

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska        )     Application No. C-1628  
Public Service Commission, on        )  
its own Motion, seeking to         )     Progression Order No. 2 and  
conduct an investigation into        )     Request For Comments  
intrastate access charge reform     )  
and intrastate universal            )  
service fund.                        )     Entered: August 11, 1998

BY THE COMMISSION:

On September 15, 1997, the Commission, on its own Motion, opened Docket C-1628 to investigate the structure of intrastate access charges and to establish a state universal service fund. Public notice of this docket was published in the Daily Record on September 17, 1997. All certificated interexchange and local exchange carriers were named parties herein. Formal interventions were filed by the Nebraska Independent Telephone Association and the Nebraska Telephone Association.

On October 28, 1997, an order was released requesting interested parties to file comments identifying substantive issues and proposed procedural schedules. On December 9, 1997, a prehearing conference was held in the Commission hearing room to establish a procedural schedule and to identify relevant issues to be released for comment. On January 6, 1998, the Commission issued a prehearing conference order and request for comments. The prehearing conference order provided that comments to the issues identified therein were to be filed by March 6, 1998, with reply comments to be filed by April 6, 1998. The deadline for filing reply comments was subsequently extended to April 27, 1998. Aliant Communications Co.; AT&T Communications, Inc.; Cox Nebraska Telcom; GTE Midwest, Inc.; Arapahoe Telephone Co.; Cambridge Telephone Co.; Clarks Telecommunications Co.; Consolidated Telephone Company; Consolidated Telco, Inc.; Great Plains Communications; Hartington Telephone Co.; Hershey Cooperative Telephone Co.; Hooper Telephone Co.; HunTel Systems, Inc.; K & M Telephone Co.; Nebraska Central Telephone Co.; Northeast Nebraska Telephone Co.; Pierce Telephone Co.; Southeast Nebraska Telephone Co.; Stanton Telephone Co., Inc. (the "Independents"); MCI Telecommunications Corp. (MCI); and US West Communications, Inc. filed comments in this docket. Sprint Communications Company and United Telephone Company of the West filed only reply comments and all other commenters except MCI filed reply comments.

On May 22, 1998, a Petition was filed with the Secretary of State of the State of Nebraska seeking to certify the same for placement on the November ballot. The critical part of the Petition language, revised by the reviser of statutes states as follows:

Except as provided in Section 75-609.01, the Commission shall

regulate access charges imposed by telephone carriers for access to a local exchange network for interexchange services. Any interested party, carrier, or subscriber may apply for review of such charges by the Commission. Upon such application, the Commission shall, upon proper notice, hold and complete a hearing thereon within 60 days after the filing. The Commission shall, within 60 days after the close of the hearing, enter an order setting access charges which are fair and reasonable. The Commission shall:

- (a) Set access charges which eliminate implicit subsidies contained in access charges on the effective date of this act;
- (b) Establish access charges which are based on forward-looking economic costs and are not embedded costs;
- (c) Develop competition in the access services marketplace;
- (d) Adopt, promulgate, and enforce rules and regulations requiring incumbent local exchange carriers to provide access services on a cost-based, competitively neutral, and nondiscriminatory basis. The Commission shall establish penalties for noncompliance with the rules and regulations and impose penalties upon third-party complaints or orders by the Commission to show cause, followed by notice and appropriate hearing;
- (e) Establish and maintain a filing system for tariffs by local exchange carriers providing access to interexchange carriers; and
- (f) Require that the average prices in the aggregate for intrastate long-distance service reflect the reduction of access charges applicable to such long-distance services.

On July 17, 1998, the Federal Communications Commission ("FCC") entered an Order effectively delaying the implementation of the federal universal service fund for non-rural local exchange carriers until July 1, 1999.

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

Based on the foregoing developments since the entry of the prehearing conference order, we make the following findings:

1. The Petition and the FCC's delayed implementation of federal universal service support for non-rural carriers may have a significant effect on this docket, including the potential need to implement state universal service support immediately after the effective date of the Petition, particularly in light of the

fact

that non-rural carriers will not receive federal USF under the new program until at least July 1, 1999.

2. The potential sudden reduction of access revenues that could be produced by the Petition would require the Commission to have a state USF established and ready to provide potentially substantial explicit cost recovery to all carriers no later than 60 days from the effective date of the proposed statute.
3. The implementation of the Petition could require the Commission to further define forward looking economic costs to be utilized in connection with the provision of access services for non-rural and rural carriers.
4. The comments and reply comments filed to date by parties to this docket were made prior to such intervening developments and do not necessarily address all of the issues raised by the potential passage of the Petition or the recent FCC decision to delay implementation of federal USF.
5. Interested parties shall be given until September 15, 1998, to amend  
or supplement the comments previously filed in this docket specifically  
addressing the impact the passage of the Petition and the FCC's delayed implementation of federal USF for non-rural carriers would have on access charge structure or the implementation of a state universal service fund.

The Commission shall issue preliminary findings and conclusions regarding  
issues upon which there appears to be basic agreement among the interested parties and the potential impact of the passage of the ballot initiative embodied  
in the Petition on the State's ability to maintain universal service at reasonable  
and affordable rates by October 2, 1998. Thereafter, the Commission shall hold a hearing from October 27-30, 1998, upon such preliminary conclusions. Pre-filed testimony of witnesses who will testify for the interested parties shall  
be filed no later than October 20, 1998.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that comments on the issues identified herein are due on or before September 15, 1998, with no reply comment cycle. One paper copy, as well as a disk copy, in WordPerfect format shall be submitted to the Commission. The Commission shall issue preliminary conclusions on the issues raised in the  
preconference order and the impact of the ballot initiative on the State's ability  
to maintain universal service at reasonable and affordable rates by October 2,  
1998, and will hold a public hearing on such issues from October 27-30,

1998, and all interested parties who will be presenting testimony at such hearing must pre-file hearing testimony no later than October 20, 1998.

MADE AND ENTERED at Lincoln, Nebraska, this 11th day of August, 1998.

NEBRASKA PUBLIC SERVICE COMMISSION:

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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