

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. NUSF-25
Public Service Commission, on)	
its own motion, seeking)	Progression Order No. 10
guidelines for the purpose of)	ORDER SEEKING COMMENTS
certifying the use of federal)	
universal service support)	
)	Entered: November 25, 2003

BY THE COMMISSION:

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

On October 27, 2003, the Federal Communications Commission (FCC) released its Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order in CC Docket 96-45, FCC 03-249 (Order on Remand). That Order was issued in response to the decision of the United States Court of Appeals for the Tenth Circuit and recommendations of the Federal-State Joint Board. In that Order, the FCC expanded the state certification process. Each state is required to review its rates in rural, high-cost areas served by non-rural carriers annually to assess the comparability of those rates to urban rates nationwide. States are required to file a certification with the FCC by October 1st annually, beginning on October 1, 2004, stating whether its rates are reasonably comparable to nationwide urban rates, or in the alternative, explain why they are not. The FCC bases its benchmark on the most recent urban residential rates as reported in the *Reference Book*, the Wireline Competition Bureaus' annual rate survey. Specifically, the FCC adopted the benchmark of \$32.28, or 138 percent of the average urban rate. The FCC further established a safe harbor by which states with rates below the benchmark can simply state that without having to provide a more detailed explanation to the FCC. In the alternative, states with rates above the benchmark must rebut the presumption that the rates are not reasonably comparable by demonstrating that factors other than basic service rates affect the comparability of their rates. The October 1st certifications shall pertain to rates as of the prior July 1st. See 47 C.F.R. § 54.316(d).

While the Commission is aware that historically its certification process in the above-captioned proceeding has extended only to the rural local exchange carriers (LECs) and ETCs offering supported services in the territory occupied by a rural LEC, the Commission finds this docket to be the appropriate vehicle to conduct the required rate review and certification for the non-rural LECs. Therefore, the Commission seeks comments from all interested parties concerning how it

should certify to the FCC that the rates charged by non-rural carriers are reasonably comparable to the average urban rate pursuant to the FCC's Order on Remand and 47 C.F.R. § 54.316 as explained above. Comments should be received by the Commission no later than January 23, 2004. Commenting parties should file one original and five paper copies along with one electronic copy of their comments in Word or WordPerfect format.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that interested parties file comments with the Commission on or before January 23, 2004. Commenting parties shall file one original and five paper copies of their comments along with one electronic copy in Word or WordPerfect format.

MADE AND ENTERED at Lincoln, Nebraska, this 25th day of November 2003.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director