

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of The Commission,     ) Application No. C-3026  
on its own motion, seeking to     )  
conduct a 9-month proceeding as     )  
contemplated by the Federal Com-     ) ORDER CLOSING DOCKET  
munications Commission in its     )  
Triennial Review order adopting     )  
new rules for network unbundling     ) Entered: August 16, 2005  
obligations.     )

BY THE COMMISSION:

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

On March 2, 2004, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) released its decision in *United States Telecom Association v. Federal Communications Commission*, Decision 00-1012, regarding appeals of the Federal Communications Commission's (FCC) Triennial Review Order (TRO). Among other things, the D.C. Circuit vacated as unlawful the FCC's subdelegation of authority to state commissions to determine impairment for mass market switching and certain transport elements. The D.C. Circuit also vacated and remanded as unlawful the FCC's nationwide impairment determinations with respect to these elements.

On February 4, 2005, the FCC released its Order on Remand which clarified the impairment standard; modified the application of the unbundling framework; found that incumbent LECs have no obligation to provide CLECs with unbundled access to mass market local circuit switching; and released final rules. The Order on Remand also adopted a 12-month transition plan to allow for transition away from the use of unbundled mass market local circuit switching.

Although appeals have been filed, the Order on Remand seeks nothing further from state commissions. Therefore, the Commission finds that this docket should be closed. Should the FCC seek further information from state commissions, the Commission would initiate a new proceeding.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that this docket should be closed.

MADE AND ENTERED at Lincoln, Nebraska, this 16th day of August, 2005.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director