

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska                    ) Application No. NUSF-58  
Public Service Commission,                    )  
requiring Access Point to Show                )  
Cause as to why its certificate                )  
of public convenience and                    ) SHOW CAUSE DISMISSED  
necessity should not be revoked               )  
and should not be assessed                    )  
administrative penalties.                    )  
  ) Entered: September 26, 2006

BY THE COMMISSION:

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

This is the matter of the Nebraska Public Service Commission (Commission) on its own motion, requiring Access Point (Respondent) to Show Cause as to why its certificate of public convenience and necessity should not be revoked and, why the Commission should not assess administrative penalties against Respondent.

Respondent is a telecommunications company as defined by *Neb. Rev. Stat. § 86-322* (Cum. Supp. 2004) and *Neb. Admin. Code*, Title 291, Chapter 10, Section 001.01W.

Respondent holds a certificate of public convenience and necessity to provide interexchange telecommunications services in the State of Nebraska. The Commission approved Respondent's authority to provide such services in Application No. C-2695.

Jurisdiction over this matter is proper pursuant to *Neb. Rev. Stat. § 86-316 et seq.* and *Neb. Admin. Code*, Title 291, Chapter 10.

Pursuant to Section 003.01A of the *Neb. Admin. Code*, Title 291, Chapter 10, "Telecommunications companies shall remit the NUSF surcharge on a monthly basis to the NUSF except as provided in Rule 003.01B."

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 15<sup>th</sup> day following the end of the remittance period.

On January 31, 2006, the Director of the Nebraska Universal Service Fund Department of the Commission filed a Complaint against Respondent. See Docket No. NUSF-37.83. Respondent failed to answer the Complaint. By order served on Respondent, the Commission set a hearing on the Complaint. Respondent failed to appear at the hearing. Respondent named herein has repeatedly violated section 003.02 of Neb. Admin. Code, Chapter 10 by failing to file the required remittance worksheets and remittance payments to the Nebraska Universal Service Fund Department by the 15<sup>th</sup> day following the end of the remittance periods for the 4<sup>th</sup> Quarter, 2004, 1<sup>st</sup> Quarter, 2005, 3<sup>rd</sup> Quarter, 2005, and 4<sup>th</sup> Quarter, 2005.

The Commission found Respondent should be required to show cause as to why its certificate of public convenience and necessity should not be revoked and why it should not be administratively fined.

Subsequently, Respondent sent a letter to the Commission explaining the reasons for the delays in filing and for not appearing at the hearing on its Complaint in NUSF-37.83. Respondent also offered to settle the matter with the Commission in lieu of appearing at the hearing scheduled for September 26, 2006, which the Commission found acceptable. Respondent paid a penalty and administrative costs in the amount of One Thousand One Hundred Dollars (\$1,100.00) and signed a stipulation with the Commission staff. Upon review of this matter, the Commission is of the opinion and finds Respondent has now satisfied the Complaint and this Order to Show Cause should be dismissed. The hearing previously scheduled for September 26, 2006 at 1:30 in the Commission Hearing Room is accordingly canceled.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that this Show Cause proceeding against Access Point be, and it is hereby dismissed.

MADE AND ENTERED at Lincoln, Nebraska this 26th day of  
September, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director