

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska                    ) Application No. C-2831/PI-67  
Public Service Commission, on                    )  
its own motion, seeking to                        )  
investigate telecommunications                   ) REPORT AND ORDER  
infrastructure development in                     )  
Nebraska.    )  
  ) Entered: April 1, 2003  
  )

BY THE COMMISSION:

The Nebraska Public Service Commission (Commission), on its own motion, initiated this proceeding to investigate telecommunications infrastructure development in Nebraska (Initial Order). The Initial Order was entered on November 5, 2002, and mailed to all certificated telecommunications providers. Comments in the form of answers to the Commission prescribed questions were due on or before December 13, 2002.

By letter dated November 21, 2002, the Nebraska Telecommunications Association (NTA) requested that it be permitted to respond generically to a number of the inquiries made in the investigative docket. Several NTA members indicated that all of the detailed information requested by the Initial Order could not be compiled and submitted by December 13, 2002.

The Commission received comments from two parties, the NTA and Cox Nebraska Telcom LLC (Cox). Cox requested that its responses be treated confidential and proprietary. Generically, however, Cox's responses indicated that as a relatively new facilities-based local exchange provider, the infrastructure it has deployed in Nebraska consists of state-of-the-art technology which is capable of supporting high-speed Internet access in every Nebraska market it serves. In addition to its comments, the NTA attached what it identified as the Nebraska Information Network (NIN) study which addresses the availability of broadband services available in Nebraska as Appendix A. Appendix A identified by municipal class each exchange where broadband Internet services are available. Appendix A also identified the broadband Internet provider offering service.

The Commission first requested input to identify the true measures of the availability to quality telecommunications and information services. The NTA responded that the true measure is whether the service which the consumer wants is available at a price the consumer is willing to pay. The NTA's NIN study identifies exchanges where broadband Internet services are available. The NTA however, did not list prices or the take rates for the broadband services by each exchange. Rather, the

NTA stated that the pricing is available from the Commission's internal records or through tariffs filed with the Federal Communications Commission (FCC) and the take rate information is proprietary in nature.

In response to the Commission's questions, the NTA further commented that toll-free dial-up is virtually available at any location in the State of Nebraska. Any Internet Service Provider (ISP) can offer toll-free dial-up if they choose to pay for the toll-free dial-up capability. Digital switches are now used throughout the state. These switches currently are capable of offering vertical services in every Nebraska exchange. However, whether such services are deployed is determined by economic considerations, including customer demand and provider pricing. The NTA further responded that DS1, DS3 and T1 lines are available by tariff in essentially all communities. However, the number of circuits is proprietary and may change on a daily basis. The NTA attached a statewide fiber map to demonstrate where fiber is located across the state. A copy of the statewide fiber map is added to this order as Appendix A. The fiber map does not include any fiber owned by private cable companies, Lincoln Electric System (LES), Omaha Public Power District (OPPD), Nebraska Public Power District (NPPD) or Level 3. The total fiber miles which have been buried in Nebraska by NTA members totals approximately 99,984 miles. Finally, in response to Commission inquiry 2.h., the NTA stated that its members have upgraded technologies and services in response to customer demands. Total gross plant investment for NTA companies for the last six years appears in Appendix B.

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

This investigation focuses on infrastructure development for the provision of local exchange services and broadband accessibility. The Commission focused its inquiry on which upgrades telecommunications carriers had made within the last five years. The Order was also aimed at identifying the carriers which are making investments in their network and deploying broadband capabilities. The term "broadband" for the purposes of this docket was intended to be comparable to the FCC's definition of advanced services, which requires the capability of supporting speeds in excess of 200 kbps in both directions.

Recent national studies have concluded that 85 percent of U.S. households could have access to some form of broadband by

the end of 2002.<sup>1</sup> However, the same study indicated that broadband development and demand for that broadband capability, although rising, is still much lower in the rural areas. In Nebraska, a study conducted by the NIN and the NTA claims that 82 percent of Nebraskans live in an exchange served by broadband. Of the 597 communities counted in the NIN study, 41 percent of the communities listed have DSL availability and 31 percent of the communities listed have cable modem availability as demonstrated in Table 1 below.

<b>Table 1:</b>				
	<b>Total</b>	<b>Availability</b>	<b>Reported</b>	
	DSL availability	ISDN availability	High-speed wireless availability	Cable modem service availability
Number of Communities	245	24	168	190
Percent of Communities Surveyed	41%	4%	28%	31%

The complete breakdown of Nebraska communities by exchange and county is attached to this Order as Appendix C. While many of the rural Nebraska communities have broadband availability in some form or another, there are some rural and sparsely populated communities as demonstrated by the table in Appendix D, which do not have broadband accessibility. According to the press release issued by the NTA, availability of broadband is projected to grow by about two percent per year for the next several years.<sup>2</sup>

The availability of desired services, however, is less meaningful if the price for such services exceeds the consumer's ability to pay. Therefore, the Commission requested that companies provide the price of broadband in each exchange from

<sup>1</sup> See Broadband Services in the United States: an analysis of availability and demand, The Florida Public Service Commission, the Office of Market Monitoring and Strategic Analysis on behalf of the Federal State Joint Conference on Advanced Services, October 2002 (hereinafter referred to as the "Federal State Joint Advanced Services study").

<sup>2</sup> See [www.ntaonline.net/forms/broadbandrelease.pdf](http://www.ntaonline.net/forms/broadbandrelease.pdf), December 18, 2002.

which it is provided. No prices were supplied by the NTA initially, however, after further requests, a sample of DSL rates were provided. DSL rates vary with the upstream and downstream speed and by customer location. Overall, monthly DSL rates range from \$35.00<sup>3</sup> to \$79.95<sup>4</sup> not including the cost for a modem or installation charges. National studies have indicated that in 2001, prices for DSL and cable broadband services rose 10 percent and 12 percent respectively. Cable Modem Pricing rose from an average price of \$39.40 to \$44.22 while ADSL prices rose from \$47.18 to \$51.67 nationally.<sup>5</sup> The Commission further found that prices for DSL service and cable modem services did not vary significantly from state to state regionally and in most cases did not vary at all for the larger carriers with a presence in a number of states. The prices for Cox's cable modem services for example, were the same in Nebraska as in other states in which it operated. Many of the rural telephone carriers file their rates, terms and conditions for their DSL offerings in the National Exchange Carrier Association (NECA) tariff with the FCC rather than in a state tariff. The rates listed in the NECA tariff for DSL service did not vary significantly from state to state.

Since the inception of the Nebraska Universal Service Act through the 2001-2002 fiscal year, the Commission's Universal Service Fund has paid a total of \$107.5 million to telecommunications providers. According to Commission data, Nebraska local exchange carriers have invested almost \$3 billion dollars in the Nebraska telecommunications infrastructure.<sup>6</sup> Nearly \$166 million was invested in infrastructure in 2001 and over \$373 million dollars has been invested since the passage of the Telecommunications Act of 1996.<sup>7</sup> Included in the amount paid from the NUSF fund is the NUSF waiver payments granted in Application No. NUSF-7. NUSF-7 was a vehicle whereby additional support was applied for by a number of carriers and was granted

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<sup>3</sup> \$35.00 was the lowest cost for a download speed of 256 kbps offered in a "bundled" service, that is the price was conditional upon the purchase of other services with the carrier.

<sup>4</sup> This price generally was for the speeds in excess of 512 kbps. Additional modem and installation charges also applied.

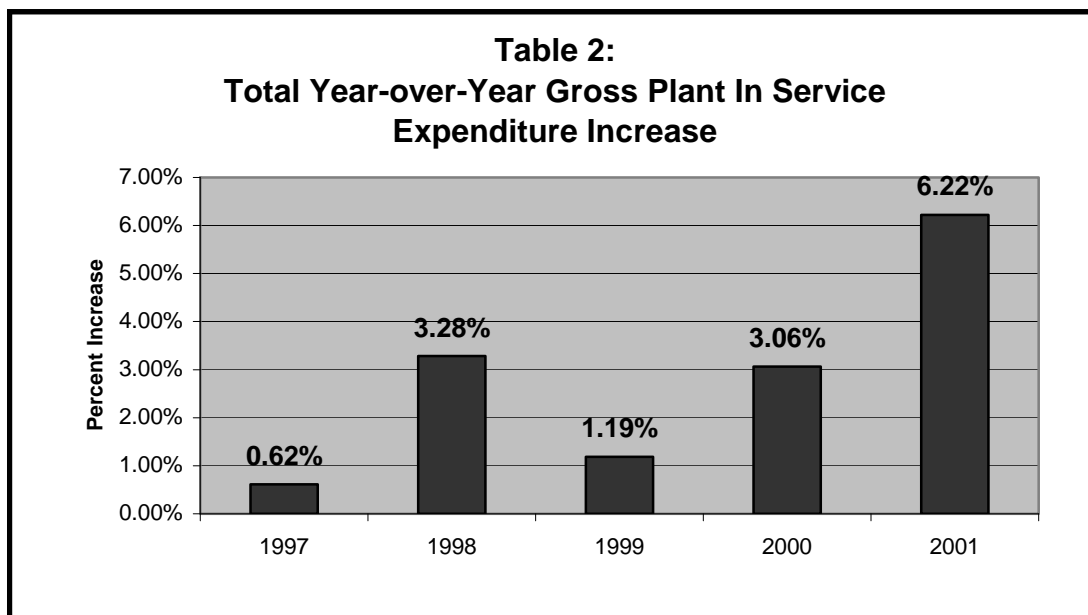
<sup>5</sup> See the Federal State Joint Advanced Services study at p. 36.

<sup>6</sup> This data was collected by Commission staff from the annual reports of telecommunications carriers.

<sup>7</sup> This number excludes certain investments made by a handful of telephone cooperatives which historically have not supplied this information in their annual reports to the Commission.

on a case by case basis to 13 telephone companies and cooperatives<sup>8</sup> in the amount of \$8,210,436. As a result of the additional support, these 13 companies have made total infrastructure investments of \$76,825,304.<sup>9</sup>

Gross plant in service expenditures have been steadily increasing. On a percentage basis Table 2, produced from the data collected through annual reports, demonstrates an increase in the year-to-year gross plant in service since 1999.



We find that this docket should remain open to further track infrastructure development in Nebraska. This docket should be used as a tool to ensure that Nebraskans are receiving quality telecommunications services throughout the state from incumbent and competitive local exchange carriers.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that this investigative docket remain open to further track infrastructure development in Nebraska.

<sup>8</sup> These entities include: Clarks Telecommunications, Curtis Telephone Company, Dalton Telephone Company, Elsie Communications, Glenwood Telephone, Great Plains Communications, Hemingford Cooperative Telephone Association, Henderson Cooperative Telephone, Hershey Cooperative Telephone, Huntel, Nebcom, Northeast Nebraska Telephone, and Three River Telco.

<sup>9</sup> This number represents the total company investment reflected in the cumulative applications received in NUSF-7 since 1999.

IT IS FURTHER ORDERED that a copy of this report and order shall be served upon the Lieutenant Governor and the Transportation and Telecommunications Committee Members of the Nebraska Legislature.

MADE AND ENTERED at Lincoln, Nebraska, this 1st day of April, 2003.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director