

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the	)	Application No. NUSF-45
Commission, on its own	)	
motion, to establish Nebraska	)	
Universal Service Fund	)	
guidelines for certain rural	)	Progression Order No. 1
incumbent local exchange	)	
carriers which have dual	)	
state local exchange	)	
boundaries and a majority of	)	
subscribers located outside	)	
of Nebraska.	)	Entered: November 8, 2005

BY THE COMMISSION:

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

1. The Nebraska Public Service Commission (Commission) opened this docket to establish a Nebraska Universal Service Fund (NUSF) policy on the applicability of NUSF requirements for incumbent local exchange carriers having a local exchange boundary which crosses state lines and a majority of subscribers within an exchange located outside of the State of Nebraska (hereinafter referred to as "multi-state ILECs"). This proceeding was initiated pursuant to Neb. Rev. Stat. § 86-324(2)(b)(2004 Supp.) which gives the Commission authority to issue orders carrying out its responsibilities under the NUSF Act and to review the compliance of any company receiving NUSF support.

2. Notice of this docket was published in the Daily Record, Omaha on June 30, 2005. Comments responsive to this inquiry were filed by Qwest Corporation and the Rural Independent Companies on August 16, 2005.

3. Informally, the Commission developed a practice of reviewing inquiries from such carriers on a case-by-case basis. However, the Commission believes it may be prudent to establish a policy to ensure that all like carriers are treated consistently.

4. The Commission requested comments on whether the Commission should grant waivers for certain incumbent local exchange carriers having a local exchange which crosses state lines. The Commission further requested comment on

the type of criteria that should be applied if the Commission decided to consider waivers.

5. Qwest commented that the Commission should not adopt a policy and that waivers should not be granted. Qwest commented that as long as a carrier had customers in Nebraska, and is charging Nebraska rates for service, then that carrier should be subject to all NUSF requirements for the Nebraska customers.

6. The Rural Independent Companies commented specifically on the type of criteria which should be used if the Commission should decide that a waiver is appropriate. The Rural Independent Companies further commented that the Commission should consider waivers on a case by case basis.

7. Upon consideration of the comments filed, the Commission concurs with the recommendation of the Rural Independent Companies. The Commission will review waiver requests on a case-by-case basis. The Commission adopts the following criteria which will be used to determine whether individual waiver requests should be granted:

- A. The number of access lines operated by the multi-state ILEC in the exchange in question should be less than fifty (50).
- B. The exchange in question must have at least one boundary that crosses the Nebraska state line.
- C. The multi-state ILEC<sup>1</sup> serving the exchange in question should not serve any other exchange located in the state.
- D. The central office serving the exchange in question should be located outside the state of Nebraska as designated on the official maps of the Commission.

8. The Commission may, if it determines that it is appropriate, add the foregoing criteria in its Universal Service Rules and Regulations.

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<sup>1</sup> This includes any affiliates of the multi-state ILEC.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a policy be and it is hereby established as provided herein.

MADE AND ENTERED at Lincoln, Nebraska this 8<sup>th</sup> day of November, 2005.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

Attest:

Executive Director