

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. NUSF-33/PI-68
Public Service Commission, on)
its own motion, seeking to)
investigate the audit) ORDER ADOPTING REMITTANCE
requirements related to the) AUDIT POLICIES
Nebraska Universal Service Fund.)
) Entered: April 10, 2007

BY THE COMMISSION:

B A C K G R O U N D

The Nebraska Public Service Commission opened this docket on its own motion November 26, 2002, seeking to establish remittance audit requirements related to the Nebraska Universal Service Fund (NUSF). The Commission established an audit policy in its Universal Service Fund Rules and Regulations, Neb. Admin. Code, Title 291, Ch. 10, effective September 16, 2002 and has been operating under that policy.

After conducting an audit of the Commission, the State Auditor issued an Attestation Report, dated March 24, 2006, recommending, in part, that the Commission "continue to require the annual audit of companies with over \$1 million in assessable revenue each year; however, we recommend the Commission communicate to the remaining companies that they will also be subjected to the annual audit requirement on a test basis and that additional audits of these companies will be performed on a rotating basis."

On May 24, 2006, the Commission entered NUSF-33/PI-68, Progression Order No. 4. The Order included Attachment A, Staff Proposal Related to Remittance Audits. The Commission sought further comments on the recommendation made by the Auditors that remittances of all companies be audited and, on the Commission staff proposal. Written comments were received.

Hearing on this matter was held on February 28, 2007 in conjunction with Docket No. 911-018/PI-117, at which time Jeff Pursley testified regarding modifications recommended by Commission staff. The recommendations included a two-tiered remittance audit program, with annual audits of carriers with more than \$1 million in assessable revenue, and audits once

every three years for all other carriers, who at the Commission's discretion, could be granted an audit waiver based upon certain criteria.

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

The Commission, under Neb. Rev. Stat. Section 86-324(2)(d), "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."

Under Rule 003.05 of the Audit Requirements, "A telecommunications company whose assessable revenue is greater than one million dollars (\$1,000,000) in a given fiscal year shall have all information used in determining its assessable revenue audited. Such audit must be performed on an annual basis and a written report of the results of such audit shall be provided to the Department before the end of the fiscal year next following the audit period."

The Commission finds, based upon comments and recommendations received from interested parties, Commission staff and the State Auditor, that the Remittance Audit Policies for the NUSF, which is attached hereto, should be adopted.

This policy establishes a two-tiered system requiring annual audits or three-year audits, depending upon the annual assessable revenue of the carrier. The policy also includes a waiver process for smaller carriers.

The Commission intends to review the effectiveness of the three-year audit cycle for carriers in the second tier, and, with the counsel of the State Auditor's Office, may consider whether to move all carriers to a three-year audit cycle in the future. The Commission reserves the right to modify the remittance audit policy.

To the extent necessary, said policies will be included in a future rule and regulation proceeding.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Remittance Audit Policies for the Nebraska Universal Service Fund, set forth in Appendix A attached hereto, are adopted.

MADE AND ENTERED at Lincoln, Nebraska, this 10th day of April, 2007.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

**Remittance Audit Policies for the Nebraska Universal
Service Fund and the Enhanced Wireless 911 Fund**

The Nebraska Public Service Commission hereby adopts the foregoing policies to be applied to audits of remittances to the Nebraska Universal Service Fund (NUSF) and Enhanced Wireless 911 Fund (E911).

1. **Two Tiers.** There shall be a two-tiered remittance audit program for NUSF. In the first tier, carriers with more than \$1 million in annual assessable revenue shall be subject to annual remittance audits. The second tier requires a remittance audit once every three years for carriers with annual assessable revenue of less than \$1 million. In order to qualify for the second year, a carrier's revenue must be less than \$1 million for each of the preceding three (3) years. For purposes of remittance audits for the Enhanced Wireless 911 Fund, the tier assigned for the NUSF audit shall apply.
2. **Notice and Filing.** Notices of audits will be sent to carriers by the Commission **no later than June 1st**. Audits shall be due **on December 31st** or, the next following business day, if this falls on a weekend.
3. **Audit Waivers.** Audit Waivers may be granted at the discretion of the Commission based upon the following criteria: In order to be eligible for consideration for a remittance audit waiver, during the prior three years, a carrier shall have annual assessable revenue of under \$100,000 in each of the three prior years, shall have no late-filed remittances, shall have been in compliance with all applicable Commission Rules & Regulations and, shall provide a satisfactory explanation for any variances of more than ten percent from any month to the next proceeding month in any information contained on the remittance form including but not limited to remittances, lines, subscribers and revenue. Carriers seeking a waiver shall make a written request on the supplied waiver form to the Commission **no later than August 1st** prior to the remittance audit due date, attesting that the audit waiver criteria have been met. The granting of a waiver will be at the discretion of the Commission even if all the above criteria are met.

4. **Coordination between NUSF and E911.** NUSF and E-911 remittance audits shall be conducted simultaneously when circumstances permit, however, the period being audited and the scope of each audit may include different years for non-annual remittance audits.
5. **Audit Scope.** Each non-annual remittance audit shall include a review of not less than one year of remittances; however, the Commission reserves the right to extend the scope of the audit to include other time periods when irregularities are observed.
6. **Audit Expenses.** All remittance audits shall be conducted at the expense of the carrier.
7. **Records Retention.** Carriers shall retain at least five years of remittance records.