

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Disposition)	Application No. C-931(70)
of Property Tax Revenues for Tax)	
Year 1991 and Certain Other Tax)	
Years by Certain Affected Tele-)	ORDER APPROVING
communications Companies:)	DISPOSITION FOR TAX YEARS
)	1989, 1990, 1991, 1992,
WilTel, Inc.)	and 1993
Respondent.)	
)	Entered: March 23, 1994

BY THE COMMISSION

OPINION AND FINDINGS

In this order, the Commission considers whether to approve a proposed stipulation between the Communications Department (the Staff) and WilTel, Inc. (WilTel). The Commission opened this docket May 14, 1992. A format was established 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) (1992 Cum. Supp.) 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 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 Staff 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. 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 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 we considered at that hearing re-calculated the amount of revenue for disposition for the 1991 tax year. In addition, the stipulations addressed tax years 1989, 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.

With this in mind, we now consider the WilTel/Staff stipulation. It approximates the stipulations described above and already approved, except in the amount of revenue available for disposition for the tax years in question (including 1993). Staff moved that the order of abeyance be lifted as it applies to WilTel. We grant that motion.

The Commission, being fully advised, finds: the proposed stipulation between WilTel and the Staff should be adopted and incorporated by reference into this order as Exhibit 1 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 the application of Section 86-803(9) to the 1992 tax year. This docket applies to all telecommunications companies, including WilTel, just as the C-931 docket does. Because the stipulation and order apply to WilTel for the 1992 tax year, this order also concludes WilTel's participation in the C-992 docket.

ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the proposed stipulation be and it is hereby adopted and incorporated by reference into this order as Exhibit 1 and made the findings and final determination of the Commission as applied to WilTel, Inc.

IT IS FURTHER ORDERED that the proposed plan offered by the Respondent disposing of revenues from decreased personal property taxes for the 1991 tax year as re-calculated in Exhibit 1 be, and it is hereby, approved pursuant to this order.

Application No. C-931(70)

3

IT IS FINALLY ORDERED that this order conclude WilTel, Inc.'s participation in the C-992 docket.

MADE AND ENTERED at Lincoln, Nebraska this 23rd day of March, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

Daniel G. Uviller
Duane D. Gay

//s//Frank E. Landis, Jr.

//s//James F. Munnelly

Mark Landis
Chairman

ATTEST:

Jeff R. King
Executive Director