

AMENDMENTS TO LB61

Introduced by Brandt, 32.

1 1. Strike original sections 5, 7, 9, and 11 and insert the following
2 new section:

3 Sec. 7. Section 86-577, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 86-577 ~~(1) For purposes of this section:~~

6 ~~(a) Served location means a location receiving, or at the time the~~
7 ~~lease is filed with the Public Service Commission able to receive,~~
8 ~~communications service at a minimum download speed of twenty-five~~
9 ~~megabits per second and a minimum upload speed of three megabits per~~
10 ~~second or higher speeds, as determined by the Public Service Commission;~~
11 ~~and~~

12 ~~(b) Unserved location means a location not receiving, and at the~~
13 ~~time the lease is filed with the Public Service Commission not able to~~
14 ~~receive, communications service at a minimum download speed of twenty-~~
15 ~~five megabits per second and a minimum upload speed of three megabits per~~
16 ~~second or higher speeds, as determined by the Public Service Commission.~~

17 ~~(1) (2) Any agency or political subdivision of the state may lease~~
18 ~~or license its dark fiber and related infrastructure under such terms as~~
19 ~~determined by such agency or political subdivision pursuant to its duly~~
20 ~~adopted and promulgated rules and regulations, issued orders, written~~
21 ~~policies, enacted ordinances, or adopted resolutions if:~~

22 ~~(a) The lessee or licensee is a certificated telecommunications~~
23 ~~common carrier or a permitted telecommunications contract carrier~~
24 ~~pursuant to section 86-128 or an Internet service provider;~~

25 ~~(b) The lease or license terms are fair, reasonable, and~~
26 ~~nondiscriminatory; and~~

27 ~~(c) The lease or license complies with this section.~~

1 ~~(2) (3)(a)~~ Before a lease or license of dark fiber under this
2 section becomes effective, it shall be filed by the lessee or licensee
3 with the commission, and the which shall expeditiously cause notice of
4 the lease, including lease rates, to be published. ~~(b)(i)~~ The lease or
5 license shall become effective upon such filing. The lease or license
6 rate shall be within or above the safe harbor range of market rates
7 established pursuant to subdivision (3)(a) of this section ~~fourteen~~
8 ~~business days after the date of the published notice unless a protest is~~
9 ~~filed with the commission, in which event the commission shall consider~~
10 ~~the lease as a contested matter and consider the contested lease~~
11 ~~according to the commission's rules of procedure.~~

12 ~~(ii)~~ If the allocation of served location and unserved location in
13 the lease is contested, the commission shall determine such allocation
14 under the lease as a contested matter and consider the contested lease
15 according to the commission's rules of procedure.

16 ~~(3)(a) (4)~~ For the lease or license of dark fiber under this
17 section, the : ~~(a)~~ The commission shall establish a safe harbor range of
18 market rates for all dark fiber leases or licenses using a competitive
19 price determination comparison. When conducting a competitive price
20 determination comparison, the commission, in its discretion, shall use
21 rate schedules, interconnection agreements, or other documents within its
22 regulatory oversight and shall gather other market rate information as
23 deemed necessary. If a lease or license utilizes rates within or above
24 the safe harbor range, such rates shall be deemed approved. ~~Any other~~
25 ~~term of the lease may be contested pursuant to subdivision (3)(b) of this~~
26 ~~section; and~~

27 ~~(b)~~ Revenue obtained by any agency or political subdivision from the
28 lease or license of dark fiber under this section shall only be used for
29 billing, construction, operation, and maintenance costs associated with
30 the lease or license of such dark fiber or for any existing dark fiber or
31 fiber-related infrastructure.

1 (c) Revenue obtained by any agency or political subdivision from the
2 sale or delivery of electricity shall not be used for billing,
3 construction, operation, or maintenance costs associated with the lease
4 or license of dark fiber under this section.

5 ~~Fifty percent of the profit earned by the agency or political~~
6 ~~subdivision under a lease of dark fiber leased to serve a served location~~
7 ~~shall be remitted to the State Treasurer for credit to the Nebraska~~
8 ~~Telecommunications Universal Service Fund. For purposes of this~~
9 ~~subdivision, profit earned by the agency or political subdivision means~~
10 ~~the lease price less the cost of infrastructure deployment. This~~
11 ~~subdivision does not apply to a lease or portion of a lease of dark fiber~~
12 ~~leased to exclusively serve unserved locations.~~

13 ~~(5) The lessee shall make every reasonable effort to activate the~~
14 ~~maximum amount of the leased fiber as is possible, within one year after~~
15 ~~entering into the lease, unless good cause is shown.~~

16 2. On page 2, line 7; page 3, line 27; page 5, line 24; page 9, line
17 8; and page 10, line 16, strike the new matter and reinstate the stricken
18 matter.

19 3. On page 12, line 16, strike "86-577" and reinstate the stricken
20 matter.

21 4. Renumber the remaining sections and correct the repealer
22 accordingly.