

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Application No. C-992

In The Matter Of The Disposition Of
Revenue Resulting From Decreases
In Certain Taxes Due To A Tax Law
Change For The 1992 Tax Year By
Certain Affected Telecommunications
Companies:

Arapahoe Telephone Company; Arling-
ton Telephone Company; Benkelman
Telephone Company; Blair Telephone
Company; Cambridge Telephone Com-
pany; Clarks Telephone Company;
Consolidated Telco, Inc.; Consoli-
dated Telephone Company; Cozad
Telephone Company; Curtis Telephone
Company; Dalton Telephone Company;
Diller Telephone Company; Eastern
Nebraska Telephone Company; Eustis
Telephone Exchange; GTE North Inc.;
Glenwood Tel. Membership Corp.;
Great Plains Communications; Hamil-
ton Telephone Company; Hartington
Telephone Company; Hartman Tele-
phone Exchanges; Home Telephone
Company of Nebraska; Hooper Tele-
phone Company; K & M Telephone Com-
pany; Keystone-Arthur Telephone
Co.; Lincoln Telephone Company;
Nebraska Central Telephone Co.;
Northeast Nebraska Telephone;
Petersburg Telephone Company;
Pierce Telephone Company; Plainview
Telephone Company; Rock County
Telephone Company; Southeast Neb-
raska Telephone; Stanton Telephone
Company; Three River Telco; United
Telephone of the West; US West Com-
munications; Wauneta Telephone Com-
pany; Affinity Network Inc.; Allnet
Communications Services, Inc.;
Alternate Communications Technolo-
gy, Inc.; Amer-I-Net Services,
Corp.; American Telephone Network,
Inc.; American WATS, Inc.; American
Telephone & Telegraph (AT&T); Cable
& Wireless Communications, Inc.;
CLM Associates; Coast Internation-
al, Inc.; Communications Gateway
Network, Inc.; ComTel Computer
Corp.; Conquest Operator Services
Corp.; Convergent Communications,
Inc.; Corporate Telemanagement
Group, Inc.; Dial-Net, Inc.;
Eastern Ambulance Service, Inc.;
Enterprise Telcom Services, Inc.;
Excel Telecommunications, Inc.;

ORDER TO INITIATE PROCEEDINGS
FOR APPROVAL OF PLANS SUBMIT-
TED BY NAMED RESPONDENTS FOR
DISTRIBUTION OF REVENUES RE-
SULTING FROM DECREASES IN
CERTAIN TAXES DUE TO A TAX
LAW CHANGE FOR THE 1992 TAX
YEAR AS PROVIDED FOR BY NEB.
REV. STAT. SECTION 86-803(9)
(CUMM. SUPP. 1992).

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Fiberline Network Communications,)
 L.P.; Hogan Communications;)
 International Telecharge, Inc.;)
 Kantel Communications, Inc.; Mid-)
 American Communications Corporation)
 dba LDDS Communications; Lintel)
 Systems, Inc.; LiTel Communica-)
 tions, Inc.; Lubbock Radio Paging;)
 MCI; Matrix Telecom; Metromedia)
 Communications Corporation; Mid-Com)
 Communications, Inc.; National)
 Telephone & Communications; Neb-)
 raska Wesleyan University; Nedelco,)
 Inc. dba Hamilton Communications;)
 Network Services, Inc.; Norstan)
 Network Services, Inc.; NOS Commun-)
 ications, Inc.; One Call Communica-)
 tions, Inc. dba Opticom; Payline)
 Systems, Inc.; Pegasus Information)
 Systems; Inc.; Phoenix Network,)
 Inc.; Resurgens Communications)
 Group, Inc.; Robert Cefail & Assoc-)
 iates American Inmate Communica-)
 tions, Inc.; Silverado Communica-)
 tions Corp.; Sprint Communications)
 Company L.P.; TCI Communications,)
 Inc.; TelaMarketing Investments,)
 Ltd.; Teleconnect Company; Tele-)
 national Communications; TELNET)
 Communications, Inc.; Tel-Save,)
 Inc.; Trans National Communica-)
 tions, Inc. dba Members' Long Dis-)
 tance; United Telephone Long Dis-)
 tance; Vicom, Inc.; WATS/800, Inc.;)
 and WilTel, Inc.)
 Respondents.)

Entered: May 18, 1993

BY THE COMMISSION

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

The Commission on its own motion opened this docket in order to determine whether plans should be submitted for the 1992 tax year by certain telecommunications companies ("Respondents") for the disposition of revenues due to possible tax law changes. This process is provided for by Neb. Rev. Stat. Section 86-803(9) (Cumm. Supp. 1992). If a plan is necessary, the Commission would then determine whether such a plan offered by an affected company is satisfactory. Section 86-803(9) states:

"The commission shall approve the disposition of revenue resulting from decreases in federal or state income taxes or

property taxes due to a tax law change that results in a reduction in the tax liability of a telecommunications company of twenty percent or more in any taxable year. Any telecommunications company so affected shall file a plan with the commission proposing the disposition of the revenue at the same time it files its annual report with the commission. The commission shall schedule a public hearing within thirty days of the filing of the plan or the plan shall be deemed approved."

A string of rulings by the Nebraska Supreme Court found the system of statutory exemptions from personal property taxation discriminatory and unconstitutional¹. The Nebraska Legislature responded in part to these rulings by implementing the above quoted statute as part of L.B. 286 (LAWS 1991).

We therefore, as a preliminary matter, schedule hearing dates for this Docket of August 2, 9, and 16, 1993 to consider any plans which result. Individual hearing notices will be sent to affected companies in conformance with the Commission's notice requirements.

For the 1991 tax year, the Commission set forth certain pre-approved alternatives for disposition of the revenues in Docket No. C-931. If a company agreed to dispose of revenues using one or more of those alternatives, the Commission processed the proposal by modified procedure and did not hold a hearing. We adopt the same format for the 1992 tax year.² Therefore, a Respondent's plan should be approved if there is no dispute about the amount of the disposition and if the revenues for disposition are:

1. used to install equipment necessary to provide 911 or E-911 service;
2. used to implement Phase II of the Frame Relay project;
3. used to install distance learning or other technology assisted educational systems for secondary and/or primary school districts;

¹Northern Natural Gas Co. v. State Board of Equalization, 232 Neb. 806, 443 N.W.2d 249 (1989), Natural Gas Pipeline Co. v. State Board of Equalization, 237 Neb. 357, 466 N.W. 2d 461 (1991), and MAPCO Ammonia Pipeline v. State Board of Equalization, 238 Neb. 565, 471 N.W.2d 734 (1991).

²Identical to Docket No. C-931 for the 1991 tax year, we adopt for the 1992 tax year the position that the Commission will consider in the plan the methodology used to calculate the amount of revenue at issue.

4. returned to the affected local governmental subdivision(s) from which they came;
5. refunded to the Respondent's customers on a pro rata basis; or
6. used to provide toll route diversity to improve network reliability.

A plan which is not pre-approved prior to its scheduled hearing should be subjected to a full hearing at the Commission Hearing Room in Lincoln, Nebraska. As noted above, Respondents will be given adequate notice as provided by the Commission's procedural rules.

A Respondent may re-submit an amended plan³ conforming to one of the suggested alternatives listed above between the date of this Docket's initiation and the hearing date ultimately scheduled for that Respondent and, if approved, thereby avoid a hearing.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a docket in this matter be opened and the plans submitted, or to be submitted, by the Respondents be considered within the requirements set forth herein.

IT IS FURTHER ORDERED that a Respondent's plan, which conforms to any one, or a combination of, the six alternatives listed previously and whose amount for disposition is not disputed, be approved pursuant to the Commission's modified procedure rule without a hearing.

IT IS FURTHER ORDERED that as part of Docket No. C-992, each Respondent be assigned an individual application number derived from the Docket number.⁴ Each Respondent whose plan is approved pursuant to modified procedure shall receive an order prior to the scheduled hearing date notifying that Respondent of its plan's approval and cancelling the hearing. Alternatively, a group of Respondents with similar proposed plans may be grouped in a single order for simplicity.

IT IS FINALLY ORDERED that a hearing be held on each plan which does not conform to any one of the six alternatives listed

³The Commission will consider in the plan the methodology used to calculate the amount of revenues at issue.

⁴E.g., C-992(1), C-992(2), C-992(3), etc.

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previously and that adequate notice of the date and time of the hearing be given to an affected Respondent. Therefore, the absence of an approved order for a particular Respondent's plans means the scheduled hearing shall take place.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

Daniel G. Unwiler
Duane D. Gay

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

Frank E. Landis

Frank E. Landis, Chairman

ATTEST:

Dwight R. Winger

Dwight R. Winger
Executive Director