

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. C-3702/NUSF-
Public Service Commission, on) 60/PI-123
its own motion, seeking to)
investigate Clarks) ORDER OPENING DOCKET AND
Telecommunications Company's) SUSPENDING TARIFF
Access Rates.)
) Entered: October 11, 2006

BY THE COMMISSION:

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

1. On October 4, 2006 a tariff was filed with the Nebraska Public Service Commission (Commission) by Clarks Telecommunications Co. (Clarks) proposing to raise its access rates.

2. Jurisdiction over this subject matter is proper pursuant to Neb. Rev. Stat. §§ 86-140 and 86-323 (Cum. Supp. 2006).

3. Section 86-140 provides in pertinent part that, "Access charges imposed by telecommunications companies for access to a local exchange network for interexchange service shall be negotiated by the telecommunications companies. Any affected telecommunications company may apply for review of such charges by the commission, *or the commission may make a motion to review such charges.*" (Emphasis Added).

4. Section 86-323(7) (Cum. Supp. 2006) provides "The implicit support mechanisms in intrastate access rates throughout the state may be replaced while ensuring that local service rates in all areas of the state remain affordable."

5. In furtherance of the Nebraska Telecommunications Universal Service Fund Act (NUSF Act), the Commission in Docket C-1628/NUSF required eligible telecommunications carriers to reduce access rates to interstate levels or to approximate interstate levels and to file transition plans all of which were to be approved by the Commission. In NUSF-28, the Commission conducted an investigation of intrastate access rates for rural incumbent local exchange carriers (ILECs) and found the intrastate access rate structure should approximate the interstate access charge structure. The Commission further reduced access rate caps for rural ILECs. The Commission also conducted investigations of access rates for Qwest in NUSF-17 and Alltel in NUSF-18 reducing intrastate access charges to Commission approved levels. In addition, in paragraph 36 of the

Commission's November 3, 2004 Findings and Conclusions Order in NUSF-26, the Commission found that all access charge orders must be adhered to by the eligible telecommunications carriers in order to remain eligible to receive NUSF support.¹

7. In the Commission's access rate orders, the Commission found that access rate increases were subject to Commission approval and adherence to access rate caps was necessary to remain eligible for NUSF high-cost support.

8. Clarks is an eligible telecommunications carrier and receives support from the federal and the state universal service funds. As such, it is important to determine whether the increased access rates reflected in its tariff should make Clarks ineligible for NUSF high-cost program support altogether, or whether the amount they would receive by increased access rates should be offset by a reduction of NUSF support.

9. The Commission hereby opens this investigation to review such charges filed by Clarks on October 4, 2006 to determine whether the rates proposed are fair, just and reasonable consistent with Neb. Rev. Stat. § 86-140 and that implicit subsidies have been removed pursuant to Neb. Rev. Stat. § 86-323(7).

10. If the access rates filed by Clarks are not deemed just and reasonable, the Commission may in this proceeding, reduce the access rates, reduce the amount of NUSF support received by Clarks, or find Clarks ineligible to receive high-cost support.

11. The Commission has yet to determine whether the increased access rates reflected in Clarks' proposed tariff are fair and reasonable or based on cost. No documentation was filed by Clarks for the Commission staff to determine whether the increased access rates are appropriate. Rather than allowing the tariff to go into effect and causing interexchange carriers to make adjustments for the increased rates, the Commission finds it appropriate to first review the rates in order to ensure that the rates comply with all statutory and regulatory requirements and to allow all affected persons an opportunity to comment. Accordingly, the tariff filed by Clarks on October 4,

¹ For this investigation, collectively, the Commission's C-1628/NUSF, NUSF-17, NUSF-18, NUSF-28 and NUSF-26 orders are referred to as the Commission's "access rate orders." The Commission opened an investigation on Qwest's proposed access rate increase in C-3345/NUSF-42/PI-93. In that proceeding the Qwest, the staff and the interested parties entered into a stipulation which was approved by the Commission.

2006, will be temporarily suspended until further order of the Commission.

12. Persons interested in participating in this investigation should make a statement of such interest in conformance with Neb. Admin. Code Title 291, Chapter 1, §§ 014 to 015.

13. A pre-hearing conference will be scheduled for **November 20, 2006**, at 1:30 p.m. in the Commission Library, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

14. A hearing will be held on **December 4, 2006**, at 1:00 p.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska, unless an extension of time is agreed to by all parties.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned investigation be and it is hereby open for public comment.

IT IS FURTHER ORDERED that the tariff filed by Clarks on October 4, 2006 be and it is hereby temporarily suspended until further order of the Commission.

IT IS FURTHER ORDERED that Clarks be required to demonstrate whether its proposed tariff rates are fair and reasonable and why it should remain eligible to receive support from the NUSF high-cost program if the Commission approves the access rate increase.

IT IS FURTHER ORDERED that a pre-hearing conference will be scheduled for **November 20, 2006** at 1:30 p.m. in the Commission Library, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

IT IS FURTHER ORDERED that a hearing will be held on **December 4, 2006** at 1:00 p.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska, unless an extension of time is agreed to by all parties.

MADE AND ENTERED at Lincoln, Nebraska, this 11th day of
October, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director