

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission	)	Application No. C-810
on its own motion to determine	)	
the boundary between the Kenesaw	)	ORDER
exchange of the Lincoln Telephone	)	BOUNDARY DETERMINED
Company and the Holstein exchange	)	
of the Glenwood Telephone Mem-	)	
bership Corporation.	)	Entered: May 14, 1992

APPEARANCE BY COUNSEL

For Glenwood Telephone Membership Corporation:  
Charles Hastings, Esq.  
DUNMIRE, FISHER, & HASTINGS  
P.O. Box 1044  
Hastings, NE 68902-1044

BY THE COMMISSION

By docket filed July 19, 1990, the Commission on its own motion has sought to eliminate duplicate service areas throughout Nebraska. This particular application seeks to establish the boundary between the Kenesaw exchange of the Lincoln Telephone Company, Lincoln, Nebraska ("LT&T") and the Holstein exchange of the Glenwood Telephone Membership Corporation, Glenwood, Nebraska ("Glenwood"). Neb. Rev. Stat. §75-605 (Reissue 1990) requires local exchange carriers to file with the Commission maps of the territory they serve. The maps shall be updated as needed to accurately reflect the service area. In this case, certain subscribers are within an area which appears on both companies' maps. This application seeks to eliminate the duplication caused by the overlap of the Holstein and Kenesaw exchanges.

Both LT&T and Glenwood were notified of the C-810 application and were directed to propose a revised boundary to eliminate the duplicated service area subject to this particular application.

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

Both telephone companies initially agreed prior to hearing that the duplicated area in question should be included in Glenwood's Holstein exchange, but that a current subscriber in the duplicated area would be "grandfathered" and remain served by LT&T so long as that subscriber remained at the current residence. After a change in possession of the subscriber's property, a subsequent subscriber at that residence would be served by Glenwood. Based on past practice, the Commission construes a grandfather clause in this instance to provide further that when the current subscriber moved or sold

the property or the existing service was disconnected for any other reason, new service would then be provided by Glenwood with the exception being that the service could be transferred to another family member who takes possession while a member of the household at the time of transfer.

The Commission staff notified the affected subscribers of the proposal by certified mail February 25, 1992. At this time, there appeared to be six affected subscribers:

1. Carroll Burling- P.O. Box 181, Rt. 1, Kenesaw, NE, 68956;
2. Dan Burling- P.O. Box 182, Rt. 1, Kenesaw, NE, 68956;
3. Roman Hines- P.O. Box 180, Kenesaw, NE, 68956;
4. Clifford Haselbarth- P.O. Box 179, Kenesaw, NE, 68956;
5. Charles Steiner- P.O. Box 196, Kenesaw, NE, 68956; and
6. Wesley Schukei- P.O. Box 170, Kenesaw, NE, 68956.

Carroll Burling replied to the Commission March 13, 1992 by letter that he questioned the proposal and therefore asked for a hearing. Notice of the public hearing was sent to the telephone companies and subscribers March 25, 1992. The hearing was held April 23, 1992 in the City Council Chambers, Hastings, Nebraska.

At the hearing, Exhibits 2, 3, and 4 were entered into the record by Bill Ashburn, LT&T's Industry Relations Manager, and were concurred to by Glenwood's attorney, Charles Hastings. The exhibits reflect the current exchanges' relationship to each other. Exhibit 3 shows the location of the affected subscribers and Exhibit 5 (identified as "Kenesaw Adams County Fifth Revised Map") shows the proposed boundary between the exchanges, if the proposed solution is approved by the Commission. Ashburn testified LT&T is willing, under the proposal, to continue to serve the subscribers in the duplicated area on a grandfathered basis if the territory is placed into Glenwood's Holstein exchange.

At the hearing, Ashburn testified his company's further investigation satisfied LT&T that Roman Hines is already in the Holstein exchange and is not within the duplicated area. After Ashburn's testimony, Glenwood's attorney offered Exhibit 7, a map which, according to Glenwood, shows Wesley Schukei's residence is actually in the Holstein exchange and is not within the duplicated area. Upon questioning by Mr. Hand, Mr. Hastings stipulated the Schukei residence receives service from Glenwood. This was confirmed later by Mrs. Audrey Schukei's testimony.

Carroll Burling and his son, Dan, testified about the proposal. Carroll Burling supported maintaining the status quo (i.e., the residents of these particular properties continuing to receive service from LT&T on the grounds future resi-

dents of the properties will have a community of interest in the Kenesaw exchange as opposed to the Holstein exchange). After a question from Mr. Hand, Mr. Burling requested the Commission simply move the boundary farther south to incorporate the affected subscribers into the Kenesaw exchange.

Dan Burling testified he intends to continue his residence for many years to come, perhaps for as long as the next 50 years. His father is much older and will not be at his residence long into the future. Their residences are separated only by a driveway. Dan Burling pointed out that even with a grandfather clause, the day will come when his house remains on LT&T's service while a hired man in his father's former residence across the driveway will be served by Glenwood as part of the Holstein exchange.

Upon consideration of the evidence presented and being fully advised, the Commission is of the opinion and finds it reasonable to order formation of a boundary which eliminates the duplicate service area existing between the Kensesaw and Holstein exchanges. Both telephone companies should be ordered to file revised service area maps showing the area in question is in Glenwood's Holstein exchange. Clifford Haselbarth should be "grandfathered" (in the manner described in paragraph 3 of this order) and should remain served by LT&T while they reside at their current locations, respectively. As to the Burlings, we find merit in the position taken by Dan Burling and note the incongruity of the circumstances which could arise after Carroll Burling leaves his residence. Therefore, the Burlings, too, are "grandfathered" in the manner described in paragraph 3, but because of the close proximity of the two residences, we find it reasonable to order that LT&T shall continue to serve both residences so long as one of them is occupied by Carroll or Dan Burling or a family member to whom the property is transferred and who is a member of the household at the time of transfer.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a new boundary be, and it is hereby, determined in Application No. C-810 to eliminate the duplicate service area existing between the Kenesaw and Holstein exchanges of Lincoln Telephone & Telegraph and Glenwood Telephone Membership Corporation, respectively. The new boundary shall place the affected service area exclusively in the Holstein exchange, but the the three subscribers identified above (Carroll Burling, Dan Burling, and Clifford Haselbarth) shall be grandfathered in the manner previously described.

IT IS FURTHER ORDERED that revised service area maps be filed by Lincoln Telephone & Telegraph and Glenwood Telephone

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Membership Corporation placing the area in question in the Holstein exchange as shown on Exhibit 5.

MADE AND ENTERED at Lincoln, Nebraska this 14th day of May, 1992.

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

*Daniel S. Miller*  
*Deane D. Gay*

//s//Frank E. Landis, Jr.  
//s//James F. Munnelly  
//s//Eric Rasmussen

*Frank E. Landis, Jr.*  
Chairman

ATTEST:

*Pat R. Lij*  
Executive Director