

Vice-Chairman Rod Johnson 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 January 27, 2004, on Page 10 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held February 3, 2004, at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

#### COMMUNICATIONS DEPARTMENT

Cheryl Elton informed the Commission of the complaints received in the preceding month.

C-3026 In the Matter of the Commission, on its own motion, seeking to conduct a 9-month proceeding as contemplated by the Federal Communications Commission in its Triennial Review Order adopting new rules for network unbundling obligations. Gene Hand advised the Commission that a letter had been received from Paul Schudel providing ALLTEL's position regarding discovery and the withdrawal of its "transport" case; therefore, the only issue before the Commission will be "mass market switching" for both Alltel and Qwest: A Hearing Officer's order was entered on January 28, 2004. A report and discussion of the pending AT&T motion regarding Alltel's failure to file a batch hot cut proposal ensued, including comments by Paul Schudel on behalf of Alltel. Alltel may file reply by noon Friday, February 06, 2004. Hearing Officer Boyle will decide whether or not to hold an oral argument.

C-3045 In the Matter of the Petition of Clarks Telecommunications Co., Consolidated Telco, Inc., Consolidated Telecom, Inc., Consolidated Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Co., K & M Telephone Co., Nebraska Central Telephone Co., Northeast Nebraska Telephone Co./NebCom, Inc., Stanton Telecom, Inc., and Three River Telco (Collectively, the "RLEC Group Companies") for arbitration to resolve issues relating to inter-connection agreements with WWC License, LLC: Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson to dismiss the petition for arbitration. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3057 In the Matter of Williams Communications, LLC, of Tulsa, Oklahoma, seeking authority to change its name to WilTel Communications, LLC: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

C-3080 In the Matter of Rock County Telephone Company, a Nebraska Corporation, Blair, and Three River Telco, a Nebraska non-profit corporation, Lynch, seeking authority to change the boundary between the Bassett exchange and the Springview exchange: Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

C-3081 In the Matter of Marathon Communications Corporation, d/b/a Marathon USA, Canton, Georgia, seeking authority to operate as an interexchange carrier of telecommunications services within the State of Nebraska: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

C-3082 In the Matter of United Telephone Company of the West, d/b/a Sprint, Overland Park, Kansas, seeking approval of its master interconnection and resale agreement with XO Network Services, Inc., Santa Ana, California: Motion was made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

C-3083 In the Matter of McGraw Communications, Inc., New York, New York, seeking authority to operate as a resale common carrier of telecommunications services within the State of Nebraska: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

C-3095 In the Matter of the Qwest Corporation, Denver, Colorado, seeking arbitration to resolve issues relating to interconnection rates, terms, conditions and related arrangements with AT&T Communications of the Midwest, Inc. and TCG Omaha, Denver, Colorado: Gene Hand advised the Commission that a petition for arbitration was received from Qwest Corporation on January 22, 2004. An arbitrator shall be chosen by February 10, 2004.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3096 In the Matter of Great Plains Communications, Inc., Blair, seeking suspension or modification of the Federal Communications Commission Requirement to Implement Wireline-Wireless Number Portability pursuant to 47 U.S.C. Section 251 (f)(2): Gene Hand advised the Commission that a petition had been received from Great Plains and discussed the determinations the Commission must make pursuant to 47 U.S.C. Section 251(f)(2).

C-3099 In the Matter of the Commission, on its own motion, seeking  
PI-77 comment on the request by United Way of the Midlands to be assigned the use of "211" in the City of Lincoln and Lancaster County for access to First Call for Help (FCFH), a comprehensive information and referral service: Motion made by Commissioner Frank Landis, seconded by Commissioner Anne Boyle to enter an Order opening the docket. A hearing was set for a date later to be determined. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

C-4000 In the Matter of the Commission, on its own motion, seeking to determine the surcharge for the statewide Telecommunications Relay System to be effective July 1, 2004: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle to enter an order initiating the docket. A hearing was set for March 2, 2004, at 2:00 p.m. in the Commission Hearing Room, Lincoln. Rod Johnson will reside as Hearing Officer. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting. The order entered in this docket will be vacated and a new docket will be entered on February 10, 2004, under Application C-3100.

Engineering Division

E-2026 In the Matter of Norris Public Power District, Beatrice, seeking to construct, operate and maintain an electric transmission line in Lancaster County: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

E-2027 In the Matter of Loup Power District, Columbus, seeking to construct, operate and maintain an electric transmission line in Platte County: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

COMMUNICATIONS DEPARTMENT (Cont.)

E-2028 In the Matter of Nebraska Public Power District, Columbus, seeking to construct, operate and maintain an electric transmission line in Platte County: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

Gene Hand informed the Commission that notification had been received from United States Bankruptcy Court of the Western District of Oklahoma that Amerivision Communications, Inc., d/b/a Lifeline Communications, Inc., had filed Chapter 11 bankruptcy.

Gene Hand informed the Commission that notification had been received from HunTel.net that two public Wi-Fi hot spots providing high-speed Internet access to anyone with a computer and a wireless network adaptor were now operational in Blair.

Gene Hand informed the Commission that notification had been received from Qwest that Broken Bow residents can now receive Qwest high-speed Internet service.

Gene Hand informed the Commission that the 2003 Annual Report of Hamilton Relay was filed on January 29, 2004.

Gene Hand informed the Commission that a tariff filing had been received from AT&T announcing that it would be offering residential local service in Qwest exchanges. Discussion was held regarding elimination of LNP surcharge by two companies: Qwest & Sprint.

Gene Hand informed the Commissioners that the DAS Division of Communications and Public Service Commission will be jointly participating in a VoIP Summit on February 17, 2004, from 1:00 p.m. to 2:45 p.m. at the Public Service Commission, Commission Hearing Room.

Don Gray reviewed with the Commissioners Alltel's Monthly Service Quality Report for the month of December 2003.

UNIVERSAL SERVICE FUND

Jeff Pursley introduced Camelia Wills, the new Policy Analyst for the Universal Service Fund and Communications Departments.

NUSF-37.17 In the Matter of Jeffrey L. Pursley, Director, Nebraska Universal Service Fund Department, Nebraska Service Commission, Complainant, vs. NUI Telecom, Inc., Respondent: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis to dismiss the complaint. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

UNIVERSAL SERVICE FUND (Cont.)

Jeff Pursley reported on the Late-Filed Carrier Remittances. The Commission approved the recommendation that the \$50.00 late fee for Americatel, Cable and Wireless USA, and Cox Communications be waived, and the proposed late fee be levied against Talk America and Telephone Systems of Nebraska. Jeff Pursley discussed a letter received from Cincinnati Bell regarding their late remittance filing; however, asked that any action be postponed due to confusion about what company they are actually operating and filing under. The Commission approved the recommendation that a new formal complaint be opened against NUI Telecom, Inc. and Transcommunications for habitual late-filed remittances.

NUSF-26 In the Matter of the Commission, on its own motion, seeking to establish a long-term universal service funding mechanism: Jeff Pursley discussed the census data and exchange maps and information.

NUSF-33 In the Matter of the Commission, on its own motion, seeking to investigate the audit requirements related to the Nebraska Universal Service Fund: Mr. Pursley discussed the late-filed Carrier Worksheet Audits. The Commission approved the requests for extension received from Excel Telecommunications, Vartec, and TracFone.

NUSF-34 In the Matter of the Commission, on its own motion, seeking to investigate the audit requirements related to the Nebraska Universal Service Fund: Jeff Pursley discussed the letter received from Evercom requesting to use a credit that resulted from findings of the July 1, 2001 through December 31, 2002 audit. The Commission approved the recommendation that a Data Request be forwarded to Evercom.

NUSF-25 In the Matter of the Commission, on its own motion, seeking to establish guidelines for the purpose of certifying the use of federal universal service support: Jeff Pursley reported that comments had been received from Paul Schudel on behalf of the Rural Independent Companies in NUSF-25.

Jeff Pursley discussed the future on-line submission of Carrier Worksheets.

NATURAL GAS DEPARTMENT

NG-0001 In the Matter of Aquila, Inc., d/b/a Aquila Networks  
NG-0002 (Aquila), Omaha, seeking a general rate increase for  
NG-0003 Aquila's Rate Area One, Rate Area Two and Rate Area Three:  
Motion made by Commissioner Anne Boyle, seconded by  
Commissioner Lowell Johnson to grant assessment order for GDS-005.  
Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod  
Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not  
Voting.

NATURAL GAS DEPARTMENT (Cont.)

NG-0014 In the Matter of Post Rock Gas, L.L.C., Tulsa, Oklahoma, seeking authority, and to include Temporary Authority, as a Competitive Natural Gas Provider in the state of Nebraska: Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson to grant the application as amended. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

NG-0015 In the Matter of Midwest United Energy, LLC, Lakewood, Colorado, seeking authority as a Competitive Natural Gas Provider in the state of Nebraska: Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson to enter an order granting CGNP authority. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis voting AYE, Commissioner Jerry Vap Absent Not Voting.

Laura Demman reported a total number of 20 complaints or inquiries related to natural gas received in January 2004.

Laura Demman provided a report on the status of rules and regulation proposals.

P-0007 In the Matter of Aquila, Inc., Omaha, seeking resolution of a dispute under Neb. Rev. Stat. Sec. 57-1306: Laura Demman reported on the status of the case and indicated that a final order could be prepared for the next scheduled meeting.

RULES AND REGULATIONS

Rule and Regulation #158 In the Matter of the Commission, on its own motion, seeking to amend Title 291, Chapter 8, Grain Warehouse and Grain Dealer Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 735 [2003]: Upon agreement of all Commissioners, the rules will be returned to the Commission for reconsideration. A letter will be sent to the Attorney General to request their return.

LEGISLATIVE REPORT

A motion was made by Commissioner Landis, and seconded by Commissioner Boyle, to adopt the Legislative Resolution. Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, and Frank Landis voted AYE and Commissioner Jerry Vap was excused not voting.

GRAIN WAREHOUSE DEPARTMENT

The following shortages were discussed:

GW-1510 Navy beans at Kelley Bean Co., Inc., Morrill.

GRAIN WAREHOUSE DEPARTMENT (Cont.)

- GW-2112           Corn at James Nejezchleb dba Deweese Agri Services,  
Deweese.
- GW-5               John Fecht discussed the financial condition of Thelen  
Grain Company, Wood River, and it was decided that the  
license will be issued and an interim audited financial statement will  
be required within 60 days.
- GW-823            In the Matter of Sutton Cooperative Grain Company,  
Sutton, seeking cancellation of its Public Grain Ware-  
house License: Application should be granted effective February 1,  
2004.

Grain Dealer Division

- GD-823            In the Matter of Sutton Cooperative Grain Company,  
Sutton, seeking cancellation of its Grain Dealer License:  
Application was granted effective February 1, 2004.
- GD-2852           In the Matter of Union Insurance Company seeking can-  
cellation of its Continuous Grain Dealer Bond No. 239  
01 10 in the amount of \$35,000.00, issued on behalf of Grain Express,  
Inc., David City, NE: Application was granted effective January 22,  
2004.

TRANSPORTATION DEPARTMENT

- B-1277            In the Matter of Brian L. Mills, d/b/a Fantasy Limousine,  
Omaha: Upon agreement of all Commissioners present, an  
order to show cause was entered and a hearing set for March 16, 2004,  
at 1:30 p.m. in the Commission Hearing Room, Lincoln. Commissioner  
Boyle will preside as Hearing Officer.
- B-1441            In the Matter of Prince of the Road, Ravenna, seeking  
Supp. 3           to acquire, through transfer, the authority granted to  
Rolland C. Gressley, d/b/a Aquila Limo Service, in Certi-  
ficate B-1432: Upon agreement of all Commissioners present, the  
application was granted and Certificate B-1432 revoked.
- B-1549            In the Matter of Blaine Rentals, Inc., dba Panhandle  
Runaround, Chadron: Upon agreement of all Commissioners  
present, an order to show cause was entered and a hearing was set for  
March 16, 2004, at 1:30 p.m. in the Commission Hearing Room, Lincoln.  
Commissioner Vap will preside as Hearing Officer.
- B-1566            In the Matter of R & J Limo Services, Inc., Cozad: Upon  
agreement of all Commissioners present, an order to show  
cause was entered and a hearing was set for March 16, 2004, at 1:30  
p.m. in the Commission Hearing Room, Lincoln. Commissioner Vap will  
preside as Hearing Officer.

TRANSPORTATION DEPARTMENT (Cont.)

B-1642 In the Matter of A-1 Transportation, LLC, A-1 Transportation, LLC, seeking to acquire, through transfer, the authority granted to A-1 Ambassador Limousine, Inc., d/b/a A-1 Special Services, in Certificate B-1594: Upon agreement of all Commissioners present, the application was granted and Certificate B-1594 revoked.

B-1643 In the Matter of A-1 Limousine Services, LLC, seeking to acquire, through transfer, the authority granted to Ambassador Limousine, Inc., dba Ambassador Limousine, in Certificate B-1469; the authority granted to A-1 Ambassador Limousine, Inc., d/b/a Haymarket Limousine, in Certificate B-1470; and the authority granted to J.L.R.D., Inc., dba Lincoln Limousine, in Certificate B-1529: Upon agreement of all Commissioners present, the application was granted and Certificates B-1469, B-1470, and B-1529 revoked.

B-1597 In the Matter of Caring Network, Inc., Omaha, seeking to Supp. 1 extend its authority as a common carrier of passengers by van in open class service between points in Cass County and between points in Cass County and points in Douglas and Sarpy Counties over irregular routes. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized: The video hearing previously set for February 11, 2004 was rescheduled to February 11, 2004, at 9:00 a.m. in the Commission Library, Lincoln, and Nebraska State Office Building, Room 207, 2<sup>nd</sup> Floor, 1313 Farnam Street, Omaha. Commissioner Boyle will preside as Hearing Officer.

B-1635 In the Matter of Herbert W. Brown, Omaha, seeking authority as a common carrier of passengers in open class service by van between points in Douglas and Sarpy counties and between points in said counties, on the one hand, and on the other hand, points in Nebraska over irregular routes: A hearing was set for February 26, 2004, at 10:00 a.m. at the Nebraska State Office Building, Room 127, 1313 Farnam Street, Omaha. Commissioner Boyle will preside as Hearing Officer.

B-1636 In the Matter of Powerday Glory, Inc., Omaha, seeking authority as a common carrier in open class service by vans and wheelchair accessible vans between points in Douglas and Sarpy counties and between points in said counties and points in Nebraska over irregular routes. To include the transportation of Health and Human Services clients and their subcontractors thereof. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized: A hearing was set for March 24, 2004, at 10:00 a.m. at the Nebraska State Office Building, Room 218, 1313 Farnam Street, Omaha. Commissioner Boyle will preside as Hearing Officer.

MCC-3151 In the Matter of Andy Pollock, Director, Motor Transportation Department, Nebraska Public Service Commission vs. Mike's Moving, Omaha: The hearing previously set for January 28, 2004, was continued to February 18, 2004, at 1:30 p.m. in the Commission Hearing Room, Lincoln. Commissioner Boyle will preside as Hearing Officer.

TRANSPORTATION DEPARTMENT (Cont.)

Rate Division

- BR-293 In the Matter of Panda Transportation, Valentine, seeking authority to amend its limousine rates: Upon agreement of all Commissioners present, the application was granted.
- MR-1009 In the Matter of the Commission, on its own motion, adopting  
PI-70 the affidavit and setting procedural schedule:
- 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 16 cents per mile and the taxi surcharge at 30 cents per trip.

GENERAL ADMINISTRATION

Commissioner Landis moved that the Commission go into closed session to discuss personnel and litigation issues and Commissioner Boyle seconded the motion. Upon agreement of all Commissioners present, the Commission went into closed session at 12:10 p.m.

Commissioner Landis moved that the Commission return to open session and Commissioner Boyle seconded the motion. Upon agreement of all Commissioners present, the Commission returned to open session at 12:15 p.m.

The Commission approved the following invoices:

DAS - Building Division	\$ 630.00
DAS - Communications	2,173.37
DAS - Materiel - Copy Service	1,585.97
DAS - Transportation Services Bureau - Voyager	463.70
HHS Finance and Support	665.50
Dell	6,340.80
Larry Fauss	800.00
Kelly Services	700.00
Robert Bowman	830.24
Fred Massing	763.70
Anne Boyle	450.00
Anne Boyle	259.26
Gerald Vap	528.75

NEBRASKA EQUIPMENT DISTRIBUTION PROGRAM

AGN Sales	322.55
Aksarben TDD Service	1,861.85
Associated Hearing Health Care	2,487.75
Audiology services & HAC, PC	194.90
Bosler Hearing Aid Center	374.00
Grand Island Hearing Aid Center Inc.	704.06

GENERAL ADMINISTRATION (Cont.)

Hearing Clinic Inc.	\$ 1,250.00
Carl A Johnson	952.60
Johnson Hearing Aid Service	395.27
K-D Communications	212.95
League of Human Dignity	1,153.80
McCook Pharmacy & Medical Supply	947.70
Professional Hearing Aid Service	1,301.85
R & J Enterprises	1,156.60
Sherard Hearing Aid Center	699.00
Teltex	1,257.39

\*\*\*\*\*

The meeting adjourned at 12:16 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 February 10, 2004, at 10:00 a.m. with an agenda to be available in the office of the Executive Director at 10:00 a.m. on February 9, 2004.

---

Chairman

---

Executive Director