessary work and expense.<sup>3</sup>

Additionally, to avoid conflicting regulations and prohibitively complex regulations, any Cybersecurity goals adopted should mirror those adopted by the state's BEAD program.<sup>4</sup>

- 4. For example, even though sustainability is not specifically listed among the Legislative goals above, this large infusion of federal grant funding for broadband infrastructure was not a foreseeable event at the time the Legislation was enacted. Should the goal of sustainability be added among the Commission's universal service fund goals? Why or why not?**

Sustainability should be a factor in determining who is allocated funds for development of BIAS networks. If the PSC is considering a mechanism to supplement ongoing operational costs as part of its sustainability goal, the mechanism should be equitable for all BIAS providers receiving grant funding in high-cost areas.

Dated: November 17, 2023

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<sup>2</sup> <https://www.thefoa.org/user/>

<sup>3</sup> NTCA USF NPRM reply comments 080122 at 20.

<sup>4</sup> BEAD cybersecurity requirements [https://broadbandusa.ntia.gov/sites/default/files/2023-04/Cyber\\_and\\_SCRM\\_Webinar\\_Presentation\\_0.pdf](https://broadbandusa.ntia.gov/sites/default/files/2023-04/Cyber_and_SCRM_Webinar_Presentation_0.pdf)