

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of a Petition by            ) Application No. C-3693/  
Golden West Telecommunications            ) NUSF-59  
Cooperative, Wall, South Dakota,        )  
and Vivian Telephone Company,            )  
Wall, South Dakota, for a Waiver        ) GRANTED  
of the Chapter 5, Section 009,            )  
et seq. of the                                )  
Telecommunications Rules and            )  
Regulations.                                ) Entered: October 31, 2006

BY THE COMMISSION:

On August 30, 2006, the Nebraska Public Service Commission ("Commission") received a petition from Golden West Telecommunications Cooperative ("Golden West"), Wall, South Dakota, and its subsidiary, Vivian Telephone Company ("Vivian") (collectively, "the Applicants"), Wall, South Dakota, seeking a waiver of the annual reporting requirements for designated eligible telecommunications carriers ("ETC") contained in Chapter 5, Section 009.04, et seq. of the Telecommunications Rules and Regulations.<sup>1</sup> Notice of the application was published in The Daily Nebraska, Omaha, Nebraska, on September 11, 2006. No protests were filed so this application is processed pursuant to the Commission's Rule of Modified Procedure.

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

Golden West is a Nebraska ETC and serves customers in Nebraska. However, the bulk of Golden West's telecommunications business is located and conducted in South Dakota. As of August 1, 2006, Golden West serves 86 customers in Nebraska, which represents approximately 0.54% of Golden West's total customers.

Vivian is also a Nebraska ETC and serves customers in Nebraska, but as with Golden West, the bulk of Vivian's telecommunications business is conducted in South Dakota. Vivian currently serves 15 Nebraska customers which represent 0.09% of Vivian's total customers.

Both Golden West and Vivian have been designated as ETCs in South Dakota, as well as, in Nebraska. South Dakota has similar annual reporting requirements as Nebraska for South Dakota ETCs. Currently, Golden West and Vivian are required to submit similar annual reports to both South Dakota and Nebraska. The Applicants contend that while the reporting requirements of the

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<sup>1</sup> See, 291 Neb. Admin. Code, Ch. 5, Rule 009.04.

two states are similar, they differ in significant enough ways as to make the dual reporting burdensome. South Dakota rules and regulations require a two-year plan, while Nebraska requires a five-year plan. The Applicants state that preparing two plans is unduly burdensome. In light of the small volume of business conducted by the Applicants in Nebraska, Applicants request a waiver of Nebraska annual reporting requirements for ETCs.

Annual ETC Certification Filings and Submittal Forms were filed by Vivian and Golden West with the South Dakota Public Utilities Commission ("South Dakota Commission") on July 31, 2006. The Applicants submit that their South Dakota filings contain sufficient information for the Commission to make a determination of whether Golden West and Vivian are using federal high cost support for the uses it is intended. Therefore, the Applicants request that they instead be allowed to file a copy of their respective South Dakota filings, together with an Affidavit, as required by order in Docket No. NUSF-25, certifying that the Applicants do and will use all federal universal service support received in a manner that is consistent with the universal service provisions as set forth in Part 54 of Title 47 of the Federal Regulations, as amended.

We find that the Applicant's request for a waiver is reasonable and practical under the circumstances and should be granted. The Federal Communications Commission has urged states, "to avoid duplicative or inapplicable reporting requirements."<sup>2</sup> Golden West and Vivian study areas are almost entirely contained in South Dakota and both companies are required to file annual reports with the South Dakota Commission. We find that the reports filed by Golden West and Vivian in South Dakota are sufficient for purposes of the Commission's requirements contained in the Commission Telecommunications Rules and Regulations, 291 Neb. Admin. Code, Ch. 5, Rule 009.04.

We further find that both Applicants must continue to comply fully with any and all orders entered in Docket No. NUSF-25,<sup>3</sup> requiring each Nebraska ETC to file an Affidavit with the Commission certifying that all high-cost federal universal service support will be and is being used in a manner consistent with Federal Regulations by September 1st of each year.

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<sup>2</sup> Report and Order *In the Matter of the Federal-State Joint Board on Universal Service* CC Docket No. 96-45 FCC 05-46 (March 17, 2005).

<sup>3</sup> *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to establish guidelines for the purpose of certifying the use of federal universal service support.*, Application No. NUSF-25, Progression Order #1, (August 21, 2001).

The Commission reserves the right to re-evaluate the waiver granted in this order if the business circumstances of either Golden West or Vivian substantially, materially, or significantly change in the judgment of the Commission. Additionally, Golden West and Vivian shall file copies of the annual report required by designated eligible telecommunications carriers to be filed by each company with the South Dakota Commission in its entirety with the Commission on or before the annual reporting deadline of October 1, each year. The Commission reserves the right to re-evaluate the waiver granted in this order should either Applicant fail to file their annual report in a timely manner with the Commission.

O R D E R

IT IS THEREFORE ORDERED that the waiver of the annual reporting requirements for designated eligible telecommunications carriers as required by Chapter 5, Section 009, *et seq.* of the Telecommunications Rules and Regulations requested in Application No. C-3693/NUSF-59 be, and is hereby granted as provided herein.

IT IS FURTHER ORDERED that Golden West Telecommunications Cooperative and Vivian Telephone Company file copies of the annual Eligible Telecommunications Carrier Certification filings and submittals filed by each company with the South Dakota Public Utilities Commission with the Nebraska Public Service Commission by October 1, of each year.

MADE AND ENTERED at Lincoln, Nebraska, this 31st day of October, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director