

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, to investigate) ORDER OPENING DOCKET, SEEKING
the audit requirements related) COMMENT AND SETTING HEARING
to the Nebraska Universal)
Service Fund.) Entered: November 26, 2002

BY THE COMMISSION:

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

The Nebraska Public Service Commission, initiates the above-captioned docket, on its own motion seeking to investigate the audit requirements related to the Nebraska Universal Service Fund (NUSF). The Commission opens this proceeding to solicit comments and testimony from all parties including telecommunications companies, various accounting firms, and any other party which may have an interest in the outcome of this proceeding.

The Commission's NUSF rules and regulations recently became effective on September 16, 2002. The NUSF rules with respect to remittances in Neb. Admin. Rules & Regs., Title 291, Chapter 10, Section 3.05, provides that 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 [NUSF] Department before the end of the next fiscal year, following the audit period."

With respect to payments from the NUSF, section 4.06A in the same chapter provides that a "telecommunications company that receives NUSF funding shall have an independent third party perform and attest to the validity of, an audit pursuant to the requirements of this Rule." Sections 4.06C and 4.06D of these rules further state that all telecommunications companies must perform an audit either on an annual basis, except that a telecommunications company that does not perform an annual third party audit in the ordinary course of its business, may elect to perform an independent third party audit on a tri-annual basis.

Moreover, in the 2002 session, the Legislature added a provision to Neb. Rev. Stat. § 86-1405, which provides that the Commission shall require as reasonably necessary an annual audit of any telecommunications carrier by third party certified public accountants to insure the accurate billing, collection and remittance of a surcharge for universal service. The costs of such audits are to be paid by the telecommunications carrier. This bill further provided that payments made from the universal service fund to a telecommunications carrier shall be subject to audits by a

third party certified public accountant and paid for by the telecommunications carrier.

In the past, the NUSF Department has accepted agreed upon procedures reported from accounting firms working on behalf of telecommunications carriers. However, upon the promulgation of its NUSF rules and based on a change in state law, the Commission questions whether this policy comports with the provisions in the current NUSF rules and state law.

Accordingly, in light of the additions to statutory landscape of the Nebraska Universal Service Fund Act and based on experiences with existing NUSF audit requirements, the Commission opens this docket seeking comments on the Universal Service Fund Department's auditing procedures and guidelines.

The Commission hereby seeks comments on the following questions:

1. Do either LB 1211 or the Commission's rules and regulations now require the Commission to require audits from companies rather than agreed upon procedures or other types of reports? If not, then what other report in lieu of audits would meet this requirement? Please explain.
2. Does LB 1211 require the Commission to make any changes to its current policies and procedures with respect to third party independent audits and what is currently required in the Commission's Universal Service Fund Rules and Regulations?
3. Please outline the concerns you have with respect to the Commission requiring audits of universal service remittances and of payments.
4. Negotiating agreed upon procedures has been administratively burdensome and has resulted in substantial delays. The Commission does not wish for the NUSF Department to continue negotiating agreed upon procedures on a case-by-case basis. If agreed upon procedures should still be used, the Commission intends to streamline this process with one policy or formula applicable to all carriers and their accounting firms. Please provide any comments or suggestions which the Commission should consider when drafting this policy. In addition, interested parties may submit draft policies for the Commission to consider which will be made applicable in all cases.

5. Should companies that have restated their financial statements be required to re-submit their audit and if so should they be required to perform an audit rather than an agreed upon procedure?

Interested parties may file written comments on or before **January 24, 2003**. Parties filing comments should file one original and five paper copies as well as one electronic copy in Word or WordPerfect format. A hearing on this investigation will be conducted on **February 25, 2003** at 10:00 a.m. in the Commission Hearing Room, Lincoln, Nebraska.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned docket be and it is hereby open for public comment.

IT IS FURTHER ORDERED that any interested parties file written comments on or before **January 24, 2003** and provide the Commission with one original and five paper copies as well as one electronic copy in Word or WordPerfect format.

IT IS FURTHER ORDERED that a public hearing on this investigation be conducted on **February 25, 2003** at 10:00 a.m., in the Commission Hearing Room in Lincoln, Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 26th day of November 2002.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director