

Chair Boyle called the regularly scheduled meeting to order at 10:02 a.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, and Landis present and Commissioner Vap excused.

#### GENERAL ADMINISTRATION

Notice was duly published February 25, 2003, on Page 7 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held March 4, 2003, at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

#### COMMUNICATIONS DEPARTMENT

Gene Hand provided a report on the National Association of Regulatory Utility Commissioners (NARUC) Winter Meetings held in Washington, DC from February 21-26, 2003.

Cheryl Elton gave a report on the quantity and type of complaints received by the Communications Department during the preceding month.

FC-1311 In the Matter of Business Telephones, Inc., Scottsbluff, vs. Sprint Corporation, alleging unfair business practices: Gene Hand advised the Commission that a formal complaint had been received on February 24, 2003, and that the answer date is March 18, 2003.

C-2648 In the Matter of the Petition of Nebraska Technology & Telecommunications, Inc., Lincoln, seeking arbitration of the interconnection rates, terms and conditions with Aliant Communications Co., dba ALLTEL: Gene Hand informed the Commission that the Arbitrator's final decision had been filed. The parties were ordered to submit an agreement in conformity with the decision.

C-2716 In the Matter of the petition from residents of the Bertrand exchange, served by Citizens Communications, requesting extended area service (EAS) to the Holdrege exchange, served by Qwest Communications: Upon agreement of all Commissioners present, an order was entered granting the application.

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 advised the Commission that the arbitrator's recommended decision and addendum to the February 24, 2003, arbitrator's recommended decision had been received. Level 3 was ordered to file the interconnection agreement in conformity with the arbitrator's decision.

COMMUNICATIONS DEPARTMENT (Cont.)

C-2861        In the Matter of the Complaint of Maurice Gene Hand,  
DC-62        Director of the Nebraska Public Service Commission, Com-  
              munications Department, Complainant, vs. Advantage Tele-  
              communications, Corp., Maitland, Florida, Defendant: Gene Hand  
              advised the Commission that a request had been received from Advantage  
              Telecommunications for an extension of time to file an answer and to  
              continue the hearing previously scheduled for March 12, 2003. Upon  
              agreement of all Commissioners present, the requests were granted and  
              the hearing was continued to a date later to be determined.

C-2870        In the Matter of Bee Line Long Distance, L.L.C., d/b/a  
              Hello Telecom, Orem, Utah, seeking authority for a Certi-  
              ficate of Public Convenience and Necessity to transact the business of  
              a reseller of interexchange telecommunications services within the  
              state of Nebraska and for approval of its initial tariff: Upon agree-  
              ment of all Commissioners present, the application was approved.

C-2872        In the Matter of Great Plains Communications, Inc., Blair,  
              seeking arbitration to resolve issues relating to an inter-  
              connection agreement with WWC License L.L.C., Issaquah, Washington:  
              Gene Hand discussed motions and comments filed. Upon agreement of all  
              Commissioners present, Philip R. Schenkenberg was admitted to partici-  
              pate in this proceeding as counsel for Western Wireless. Oral argu-  
              ments on the motions were scheduled for March 10, 2003, at 10:00 a.m.  
              in the Commission Hearing Room, Lincoln. Both parties have submitted  
              their recommendations for an arbitrator in this matter and are seeking  
              the Commission to designate an arbitrator.

              Upon agreement of all Commissioners present, Paul Hartman's  
              name was placed on the list of potential arbitrators.

C-2874/  
PI-71        In the Matter of the Commission, on its own motion, seek-  
              ing to investigate the current status of distance learning  
              in Nebraska: A request was granted to have Chadron added  
              as a video conference site at the March 18, 2003.

C-2875        In the Matter of Steven R. Smith, Minden, currently resid-  
              ing in the Minden exchange of Qwest Corporation, seeking  
              authority to receive telephone service from the Norman exchange of  
              Glenwood Telephone Membership Corp.: Upon agreement of all Commis-  
              sioners present, the application was granted.

C-2880        In the Matter of the consolidated application of Buyers  
              United, Inc., d/b/a buyersonline, d/b/a UnitedCarrier  
              Networks, Bluffdale, Utah, seeking authority to operate as a resale  
              interexchange carrier of telecommunications services within the state  
              of Nebraska and to transfer customers of Touch America, Inc., Butte,  
              Montana: Gene Hand advised the Commission that a Regulatory Compli-  
              ance Plan, Stipulation and check for payment of the first installment  
              of the administrative fine had been received from Buyers United.

COMMUNICATIONS DEPARTMENT (Cont.)

C-2867 In the Matter of the joint application of Qwest Corporation, Denver, Colorado, and VP Telecom, Sioux Falls, South Dakota, seeking approval of a wireline SGAT interconnection agreement: Upon agreement of all Commissioners present, an interconnection agreement was approved.

C-2873 In the Matter of Qwest Corporation, Denver, Colorado, and PinPoint Communications, Inc., Lincoln, seeking approval of an amendment to a wireline interconnection agreement previously approved in Application C-2605: Upon agreement of all Commissioners present, the amendment was approved.

Engineering

E-1959 In the Matter of Nebraska Public Power District, Columbus, seeking to construct, operate and maintain an electric transmission line in Madison County: Upon agreement of all Commissioners present, the request to cancel the authority was granted.

E-1977 In the Matter of Niobrara Valley Electric Membership Corporation, O'Neill, seeking authority to construct, operate and maintain an electric transmission line in Holt County: Upon agreement of all Commissioners present, the application was granted.

E-1978 In the Matter of Nebraska Public Power District, Columbus,  
E-1980 seeking to construct, operate and maintain electric transmission lines in Sherman and Madison Counties: Upon agreement of all Commissioners present, the applications were granted.

E-1979 In the Matter of Norris Public Power District, Beatrice,  
E-1984 seeking to construct, operate and maintain electric transmission lines in Lancaster County: Upon agreement of all Commissioners present, the applications were granted.

E-1983 In the Matter of Wheat Belt Public Power District, Sidney, seeking authority to construct, operate and maintain an electric transmission line in Sidney: Gene Hand informed the Commission that a motion to continue the hearing previously set for March 5, 2003, was received from Burlington Northern and Santa Fe Railway Company on February 27, 2003. Resistance to the motion to continue the hearing was received from the Applicant, Wheat Belt Public Power District. Upon agreement of all Commissioners present, the motion to continue was denied.

Gene Hand discussed the letter received from William Levis providing an update on WorldCom's progress in emerging from Chapter 11 bankruptcy protection.

UNIVERSAL SERVICE FUND

NUSF-2, PO #6/  
C-1645, PO #2  
In the Matter of the Commission, on its own motion, seeking to establish guidelines for administration of the Nebraska Lifeline Program: Upon agreement of all Commissioners present, an order was entered seeking comments regarding the name change of the Lifeline/Linkup Program to Nebraska Telephone Assistance Program (NTAP). Comments are due April 4, 2003.

NUSF-32, PO #1  
In the Matter of the Commission, seeking to conduct an inquiry into the failure of various companies to comply with Commission orders and, at its own discretion, impose administrative fines against the named defendants: Upon agreement of all Commissioners present, an order was entered dismissing USA Paging/Charter Fiberlink from this proceeding.

NUSF-35/  
C-2868/  
PI-69  
In the Matter of the Commission, on its own motion, seeking to determine Nebraska Eligible Telecommunications Carrier status for the purposes of receiving state universal service support for providing Lifeline/Link-up services and Telehealth services to rural hospitals: Upon agreement of all Commissioners present, a motion was granted to admit Gary Witt, an out-of-state attorney, on behalf of AT&T, into this proceeding.

WIRELESS E-911 DEPARTMENT

911-001/  
PI-52  
In the Matter of the Commission, on its own motion, seeking to establish guidelines for the administration of the Enhanced Wireless 911 Fund: Upon agreement of all Commissioners present, Progression order #6 was entered.

911-003/  
PI-65  
In the Matter of the Commission, on its own motion, seeking to determine whether it should obtain metrics data reports to monitor performance of wireless enhanced 911 service: Upon agreement of all Commissioners present, Progression Order #2 was entered.

In the Matter of a Request for information to be published for mapping/GIS and customer premise equipment (CPE) vendors to provide information as it relates to implementation of Phase II: Upon agreement of all Commissioners, the release of RFI was approved.

FEDERAL REPORT

Commissioner Boyle reported on the proposal of Dave Svanda, NARUC President, regarding triennial reviews.

LEGISLATIVE REPORT

Laura Davenport provided an update on the following bills and their respective fiscal notes:

LB 582, 583 and LB 584, changing procedures for rules and regulation promulgation, set for hearing March 6, 2003 (Sen. Bourne). The Commission authorized sending the Government Committee a letter addressing these bills.

Andy Pollock reported on the Transportation and Telecom Committee hearing held on Monday, March 3, 2003.

GRAIN WAREHOUSE DEPARTMENT

John Fecht discussed the following shortages:

GW-5 Corn at Thelen Grain Company, Wood River

GW-288 Oats at Farmers Co-operative Grain and Lumber Company, Humphrey

GW-798 Wheat at Cadams Grain & Lumber Company, Cadams

GW-1510 Corn at Kelley Bean Co., Inc., Morrill

GW-2093 Oats at Sherman, Inc. dba Sherman Feed & Supply, Auburn

GW-19 In the Matter of J. E. Meuret Grain Co., Inc., Brunswick  
GW-2151 and O'Neill, seeking a \$25,000.00 deductible on its stock insurance: Upon agreement of all Commissioners present, the application was granted.

GW-288 In the Matter of Farmers Co-operative Grain and Lumber Company, Humphrey, seeking cancellation of its Public Grain Warehouse License: Upon agreement of all Commissioners present, the application was granted effective February 1, 2003.

GW-462 In the Matter of Firth Cooperative Company, Firth, seeking a \$25,000.00 deductible on its stock insurance: Upon agreement of all Commissioners present, the application was granted.

GW-1120 In the Matter of Farmland Mutual Insurance Company seeking cancellation of its Continuous Public Grain Warehouse Bond No. 344 in the amount of \$43,600.00, issued on behalf of The Farmers Grain and Supply Company of Elba: Upon agreement of all Commissioners, the application was granted effective January 2, 2003.

GRAIN WAREHOUSE DEPARTMENT (Cont.)

Grain Dealer Division

Upon agreement of all Commissioners present, the following applicant was granted a Grain Dealer License for the license period ending June 30, 2003:

		<u>SECURITY</u>
GD-2854	Midwest Grain Co., Table Rock	\$ 35,000

Upon agreement of all Commissioners present, the following applicant was granted a Grain Dealer License for the license period ending December 31, 2003:

		<u>SECURITY</u>
GD-2855	Cooperative Agricultural Services, Inc. Oakley, KS	\$150,000

GD-2797 In the Matter of Employers Mutual Casualty Company seeking cancellation of its Grain Dealer Bond in the amount of \$35,000.00, issued on behalf of Management Consultants, Inc. dba Ag Finder Iowa Nebraska, Omaha: Application was granted effective February 5, 2003.

TRANSPORTATION DEPARTMENT

B-1415 In the Matter of Rodney D. Oberle, dba Park Avenue Limousines, Vermillion, South Dakota: Upon agreement of all Commissioners present, an order to show cause was entered. A hearing was set for April 9, 2003, at 9:30 a.m. in the Commission Hearing Room, Lincoln. Commissioner Boyle will preside as Hearing Officer.

B-1540 In the Matter of J. Delmar Mateo, dba Delmar Transportation Co., Grand Island, seeking revocation and cancellation of the common carrier authority in Certificate B-1540: Upon agreement of all Commissioners present, the revocation was granted and authority in B-1540 revoked.

MCC-3150 In the Matter of Andy S. Pollock, Director, Motor Transportation Department, Nebraska Public Service Commission, vs. Island Limousine Service, Limo de Luxe, Royal Flush Coach Service, Al's Hauling & Moving Co., Chief Transfer & Storage, Inc., and Murphy Moving: Upon agreement of all Commissioners present, an Order to Show Cause was entered. A hearing was set for April 9, 2003, at 9:30 a.m. in the Commission Hearing Room, Lincoln. Commissioner Landis will preside as Hearing Officer.

TRANSPORTATION DEPARTMENT (Cont.)

B-1581 In the Matter of Servant Cab Company LLC, dba Yellow Cab Company and Capital Cab Company, Lincoln, seeking an interpretation of the carrier's authority: The oral argument previously set for March 5, 2003, was continued to March 11, 2003, at 1:00 p.m. in the Commission Hearing Room, Lincoln. Commissioner Landis will preside as Hearing Officer.

B-1600 In the Matter of Y Turner's Unlimited, Inc., Omaha, seeking to transport passengers by van in Nebraska intrastate commerce in open class service from McKinley Street southwest to State Street; State Street west to 120<sup>th</sup> Street; 120<sup>th</sup> Street south to Interstate 80; Interstate 80 east to 72<sup>nd</sup> Street; 72<sup>nd</sup> Street south to Harrison Street; Harrison Street east to 16<sup>th</sup> Street; 16<sup>th</sup> Street north to McKinley Street. Includes the transportation of the clients of Health and Human Services. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized: The video hearing previously set for a date later to be determined was scheduled for March 20, 2003, at 10:00 a.m. in the Commission Library, Lincoln, and the Nebraska State Office Building, Room 207, 2<sup>nd</sup> Floor, 1313 Farnam, Omaha. Commissioner Boyle will preside as Hearing Officer.

B-1610 In the Matter of J. M. Wolfies, Inc., North Platte, seeking authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers between points in North Platte and between points in North Platte and points in Nebraska. To include the transportation of clients of the Nebraska Department of Health and Human Services. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized: A hearing was set for April 14, 2003, at 10:00 a.m. in the Commission Hearing Room, Lincoln. Commissioner Vap will preside as Hearing Officer.

Rate Division

LR-237 In the Matter of A & R Klassic Kars Limousine Service, LLC, Omaha, seeking authority to establish limousine rates for its use: Upon agreement of all Commissioners present, the application was granted on an emergency basis.

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 24 cents per mile and the taxi surcharge at 25 cents per trip.

GENERAL ADMINISTRATION

Upon agreement of all Commissioners present, authorization was granted for Kent Pribyl to travel to Smith Center, Kansas, on February 27, 2003, to perform a recreational vehicle factory inspection with all expenses, including time, to be reimbursed to the Commission by Peterson Industries, Inc.

GENERAL ADMINISTRATION (Cont.)

Upon agreement of all Commissioners present, authorization was granted for John Fecht to attend the National Grain and Feed Association Annual Conference to be held in Tucson, Arizona, from March 26-28, 2003.

Upon agreement of all Commissioners present, authorization was granted to destroy Item #1295 Hewlitt Packard Deskjet 870CXI printer which is broken and has no value.

Upon agreement of all Commissioners present, authorization was granted to purchase a 2003 Dodge Caravan.

Attention was called to the following proceedings:

Tuesday, March 4, 2003:

NUSF-30 Commission Hearing Room, Lincoln. The Commission, on its  
2:00 own motion, seeking to determine what is "reasonably comparable" with respect to rates charged for urban and rural consumers. Commissioner Vap chairing.

Monday, March 10, 2003:

B-1605 Commission Hearing Room, Lincoln.  
1:00 Gonzalo Vega, Lexington, seeking authority as a common carrier in Nebraska interstate commerce in the transportation of passengers in intrastate commerce by taxicab in sedans between points in the city of Lexington and Dawson County and between points in the city of Lexington and Dawson County, on the one hand, and, on the other hand, points in Nebraska over irregular routes to include the transportation of clients of the Nebraska Department of Health and Human Services. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized. Commissioner Vap chairing.

The Commission discussed budget recommendations from the Appropriations Committee.

Commissioner Lowell Johnson moved that the Commission go into closed session to discuss personnel issues and Commissioner Landis seconded the motion. Upon agreement of all Commissioners, the Commission went into closed session at 12:15 p.m.

Commissioner Rod Johnson moved that the Commission return to open session and Commissioner Landis seconded the motion. Upon agreement of all Commissioners, the Commission returned to open session at 12:25 p.m.

GENERAL ADMINISTRATION (Cont.)

Upon agreement of all Commissioners present, Nichole Morgan's employment status was upgraded from probationary to permanent status.

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The meeting adjourned at 12:27 p.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, and Landis present and Commissioner Vap excused. The next regularly scheduled meeting will be held on March 11, 2003, at 10:00 a.m. with an agenda to be available in the office of the Executive Director at 10:00 a.m. on March 10, 2003.

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Chair

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Executive Director