

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. NUSF-32.07
on its own motion, seeking to)
conduct an inquiry into the)
failure of various companies to) ORDER TO SHOW CAUSE
comply with Commission Rules or)
Orders and to impose)
administrative fines.) Entered: January 6, 2009

BY THE COMMISSION:

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

As part of its regulatory authority pursuant to the Nebraska Telecommunications Universal Service Fund Act¹ (the NUSF Act) the Commission has adopted requirements to verify the accuracy of Nebraska Universal Service Fund remittances. Pursuant to Neb. Rev. Stat. § 86-324(2)(d), the Commission "shall require, as reasonably necessary, an annual audit of any telecommunications company to be performed by a third-party certified public accountant to insure the billing, collection, and remittance of a surcharge for universal service. The costs of any audit required pursuant to this subdivision shall be paid by the telecommunications company being audited."

Consistent with this statutory requirement, on April 10, 2007, the Commission entered an Order in Docket No. NUSF-33² adopting remittance audit requirements for all telecommunications carriers contributing to the Nebraska Universal Service Fund (NUSF). As required by Commission Order, remittance audits are to be performed by an independent third party, with audit results for a calendar year being due before the end of the next calendar year.

On February 26, 2008, the Commission initiated this Show Cause proceeding and listed companies who either failed to timely file a complete audit report or failed to file an audit report altogether. That Show Cause Order was revised on March 11, 2008. A hearing was held on May 13, 2008, in the Commission Hearing Room, Lincoln, Nebraska after due notice to the affected carriers.

Opex Communications (Opex) was named in the Commission's March 11, 2008 order. However, Opex had been granted an

¹ See Neb. Rev. Stat. § 86-315 et seq. (Cum. Supp. 2006).

² See NUSF- 33, *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to investigate the audit requirements related to the Nebraska Universal Service Fund*, Order (April 10, 2007).

extension of the date for filing audit information with the Commission at the time of the hearing. The Commission reserved ruling in its July 1, 2008 order. The Commission hereby enters this order to initiate a Show Cause proceeding to determine whether Opex should be fined for filing their audit after the extension due date granted by the Commission, and if so, the appropriate penalty.

The above-listed company is required to appear before the Commission at 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska on **March 31, 2009** at 1:30 p.m. and show cause why it failed to timely comply with its April 10, 2007 Order in Docket No. NUSF-33 and, why the Commission should not impose administrative penalties against it pursuant to *Neb. Rev. Stat. § 75-156* (Cum. Supp. 2006) for failing to timely comply with the Commission rules and orders described herein.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-listed company, be and is hereby ordered, to show cause why the Commission should not assess upon said company administrative penalties for failure to timely comply with its Order entered in Docket No. NUSF-33 on April 10, 2007.

IT IS FURTHER ORDERED that said company appear before the Commission on **March 31, 2009** at 1:30 p.m., in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska, for a hearing on this Show Cause Order.

MADE AND ENTERED at Lincoln, Nebraska, this 6th day of January, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director