

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. C-3728/
on its own motion, seeking to) PI-125
investigate consumer complaints)
concerning the receipt of) ORDER OPENING DOCKET
certain pre-recorded telephone)
messages in Nebraska.)
) December 5, 2006

BY THE COMMISSION:

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

The Automatic Dialing-Announcing Devices Act (Act)¹ and rules and regulations promulgated by the Nebraska Public Service Commission (Commission) require any person connecting or operating an automatic dialing-announcing device in the State of Nebraska to apply and receive either a permit or registration from the Commission.²

The pertinent statutes state in part, "A person shall not connect or operate an automatic dialing-announcing device for the purpose of making telephone solicitations on any telephone line unless the person has a current permit from the commission for the device,"³ and concerning registrations the statutes state, "Any person using an automatic dialing-announcing device other than for telephone solicitations shall register the device with the commission pursuant to the application process, without a fee, and shall include with the application a detailed explanation of the use planned and the script to be used."⁴ The Commission promulgated rules and regulations that specify the permit and registration process and other requirements for an applicant to connect and operate an automatic dialing-announcing device in Nebraska.⁵

The Commission has become aware that certain pre-recorded messages purporting to be messages from candidates seeking office in the last election on November 7, 2006, were made on Election Day and on the days preceding the election. According to consumer complaints received by Commissioners and staff, several calls containing a pre-recorded message were received by consumers, in some instances several times a day, on November 7, 2006, and prior to the election. The

¹ See Neb. Rev. Stat. § 86-236 et seq.

² Neb. Rev. Stat. § 86-250 and § 86-256.

³ See Neb. Rev. Stat. § 86-250.

⁴ See Neb. Rev. Stat. § 86-256.

⁵ See 291 Neb. Admin. Code, Ch. 11.

calls reported included no identifying or contact information on the person or organization making the call.

A review of Commission records show no automatic dialing-announcing device registrations or permits with scripts corresponding with the messages received by the consumer complainants were filed with the Commission pursuant to statute and Commission rules and regulations.

The Commission hereby opens this investigation to determine if the calls received by consumer complainants were placed in violation of the Act and Commission rules and regulations.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a public investigation is hereby opened as captioned above.

MADE AND ENTERED at Lincoln, Nebraska, this 5th day of December, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director