

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Petition of) Application No. C-3233/PI-84
Chase 3000 Inc., Imperial;)
Skybeam, Scottsbluff; McCookNet) ORDER SEEKING COMMENTS
Internet Service, McCook;)
AxtellTech, Axtell; and Facspro)
Infotech Consulting, LLC, Brady,) Entered: July 7, 2004
for Commission Rulemaking.

BY THE COMMISSION:

By Petition filed May 21, 2004, and docketed on July 1, 2004, Chase 3000 Inc., Imperial; Skybeam, Scottsbluff; McCookNet Internet Service, McCook; AxtellTech, Axtell; and Facspro Infotech Consulting, LLC, Brady (hereinafter referred to as Petitioners), request the Commission to open a rulemaking proceeding or initiate an investigative proceeding relative to the relationship between incumbent local exchange carriers (ILECs) and their affiliates. The Petitioners request the Commission to consider the following issues, which have been paraphrased from the Petition:

1. Whether the Commission should establish regulations controlling the permissible relationship between ILECs and their affiliates.

2. Whether the details of the financial relationship of a regulated company with its affiliate company (Companies) should be open to the public.

3. Whether the sale of regulated services to an affiliate company and a non-affiliated company be priced the same.

4. Whether there should be a reasonableness test for all financial transactions between an ILEC and its affiliate company (Companies.)

5. What accounting requirements should be imposed on affiliated companies where a majority share of the affiliate is owned by the ILEC?

6. Whether affiliate companies, whose stock is partially or wholly-owned by an ILEC, should be subject to the same rules and regulations as the ILEC.

7. Whether an ILEC, via its affiliate, can use predatory pricing to win market share. Can a rate list, designed to assure the same price for the same service, be circumvented by having the affiliate company offer the service?

8. Should a subsidized monopoly be allowed to use funds derived from said company to subsidize an affiliate and use it to compete with non-affiliated businesses in providing non-regulated services?

9. Should the ILEC be allowed to use resources such as buildings, tools, airplanes, vehicles, etc., to assist the affiliate company. If a competitor to the affiliate company wanted equal access to such resources, should it be possible to purchase access at the same rate paid by the affiliate?

10. Should affiliate companies be able to provide services to the ILEC on a non-competitive basis and at non-market rates? What protections exist to assure an accurate reflection of the cost of providing regulated services?

11. If rules are ultimately promulgated, what remedies should be made available to the parties for violations of such rules?

Pursuant to the request made by the Petitioners in this matter, the Commission hereby opens the above-listed questions for public comment. Initial comments should be filed on or before August 9, 2004, and reply comments should be filed no later than August 30, 2004. Commenters should file one original and five paper copies along with one electronic copy in Word or WordPerfect format.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the questions posed in the above-captioned petition for rulemaking be and they are hereby released for public comment.

IT IS FURTHER ORDERED that initial comments may be filed on or before August 9, 2004, and reply comments may be filed on or before August 30, 2004. Parties filing comments shall file one original and five paper copies along with one electronic copy in Word or WordPerfect format.

MADE AND ENTERED at Lincoln, Nebraska, this 7th day of
July, 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director