

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. C-4281/
on its own motion, seeking to) PI-171
establish methods for the)
collection and remittance of the) ORDER
Telecommunications Relay System)
Surcharge by carriers offering)
prepaid wireless services.) Entered: August 24, 2010

BY THE COMMISSION:

The Nebraska Public Service Commission (Commission), opened the above-captioned docket on June 15, 2010, to investigate and establish methods for the collection and remittance of the Telecommunications Relay System (TRS) Surcharge by carriers offering prepaid wireless services as required by the Telecommunications Relay System Act, Neb. Rev. Stat. § 86-301, et seq. (Reissue of 2008). Notice of the application was published in The Daily Record, Omaha, Nebraska, on June 17, 2010.

The Commission requested that interested persons submit written comments on or before July 14, 2010. Written comments were submitted by: Cellco Partnership and its commercial radio service provider subsidiaries operating in the State of Nebraska d/b/a Verizon Wireless (Verizon) and CTIA-The Wireless Association (CTIA) which included the views of New Cingular Wireless PSC, LLC d/b/a AT&T Mobility, Verizon, Sprint Nextel Corporation and TracFone Wireless, Inc.

A workshop in the above-captioned docket was held on July 28, 2010, in the Commission Hearing Room at the Commission offices in Lincoln, Nebraska. A call bridge was made available for those parties wishing to participate via phone.

Based on the written comments and comments received at the workshop, interested parties expressed opinions that prepaid wireless carriers are not required under the language of the current Telecommunications Relay System Act to contribute to the TRS Fund.

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

The Telecommunications Relay System Act¹ (TRS Act) gives the Commission authority regarding the administration and management of the TRS and the TRS Fund, including the

¹ See Neb. Rev. Stat. § 86-301 et seq.

collection and remittance of the TRS Surcharge from telecommunications subscribers to provide a statewide telecommunications system and voucher program for specialized equipment for deaf, hard-of-hearing and speech-impaired citizens of Nebraska.

The TRS Act states in part,

Each telephone company in Nebraska shall collect from each of the telephone subscribers a surcharge not to exceed twenty cents per month on each telephone number or functional equivalent in Nebraska, including wireless service as defined in Section 86-456.01.²

The same section goes on to include language stating, "The companies shall add the surcharge to each subscriber's bill."³ Based on the reference to a subscriber's bill and due to the fact that subscribers in a prepaid business model purchase service prospectively and do not receive billing statements, the industry argues prepaid carriers are not required to collect and remit the TRS Surcharge.

The Commission finds that the statute clearly contemplates all subscribers remit to the TRS Fund to support a statewide relay system, stating **each** telephone company **shall collect** from **each** telephone subscriber a surcharge.⁴ However, the Commission acknowledges confusion could exist how such collection and remittance would occur in a prepaid business model with the reference to subscriber bills later in that same section.

The Commission further finds prepaid wireless customers have access to and benefit from the statewide relay service for the deaf and hard of hearing and therefore should contribute to the TRS Fund regardless of payment plan or provider.⁵

Therefore, the Commission intends to seek legislative clarification of the statutory language in the TRS Act to remove any confusion as to the applicability of the TRS Act to wireless prepaid carriers and their subscribers. The Commission directs

² Neb. Rev. Stat. § 86-313(1)(a).

³ Id.

⁴ Id. (Emphasis added).

⁵ This is consistent with the Commission's finding in a docket considering the obligation of prepaid wireless carriers to collect and remit to the Enhanced Wireless 911 Fund. See Docket 911-031, *In the Matter of the Commission, on its own motion, to establish surcharges assessed on users of prepaid wireless service and, methods for the collection and remittance of surcharges from carriers offering prepaid wireless services.* Order (November 22, 2005).

Commission staff to work in conjunction with interested industry representatives and legislative staff to draft language clarifying that wireless prepaid carriers are required to collect and remit to the TRS fund.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Commission staff develop legislation, with input from interested industry representatives and legislative staff, to clarify that prepaid wireless carriers must collect and remit to the Telecommunications Relay Service Fund for introduction in the 2011 Legislative Session.

IT IS FURTHER ORDERED that the above-captioned investigation be, and is hereby, closed.

MADE AND ENTERED at Lincoln, Nebraska, this 24th day of August, 2010.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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O R D E R

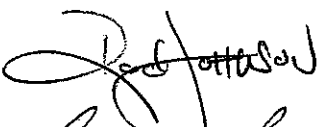
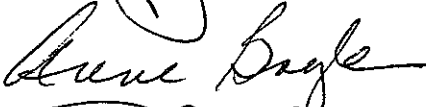

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//s// Frank E. Landis

//s// Gerald L. Vap