

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,)	Application No. NUSF-1
on its own motion, seeking)	
to establish guidelines for)	PROGRESSION ORDER NO. 11
administration of the Nebraska)	
Universal Service Fund.)	Entered: April 11, 2000

BY THE COMMISSION:

1. On October 26, 1999, ATS Mobile Telephone, Inc. (hereinafter, "ATS") filed with the Commission a Petition for Declaratory Ruling. In said petition, ATS requested a hearing and an order declaring that ATS is not subject to bill and collect the Nebraska Universal Service Fund (hereinafter, "NUSF") surcharge. Accordingly, a public hearing was held on December 14, 1999. On March 21, 2000, the Commission entered Progression Order No. 6 in this docket, denying the ATS request. On March 31, 2000, ATS filed a Motion for Rehearing and Request for Oral Argument on the Commission's decision. In accordance with Commission Rules, an oral argument was set for May 16, 2000, in the Commission Hearing Room.

2. Concurrent with its filing of a Motion for Rehearing and Request for Oral Argument, ATS filed an Application for Stay of Enforcement of Decision, relative to the requirement that ATS bill and collect the NUSF surcharge beginning May 1, 2000. ATS requests that the Commission grant a stay until such time as the Commission has ruled on the motion of ATS for rehearing and thereafter should an appeal be taken.

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

3. Pursuant to Neb. Rev. Stat. § 84-917(3), a stay upon a request by an application will not be automatically granted as a matter of right. Rather, subsection (3) states that the filing of the petition for review or the service of the summons upon the agency shall not automatically stay enforcement of a decision. Id. The Commission will stay enforcement of its orders only upon such terms as it deems proper.

4. Upon review of all the factual evidence submitted by ATS, the Commission finds the Petitioner's Application for a Stay of Enforcement should be denied. The Petitioner has not presented any new factual evidence as to convince this Commission that a stay of the order should be granted. Likewise, the Commission is of the

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opinion that the Petitioner has been given clear guidance by the Commission Order as to billing, collecting, and remitting to the Nebraska Universal Service Fund.

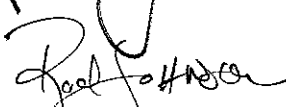
5. The Commission further finds that the order entered March 21, 2000, is not the type of order which is automatically held in abeyance as a result of the ATS Motion for Reconsideration, since our order entered March 21, 2000, is an order denying relief pursuant to Neb. Rev. Stat § 75-134 (Reissue 1996).

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Application for Stay of Enforcement of Decision be denied.

MADE AND ENTERED at Lincoln, Nebraska, this 11th day of April, 2000.

COMMISSIONERS CONCURRING:

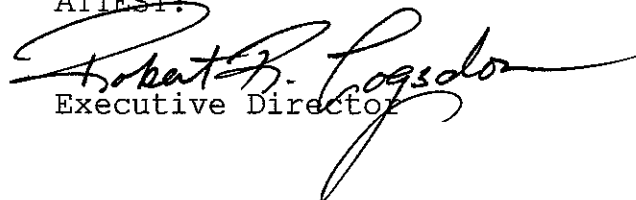


//s//Frank E. Landis
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION:


Chairman

ATTEST:


Executive Director

COMMISSIONERS DISSENTING:

//s//Anne C. Boyle