

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Disposition of)	Application Nos. C-931(25)
Property Tax Revenues for Taxable)	and C-931(35)
Year 1991 and Certain Other Tax)	
Years by Certain Affected Telecom-)	
munications Companies:)	ORDER APPROVING DISPOSITION
Lincoln Telephone Company)	FOR Tax YEARS 1989, 1990,
US West Communications)	1991 AND 1992
RESPONDENTS.)	
	Entered: June 16, 1993

BY THE COMMISSION

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

The Commission on its own motion opened this docket May 14, 1992. This format was established to approve or disapprove plans submitted by certain affected telecommunications companies. Specifically, this docket sought the approved disposition of excess revenues resulting from decreases in personal property taxes for the 1991 tax year. Neb. Rev. Stat. Section 86-803(9) (1992 Cum. Supp.) governs our review. Subsequently, we approved certain dispositions and plans offered by Lincoln Telephone Company (LT&T) and US West Communications on July 14, 1992.

After this occurred, the Nebraska Supreme Court ruled in the Bahensky and Jaksha cases that the property tax scheme (upon which the Commission and the companies relied in calculating the amount of revenue subject to disposition in 1991) was unconstitutional. The Commission's Communication Department (the Staff) then moved that we hold the C-931 docket in abeyance while the Legislature reacted to the court's rulings and we did so August 4, 1992.

The voters of the State then approved an amendment to the State Constitution (AMENDMENT 1) and the Legislature, in special session, altered the State's personal property tax laws to adjust the State's tax policy to the Bahensky and Jaksha decisions (L.B. 1). This new legislation has since survived the court's scrutiny (MAPCO II) and this requires a new calculation of the 1991 revenues.

Based on proposed stipulations between the Staff and the Respondents and offered for our approval, we set a hearing date for their consideration and gave notice to the Respondents and the public (Exhibits 1 and 2). Hearing was held in the Commission Hearing Room, Lincoln, Nebraska on June 2, 1993. All Commissioners were present to hear testimony. Entered into the record as Exhibits 5 and 6 were letters from Governor Ben Nelson and State Tax Commissioner praising the stipulations and urging their approval.

Briefly, the stipulations recalculate the amount of revenue for disposition for the 1991 tax year. In addition, the stipulations address tax years 1989, 1990, and 1992.

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The Commission, being fully advised, finds: the proposed stipulations should be adopted and incorporated by reference into this order as Exhibits 3 and 4¹ and should be made the findings and final determination of the Commission.

We also take judicial notice of the fact that a new docket (C-992) was opened to consider application of section 86-803(9) to the 1992 tax year. This docket applies to all telecommunications companies, including LT&T and US West, just as the C-931 docket did. Because these stipulations and this order apply to LT&T and US West for the 1992 tax year, this order also concludes those two companies' participation in the C-992 docket.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the proposed stipulations be and they are hereby adopted and incorporated by reference into this order as Exhibits 3 and 4 and made the findings and final determination of the Commission as applied to Lincoln Telephone Company and US West Communications.

IT IS FURTHER ORDERED that the proposed plans offered by the Respondents disposing of revenues from decreased personal property taxes for the 1991 tax year as recalculated in Exhibits 3 and 4 be, and they are hereby, approved pursuant to this order.

IT IS FINALLY ORDERED this order concludes Lincoln Telephone Company's and US West Communications' participation in the C-992 docket.

MADE AND ENTERED at Lincoln, Nebraska this 16th day of June, 1993.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

Daniel S. Yuwiler
Deane D. Day

//s//Rod Johnson
//s//Frank E. Landis, Jr.
//s//James F. Munnelly

James Landis
Chairman

ATTEST:

Pat R. G.
Executive Director

¹As identified in the bill of exceptions at the June 2nd hearing.