

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. NUSF-32.10
on its own motion, seeking to)
conduct an inquiry into the)
failure of NetOne International) ORDER SUSTAINING SHOW CAUSE
Inc. to comply with Commission)
Rules or Orders and to impose)
administrative fines.) Entered: January, 4, 2012

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

[S]hall 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-33 adopting remittance audit requirements for all telecommunications carriers contributing to the Nebraska Universal Service Fund (NUSF).² As required by that Order, remittance audits are to be performed by an independent third party, with audit results for a randomly selected audit period. In addition, consistent with that Order, the remittance audit was due on or before December 31st in the year the Commission notified the company of the audit requirement.

On October 12, 2011, the Commission initiated this Show Cause proceeding against NetOne International Inc. ("NetOne") for its failure to timely file its remittance audit with the Commission. After two extensions of time, NetOne was required to file its remittance audit on or before September 15, 2011. NetOne

¹ See *Neb. Rev. Stat.* § 86-315 *et seq.* (2008).

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).

filed its audit on November 7, 2011. A hearing was held on December 6, 2011 in Lincoln, Nebraska. An appearance was entered by staff counsel, Shana Knutson. No appearance was entered for NetOne International Inc.

At the hearing, staff counsel presented written correspondence from NetOne to the Commission explaining the mitigating circumstances behind the delay. This letter was received into evidence as Exhibit No. 2. NetOne also sought a waiver of any potential administrative fine.

From NetOne's correspondence, it would appear that corrective action may have been taken by the company which may reduce the likelihood of future similar violations. NetOne apologized for the delay and explained that company staffing changes had occurred.

On the other hand, the Commission staff expended a significant amount time and resources to obtain the audit report from NetOne. The audit report was filed over a year after the Commission staff first made contact with NetOne about its audit requirement and the waiver process. The audit report was filed only subsequent to the commencement of formal proceedings against NetOne.

Based upon the information presented at the hearing and being fully advised in the premises, the Commission is of the opinion and finds that the Show Cause Order should be sustained; however, a reduction in the civil penalty requested by the Commission staff is warranted. The Nebraska Telecommunications Infrastructure and Public Safety (NTIPS) Department had recommended a penalty of Two Thousand Five Hundred Dollars (\$2,500.00) which was determined using the Commission's approved fining policy. In light of the mitigating circumstances in this case, the Commission finds that the penalty should be reduced to **Five Hundred Dollars (\$500.00)**. The penalty assessed against NetOne International Inc. shall be made payable to the Nebraska Public Service Commission and **is due within thirty (30) days** following the date this order is entered.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned Show Cause action shall be and it is hereby sustained.

IT IS FURTHER ORDERED that NetOne International Inc. remit to the Commission an administrative penalty in the amount of **Five Hundred Dollars (\$500.00)** within **thirty (30) days** from the date of this Order.

MADE AND ENTERED at Lincoln, Nebraska, this 4th day of January, 2012.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Deputy Director

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NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Tim Schram

Chairman

Rod Johnson

ATTEST:

Rene Baer
Gerald T. Vay

John Burdette

Deputy Director

//s// Rod Johnson
//s// Frank Landis