

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Jeffrey L. Pursley, Director of) Application No. NUSF-37.87
the Nebraska Universal Service)
Fund Department of the Nebraska)
Public Service Commission,)
)
 Complainant,)
v.)
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)
)
Talk America, Inc.)
 Respondent(s).)
)
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)
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) Filed: March 29, 2006

COMPLAINT

COMES NOW, Mr. Jeffrey L. Pursley, Director of the Nebraska Universal Service Fund (NUSF) Department of the Nebraska Public Service Commission (Commission) (hereinafter "Complainant") for Complaint against Talk America, Inc., (hereinafter "Respondents") and alleges the following:

1. The Complainant is the Director of the Nebraska Universal Service Fund (NUSF) Department of the Nebraska Public Service Commission (Commission).

2. The Respondent(s) is a telecommunications company as defined by Neb. Rev. Stat. § 86-322 (Cum. Supp. 2002) and Title 291, Neb. Admin. R. & Regs. Chapter 10, Section 001.01W.

3. Jurisdiction is proper pursuant to Neb. Rev. Stat. § 86-316 et seq. and Title 291, Neb. Admin. R. & Regs. Chapter 10.

4. Pursuant to Section 003.01A of Title 291, Neb. Admin. R. & Regs. Chapter 10, "Telecommunications companies shall remit the NUSF surcharge on a monthly basis to the NUSF except as provided in Rule 003.01B." Section 003.01B provides that a telecommunications company "whose assessable revenue is less than \$20,0000 for a given fiscal year may remit on a quarterly basis to the NUSF."

5. Sections 003.02 and 003.03 further provide in pertinent part,

003.02 Remittance Worksheets: Remittance worksheets shall be received by the Department no later than the 15th day following the end of a remittance period.

003.03 Remittances to the NUSF: Except as provided in Rule 003.03A, all remittances must be transferred electronically to the Nebraska State Treasurer. Remittances must be received by the Nebraska State Treasurer no later than the 15th day following the end of the remittance period.

6. Section 003.03A governs telecommunications companies which have elected to have the NUSF Department initiate the electronic transfer of remittances.

7. The Complainant alleges that Respondents named herein have violated section 003.02 and/or section 003.03 of Title 291, Neb. Admin. R. & Regs. Chapter 10 by failing to file the required remittance worksheet or remittance payment to the Nebraska Universal Service Fund Department by the 15th day following the end of the remittance period for the month(s) of February, 2006.

WHEREAS the Complainant therefore respectfully prays for an Order from the Nebraska Public Service Commission finding the Respondents named herein guilty of the alleged violation(s) and levying an administrative penalty against the Respondents for each violation pursuant to Neb. Rev. Stat. § 75-156, an amount not to exceed \$10,000 dollars per violation per day up to \$2

million dollars per violation per year. The Complainant further requests that the Commission grant any other relief it deems appropriate.

Respectfully Submitted,

Nichole Underhill, #22492
Staff Attorney
Nebraska Public Service Commission
300 The Atrium Building
1200 N Street
P.O. Box 94927
Lincoln, Nebraska 68509

State of Nebraska)
) ss
County of Lancaster)

VERIFICATION

Jeffrey L. Pursley, being first duly sworn on oath, deposes and says that he is the duly-appointed Director of the Nebraska Universal Service Fund Department of the Nebraska Public Service Commission; that he is the Complainant in the foregoing pleading; that he has read the allegations contained therein; and understands them to be true to the best of his knowledge and belief.

Jeffrey L. Pursley

SUBSCRIBED AND SWORN to before me on this _____ day of _____, 2006.

Notary Public

(SEAL)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above Complaint was sent by First Class United States Mail postage prepaid on _____, 2006, to the following: Maxine Austin, Technologies Management Information, 210 North Park Avenue, Winter Park, FL 32789

Nichole Underhill, #22492

N O T I C E

1. Pursuant to Neb. Admin. R. & Regs., title 291, chapter 1, section 005.09, the Respondent(s) is hereby notified that an answer to this complaint shall be filed and shall admit or deny each material allegation of the complaint. The answer shall assert any affirmative defenses which the Respondent may assert. The answer shall be filed with the Commission within twenty (20) days after service of the complaint. Except for good cause shown, failure to answer will be construed as an admission of the allegations in the complaint. Failure to file an answer or to appear at the hearing allows the Commission to (a) immediately enter an order assessing a civil penalty as provided by law; or (b) to proceed with the hearing and receive evidence of the alleged violation and to assess a civil penalty as provided by law.

2. Pursuant to title 291, chapter 10, section 007.01, the Commission may impose an administrative penalty not to exceed ten thousand dollars (\$10,000.00) for each violation per day up to two million dollars (\$2,000,000) per violation per year.