

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of In the Matter) Application No. NUSF-4
of the Commission, on its own)
motion, seeking to determine the)
level of the fund necessary to) ORDER SETTING SURCHARGE
carry out the Nebraska)
Telecommunications Universal)
Service Fund Act be effective)
fiscal year beginning July 1,) Entered: July 6, 2005
1999.

BY THE COMMISSION:

This docket was opened on March 22, 2005 on the Commission's own motion, to determine the level of the fund necessary to carry out the Nebraska Telecommunication Universal Service Fund Act. Neb. Rev. Stat. § 86-328 (2002 Cum. Supp.) states, in pertinent part, that "Annually, the Commission shall hold a public hearing to determine the level of the fund necessary to carry out the Nebraska Universal Service Fund Act." Notice of this hearing appeared in Omaha World Herald, Omaha, Nebraska, the Lincoln Journal Star, Lincoln, Nebraska, on May 18, 2005 and again on May 25, 2005, and in the Daily Record, Omaha, Nebraska on May 19, 2005 pursuant to Neb. Rev. Stat. § 86-328. The hearing was held in the Commission Hearing Room, Lincoln, Nebraska, on June 1, 2005.

On June 1, 2005 a letter was submitted by the Chair of the NUSF Advisory Board stating that the NUSF Advisory Board met on May 26, 2005 for the purpose of discussing the surcharge amount for fiscal year 2005-2006. The Board voted to recommend that the Commission retain the present surcharge level of 6.95 percent.

In a prepared written statement, Mr. Jeffrey Pursley, Director of the Nebraska Universal Service Fund, recommended that the surcharge remain at 6.95 percent. Mr. Pursley projected that the outcome of pending FCC cases, such as those dealing with intercarrier compensation and Voice over the Internet Protocol issues may cause pressure on the amount of support needed.

The Commission left the record open until June 15, 2005 for the requested late-filed Exhibit No. 6. The late-filed Exhibit provides in relevant part that at the current surcharge of 6.95% the fund balance is projected to reach \$20m in October of 2009 and reach a 2-month reserve on July 2014. Mr. Pursley also made the projections based upon the surcharge being lowered and outlined various options for the Commission to consider and the impacts they would potentially have on the fund.

Mr. Paul Schumacher and Mrs. Linda Aerni testified in opposition to the surcharge on behalf of Community Internet Systems. They testified that the NUSF dissuades investment for competitors and is a hindrance to competition. Mr. Schumacher testified that the Commission should focus its efforts on open access and removing barriers to competition. Mr. Schumacher testified that costly engineering fees required by the incumbent carriers were a barrier to entry.

F I N D I N G S A N D C O N C L U S I O N S

The Commission finds that the surcharge should be lowered to 5.75 percent effective October 1, 2005. Notwithstanding the recommendations of the NUSF Advisory Board and Mr. Pursley, the Commission makes this decision upon careful consideration of the impact on the consumer, universal service needs, and the available tools to the carriers. The Commission recognizes there are pending court cases and Federal Communications Commission decisions that could effect the NUSF; however, the Commission is able to adjust the rate of the fund, if needed, on an emergency basis.

Further, the Commission intends to open proceedings to investigate if support for wireless and broadband is advisable. The Commission also recognizes these services are mentioned in the 1996 Telecommunications Act with little or no guidance and that those services would not be possible in today's environment without dependency on the existing telephone network to complete calls from those networks.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Nebraska Universal Service Fund surcharge be lowered to 5.75 percent effective October 1, 2005.

IT IS FINALLY ORDERED that all affected telecommunications companies are hereby required to collect said surcharge and remit it to the Commission as set forth herein and in Commission Universal Service Rules and Regulations and Commission orders.

MADE AND ENTERED at Lincoln, Nebraska, this 6th day of July,
2005.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director