

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. NUSF-32.07
on its own motion, seeking to)
conduct an inquiry into the)
failure of various companies to) ORDER DISMISSING SHOW CAUSE
comply with Commission Rules or)
Orders and to impose administra-)
tive fines.) Entered: April 21, 2009

BY THE COMMISSION:

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

As part of its regulatory authority pursuant to the Nebraska Telecommunications Universal Service Fund Act¹ (the NUSF Act) the Commission has adopted requirements to verify the accuracy of Nebraska Universal Service Fund remittances. Pursuant to *Neb. Rev. Stat. § 86-324(2)(d)*, the Commission "shall require, as reasonably necessary, an annual audit of any telecommunications company to be performed by a third-party certified public accountant to insure the billing, collection, and remittance of a surcharge for universal service. The costs of any audit required pursuant to this subdivision shall be paid by the telecommunications company being audited."

Consistent with this statutory requirement, on April 10, 2007, the Commission entered an Order in Docket No. NUSF-33², adopting remittance audit requirements, for all telecommunications carriers contributing to the Nebraska Universal Service Fund (NUSF). As required by Commission Order, remittance audits are to be performed by an independent third party, with audit results for a calendar year being due before the end of the next calendar year.

On February 26, 2008, the Commission initiated this Show Cause proceeding and listed companies who either failed to timely file a complete audit report or failed to file an audit report altogether. That Show Cause Order was revised on March 11, 2008. The Commission revised the Show Cause Order on January 6, 2009 in relation to Opex Communications. A hearing was held on March 31, 2009, in the Commission Hearing Room, Lincoln, Nebraska.

The Commission hereby enters this order dismissing the Order to Show Cause as it relates to Opex Communications. Based on the information provided at the hearing, and the stipulation

¹ See *Neb. Rev. Stat. § 86-315 et seq.* (Cum. Supp. 2006).

² See NUSF- 33, *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to investigate the audit requirements related to the Nebraska Universal Service Fund*, Order (April 10, 2007).

subsequently filed by the Nebraska Telecommunications Infrastructure and Public Safety Department Director, the Commission is of the opinion and finds the stipulation should be approved and that the Show Cause Order issued against Opex Communications should be dismissed.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Order to Show Cause is dismissed as provided herein.

MADE AND ENTERED at Lincoln, Nebraska, this 21st day of April, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director