

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska ) APPLICATION NO. NUSF-25  
Public Service Commission, on )  
its own motion, seeking to )  
establish guidelines for the ) Progression Order No. 12  
purpose of certifying the use of )  
federal universal service )  
support. ) Entered: September 21, 2004

BY THE COMMISSION:

O P I N I O N     A N D     F I N D I N G S

1. The Commission has established self-certification as its process for verifying whether all federal high-cost support will be used for its intended purpose, pursuant to 47 C.F.R § 54.314 and CC Docket No. 96-45. See Application No. NUSF-25, Progression Order #1 (August 21, 2001). Progression Order #5 in this docket required each rural incumbent local exchange carrier and/or eligible telecommunications carrier to file a notarized copy of an affidavit certifying whether federal high-cost support is being used consistent with section 254(e) on or before September 1 of each year.

2. On October 27, 2003, the Federal Communications Commission (FCC) released its Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order in CC Docket 96-45, FCC 03-249 (Order on Remand). In that Order, the FCC expanded the state certification process. Each state is required to review its rates in rural, high-cost areas served by non-rural carriers annually to assess the comparability of those rates to urban rates nationwide. States are required to file a certification with the FCC by October 1<sup>st</sup> annually, beginning on October 1, 2004, stating whether its rates are reasonably comparable to nationwide urban rates, or in the alternative, explain why they are not. The FCC bases its benchmark on the most recent urban residential rates as reported in the *Reference Book*, the Wireline Competition Bureaus' annual rate survey. Specifically, the FCC adopted as a nationwide urban benchmark the most recent average urban rate plus two standard deviations, or \$34.16 for the upcoming certification period. The FCC further established this as safe harbor by which states with rates below the benchmark can simply state that without having to provide a more detailed explanation to the FCC. Federal regulation provides that a state may presume that the residential rates in rural areas served by non-rural incumbent local exchange carriers are reasonably comparable to urban rates

nationwide if the rates are below the nationwide urban rate benchmark.<sup>1</sup> In the alternative, states with rates above the benchmark must rebut the presumption that the rates are not reasonably comparable by demonstrating that factors other than basic service rates affect the comparability of their rates.<sup>2</sup>

3. The Commission finds that the following carriers filed properly completed affidavits regarding the use of federal high cost support:

Allo Communications, LLC  
Alltel Communications  
Arapahoe Telephone Company dba ATC Communications  
Arlington Telephone Company  
Benkelman Telephone Company, Inc.  
Blair Telephone Company  
Cambridge Telephone Company  
Citizens Telecommunications Company of Nebraska, Inc.,  
    aka Frontier  
Clarks Telecommunications Company  
Consolidated Telco, Inc.  
Consolidated Telecom, Inc.  
Consolidated Telephone Company  
Cozad Telephone Company  
Curtis Telephone Company, Inc.  
Dalton Telephone Company, Inc.  
Diller Telephone Company  
Eastern Nebraska Telephone Company  
Elsie Communications, Inc.  
Glenwood Telephone Membership Corporation  
Golden West Telecommunications Cooperative, Inc.  
Great Plains Communications, Inc.  
Hamilton Telephone Company  
Hartington Telecommunications Company, Inc.  
Hartman Telephone Exchanges Inc.  
Hemingford Co-operative Telephone Company  
Henderson Cooperative Telephone Company  
Hershey Cooperative Telephone Company  
Hooper Telephone Company dba Westel Systems  
Huntel Cablevision dba Huntel Communications  
K & M Telephone Company, Inc.  
Keystone-Arthur Telephone Company  
Nebraska Central Telephone Company

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<sup>1</sup> 47 C.F.R. § 54.316(b). For purposes of certification, the nationwide urban rate benchmark shall equal the most recent average urban rate plus two weighted standard deviations. *Id.*

<sup>2</sup> *Id.* § 54.316(d).

Nebraska Technology and Telecommunications, Inc.  
Northeast Nebraska Telephone Company  
Orbitcom, Inc.  
Pierce Telephone Company, Inc.  
Pinpoint Communications  
Plainview Telephone Company, Inc.  
Qwest Corporation  
Rock County Telephone Company  
Sodtown Telephone Company  
Southeast Nebraska Telephone Company  
Stanton Telecom, Inc.  
Three River Telco  
United Telephone Company of the West dba Sprint  
Vivian Telephone Company  
Wauneta Telephone Company  
Western Wireless

4. Accordingly, the Commission will provide certification to the Administrator of the federal high-cost universal service support mechanisms and the Federal Communications Commission that the above-listed carriers will use federal high-cost support only for the provision, maintenance, and upgrading of facilities and/or service for which the support is intended in accordance with section 254(e) of the Telecommunications Act of 1996, as amended.

5. In addition the Commission finds that the following nonrural carrier(s) charges rural rates which fall below the safe harbor and which are therefore presumably reasonably comparable:

Alltel Communications (Alltel)

6. Accordingly, the Commission will provide certification to the Federal Communications Commission and Administrator of the federal high-cost universal service support mechanisms that the rates of the above-listed carrier(s) are reasonably comparable.

7. The following nonrural carrier(s) charges rates in some rural areas above the safe harbor, which requires the Commission to explain in further detail whether the rates charged are or are not reasonably comparable:

Qwest Communications Corporation (Qwest)

8. The Commission believes that the rates charged by Qwest in rural areas, although in some cases above the safe harbor, are nonetheless reasonably comparable with the nationwide urban rate benchmark. First, the average rate charged by Qwest is below the safe harbor. Second, Qwest has a measured service option available in the rural areas, which is below the safe harbor.<sup>3</sup> Finally, Nebraska has undertaken substantial reform in its state subsidy system, which many other states have not done. The NUSF surcharge (6.95 percent) the Commission requires Qwest to charge and remit is not applicable to many other states.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the affidavits filed by the above-referenced carriers are accepted.

IT IS FURTHER ORDERED that the NUSF Department certify to the Federal Communications Commission that the above-listed nonrural carriers are charging reasonably comparable to the nationwide urban rate benchmark as described herein.

MADE AND ENTERED at Lincoln, Nebraska this 21st day of September, 2004.

NEBRASKA PUBLIC SERVICE COMMISSION  
COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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<sup>3</sup> See Order on Remand, n. 277.