

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on ) Application No. C-1960/  
its own motion, to conduct an in- ) PI-25  
vestigation of the interstate or ) PROCEDURAL ORDER NO. 1  
local characteristics Internet ser- )  
vice providers traffic. ) Entered: October 5, 1999

BY THE COMMISSION:

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

In this docket the Commission has consolidated several Internet-related issues that were under consideration. The original issue raised in Application No. C-1960/PI-25 is whether calls placed to Internet service providers (ISPs) should be considered "local" traffic for the purposes of reciprocal compensation. On December 15, 1998, the Commission made a preliminary finding that such traffic is local in nature. However, in that order, the Commission indicated that, on an interim basis, such traffic would not be subject to reciprocal compensation. The Commission has not yet made a final determination on this matter.

In June of 1998, the Commission initiated Docket No. C-1825/PI-21 to consider whether it has jurisdiction over voice communications placed over Internet protocol ("IP Telephony" or "VoIP"). After reviewing comments in that docket, the Commission ruled that it does have jurisdiction over intrastate IP Telephony. However, for various technical and other reasons, the Commission determined that it should not exercise that authority at this time. The Commission did not determine whether providers of IP telephony should be required to pay access charges, or contribute to the state universal service fund. Application No. C-1825 was closed and these outstanding issues were referred to Docket No. C-1628. On August 3, 1999, the Commission removed these issues from Docket No. C-1628, and set them for hearing as part of this docket.

The issues contained in a third docket were also consolidated into this proceeding. On April 2, 1999, US West filed Formal Complaint No. 1266 against ICG. In its complaint, US West alleged that ICG was ordering access to US West's network through its local services tariff, rather than its access tariff. ICG is using US West's network, the complaint alleged, to deliver intrastate interexchange services. In an oral argument on whether the complaint should be dismissed, both US West and ICG relied upon the Commission's rulings in the dockets cited above, to support their positions. The Commission eventually dismissed the complaint, and directed that the issues raised by US West be addressed in this docket along with the other orders cited by the parties.

The Commission is aware that separate issues have been raised in each of these dockets. However, the issues share a close enough relation that they should be heard together, to provide the Commission a context when issuing its findings.

### Hearing procedure

The Commission will hold a hearing in this docket on **October 22, 1999, at 9:00 a.m.** in the Commission Hearing Room, in Lincoln Nebraska.

The hearing will be conducted in a legislative format. Interested parties making presentations will not be subject to cross-examination from other parties. However, Commissioners and staff may direct questions to presenters. Attorneys wishing to participate need not be licensed in Nebraska to do so.

Specifically, the Commission is seeking comment on the following:

The Commission's preliminary finding that traffic to ISPs is "local" in nature.

How should carriers compensate one another for calls placed to ISPs (reciprocal compensation, access charges, some other means)?

(a) If an entity is providing interexchange services, do state statutes and Commission rules require that the provider pay access charges?

Given that the Commission has recognized that subsidies exist in access prices, is it appropriate to assess subsidy-laden charges on emerging technologies?

Should ISPs contribute to the Universal Service Fund?

Should the Commission treat providers of IP telephony separate from ISPs in general? If yes, should providers of IP telephony contribute to the Universal Service Fund?

Parties may also address other issues related to this inquiry.

By **October 15, 1999**, parties wishing to testify should:

1. Identify the number of testifiers they intend to present;
2. Indicate the anticipated amount of time required to provide a complete presentation on the issues; and

Indicate the anticipated amount of time required to provide a summarized version of prefiled testimony.

By **October 18, 1999**, all parties wishing to testify should prefile testimony with the Commission. Parties should submit five hard copies, and one electronic copy in WordPerfect format of such testimony. The Commission will post all prefiled testimony on its website. (<http://www.nol.org/home/NPSC>)

Based upon the time estimates provided, the Commission will determine how much time parties will be afforded at the hearing. While the Commission does not want to limit the ability of parties to present arguments, it does desire that oral presentations be narrowly focused.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the procedures described above in Application No. C-1960 be, and are hereby, adopted.

IT IS FURTHER ORDERED that by October 15, 1999, all parties wishing to testify should identify the number of witnesses that they intend to present, indicate the anticipated amount of time required to provide a complete presentation on the issues; and indicate the anticipated amount of time required to provide a summarized version of prefiled testimony.

IT IS FINALLY ORDERED that by October 18, 1999, all parties wishing to testify should submit five hard copies and one electronic copy in WordPerfect format of pre-filed testimony.

MADE AND ENTERED at Lincoln, Nebraska, this 5th day of October, 1999.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

This document was created with Win2PDF available at <http://www.daneprairie.com>.  
The unregistered version of Win2PDF is for evaluation or non-commercial use only.