

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska	)	Application No. NUSF-50
Public Service Commission, on	)	
its Own Motion, to Make	)	
Adjustments to the Universal	)	
Service Fund Mechanism	)	DENIED
Established in NUSF-26. Waiver	)	
Request Received from Citizens	)	
Telecommunications Company of	)	
Nebraska d/b/a Frontier	)	
Communications of Nebraska.	)	Entered: March 17, 2009

BY THE COMMISSION:

O P I N I O N      A N D      F I N D I N G S

By Application filed October 15, 2008, Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska (Frontier) seeks a waiver of the universal service funding mechanism established in NUSF-26 and amended in NUSF-50. Notice of the application appeared in The Daily Record, Omaha, on October 17, 2008. No protests or petitions of formal intervention were filed.

A hearing on the application was held on February 10, 2009, in the Commission Hearing Room, Lincoln, Nebraska with appearances shown above.

Mr. Jack Phillips testified on behalf of Frontier in support of the application. He testified that in 2006, the Commission approved a change in Frontier's depreciation rates and the amortization of a reserve and balance. When Frontier's triennial depreciation study came up for renewal, Frontier and the Communications Department Director identified two issues. One was that Frontier's existing depreciation rates were too high and the depreciation reserve balance was 33 million dollars higher than what they agreed was appropriate. To remedy that situation, Frontier requested and the Commission approved an amortization of the excess reserve balance of 33 million dollars as a negative expense over a three year period. That was reflected in Frontier's financial statements for 2006, 2007 and 2008. The second remedy was a decrease in Frontier's depreciation expense to be booked on a going forward basis until Frontier's next triennial study.

Frontier requested the Commission grant it a waiver to exclude that adjustment when it files the next NUSF-EARN Form. Mr. Phillips stated that Frontier's intent through this

application was to provide a more accurate portrayal of the financial picture on a prospective basis.

Frontier also testified it was willing to commit to a broadband build-out plan and to a contribution to the telecommunications program at University of Nebraska at Kearney.

Upon questioning by the Commission, Frontier testified that raising local exchange rates would hurt them competitively. Mr. Phillips further testified that administratively it would be difficult for Frontier to raise its rural local exchange rates while leaving the urban rates at \$17.50.

Ms. Sue Vanicek, Director of the Nebraska Telecommunications Infrastructure and Public Safety Department testified in opposition to the application. She testified that if the Commission granted this waiver request there would likely be additional waiver requests from companies in a similar situation. Granting these requests would significantly reduce the amount of NUSF support available for distribution through the high-cost distribution model. In addition, the Commission should not turn the high-cost distribution mechanism into one that simply funds proposed telecommunications projects. Ms. Vanicek emphasized that the waiver mechanism should be used only for unique and exceptional cases which are precipitated in part by changes in the universal service fund model. Ms. Vanicek testified that if the Commission grants waivers just because there is a public benefit for one company's customers, then she does not know where the Commission would draw the line in future requests. A number of carriers could apply and say they will make investments and there would be the same public benefits.

Based on the application and the record evidence, the Commission is of the opinion and finds that Frontier's waiver request should be denied. While we sympathize with Frontier's situation, unlike many of the other waiver requests, it was not a situation specifically caused by a Commission change to the distribution model and the timing of the change. Frontier developed its depreciation schedule voluntarily with the Communications Department. Its current ineligibility is largely a product of those business decisions.

The last significant change to the distribution model occurred in late 2006 affecting the 2007 funding year. The companies have had time to adjust to those model changes; as a result the Commission would expect to receive fewer waiver requests as we move further away from that decision.

In addition, the Commission is concerned with the precedential value of a waiver grant in this case relative to other companies similarly situated. We do not have any indication as to whether Frontier is so uniquely situated that a grant of this order would limit the requests of other carriers seeking the same result. The Commission agrees with Ms. Vanicek's concerns that the Commission should limit waivers so that the exceptions to the NUSF high cost distribution mechanism do not swallow the rule.

Finally, through the NUSF-50 Order entered on December 19, 2007, the Commission stated a general desire for high-cost recipients to consider local rate changes first prior to seeking additional NUSF high-cost support. The Commission raised the residential basic local exchange rate benchmark to \$17.95 and found that companies could raise rates to \$19.95 and still be reasonably comparable with the \$17.95 rate. The Commission would be reluctant to give Frontier additional NUSF high cost support absent a demonstration that it raised or attempted to raise local rates to the benchmark.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the request filed by Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska be, and it is hereby, denied.

MADE AND ENTERED at Lincoln, Nebraska this 17th day of March, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director