

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. C-5640
Public Service Commission, on)	
its own motion, to administer)	ORDER OPENING DOCKET AND
the Nebraska Broadband Bridge)	SEEKING COMMENT
Program in the 2025 program)	AND
year.)	NOTICE OF HEARING
)	
)	
)	Entered: March 4, 2025

BY THE COMMISSION:

The Nebraska Public Service Commission ("Commission") hereby initiates this proceeding on its own motion to administer the 2025 program year of the Nebraska Broadband Bridge Program ("NBBP"). Pursuant to the Nebraska Broadband Bridge Act, Neb. Rev. Stat. §§ 86-1301 - 1312 ("the Act"), the Commission is tasked with the distribution of \$20 million in grants annually for the purpose of facilitating and funding the development of broadband networks in unserved and underserved areas in Nebraska.¹ Pursuant to the Act, the Commission has administered the program annually since 2021.² Additionally, the Commission administers the federally funded Capital Projects Fund based upon NBBP rules and procedures.³

The Commission hereby finds that a review of the application and challenge process relative to state-funded NBBP grant cycles is appropriate prior to beginning the 2025 NBBP program year. The Commission therefore sets forth below several issues for discussion relative to NBBP beginning in the 2025 program year. The Commission requests that interested parties provide comments responsive to the issues described below on or before **Tuesday, March 25, 2025 at 5:00 p.m. Central Time**. Comments should be submitted via email to psc.broadband@nebraska.gov. Comments

¹ While the amount of funding for NBBP is set forth in Neb. Rev. Stat. § 86-1303, the Commission understands that the legislative appropriation for the program may vary in the coming fiscal biennium. The final appropriated amount will not be known for some time. In the meantime, the Commission has a statutory obligation to administer the program on an annual basis and is therefore proceeding with this docket.

² See generally Commission Dockets Nos. C-5272, C-5368, C-5484, and C-5561.

³ See generally Commission Docket Nos. CPF-1 and CPF-2.

submitted before this deadline will be posted to the Commission website for public review.

Issues for Comment

The Commission proposes to generally maintain the overall structure of the NBBP for the 2025 program year as in the previous program year, with some limited exceptions. As in previous program years, the Commission proposes to adopt and incorporate the program rules and requirements set forth in previous NBBP dockets to the extent they have not been updated or superseded. The Commission welcomes recommendations from interested parties on any improvements to the existing program structure for the upcoming program year.⁴

Additionally, the Commission seeks comment on certain topics, as set forth below.

1) Coordinating NBBP and NBEAD

On February 7, 2025, the Nebraska Broadband Office ("NBO") released a Request for Applications ("RFA") for Nebraska Broadband Equity, Access, and Deployment ("NBEAD") grants.⁵ Pursuant to the RFA, organizational applications are due to the NBO by March 9, 2025. Project applications will be due to the NBO by April 11, 2025. Subsequent project application rounds may be opened at a later date based on applications received.⁶ The NBO has also released Defined Project Area ("DPA") information, indicating which areas are eligible to be funded through NBEAD. Grant awards will be released once approved by the National Telecommunications and Information Administration; however, no specific date for awards was included in the RFA.

Given that significant amounts of NBEAD broadband funding are likely to be released in Nebraska in 2025, how best can the Commission guide NBBP to serve Nebraskans? What adjustments should

⁴ See Application No. C-5561, *In the Matter of the Commission, on its own motion, to administer the Nebraska Broadband Bridge Program in the 2024 program year*, Order Issuing 2024 Grant Application Schedule and Application Materials (May 14, 2024).

⁵ <https://broadband.nebraska.gov/media/1nbpxxay/nbead-rfa.pdf>.

⁶ *Id.* at 5.

be made to the NBBP to ensure optimal coordination with the NBO in their awarding of grants? Since DPAs for NBEAD are known, should these areas be excluded from eligibility for NBBP grants? What other issues relating to NBEAD grant awards should the Commission consider for this program year?

2) Procedural Schedule

The Commission proposes to follow a procedural schedule similar to that of previous NBBP program years. Applications for the 2025 program year will be due to the Commission via email on or before Tuesday, July 8, 2025. Challenges will be due by Thursday, September 11, 2025. Applicants will be given an opportunity to supplement and/or modify applications until Tuesday, September 16, 2025. Grant awards and the results of challenges will be released on Tuesday, January 13, 2026.

A full proposed procedural schedule is attached to this Order as Attachment A. Once adopted, the procedural schedule in this docket will be strictly enforced. Applicants who do not provide complete information prior to the dates listed in the procedural schedule will receive a score deduction in the relevant categories. Applicants who fail to provide required information may be subject to disqualification. Challengers who do not meet required deadlines may be disqualified. Additionally, challengers who fail to provide the necessary information or who provide inadequate documentation to support their challenge may face denial of their challenge.

The Commission welcomes comments and suggestions regarding this proposal and the dates set out in this proposed schedule.

3) Adjustments to Scoring System

The Commission proposes that the scoring system utilized in the 2025 program year generally follow the scoring criteria set forth in the May 16 C-5561 Order, apart from any modifications adopted pursuant to other sections of this order. The Commission welcomes comment on this proposal.

4) Challenge Process

The Commission proposes to continue the challenge process utilized in the 2024 program year. A single entity may not submit

a combined challenge showing both Type 1 and Type 2 challenges to a single project. Challengers submitting both Type 1 and Type 2 challenges for the same project will be required to submit two separate challenges identifying the basis for the challenge in each filing. The Commission no longer accepts challenges containing both Type 1 and Type 2 challenges in the same challenge filing. The Commission seeks comment on this approach.

5) Benchmark Rates

In the 2024 NBBP program year, the Commission adopted a benchmark for providers' rates based upon the average rates offered by successful applicants in the year prior.⁷ For the 2024 program year, this rate was set at \$55 per month. Applicants offering rates at or below the benchmark rate were allotted 5 additional points in scoring.⁸

The Commission has reviewed the rates offered by 2024 NBBP awardees, and has determined that the median rate offering for 2024 was \$49.99, and the average rate offering was \$60.12. Should the Commission adopt one of these amounts as the benchmark rate for 2025? Or, should the Commission adopt an alternative benchmark rate for 2025, and if so, what should that benchmark be?

6) Affordable Connectivity Program

Previously in NBBP, applicants were required to participate in federal broadband internet access subsidy programs, including Lifeline and the Affordable Connectivity Program ("ACP"). However, the ACP was discontinued in June of 2024 due to a lack of funding. Should the Commission remove the requirement to participate in the ACP in the 2025 NBBP program year? Are there any other requirements the Commission should consider in order to encourage or ensure that NBBP-funded projects will provide service to low-income individuals at a discounted price?

⁷ In program years prior to 2024, the benchmark rate was set based upon the median rate offered by the previous years' awardees, excluding outliers from the data.

⁸ Applicants are not required to offer rates at or below the benchmark rate. The rate comparability metric is used to encourage, but not mandate, more affordable service.

7) Broadband Labels

In 2024, the Federal Communications Commission ("FCC") began requiring internet service providers to provide certain information about the cost and performance of broadband services in a "nutrition label" format.⁹ Under FCC rules, the broadband label must be displayed at the point of sale. The Commission has noted that some applicants have made their broadband labels readily available for review, while other providers do not. Should the Commission require that a broadband label applying to the proposed service be submitted with an application? Alternatively, should the Commission require that a link to a website where the label is publicly accessible be submitted? The Commission welcomes further suggestions as to how the newly required broadband labels might factor into the Commission's review of NBBP applications.

8) Project Budgets

The Commission is in the process of reviewing and disbursing reimbursements for NBBP projects awarded in previous program years. Upon review of completed projects, it has become apparent that some project costs included with applications were significantly greater than what was ultimately expended.

While the Commission understands that some amount of flexibility in budgeting is necessary, the Commission also must maximize potential awards in each program year. Therefore, the Commission proposes to apply additional scrutiny for project budgets. Estimated costs will be compared with previous reimbursement requests and supporting documentation submitted by previous grant awardees, as well as other available information regarding current costs for construction and materials. The Commission may also apply higher scrutiny to applicants who have been unable to use all awarded grant funding in previous program years. The Commission proposes to treat identified issues in estimating costs as an application defect, and work with applicants in the application modification process to ensure a project has been accurately budgeted. Issues which would be considered defects would include, but may not be limited to, costs identified which are unreasonable, unrealistic, or otherwise problematic.

⁹ Detailed information regarding broadband label requirements is available on the FCC's website at <https://www.fcc.gov/broadbandlabels>.

The Commission seeks comment on this proposal. What other factors might the Commission consider when reviewing project budgets? How can the Commission best ensure that applicants have reasonable flexibility in preparing project budgets, while still maximizing available NBBP funding? Should awardees in previous years who do not use allotted funding be penalized in any way?

9) Financial Capability

The Commission proposes to refine its criteria under the Financial Capability category. In reviewing some applicants' financial materials, the Commission has at times noted trends or changes in the financial health of an applicant which could be of concern. However, under current program rules, the Commission is not well positioned to fully investigate and make decisions on issues such as these. The Commission therefore proposes to include additional criteria for review under Financial Capability, including changes to the applicant's financial health over time. The Commission seeks comment on this proposal. What other criteria might be appropriate for the Commission to consider with regard to an applicant's financial capability?

The Commission further proposes to extend the time allotted for applicants to supplement their financial information. Applicants will be allowed to provide information relating to their financial capability until the deadline to modify applications in response to successful partial challenges, December 19, 2025. This change will allow Commission staff additional opportunities to engage in conversation and request documentation from applicants if necessary. This change would be made for information relating only to the financial capability of the applicant; other modifications to the applications would not be allowable.

The Commission seeks comment on this proposal. Should these changes be made? What other changes to the Commission's review process might be considered?

10) Customer Drops

The Commission has not adopted an explicit requirement in previous NBBP program years that, following completion of the project, the awardee provide any additional customer drops at no cost to the customer. However, in CPF-2, the Commission did find

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that "[a]ny additional costs for drops after the completion and reimbursement of the project should be the responsibility of the company, and not passed on to customers."¹⁰ Additionally, pursuant to Neb. Rev. Stat. § 86-1308(2)(a), awardees of NBBP grants must commit to offer broadband Internet service in the project area to all locations for which the applicant receives NBBP support.

The Commission interprets the language of Section 86-1308 to require that drops to customer premises should be performed at no cost to the customer, regardless of whether the project has been completed. However, the Commission understands that this interpretation is not universal among Nebraska providers. Some previous NBBP awardees have voluntarily committed to performing customer drops within the awarded project area at no charge. By contrast, the Commission understands that other awardees may be assessing costs of customer drops to the customer requesting service. Should the Commission formally adopt a requirement that all customer drops in an NBBP project area should be performed at no cost to the customer, for a period of fifteen years after project completion? If not, how should that requirement be modified, and what would be the statutory basis for doing so?

11) Other Issues

The Commission welcomes comments on other issues pertaining to the 2025 program year.

Public Hearing

A hearing in this matter will be held on **Monday, April 7, 2025 at 1:00 p.m. Central Time** in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska 68508, and via WebEx, available at <https://psc.nebraska.gov/stream>.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call

¹⁰ Commission Docket No. CPF-2, *In the Matter of the Nebraska Public Service Commission, on its own motion, to administer the second round of federal Capital Projects Funds for broadband development in Nebraska*, Findings and Conclusions Order and Order Adopting Procedural Schedule for Next Grant Cycle (Nov. 7, 2023), at 13.

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the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven (7) days is needed when requesting an interpreter.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned docket be, and it is hereby, opened.


IT IS FURTHER ORDERED that comments responsive to the foregoing proposal and questions may be filed on or before **Tuesday, March 25, 2025 at 5:00 p.m. Central Time** by email service to psc.broadband@nebraska.gov.


IT IS FURTHER ORDERED that a hearing will be held in this matter on **Monday, April 7, 2025 at 1:00 p.m. Central Time** in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska 68508 and by videoconference as indicated above.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 4th day of March, 2025.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:






Chair

ATTEST:


Executive Director

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Attachment A: Proposed Procedural Schedule

Event	Date
Comments due	Tuesday, March 25, 2025
Hearing	Monday, April 7, 2025 at 1:00 p.m.
Commission enters order setting out application and scoring criteria	Tuesday, May 20, 2025
Application period begins Challenge forms released	Friday, June 20, 2025
Deadline to submit applications	Tuesday, July 8, 2025
Applications posted to Commission website	Friday, July 11, 2025
Notices of intent to challenge due to Commission and to Applicant	Friday, August 1, 2025
Challenges due	Thursday, September 11, 2025
Commission to notify applicants of: 1) defects that must be cured and of areas of overlap with other applications; 2) challenges received. Notices of Intent to Reclassify released.	Tuesday, September 16, 2025
Deadline for applicants to: 1) supplement challenged applications; 2) supplement or modify application defects and/or areas of overlap with other applications	Friday, October 3, 2025
Commission releases determinations as to the credibility of partial challenges and as to the reclassification of applications	Tuesday, December 2, 2025
Deadline for applicants to submit modified applications in response to successful partial challenges Deadline for applicants to respond to requests for financial information	Friday, December 19, 2025
Grant awards released; results of challenges released	Tuesday, January 13, 2026
State of Nebraska W-9 and ACH enrollment form due from successful applicants	Friday, January 23, 2026

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