

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska ) Application No. C-4145/  
Public Service Commission on its ) NUSF-74/  
own motion to conduct an ) PI-147  
investigation on intrastate )  
switched access charge policies ) ORDER OPENING DOCKET AND  
and regulation codified in Neb. ) SEEKING COMMENT  
Rev. Stat. Section 86-140. )  
 ) Entered: February 24, 2008

BY THE COMMISSION:

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

The Nebraska Telecommunications Regulation Act<sup>1</sup> and rules and regulations promulgated by the Nebraska Public Service Commission (Commission) give the Commission the authority to investigate access charges imposed by telecommunications companies for access to local exchange networks for interexchange service.<sup>2</sup>

The pertinent statute states in part,

The commission may... enter an order setting access charges which are fair and reasonable. The commission shall set an access charge structure for each local exchange carrier... except that the commission shall not order access charges which would cause the annual revenue to be realized by the local exchange carrier from all interexchange carriers to be less than the annual costs, as determined by the commission based upon evidence received at hearing, incurred or which will be incurred by the local exchange carrier in providing such access services. Any actions taken pursuant to this subsection shall be substantially consistent with the federal act and federal actions taken under its authority.<sup>3</sup>

On July 29, 2008, the Commission entered an order suspending a Qwest Corporation (Qwest) tariff filing that proposed to increase Qwest's intrastate switched access rate and

<sup>1</sup> See Neb. Rev. Stat. § 86-101 et seq.

<sup>2</sup> Neb. Rev. Stat. § 86-140.

<sup>3</sup> Id.

opening an investigation into the proposed access rate.<sup>4</sup> After conducting a hearing, the Commission entered an order on February 3, 2009, denying the requested access rate increase by Qwest. In the order the Commission cited the insufficiency of supporting evidence offered by Qwest to enable the Commission to make a finding that the proposed access rate was fair and reasonable pursuant to the provisions of Neb. Rev. Stat. §86-140.<sup>5</sup>

In the February 3, 2009, Order, the Commission indicated its intent to open an investigatory docket to, "examine the issues raised in [the] proceeding regarding the appropriate evidentiary standard and minimum criteria required under Neb. Rev. Stat. §86-140 to prove a proposed access rate is fair and reasonable."<sup>6</sup> The Commission found a full cost study was not required under the statute's provisions, but held that some level of financial analysis was necessary and contemplated by the statute to evaluate whether an access rate is fair and reasonable.<sup>7</sup>

The Commission in the same order also indicated its intention that the any inquiry into access rate regulation include an examination into whether past policies regarding the access charge structure should be revisited. The Commission stated,

Any investigation should also consider the structure of access rates, an evaluation of our progress in relation to our stated goals and intentions since initiating access rate reform in 1999, and the policy of access rate reform and regulation on a going forward basis.<sup>8</sup>

Therefore, the Commission opens this docket on its own motion to conduct an investigation on access charge policies and to clarify the minimum criteria required under Neb. Rev. Stat. section 86-140 which governs access rate changes. The Commission does not have any intention through this

<sup>4</sup> See *In the Matter of the Nebraska Public Service Commission to conduct an investigation of Qwest Corporation's Proposed Switched Access Charge Rates*. C-3945/NUSF-60.02/PI-138, Order Opening Docket, Suspending Rates and Setting Procedural Schedule, (July 29, 2008).

<sup>5</sup> See *In the Matter of the Nebraska Public Service Commission to conduct an investigation of Qwest Corporation's Proposed Switched Access Charge Rates*. C-3945/NUSF-60.02/PI-138, Order, (February 3, 2009).

<sup>6</sup> Id. at 13.

<sup>7</sup> Id. at 10.

<sup>8</sup> Id. at 13.

investigation to consider or evaluate current intrastate switched access rates of telecommunications carriers. On the contrary, the purpose of this investigation will be focused on overarching policy objectives and goals rather than specific instances or rates.

The Commission hereby requests that interested parties comment regarding access rate dockets under Neb. Rev. Stat. §86-140 and access rate policy in general. To that end, parties are invited to comment on the following proposals as potential minimum objective evidentiary criteria to be considered by the Commission in intrastate switched access rate dockets under Neb. Rev. Stat. §86-140:

- 1) The NUSF-EARN form compiled on a supported services basis as a tool to measure the cost of providing access in conjunction with supported services.
- 2) The NUSF-EARN form to consider the federal and state universal service support received by the requesting carrier.
- 3) Alternative revenue generation sources for the carrier, including local rates in both urban and rural areas.
- 4) Establish a reasonable rate-of-return figure for carriers seeking access rate increases along with establishing an appropriate test year.
- 5) Examine the minutes of use (mou) demand and access line counts of the carrier, consistent with a specific test year.

Additionally, parties are invited to comment on the following questions:

- 1) Should limits be placed on the frequency of access cases that any carrier can file with the Commission?
- 2) How are access rates structured and does the structure vary from carrier to carrier? Should the structure of access rates affect the Commission's analysis of access rate increases?
- 3) Are the Commission's initial policy goals set out in 1999 for intrastate switched access reform still valid today? Have they been achieved? What further steps, if any, should be considered?

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- 4) Should the Commission's policy of intrastate switched access rate reform be modified? If so, in what way?

The Commission urges commenting parties to provide explanatory information and alternative suggestions or proposals.

Comments on the proposals and questions shall be filed by interested parties on or before **5:00 p.m., April 23, 2009**. Parties filing comments should file one (1) original, one (1) paper copy and one (1) electronic copy emailed to [nichole.underhill@nebraska.gov](mailto:nichole.underhill@nebraska.gov) and [deena.ackerman@nebraska.gov](mailto:deena.ackerman@nebraska.gov).

O R D E R

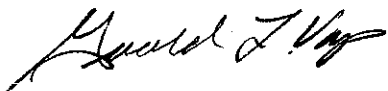
IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned investigation be, and it is hereby, opened.

IT IS FURTHER ORDERED interested parties shall file comments on or before **5:00 p.m., April 23, 2009**, as detailed above.

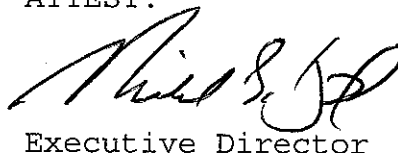
MADE AND ENTERED at Lincoln, Nebraska this 24th day of February, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

  
Chairman

ATTEST:

  
Executive Director

//s// Frank E. Landis