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Nebraska
Public Service Commission

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

FURTHER COMMENTS OF CTIA

CTIA respectfully submits its comments in response to the Nebraska Public Service Commission's ("Commission's") Order Seeking Further Comments, entered August 6, 2019 in the above-captioned docket.

I. THE COMMISSION'S NUSF RULES SHOULD ENCOURAGE EFFICIENT, EQUITABLE USE OF LIMITED FUNDING

A. The NUSF Program Has Yet to Catch Up With Consumer Trends Towards Wireless Broadband Adoption

As a trend, wireline use continues to diminish while wireless is growing. Nationwide, wireless subscriber connections grew from 400.2 million to 421.6 million from 2017 to 2018, and mobile data use jumped 82% during that period.[1] Overall, wireless makes up over two-thirds of the Nebraska telecommunications marketplace.[2] As noted previously by CTIA, however, Nebraska's wireless infrastructure fund is currently set at $3.2 million per year, compared to the $29 million per year that is provided through the NUSF high-cost programs for wireline providers.[3]

Regardless of the technology involved, the Commission's end goals for the NUSF programs are the same: to expand connectivity in Nebraska while making the most efficient use

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[1] *See* CTIA, 2019 Annual Survey Highlights (June 20, 2019), *available at* https://www.ctia.org/news/2019-annual-survey-highlights (last accessed September 9, 2019).
[2] *Id.* at 61.
[3] *See* Comments of CTIA in Response to the Order Seeking Comment, Application No. NUSF-92, Progression Order No. 8 (June 20, 2019) ("CTIA June Comments") at 4 (citing Nebraska Public Service Commission, Public NUSF-108 Model – 2019 Payment Year – Revised (1)).

of limited NUSF funds. Accordingly, any changes to the NUSF program should focus on helping to ensure a competitively-neutral, technology-neutral playing field. In light of the high fees already paid by Nebraska consumers, the NUSF should not be grown, but rather, the Commission should reconsider the allocation of funding between the different programs to better reflect evolving consumer preferences. By encouraging a broad range of carriers to apply for NUSF funding, the Commission promotes program efficiency and encourages new providers to innovate solutions and business models for rural connectivity in Nebraska.

B. Imposing a Matching Requirement on Wireless Applicants Would Be Competitively Unfair and Unnecessary

As CTIA noted both at the July workshop and in previous comments, a general principle for the NUSF should be that wireline and wireless applicants should be treated similarly. The proposed 25% matching requirement for wireless funding recipients only is both unfair and unnecessary, and should be rejected.

The matching requirement would crowd new entrants out of the very market for unserved areas the NUSF should be encouraging them towards, putting them at a significant competitive disadvantage to wireline providers, which have no such requirement for matching to receive NUSF funding. As U.S. Cellular noted in its comments, a 25% match would mean a six-figure outlay for carriers, which is not insignificant.[4]

There has been no valid reason demonstrated in this proceeding why such requirements are necessary. Viaero noted in comments that a matching requirement would show that the applicant is "invested in timely completing the project," and that they are a "viable company,"[5]

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[4] *See* Comments of United States Cellular Corporation, Application No. NUSF-92, Progression Order No. 8 (June 20, 2019) at 6.

[5] Comments of NE Colorado Cellular, Inc. d/b/a Viaero Wireless, Application No. NUSF-92, Progression Order No. 8 (June 21, 2019) at 6.

but fails to explain why, if that is the case, the matching requirement does not apply to wireline providers, who should be held to similar standards. Further, to the extent these are valid concerns for the Commission, they are better addressed via buildout deadlines and clear disclosure requirements in applications, respectively.[6]

Lastly, the Commission's matching requirement further skews competition against wireless NUSF applicants, who already find themselves at a competitive disadvantage because – unlike wireline carriers - they can only receive funding for capital, and not operating, expenditures. Ideally, the Commission should move towards a more level playing field by either eliminating the grant of operating expenditures altogether, or alternately, allowing wireless carriers to receive operating expenditures. But at the very least, the Commission should not make things worse by placing another hurdle in front of wireless applicants simply because they use a different form of technology to deliver broadband.

C. The Wireless Infrastructure Program Should Not Include Limitations Which Discourage Applications to Invest in Currently Unserved Areas

Because wireless broadband can help further the Commission's goal of connectivity in Nebraska, the wireless infrastructure funding program should be designed to attract applications on a technologically- and competitively-neutral basis, encouraging investment in unserved areas.

The Commission should also ensure that the density threshold for funding is not set so low as to unintentionally exclude unserved areas. While CTIA believes that a metric based on overall population, rather than households, more accurately reflects the density of an area, if the Commission chooses to maintain a households-per-square-mile metric for eligibility, it should consider raising the current threshold of 4.5 households per square mile, which captures

[6] A matching requirement would also effectively require wireless carriers to make a disproportionate contribution to the funding of NUSF-supported infrastructure, potentially contravening the nondiscrimination principles of Sec. 254 of the federal Communications Act. *See* 47 U.S.C. §254(b)(4).

extremely rural areas but may not accurately reflect areas that are unserved with more households. A threshold of 10 households per square mile would better capture areas that are not extremely rural but still "unserved" for NUSF purposes.

Similarly, speed thresholds for wireless broadband applicants were discussed at the July workshop. Beyond a general preference for technology standards (LTE, for example), the Commission should not set speed thresholds. Applicants should not be ineligible for NUSF funding to serve an area because they cannot meet an designated speed threshold, especially given the nature of many technologies where speed is variable and determined by a combination of real-world factors, including physical distance to the network. Rather, the Commission's focus for the NUSF programs should be on ensuring access for all Nebraskans and meeting consumer needs for connectivity – and there are many circumstances in which wireless and other technologies can be the most efficient way to meet those goals.

II. CONCLUSION

CTIA looks forward to continuing to work collaboratively with the Commission to improve the effectiveness of the NUSF and help increase wireless connectivity for Nebraskans, within the framework of an overall strategic plan for modernizing the NUSF.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 9th day of September, 2019, one original and an electronic copy of the foregoing Comments on behalf of CTIA-the Wireless Association, in Application No. NUSF-92, PO 8, were delivered to:

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