

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska                    ) Application No. NUSF-52  
Public Service Commission,                    )  
requiring Acceris Communications            )  
Corporation to Show Cause as to            )  
why its certificate of public                ) ORDER TO SHOW CAUSE  
convenience and necessity should            )  
not be revoked and should not be            )  
assessed administrative                    ) Entered: January 18, 2006  
penalties.                                        )

BY THE COMMISSION:

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

This is the matter of the Nebraska Public Service Commission (Commission) on its own motion, requiring Acceris Communications Corporation (Respondent) to Show Cause as to why its certificate of public convenience and necessity should not be revoked and, why the Commission should not assess administrative penalties against Respondent.

Respondent is a telecommunications company as defined by *Neb. Rev. Stat. § 86-322* (Cum. Supp. 2004) and *Neb. Admin. Code, Title 291, Chapter 10, Section 001.01W*.

Respondent holds a certificate of public convenience and necessity to provide local and interexchange telecommunications services in the State of Nebraska. The Commission approved Respondent's authority to provide such services in Application Nos. C-2346 and C-3224.

Jurisdiction over this matter is proper pursuant to *Neb. Rev. Stat. § 86-316 et seq.* and *Neb. Admin. Code, Title 291, Chapter 10*.

Pursuant to Section 003.01A of the *Neb. Admin. Code, Title 291, Chapter 10*, "Telecommunications companies shall remit the NUSF surcharge on a monthly basis to the NUSF except as provided in Rule 003.01B."

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 15<sup>th</sup> day following the end of the remittance period.

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

On August 31, 2004, the Director of the Nebraska Universal Service Fund Department of the Commission filed a Complaint against Respondent. See Docket No. NUSF-37.39. Respondent failed to answer the Complaint. By order served on Respondent, the Commission set a hearing on the Complaint. Respondent failed to appear at the hearing. Commission counsel recommended a fine be assessed against Respondent. After several months, Respondent paid the fine assessed on August 16, 2005.

On August 9, 2005, the Director of the Nebraska Universal Service Fund Department of the Commission filed a Complaint against Respondent for failing to file the required remittance worksheets by the 15<sup>th</sup> day following the end of the April, May, June and September 2005 remittance periods. See Docket No. NUSF-37.69. Respondent failed to answer the Complaint. The Commission set a hearing on the Complaint by order and mailed it to Respondent. Respondent failed to appear at the hearing. At the hearing, Commission counsel made a recommendation to fine Respondent. It was noted in the record that Respondent had previously been in violation of section 003.02 of Neb. Admin. Code, Title 291, Chapter 10 by failing to file the required remittance worksheets to the NUSF Department.

Respondent named herein has repeatedly violated section 003.02 of Neb. Admin. Code, Chapter 10 by failing to file the required remittance worksheets and remittance payments to the Nebraska Universal Service Fund Department by the 15<sup>th</sup> day following the end of the remittance periods for April, 2005, May, 2005, June, 2005 and September, 2005.

Due to these repeated violations of section 003.02 of Neb. Admin. Code, Title 291, Chapter 10, the Commission is of the opinion and finds Respondent should be required to show cause as to why its certificate of public convenience and necessity should not be revoked and why it should not be administratively fined.

Respondent is ordered to appear before the Commission on **February 28, 2006 at 1:30 p.m. CT** to demonstrate why its certificate of public convenience and necessity to provide intrastate local and interexchange telecommunications services in Nebraska should not be revoked and why it should not be assessed administratively fined for these violations.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Respondent is hereby ordered to appear before the Commission on **February 28, 2006 at 1:30 p.m. CT** at the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska, to Show Cause why its certificate of public convenience and necessity should not be revoked and, to Show Cause why it should not be administratively fined.

MADE AND ENTERED at Lincoln, Nebraska this 18th day of January, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director