

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission on) Application No. NUSF-32
its own motion, seeking to conduct)
an inquiry into the failure of)
various companies to comply with) ORDER INITIATING SHOW CAUSE
Commission Orders and, at its own)
discretion, impose administrative)
fines against the named defendants.) Entered: April 22, 2003

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 Act, the Commission, on March 28, 2000, entered an order in Docket NUSF-1, Progression Order #7, requiring all companies whose revenues, subject to assessment of the NUSF surcharge, are greater than \$1,000,000 in a NUSF fiscal year, shall have all information used for the determination of intrastate retail telecommunications services revenue subject to the NUSF surcharge, audited on an annual basis. This audit was to be performed by an independent third party, with audit results for a fiscal year being due before the end of the next fiscal year.

Based upon the failure of several companies to file their audit results by the Order's deadlines, Jeff Pursley, the Director of the Nebraska Universal Service Fund (NUSF), issued a memorandum on June 3, 2002, to those companies whose revenues, subject to assessment of the NUSF surcharge, were greater than \$1,000,000 in the Fiscal Years 1999/2000 and 2000/2001, as reported by each companies' submitted Remittance Worksheets, requiring that this information be submitted to the Commission on or prior to August 30, 2002. In the same memorandum of June 3, 2002, companies were apprised of the possibility that an administrative fine, pursuant to Nebraska Revised Statute section 75-156, could be levied for failure to comply.

Prior to August 30, 2002, several of the companies delinquent in the submission of the Commission's requested audit information, contacted the NUSF requesting an extension of time due to the fact that a third party auditing company was required to be engaged. Upon the receipt of several of these requests, and in consideration of the current auditing industry's failures and subsequent closings, the extension of time was granted to October 30, 2002.

The June 3, 2002, the Director of the NUSF Department sent out a memorandum to all carriers who were required to file their

audits and apprising them of the due date. However, the June 3rd memorandum was inadvertently not sent to five companies including NPCR Nextel Partners (Nextel). Even though all carriers are considered to have notice of the Commission's audit requirements through NUSF-1, Progression Order No. 7, the Director of the NUSF Department sent a letter to Nextel apprising it of its obligation to comply with the Commission's order requiring an audit on November 22, 2002. In that letter, Nextel was informed of the possibility that failure to comply with this requirement by January 22, 2003, could result in administrative penalties. To date, the Commission has not received the required audit.

At this time, the Commission finds it appropriate to initiate a show cause proceeding requiring Nextel to appear before the Commission at 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska on May 28, 2003, at 2:00 p.m., and show cause why has failed to comply with NUSF-1, Progression Order No. 7 and rule 003.05 in title 291, ch. 10 of the Neb. Admin. Code.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that NPCR Nextel Partners be and it is hereby ordered to Show Cause why the Commission should not assess upon it administrative penalties for its failure to comply with NUSF-1, Progression Order No. 7 and Neb. Admin. Code, title 291, ch. 10, rule 003.05.

IT IS FURTHER ORDERED that Nextel appear before the Commission on May 28, 2003, at 2:00 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 22nd day of April 2003.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Deputy Director