

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Disposition of) Application No. C-931(30)
Property Tax Revenues for Taxable)
Year 1991 and Certain Other Tax)
Years by Certain Affected Tele-) ORDER APPROVING
communications companies:) DISPOSITION
Plainview Telephone Company, Inc.) Entered: October 16, 1995

BY THE COMMISSION

OPINION AND FINDINGS

In this order, the Commission considers whether to approve a proposal offered by Plainview Telephone Company, Inc. for disposition of property tax dollars pursuant to Docket C-931(30). This proposal would distribute revenues totalling roughly \$14,991, plus interest accrued from July, 1995.

The Commission opened Docket C-931 on May 14, 1992 to establish a format to approve or disapprove plans submitted by certain affected telecommunications companies. Specifically, this docket sought whether to approve disposition of excess revenues resulting from decreases in personal property taxes for the 1991 tax year. Neb. Rev. Stat. Section 86-803(9) (Reissue 1994) governs our review.

In the summer of 1992, after the commencement of this docket, the Nebraska Supreme Court ruled in the Bahensky and Jaksha cases that the personal property tax scheme (upon which the Commission and the various companies relied in calculating the amount of revenue subject to disposition in 1991) was unconstitutional. The Staff then moved that we hold the C-931 docket in abeyance pending legislative action by the Nebraska Unicameral and we did so August 4, 1992.

Nebraska voters subsequently 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 its tax policy to the Bahensky and Jaksha decisions (LB 1). This new legislation has since survived the court's scrutiny (MAPCO II) and the this requires a new calculation of the 1991 revenues for disposition by the telecommunications carriers subject to this docket.

Based on proposed stipulations between the Department and Respondents US West Communications (US West) and the Lincoln Telephone Company (LT&T), we lifted the order of abeyance as its applied to those companies and reviewed modified plans for disposition offered by them. A hearing was held in the Commis-

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sion 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 E. Benjamin Nelson and State Tax Commissioner M. Berri Balka in support of the stipulations and urging the Commission to look favorably upon them.

Briefly, the stipulations considered at that hearing recalculated the amount of revenue for disposition for the 1991 tax year. In addition, the stipulations addressed tax years 1990 and 1992. After the hearing, the Commission approved the US West and LT&T dispositions as per the stipulations. This was done by an order entered June 16, 1993.

On July 8, 1993, the Commission entered an order approving the disposition of property tax dollars for Plainview Telephone Company for tax years 1989, 1991 and 1992. Pursuant to that order, Plainview agreed to distribute revenues to install distance learning or other technology assisted educational systems for secondary and/or primary school districts. This allocation was one of six (6) options that were approved pursuant to a Commission order entered on May 26, 1992.

Plainview hereby comes forward and requests it be given permission to amend its original distribution plan so it may help fund projects of the Technology Task Force in Plainview. Projects of the Task Force may include equipment, training/education, a bulletin board system, and a video conference training center.

The Technology Task Force is organized as a committee under the Northeast Nebraska RC&D. It is associated with the Nebraska Department of Economic Development. The Task Force hopes to provide informational and technological training and education to health, agriculture, business, government, education, and private sectors of the area.

The goals of the Technology Task Force are similar to those originally upheld by the Commission in C-931; therefore the proposal is approved. However, the Commission does not believe that the authority to make allocation decisions should rest with Plainview or with the Technology Task Force. Though the mentioned projects certainly seem worthwhile and of benefit to the public, the Commission believes it must approve each expenditure to ensure the tax dollars are being spent in the public's interest.

The Commission, being fully advised in the premises finds the proposed distribution plan offered by Plainview Telephone

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Company should be adopted; however, the Commission hereby orders the Technology Task Force and Plainview Telephone Company to submit all proposed expenditures that are to be funded through property tax revenues currently held by Plainview to the Commission for approval. Commission staff shall approve expenditures up to \$1,000.00. Proposed expenditures in excess of \$1,000.00 shall be placed on the Commission's agenda.


ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the proposed plan offered by the Plainview Telephone Company, Inc. disposing of revenues from decreased personal property taxes for the 1991 tax year is hereby approved pursuant to this order.


IT IS FURTHER ORDERED that Plainview Telephone Company, Inc. shall submit all proposed expenditures relative to this proposal to the Commission for ultimate approval.

MADE AND ENTERED at Lincoln, Nebraska this 16th day of October, 1995.

COMMISSIONERS CONCURRING


//s//Rod Johnson
//s//Frank E. Landis
//s//James F. Munnelly
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION


Chairman

ATTEST:


Executive Director