

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Sue Vanicek, Director of the)	Application No. NUSF-37.192
Nebraska Telecommunications)	
Infrastructure and Public Safety)	
Department of the Nebraska)	
Public Service Commission,)	
)	ORDER SUSTAINING COMPLAINT,
Complainant,)	ASSESSING PENALTIES, AND
v.)	REVOKING CERTIFICATE OF
)	AUTHORITY
Network US d/b/a CA Affinity,)	
)	
Respondent.)	
)	Entered: May 25, 2010

BY THE COMMISSION:

By Complaint dated May 5, 2009, Sue Vanicek, Director of the Nebraska Telecommunications Infrastructure and Public Safety Department ("NTIPS Department") of the Nebraska Public Service Commission, ("Commission"), filed a complaint against Network US d/b/a CA Affinity ("Respondent") alleging that Respondent failed to file the required remittance worksheets or remittance payments to the NTIPS Department by the 15th day following the end of the remittance period for the January, 2009, remittance period.

A copy of the Complaint was mailed to the Respondent, by certified mail, on May 13, 2009. On March 2, 2010, the Commission entered a Show Cause Order seeking administrative fines and revocation of the Respondent's certificate of authority and setting a hearing.

Hearing on this matter was held April 20, 2010.

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

The Respondent is a telecommunications company as defined by Neb. Rev. Stat. § 86-322 (Reissue of 2008) and Title 291, Neb. Admin. R. & Regs. Chapter 10, Section 001.01W. Jurisdiction is proper pursuant to Neb. Rev. Stat. § 86-316 et seq. and Title 291, Neb. Admin. R. & Regs. Chapter 10. Pursuant to Section 003.01A of Title 291, Neb. Admin. R. & Regs. Chapter 10 telecommunications companies shall remit the NUSF surcharge on a monthly basis to the NUSF. Sections 003.02 and 003.03 further provide in pertinent part:

003.02 Remittance Worksheets: Remittance worksheets shall be received by the Department no later than the 15th day following the end of a remittance period.

003.03 Remittances to the NUSF: Except as provided in Rule 003.03A, all remittances must be transferred electronically to the Nebraska State Treasurer. Remittances must be received by the Nebraska State Treasurer no later than the 15th day following the end of the remittance period.

A copy of the complaint was served on Respondent via certified mail return receipt requested. "Except where good cause shown . . . failure to answer will be construed as an admission of the allegations in the complaint."¹ No answer was received. NTIPS Department staff has been unable to contact the Respondent, all attempts to contact the Respondent have been unsuccessful and the NTIPS Department has received no contact in return from the Respondent. Therefore, the Commission finds that Respondent failed to timely file NUSF remittance worksheets or payments for the January, 2009, remittance period.

The Respondent failed to resolve the delinquency with the NTIPS Department. At the April 20, 2010 hearing, Nichole Mulcahy entered an appearance on behalf of the Commission. The Respondent failed to enter an appearance at the hearing.

Pursuant to Neb. Rev. Stat. § 75-156, Commission rules and regulations and the fining policy adopted by the Commission on October 3, 2006, Respondent is subject to fines for failure to timely file NUSF remittance worksheets or payments for the period listed above. At hearing, Commission staff recommended that \$500.00 in administrative penalties be assessed against Respondent.

In consideration thereof, the Commission finds that administrative fines in the amount of \$500.00 should be assessed against the Respondent and the Certificate of Public Convenience and Necessity issued to the Respondent should be revoked.

¹ Neb. Admin. Code, Title 291, Ch. 1 § 5.08D (1992).

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that administrative penalties in the amount of **five hundred dollars (\$500)** be, and is hereby, assessed against Respondent.

IT IS FURTHER ORDERED that the Certificate of Public Convenience and Necessity issued to Network US d/b/a CA Affinity be, and is hereby, revoked.

IT IS FURTHER ORDERED that Network US d/b/a CA Affinity shall cease and desist providing service in the State of Nebraska within sixty (60) days from the date of this order. Furthermore, said carrier shall give at least thirty (30) days notice of discontinuance of service to its customers and reimburse said customers from any charges associated with obtaining service from a different carrier.

MADE AND ENTERED at Lincoln, Nebraska, this 25th day of May, 2010.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director