

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 DISMISSING SHOW
comply with Commission Rules or) CAUSE, IN PART
Orders and to impose administra-)
tive fines.) Entered: July 1, 2008

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.

The Commission hereby enters this order dismissing the Order to Show Cause as it relates to certain carriers and reserving a ruling on Opex Communications, which was named in its March 11, 2008 Order.

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).

This Order addresses the Show Cause proceeding against LDMI Telecommunications Inc. (LDMI), and Talk America, Inc. (Talk America). Both LDMI and Talk America were named in the Commission's March 11, 2008 Show Cause Order. After receipt of the Commission's Order these carriers sent the Commission a letter explaining that they had been purchased by another provider and that they did not receive notice of the remittance audit requirements. After being notified of this obligation LDMI and Talk America requested time to comply with the audit requirements and leniency on any penalties the Commission may assess. LDMI and Talk America completed the audit requirements prior to the May 13, 2008 hearing, filing a completed audit on May 7, 2008. In consideration of the specific circumstances presented by LDMI and Talk America, and given this is the first year they were required to file their remittance audits, the Commission dismisses LDMI and Talk America from the Show Cause Order and will not assess any penalties for the late filing.

However, the Commission advises LDMI and Talk America that if they are late with remittance audits in future years the Commission will treat such instances with more severity.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Order to Show Cause is dismissed, in part, as provided herein.

MADE AND ENTERED at Lincoln, Nebraska, this 1st day of July, 2008.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director