

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission on) Application No. C-941
its own motion seeking to adopt a)
surcharge for the Telecommuni-) GRANTED
cations Relay System effective)
January 1, 1993.) Entered: September 15, 1992

APPEARANCES

Jeffrey P. Goltz, Legal Counsel
Nebraska Public Service Commission
300 The Atrium Building
1200 "N" Street P.O. Box 94927
Lincoln, Nebraska 68509

BY THE COMMISSION

P R E L I M I N A R Y M A T T E R S

This docket was opened August 4, 1992 on the Commission's own motion to address what, if any, change should be made in the surcharge used to fund the Telecommunications Relay System (TRS)¹. L.B. 240 (LAWS 1990) sets forth the regulatory requirements establishing the relay system. The legislation includes the requirement that, before September 1 of each year, the Commission shall hold a hearing and determine the amount of the surcharge to fund the relay during the upcoming year.

Notice of the application and date of hearing was published in the Omaha Daily Record August 6, 1992 and was sent for publication to the Omaha World Herald, Lincoln Journal, and Lincoln Star by the Commission's Executive Director. The hearing was held in the Commission Hearing Room at the address listed above August 25, 1992 at 1:30 p.m. with appearances as shown. Commissioner Landis chaired the proceeding.

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

Maurice Gene Hand testified. Hand is the Director of the Commission's Communications Department. The Communications Department's staff analyzed the preceding 19 months of the

¹The TRS was formerly known as the Dual Party Relay System.

relay's operations, up to and including the month of July, 1992. As a result of the staff's study, Hand recommended the Commission raise the surcharge from eight cents to ten cents per access line beginning January 1, 1993. Each penny of the surcharge raises approximately \$8,000 per month (\$96,000 per year).

Staff has projected a four percent growth rate in minutes of usage per month since the relay's inception. The actual growth rate for the last 12 months was 3.67 percent. This rate has been consistent and has not shown signs of leveling off. Hand testified he believes usage by individuals with disabilities has probably reached a leveling off point and the continuing growth in usage is caused by non-disabled parties use of the relay.

Exhibit 1 is the result of the staff's study of the relay system's costs; it shows actual and projected usage minutes, monthly costs, and the revenue from the surcharge at eight, nine, and ten cents along with an accumulated reserve. Hand testified the oversight committee and the Commission have historically tried to keep at least one month's revenue in reserve. The exhibit demonstrates that the relay's cost of operations began to exceed the surcharge revenues in June, 1992. Cost of the relay for that month was \$66,340 compared to revenues raised by an eight cent surcharge of \$62,909. The reserve funded the deficit for that month. The staff projects that if the eight cent surcharge remains in place, the reserve will be exhausted in March of 1993.

If the Commission raises the surcharge to ten cents and begins applying that surcharge January 1, 1993, that surcharge will fund the relay adequately through April, 1993 without tapping the reserve. By using the reserve, the ten cent surcharge will last until July, 1993, but the reserve will be exhausted. The Commission has budgeted \$12,000 for promotion and education of the public about the relay. Conceivably, this money could be held back to pay for the relay. Doing so would extend financing the relay until August, 1993.

Absent the statutory ten cent surcharge cap, Hand testified he would recommend at least an 11 and perhaps a 12 cent surcharge for 1993. 12 cents would pay for the relay and accumulate a reserve of approximately \$100,000 which, by the end of the year, will be about a month's bill.

Hand concluded his direct testimony by stating it was the Commission's intent to address the surcharge issue in its annual report to the Legislature. The Legislature will be informed that if the surcharge is to continue to be the method of funding the relay, consideration must be given to raising the cap. Hand also stated his belief that the American Disabilities Act

mandates the installation and maintenance of a relay system. Therefore the funding issue must be addressed to ensure compliance.

Phil Nelson testified. Nelson is president of Hamilton Telephone Company (Hamilton). Hamilton is the vendor which provides the relay center and administers the relay system under contract. Nelson testified he does not believe costs can be reduced by mandating that the length of calls by users be limited to reduce costs. Nelson's interpretation of the ADA is that it mandates non-discrimination. Placing a usage restriction on users of the relay while no such restriction is placed on non-users would violate the rights of relay users under the equal protection clause. The telephone system is supposed to be just as available to relay users as it is to non-users.

No other interested party testified. Upon consideration of the docket, the evidence adduced at the hearing and being fully advised, the Commission is of the opinion and finds that a ten cent surcharge, effective January 1, 1993, should be adopted. Failure to do so will result in a failure of the relay's financing in 1993. We also take this opportunity to note that a ten cent surcharge is still inadequate based on the projections before us. We urge the Legislature to re-examine this issue in the 1993 session and implement a satisfactory funding mechanism which sufficiently funds the relay.

O R D E R

IT IS THEREFORE ORDERED By the Nebraska Public Service Commission that, pursuant to L.B. 240 (LAWS 1990), collection of a ten cents per access line surcharge shall commence to fund the Telecommunications Relay System.

IT IS FURTHER ORDERED that all affected telecommunications companies are hereby required, beginning January 1, 1993, to collect a ten cent surcharge per month on each telephone access line in Nebraska.² The companies shall add the surcharge to each customer's bill. The companies shall not be liable for any surcharge not paid by a customer and shall not be obligated to take legal action to collect the surcharge. The proceeds from the surcharge shall be remitted to the Commis-

² The surcharge shall only be collected on the first 100 telephone access lines per customer.

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sion monthly no later than 30 days after the end of the month in which they were collected.

MADE AND ENTERED at Lincoln, Nebraska this 15th day of September, 1992.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

Daniel G. Gwilt
Duane D. Gay

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

Frank E. Landis, Jr.
Chairman

ATTEST:

John R. Rasmussen
Executive Director