

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In Re Disposition of Property Tax)	Application No.
Revenues For Taxable Year 1991 By Cer-)	
tain Affected Telecommunications Com-)	C-931(19)
panies:)	
)	ORDER APPROVING
)	DISPOSITION
Hartington Telephone Company.)	
)	Entered: July 21, 1992

PRELIMINARY MATTERS

The Commission on its own motion opened this docket May 14, 1992 as a means of determining whether to approve plans submitted by certain affected telecommunications companies for the disposition of revenues resulting from decreases in personal property taxes for the taxable year 1991. This docket is governed by Neb. Rev. Stat. §86-803(9) (1991 Supp.).

Notice of hearing was sent to the above-named party May 29, 1992 by the Executive Director and hearing was scheduled for July 7, 1992. The Commission in its order opening this docket ruled that a plan for disposition would be approved, without a hearing pursuant to the Commission's modified procedure rule, if (a) there was no dispute as to the amount of revenue calculated for disposition and (b) if the respondent telephone company agreed to dispose of the revenues pursuant to one or more of the alternatives "pre-approved" by the Commission.

In this particular application, Hartington Telephone Company ("Hartington") stipulated to the amount of revenue subject to disposition, but proposed a method of disposition different from the pre-approved alternatives. Hearing was subsequently held June 30, 1992 in the Commission Hearing Room, Commissioner Landis, chairing.

BY THE COMMISSION

OPINION AND FINDINGS

The Commission, being fully advised, finds:

1. Hartington has \$18,262 available for disposition in personal property tax revenues for the 1991 taxable year (after various offsets).¹

¹Commission staff accepted certain offsets in arriving at each company's calculation.
(Footnote Continued)

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2. The pre-approved alternatives from which Hartington could have selected are:

- (a) used to install equipment necessary to provide 911 or E-911 service;
- (b) used to implement Phase II of the Frame Relay project;
- (c) used to install distance learning or other technology assisted education systems for secondary and/or primary school districts;
- (d) returned to the local governmental subdivision from which they came;
- (e) refunded to the respondent's customers on a pro rata basis; or
- (f) used to provide toll route diversity to improve network reliability.

3. At the hearing, Hartington's Manager, William D. Dendlinger, testified. Hartington proposes to distribute the revenues to the Hartington Community Foundation, which is a non-profit organization formed in 1991. Various civic organizations within the community will apply to the foundation for funding. A board of directors oversees the disbursement of the money earned from investing the contributions. The principal accruing from these various contributions (including the revenues subject to this proceeding) will not be spent; only the earnings on the principal will be disbursed to applicants.

4. Dendlinger testified none of the foundation board members have ties to the telephone company. He also testified the company's boundaries cover the town of Hartington, village of Bow Valley and the surrounding rural area. Dendlinger emphasized the foundation serves the entire area, not just the town of Hartington. He described some of the anticipated projects for which the principal's earnings would pay, for example: improvements on the public pool, or used for a local library.

5. In a June 11, 1992 letter to the Commission sent with Hartington's stipulation, Dendlinger pointed out that 911 service is already provided in the local area and Hartington Telephone Company has recently updated its toll facilities to fiberoptic. Further, approximately 25% of Hartington's pub-

(Footnote Continued)

tion while realizing pending litigation may alter those offsets as they pertain to the depreciation surcharge (which is the subject of the litigation). Since the outcome of these lawsuits may result in adjustments to the depreciation surcharge, the docket should remain open and if changes occur (a) a new calculation of the additional revenues should be made and confirmed for each company affected, and (b) respondents should stipulate to the disposition of those additional revenues.

lic school students are in families who are Hartington Telephone Company subscribers. Therefore, the company believes a donation to the school district pursuant to the pre-approved alternatives may not directly benefit all the subscribers.

There is no dispute as to the amount of revenue in question. We are of the opinion that Hartington's proposal is reasonable and will benefit the local community. An order should be entered approving the proposed disposition. Further, the revenue subject to this order should be maintained in an interest-bearing account pending its actual disposition. Finally, disposition should be made as soon as is practicable for the alternatives selected.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the proposed plan filed by the Hartington Telephone Company for disposition of revenues resulting from decreased personal property taxes for the 1991 taxable year be, and it is hereby, approved pursuant to this order as follows: The revenues shall be deposited with the Hartington Community Foundation as principal in accordance with that organization's articles of incorporation and shall be used in accordance with the stated goals of that organization for the betterment of the local and surrounding Hartington, Nebraska community. In the event the foundation dissolves, Hartington Telephone Company's donation shall be subject to a new allocation pursuant to this docket and shall be disposed upon order of this Commission.

IT IS FURTHER ORDERED that this docket shall remain open and, if the outcome of pending litigation involving the depreciation surcharge results in adjustments to the depreciation surcharge and consequently to the amount of the offsets used in the calculation of revenues subject to disposition, (a) a new calculation of the additional revenues shall be made and confirmed for Hartington, and (b) Hartington shall stipulate to the disposition of those additional revenues.

IT IS FURTHER ORDERED that the revenue subject to this order shall be maintained in an interest-bearing account pending its actual disposition and disposition shall be made as soon as is practicable for the alternatives selected.

MADE AND ENTERED at Lincoln, Nebraska this 21st day of July, 1992.

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COMMISSIONERS CONCURRING

Daniel G. Kriville
Dwaine D. Gay

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

Frank E. Landis, Jr.
Chairman

ATTEST:

John B. Sauer
Acting Executive Director