

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Disposition of) Application No. C-931(40)  
Property Tax Revenues for Taxable ) C-992  
Year 1991 and Certain Other Tax ) ORDER APPROVING  
Years by Certain Affected Tele- ) DISPOSITION FOR TAX YEARS  
communications companies: ) 1991, 1992, 1993,  
 ) 1994 and 1995  
AT&T )  
 ) Entered: April 1, 1997

BY THE COMMISSION:

OPINION AND FINDINGS

In this order, the Commission considers whether to approve a proposed stipulation between the Communications Department (the Department) and AT&T. The Commission opened docket C-931 on May 14, 1992. A format was established to approve or disapprove plans submitted by certain affected telecommunications companies. Specifically, the 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. This motion was granted 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 required a new calculation of the 1991 revenues for disposition by the telecommunications carriers subject to C-931.

Based on proposed stipulations between the Department and Respondents US West Communications (US West) and the Lincoln Telephone Company (LT&T), the order of abeyance was lifted as it applied to those companies. Modified plans for disposition were subsequently offered by both US West and LT&T. A hearing was held in the Commission Hearing Room, Lincoln, Nebraska on

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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 April 5, 1993, the Commission approved AT&T's plan for the disposition of revenues for 1991 in C-931(40). We now consider the AT&T/Department stipulation for C-992. It approximates the stipulations described above. The Commission, being fully advised finds: the proposed stipulation between AT&T and the Department in C-992 should be adopted and incorporated by reference into this order as Exhibit 1 and should be included in the findings and final determination of the Commission. This order concludes AT&T'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 included in the findings and final determination of the Commission.



IT IS FINALLY ORDERED that this order concludes AT&T's participation in the C-992 docket.

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MADE AND ENTERED at Lincoln, Nebraska this 1st day of April,  
1997.

COMMISSIONERS CONCURRING

//s//Rod Johnson  
//s//Frank E. Landis  
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman



ATTEST:

  
Executive Director