

proposal, the Commission asks interested parties to comment on a series of questions posed in the *P.O. #8 Order*.

II. RESPONSES TO COMMISSION QUESTIONS

Should the Commission reconsider its decision to transition Dedicated Wireless Fund Program (DWFP) support over four years, and instead, accelerate the combination of Nebraska Broadband Program (NEBP) and DWFP?

RIC urges that the Commission reconsider its decision to transition the DWFP support over four years. RIC has previously advocated that the NEBP and the DWFP be combined into one fund and recommends that the Commission combine the NEBP and DWFP commencing in 2014. Doing so will maximize the benefits of NEBP to consumers by implementing matching support from applicants sooner than would occur if the transition takes place over a four year period as initially ordered. There clearly is demand for NEBP funding based on the number of applicants for 2013 NEBP grants, all of which are willing to provide matching funds.

Should the Commission combine both programs in 2014 by allocating \$9 million in support for the NEBP which could be used for wireline and/or wireless infrastructure improvement projects?

RIC recommends that the Commission combine both programs in 2014 by allocating \$9 million of Nebraska Universal Service Fund support to the NEBP, which could be used for wireline and/or wireless broadband infrastructure improvement projects. RIC believes that since the fundamental goal of the Commission with regard to the DWFP as well as the NEBP is to encourage deployment of broadband, RIC supports the combining of the two programs for the purpose of facilitating the realization of the Commission's goal.³

³ The Commission found that "as it pertains to wireless carriers, the Commission believes it is important to encourage broadband deployment through its Dedicated Wireless Fund Program."

RIC has previously submitted comments stating that it perceives that the fundamental goal of the Commission with regard to the DWFP as well as the NEBP is to encourage deployment of broadband such that all Nebraska consumers, regardless of their location, will have reasonably comparable access to broadband service at reasonably comparable rates.⁴ As stated in those comments, RIC not only supports this goal, but further, RIC supports combination of funding for the DWFP and the NEBP for the purpose of facilitating the realization of this goal.⁵ Combining of the programs is appropriate policy in recognition that both fixed and mobile technologies are being deployed to provide broadband services; thus, bifurcation of these funds is not necessary as may have been the case initially when mobile technology was focused on voice and texting services.⁶ Fixed and mobile broadband providers are already applying for support from the NEBP in a common pool, and the Commission has experience in evaluating these different proposals.

Should the Commission combine the support for both programs to a lesser degree but combine the support faster than four years?

Given the primary goal for each program is to encourage the deployment of broadband and given the benefits that can be attained by combining the programs, there is no need for separate programs and thus RIC recommends combining the programs in their entirety in 2014.

The Commission directed the staff, “to consider the availability of wireless broadband service among the factors currently used to make a recommendation to the Commission for wireless fund support.” *See In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to implement policies and procedures related to providing dedicated universal service support for wireless telecommunications services*, Application No. NUSF-69, Progression Order No. 7 at 3 (May 24, 2011).

⁴ *P.O # 7 Order*, at 11.

⁵ *Id.*

⁶ *Id.*

What are the merits of maintaining a separate DWFP which alternatively could be absorbed into the broader NUSF-77 broadband program.

RIC does not believe there are merits to having separate programs. Since tower construction has been the primary use of funding in the DWFP and with funding also available from the NEBP to fund projects including tower construction, the Commission should combine the DWFP with the NEBP.

Comment on the extent to which the support for the broadband projects attributed to the DWFP and NEBP currently overlap.

RIC believes there can be significant overlap in terms of projects that have been submitted by mobile carriers for funding from both funds. As the Commission observes in the *P.O #8 Order*, support from the NEBP can be used for tower construction similar to grants made from the DWFP, and thus, there is no continuing need for a separate DWFP support mechanism. Further, the Commission has made it clear that its priority is to promote broadband availability in areas that are currently unserved and underserved. Wireless providers can use any grant monies awarded from the combined fund to provide mobile broadband in areas unserved or underserved with mobile broadband service.

Could the Commission's goals to target support for wireless and wireline broadband services be more efficiently accomplished in the NUSF-77 proceeding, while still accomplishing those goals included in NUSF-69 which include universal access to wireless telecommunications and broadband services?

RIC believes that combining the DWFP and the NEBP would be more efficient for the Commission as the Commission could eliminate the duplicative NUSF-69 process. The Commission could continue to meet its goals, including universal access to wireless telecommunications and broadband service, by targeting support for wireless and wireline broadband in the NUSF-77 proceeding.

What are the advantages and disadvantages to combining the support for these programs?

In addition to being administratively more efficient as previously addressed, by combining the two programs, all broadband providers, including mobile and fixed providers, would be eligible to apply for NEBP funding and would be scored, ranked, and awarded funding based upon the same Commission-approved criteria. The Commission recognized in the *P.O. #8 Order* that the NEBP support determination employs a more robust set of criterion, including ones encompassed in the DWFP support determinations. In addition, by applying the 25% matching requirement to \$5 million that would be added to the NEBP through combining the two funds, an additional \$1.25 million in matching will be available annually to bring broadband to underserved and unserved areas of the state. Further by combining the DWFP with the NEBP, the number of potential applicants applying for the NEBP and DWFP combined total of \$9 million will be expanded in comparison to the two applicants that have historically been the principal applicants for grants from the \$5 million annual allocation to the DWFP.

What conditions from the dedicated wireless fund program should be preserved?

RIC identifies no conditions from the DWFP that should be preserved and/or incorporated into the NEBP because the current conditions of the NEBP and the availability of funding for tower construction duplicate the conditions of the DWFP.

The Commission solicits further comments on whether it makes sense to continue to provide explicit support for infrastructure in the DWFP which does not provide the minimum 4/1 Mbps speeds that are required in the NEBP.

The Commission has previously found that it is important to encourage broadband deployment in the DWFP and to require broadband at the minimum speed thresholds of 4/1

Mbps in the NEBP. As the demand for higher broadband speeds continue to increase, it makes sense to require broadband at the minimum speed thresholds of 4/1 Mbps for grant projects.

Should the Commission encourage faster broadband services through a requirement that carriers use support to offer services that meet or exceed the 4/1 Mbps speed threshold?

The Commission has adopted a minimum speed standard of 4 Mbps download and 1 Mbps upload as a requirement of the NEBP.⁷ The Staff further recommended that the Commission use the definition of “broadband” adopted in Progression Order No. 4 entered in this Docket, which is 4/1 Mbps, and recommended that the speed thresholds be re-examined from time to time.⁸ RIC offered support for the use of the 4/1 Mbps speed standard as a basis for the initial definition of broadband. However, RIC recommended that the Commission specify a more definite period in which to review the standard – such as not less than every three years rather than “from time to time.”⁹ The Commission adopted this recommendation by RIC requiring re-examination of the definition of “broadband” every three years.¹⁰

RIC continues to support the Commission’s goal to include comparable access to broadband service so that all Nebraska consumers have broadband available at speeds of at least 4/1 Mbps from one fixed and one mobile provider. Since Section 86-323 of the Nebraska

⁷ *In the Matter of the Petition on the Nebraska Telephone Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Application No. NUSF-77, Progression Order No. 5, Nov. 21, 2011 at 10.

⁸ *Id.*

⁹ *In the Matter of the Petition on the Nebraska Telephone Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Application No. NUSF-77, Progression Order No. 6, Transcript of Public Hearing, Dec. 4, 2012 (the “Transcript”), at 32.

¹⁰ *Progression Order No. 7* at 11.

Telecommunications Universal Service Fund Act declares that it is the policy of the state for consumers in all regions of the state, including those in rural and high-cost areas, to have access to telecommunications and information services, that are reasonably comparable to those *services* provided in urban areas and that are available at rates that are reasonably comparable to rates charged for *similar services* in urban areas,¹¹ RIC recommends providing those applications capable of higher speeds with a higher ranking or score during the Commission's review process if available speeds in urban areas are higher than 4/1 Mbps to help ensure the comparability requirement is met. RIC believes it is likely that the majority of urban consumers in the state already have access to broadband services that exceed the 4/1 Mbps threshold. Thus, in order to ensure NEBP supports the standard of comparability it is appropriate to assign a higher rank/score to applications that propose to provide higher broadband speeds than those with lower speeds.

Would the absorption of the DWFP into the NEBP accelerate the delivery of wireless and wireline broadband services because of the 25 percent matching requirement?

Yes, by absorbing the DWFP into the NEBP, the additional \$1.25 million made available due to the 25 percent matching requirement will accelerate the delivery of wireless and wireline broadband services in unserved and underserved areas of the state.

In the alternative, would the matching obligation deter the construction of wireless facilities in given areas? Please provide specific examples.

The matching obligation should not deter the construction of wireless facilities in given areas. Viaero Wireless, the wireless carrier that has received the vast majority of funding from the DWFP, has also applied and received substantial funding from the NEBP. In addition,

¹¹ *Neb. Rev. Stat.* § 86-323(3).

United States Cellular Corporation, which has received funding from the DWFP, has also applied for funding from the NEBP. The behavior of the wireless carriers, in participating in the NEBP, is evidence that the matching obligation will not deter a wireless carrier from building wireless facilities.

Interested parties should comment on whether this change would make a significant difference in the Commission's ability to reach more consumers with broadband service at a faster pace?

By combining the DWFP with the NEBP, an additional \$5 million in support will be subject to the 25% match requirement of the NEBP. This requirement will add \$1.25 million of matching capital infrastructure to increase the amount of infrastructure built in each year. Accordingly, more consumers will be reached with broadband service at a faster pace because of this additional matching requirement.

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

RIC has previously recommended that the Commission develop a weighting and/or ranking mechanism for each of the criteria it has listed as part of its review process in advance of seeking applications in order to provide a more structured and streamlined review process.¹² RIC reasoned that if each criterion's weighting or ranking is explicitly known prior to the application process, each applicant could design its projects to better conform to the Commission's desired network outcomes represented by the weighting or ranking formula.

¹² *In the Matter of the Petition on the Nebraska Telephone Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Application No. NUSF-77, Progression Order No. 4, Direct Testimony of Dan Davis on Behalf of the Rural Independent Companies, Oct. 20, 2011.

CenturyLink has also previously recommended that the Commission should consider disclosing the results of its scoring model as a part of the approval/rejection process.¹³

CenturyLink observed that “not having access to the Commission’s final results leaves applicants without an effective means to reexamine those parts of their applications that were considered deficient or an ability to gain a clearer understanding of the requirements that must be met in making future applications.”¹⁴ RIC continues to maintain that the criteria established by the Staff for evaluation of applications, and particularly the process for applying such criteria to the applications for NEBP funding, are not as transparent as would be desirable for interested parties to have a clear understanding of selection criteria. Therefore, RIC recommends that minimally, a workshop should be held to explain the evaluation criteria for NEBP applications and to respond to questions presented by interested parties.

III. CONCLUSION

As stated above, the Rural Independent Companies appreciate the opportunity to provide these Comments in response to the questions posed by the Commission, and look forward to providing reply comments for consideration by the Commission.

¹³ *In the Matter of the Petition on the Nebraska Telephone Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Application No. NUSF-77, Progression Order No. 6, CenturyLink Comments, Sept. 14, 2012, at 15-16.

¹⁴ *Id.*

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Arlington Telephone Company, Blair Telephone Company, Cambridge Telephone Co., Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Company, Inc., K & M Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telephone Co., Inc., and Three River Telco (the "Rural Independent Companies")

By: Paul M. Schudel
Paul M. Schudel, NE Bar No. 13723
pschudel@woodsaitken.com
James A. Overcash, NE Bar No. 18627
jovercash@woodsaitken.com
WOODS & AITKEN LLP
301 South 13th Street, Suite 500
Lincoln, Nebraska 68508
Telephone (402) 437-8500
Facsimile (402) 437-8558

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 24th day of May, 2013, an electronic copy of the foregoing pleading was delivered to:

Windstream Communications
bill.garcia@windstream.com

CenturyLink
Tre.Hendricks@embarq.com

-and-
jgettman@gettmanmills.com

**Rural Telecommunications Coalition of Nebraska
(RTCN)**
Tkirk@remboltludtke.com

Cox Nebraska Telcom, LLC
deonnebruning@neb.rr.com

Verizon / Verizon Wireless
SGS@crosbylawfirm.com

**Citizens Telecommunications Company of Nebraska
d/b/a Frontier Communications of Nebraska**
Stephen.Hegdal@frontiercorp.com

N.E. Colorado Cellular, Inc. d/b/a USCC Wireless
lbrooks@brookspanlaw.com

**Sprint Communications Company d/b/a Sprint, Nextel
West Corp d/b/a Nextel Partners**
lbrooks@brookspanlaw.com

**AT&T Communications of the Midwest, Inc.
and TCG Omaha, Inc.**
lbrooks@brookspanlaw.com

Nebraska Technology and Telecommunications, Inc.
mfahleson@remboltludtke.com

Allo Communications, LLC
lbrooks@brookspanlaw.com

Nebraska Telecommunications Association
jshultz@hslegalfirm.com

Nebraska Cable Communications Association
aprenda@windstream.net

Nebraska Public Service Commission

Sue.Vanicek@nebraska.gov

Brandy.Zierott@nebraska.gov

Shana.Knutson@nebraska.gov

A handwritten signature in black ink that reads "Paul M. Schudel". The signature is written in a cursive style and is positioned above a horizontal line.

Paul M. Schudel