

Chair Boyle called the regularly scheduled meeting to order at 1:08 p.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, Landis and Vap present.

GENERAL ADMINISTRATION

Notice was duly published December 3, 2002, on Page 7 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held December 10, 2002, at 1:00 p.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

COMMUNICATIONS DEPARTMENT

FC-1301 In the Matter of Christian Car Care, d/b/a Jeff and Maria Bledsoe, Omaha, vs. McLeodUSA, Cedar Rapids, Iowa, for unsatisfactory business practices: Upon agreement of all Commissioners, an order was entered finding for the Complainant.

C-2780 In the Matter of Level 3 Communications, LLC, Broomfield, Colorado, seeking arbitration to resolve issues relating to an interconnection agreement with Qwest Communications, Denver, Colorado: Gene Hand provided the Commission with copies of a Procedural Order released December 4, 2002, by Arbitrator Jim Sharpe, providing the arbitration time line.

C-2817 In the Matter of Burdette Schulz, owner of property, and Peggy Meyer, tenant, Hastings, seeking authority to receive telephone service from the Blue Hill exchange of the Glenwood Telephone Membership Corp., in what is currently considered an ALLTEL service area: Upon agreement of all Commissioners, the application was granted.

C-2829 In the Matter of Comm South Companies, Inc., Dallas, Texas, and Arbros Communications, Inc., Silver Spring, Maryland, jointly seeking approval of the transfer of control to Arcomm Holding Co., Dallas, Texas: Upon agreement of all Commissioners, the application was granted.

C-2833 In the Matter of Qwest Corporation, Denver, Colorado, and Comm South Companies, Inc., Dallas, Texas, seeking approval of a wireline interconnection agreement: Upon agreement of all Commissioners, the application was granted.

C-2834 In the Matter of Norcom, Inc., Bedminster, New Jersey, seeking to withdraw the authority granted in Application C-2553 to operate as a resale carrier of interLATA and intraLATA interexchange telecommunications services within the state of Nebraska: Upon agreement of all Commissioners, the application was granted.

COMMUNICATIONS DEPARTMENT (Cont.)

C-2846 In the Matter of the Petition from residents of the Creston exchange, served by Qwest Corporation, requesting extended area service (EAS) to the Columbus exchange, served by Citizens Telecommunications Company of Nebraska: Gene Hand informed the Commission the staff has verified that the petition received from Creston subscribers, requesting extended area service to Columbus, has the support of more than 25 percent of the Creston customers, therefore, this matter was assigned docket number C-2846. Qwest Corporation was informed they must file the required usage study within 45 days from the date the matter was docketed which will result in the study being due on or before January 20, 2003.

Gene Hand provided the Commission with the latest statistical information provided by the Federal Communications Commission (FCC) relative to local telephone service competition in the United States.

UNIVERSAL SERVICE FUND DEPARTMENT

NUSF-1 PO #18 In the Matter of the Commission, on its own motion, seeking to establish guidelines for administration of the Nebraska Universal Service Fund: Upon agreement of all Commissioners, an Order was entered removing GTE, Home and Eustis Telephone Companies from the audit requirements set forth in Progression Order #7 of this docket.

NUSF-33/ PI-68 In the Matter of the Commission, on its own motion, seeking to investigate the audit requirements related to the Nebraska Universal Service Fund: Upon agreement of all Commissioners, an order was entered continuing the hearing previously set for February 25, 2003, to March 11, 2003, at 2:00 p.m. in the Commission Hearing Room, Lincoln. Commissioner Landis will preside as Hearing Officer.

NUSF-30 In the Matter of the Commission, on its own motion, seeking to determine what is "reasonably comparable" with respect to rates charged for urban and rural consumers: The hearing previously continued to a date later to be determined was scheduled for March 4, 2003, at 2:00 p.m. in the Commission Hearing Room, Lincoln. Commissioner Vap will preside as Hearing Officer.

NUSF-31 In the Matter of Pinpoint Communications Inc., seeking designation as an Nebraska Eligible Telecommunications Carrier (ETC) that may receive state universal service support: A hearing was set for January 6, 2003, at 2:00 p.m. in the Commission Hearing Room, Lincoln. Commissioner Vap will preside as Hearing Officer.

WIRELESS E-911 DEPARTMENT

Kara Thielen reported on wireless carriers moving forward with Phase II.

FEDERAL REPORT

Laura Davenport reported on the following federal activity:

Consumer Protection

Wireless Regulation - Bryceland et al. v. AT&T: The Texas state Court of Appeals held that nothing in the Communications Act of 1934 grants wireless carriers immunity from state consumer protection and contract laws. Bryceland and others sued AT&T for fraud in the inducement, negligent misrepresentation, deceptive trade practices, and breach of contract. AT&T moved for summary judgment, alleging that the Communications Act of 1934 preempts all of Bryceland's state court claims. Bryceland then moved for summary judgment, alleging that as a matter of law, federal preemption does not apply. In finding for Bryceland, the court cited FCC authority stating that a carrier that charges a reasonable rate for its services may still be liable for damages under state law if the carrier misrepresents its rates or does not inform consumers of other material terms, conditions, or limitations on the service it is providing.

Internet

Broadband Parity Legislation: The National Conference of State Legislators (NCSL) is developing a model broadband parity bill based upon a bill passed in Oklahoma last year. The telecommunications and Information Technology Task Force of NCSL is considering the measure today.

LEGISLATION

Andy Pollock reported on the following items:

- Meeting of Commissioner Boyle, Andy Pollock and Senator Jensen regarding seal fee legislation.
- Meeting with Senator Beutler regarding cash funding.

GRAIN WAREHOUSE DEPARTMENT

GW-2008 In the Matter of Richland Grain Co., Richland: John Fecht informed the Commission that payout of Commission funds will be made in one week.

GRAIN WAREHOUSE DEPARTMENT (Cont.)

GW-1110 John Fecht discussed the shortage of soybeans at Pickrell Co-Operative Elevator Association, Pickrell: Licensee adjusted shortage out of company owned.

TRANSPORTATION DEPARTMENT

B-1548 In the Matter of Omaha Limousine Co., LLC, Omaha, seeking to approve the transfer of a member's interest in the company granted to Omaha Limousine Co., LLC, in Certificate B-1548: Upon agreement of all Commissioners, the application for transfer was granted.

B-1558 In the Matter of MAVM Ventures LLC, dba A & B Shuttle, Supp. 2 Omaha, seeking authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers between points in Douglas, Sarpy, and Lancaster counties over irregular routes in sedans, buses, and vans: An oral argument was scheduled for January 22, 2003, at 1:30 p.m. in the Commission Hearing Room, Lincoln. Commissioner Boyle will preside as Hearing Officer.

B-1585 In the Matter of Easy Car Rental Co., Inc., dba Budget Car and Truck Rental, Omaha, seeking authority as a contract carrier in Nebraska intrastate commerce in the transportation of passengers between Sleep Inn and Eppley Airfield and between Sleep Inn and Old Market over irregular routes. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized: The oral argument previously set for January 14, 2003, was rescheduled for January 7, 2003, at 1:30 p.m. in the Commission Hearing Room, Lincoln. Commissioner Boyle will preside as Hearing Officer.

B-1591 In the Matter of WW Service, Inc., Yutan, seeking authority as a contract carrier of passengers for the Department of Defense between points in Nebraska over irregular routes by sedan and van. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized. The transportation of Health and Human Services and subcontractors thereof is not authorized: The video hearing previously set for a date later to be determined was scheduled for January 23, 2003, at 10:00 a.m. in the Commission Library, Lincoln, and Nebraska State Office Building, Room 207, 2<sup>nd</sup> Floor, 1313 Farnam, Omaha. Commissioner Boyle will preside as Hearing Officer.

Rate Division

MR-1006 In the Matter of National Motor Freight Traffic Association, Inc., Alexandria, Virginia, agent for and on behalf of participating carriers seeking authority to place in effect on Nebraska intrastate traffic the provisions of Supplement 7 to the National Motor Freight Classification, NMF 100-AB: Upon agreement of all Commissioners, the application was granted on an emergency basis.

TRANSPORTATION DEPARTMENT (Cont.)

MR-930 In the Matter of Movers and Warehouse Division, Nebraska Motor Carriers Association, Lincoln, seeking authority to establish a fuel surcharge in Nebraska Official Household Goods Tariff 7-E: The fuel surcharge was retained at 12 cents per mile and the taxi surcharge at 15 cents per trip.

GENERAL ADMINISTRATION

Upon agreement of all Commissioners, the following invoices were approved:

RICHLAND GRAIN PAYOUT:

Terry Engel & Union Bank & Trust & Union Loan Inc.	\$ 336.37
Eugene Horak	3467.13
Eldon Jedlicka	14,047.17
Jim Kaup & Schuyler State Bank	10.77
Bill Klug	61,373.97
Greg Klug & Clarkson Bank	960.51
Jim Klug	46,199.22
Koliha Farms & CCC & FHA	11,183.98
Bill Luckey	9,516.55
Arnold Muhle & First Nat'l Bank & Trust & CCC	6,180.82
Arnold Oehlrich & Union Bank & Trust & CCC	347.39
Steve Schreiber & First Nat'l Bank & FCS & Clarkson Bank	3,682.59
Milan Siefken & Columbus Bank & Trust & CCC & AA LLC	3,038.60
Dan Stevenson	5,192.96
Ken Stevenson & Pinnacle Bank	13,303.98
Ward Stevenson	3,461.96
Nebraska Soybean Board	230.59
Department of Agriculture	145.40

Attention was called to the following proceedingq:

Tuesday, December 10:

B-1407 Commission Hearing Room, Lincoln.  
3:00 Sharon Culp, dba Seward Limousine, Seward. Commissioner Rod Johnson chairing.

Upon agreement of all Commissioners, authorization was granted for Bob Harrison to attend a law enforcement meeting in Council Bluffs, Iowa, on December 5, 2002, pertaining to Accent Limousine/Boomers citations.

Upon agreement of all Commissioners, authorization was granted for Laura Davenport to attend the National Summit on Broadband Deployment: Accelerating the Transition Symposium to be held in Washington, DC from April 27-29, 2003.

GENERAL ADMINISTRATION (Cont.)

Commissioner Landis moved that the Commission go into closed session to discuss personnel issues and Commissioner Lowell Johnson seconded the motion. The Commission went into closed session at 2:30 p.m.

Commissioner Vap moved that the Commission return to open session and Commissioner Landis seconded the motion. The Commission returned to open session at 2:34 p.m.

Upon agreement of all Commissioners, authorization was granted to offer Colleen Lang a position as law clerk.

Upon agreement of all Commissioners, 128 hours of vacation time will be reinstated to a housing department employee to correct a clerical error made by Commission staff.

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The meeting adjourned at 2:36 p.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, Landis and Vap present. The next regularly scheduled meeting will be held on December 17, 2002, at 1:00 p.m. with an agenda to be available in the office of the Executive Director at 1:00 p.m. on December 16, 2002.

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Chair

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Executive Director