

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

#### GENERAL ADMINISTRATION

Notice was duly published June 21, 2005 on Page 8 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held June 28, 2005 at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

Attention was called to the following proceeding:

Tuesday, June 28, 2005:

NUSF-43      Commission Hearing Room, Lincoln.  
1:30          In the Matter of Nebraska Technology and Telecommunications, Inc., Omaha, requesting universal service support for supported services provided in Alltel exchanges. Commissioner Landis presiding as Hearing Officer.

#### COMMUNICATIONS DEPARTMENT

W-010          In the Matter of Lakeland Estates Water Co., Blair, seeking authority to increase rates effective July 1, 2005: Gene Hand informed the Commission that sufficient customer signatures were received petitioning the Commission to determine water rates in lieu of those proposed by the water company. Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis, to schedule a hearing for September 14, 2005 at 6:00 p.m. at the City Council Chambers, City Hall, 218 South 16<sup>th</sup> Street, Blair. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE. Commissioner Jerry Vap was appointed as Hearing Officer.

C-3362          In the Matter of ATX Licensing, Inc., King of Prussia, Pennsylvania, seeking authority to operate as an Inter-exchange Carrier of Telecommunications in the state of Nebraska. Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson, to enter an order granting the application: Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

C-3397          In the Matter of Matrix Telecom, Inc., Oklahoma City, Oklahoma, seeking authority to operate as a reseller of local exchange telecommunications services: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3415 In the Matter of the Commission, on its own motion, seeking to establish an interim policy on eligible telecommunications carrier standards: Motion made by Commissioner Frank Landis, seconded by Commissioner Anne Boyle, to enter an order adopting interim guidelines for granting or denying ETC applications. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

C-3424 In the Matter of IBFA Acquisition Company, LLC, Elk Grove Village, Illinois, seeking authority to acquire certain assets of American Farm Bureau, Inc., dba The Farm Bureau Connection: Motion made by Commissioner Rod 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 and Jerry Vap voting AYE.

C-3425 In the Matter of PNG Telecommunications, Inc., dba PowerNet Global Communications, Fairfield, Ohio, seeking authority to change its name to CrossConnect: 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 and Jerry Vap voting AYE.

C-3426 In the Matter of Citizens Telecommunications Company of Nebraska, Mound, Minnesota, seeking approval of an interconnection agreement with Iowa RSA No. 2 Limited Partnership dba Lyrinx Wireless, Clifton, Virginia: 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 and Jerry Vap voting AYE.

C-3427 In the Matter of Blair Telephone Company, Blair, seeking approval of a wireless interconnection agreement with WWC License L.L.C., Inc., Bellevue, Washington: 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 and Jerry Vap voting AYE.

C-3429 In the Matter of Sprint Communications Company L.P. (Sprint), Overland Park, Kansas, seeking arbitration under the Telecommunications Act for certain issues associated with the proposed interconnection agreement between Sprint and Southeast Nebraska Telephone Company: Gene Hand informed the Commission that a planning conference order setting a schedule for the proceeding should be available later today. A hearing was scheduled for August 10, 2005 at 10:00 a.m. in the Commission Hearing Room, Lincoln. Commissioner Landis was appointed as Hearing Officer.

COMMUNICATIONS DEPARTMENT (Cont.)

Gene Hand reported that the Supreme Court ruled in what has been referred to as the Brand X Case that integrated cable-modem service is an information service rather than a telecommunications service.

UNIVERSAL SERVICE FUND

NUSF-45 In the Matter of the Commission, on its own motion, seeking to establish Nebraska Universal Service Fund guidelines for certain rural incumbent local exchange carriers that have dual state local exchange boundaries and a majority of subscribers located outside of Nebraska. Commissioner Vap presiding as Hearing Officer: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis, to enter an order opening the docket and seeking comments that will be due August 16, 2005. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

Jeff Pursley reviewed Late-Filed Carrier Remittances. Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis, to grant one-time waivers to Advanced Tel, Inc. for the late-filed worksheets for the third quarter, 2003 through the first quarter, 2005; MCI Worldcom Communications for the late-filed worksheet for May 2005; and T-Netix, Inc. for the late payment for May 2005, and to file a complaint against CIII/Broadwing Communications. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

Jeff Pursley discussed a letter from Deonne Bruning, Chair of the Nebraska Universal Service Fund Advisory Board, regarding the appointment and approval of two new NUSF Advisory Board Members. Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to approve Ed Rastovski, Superintendent of Wahoo Public Schools, as the representative of schools/education, and Steve Meradith, ALLTEL, as a representative of telecom carriers. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

E911 DEPARTMENT

911-14/  
PI-99 In the Matter of the Commission, on its own motion, seeking to investigate issues related to the current state of landline and enhanced wireless 911 service and the means to ensure statewide access to landline 911 and enhanced wireless 911 service: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis, to enter an order opening the docket. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE. Commissioner Jerry Vap was appointed as Hearing Officer.

## RULES AND REGULATIONS

Rule and #161 In the Matter of the Commission, on its own motion, seeking Regulation to amend Title 291, Chapter 1, Rules of Commission Procedure, to rewrite a substantial portion of the rules; correct technical errors, grammar, punctuation, spelling, sequential numbering and the like; and reprint the chapter in its entirety: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis, to schedule a public workshop for July 28, 2005 at 9:00 a.m. in the Commission Hearing Room, Lincoln. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

## WEB AND TECHNOLOGY REPORT

Tyler Frost informed the Commission of the State of Nebraska's new homepage address ([www.Nebraska.gov](http://www.Nebraska.gov)) and redesigned look. He further informed the Commission of the obligations related to the NITC's newly adopted web branding standards.

## TRANSPORTATION DEPARTMENT

MCC-3155 In the Matter of Mark J. Breiner, Director, Motor Transportation Department, Complainant, vs. Local Movers, Lincoln, Defendant: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to enter an order dismissing the complaint. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

M-14188 In the Matter of Mike's Moving, Omaha, seeking authority as a common carrier of household goods within fifteen (15) miles of the Omaha city limits over irregular routes: A video hearing was scheduled for August 31, 2005, at 9:00 a.m. in the Commission Library, Lincoln; Nebraska State Office Building, 1313 Farnam Street, Omaha; and Von Riesen Library, Room 6, 1205 East 3<sup>rd</sup> Street, McCook. Commissioner Boyle was appointed as Hearing Officer.

### Rate Division

TR-138 In the Matter of Safeway Cabs, Inc., Omaha, seeking authority to adjust its rates and charges. Commissioner Boyle presiding as Hearing Officer: The hearing previously scheduled for June 30, 2005, was continued to July 21, 2005, at 1:30 p.m. in the Commission Library, Lincoln; Nebraska State Office Building, 1313 Farnam Street, Omaha; and Hastings Public Library, 2<sup>nd</sup> floor, 517 West 4<sup>th</sup> Street, Hastings.

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-F: The fuel surcharge was retained at 50 cents per mile.

GRAIN WAREHOUSE DEPARTMENT

In the Matter of Schedule A Rates and Charges: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to enter an order approving the rates. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

In the Matter of Schedule E Rates and Charges: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis, to enter an order approving the rates. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

GW-853 In the Matter of John A. Fecht, Director, Grain Warehouse  
GWC-406 Department, Complainant, v. Retzlaff Grain Company, Incorporated, Clinton, Defendant. Commissioner Vap presiding as Hearing Officer: Motion made by Commissioner Frank Landis, seconded by Commissioner Rod Johnson, to enter an order to amend the complaint. The hearing previously scheduled for July 6, 2005 was continued to August 3, 2005 at 10:00 a.m. in the Commission Hearing Room, Lincoln. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

GW-2161 In the Matter of Dennis Partners, Inc. dba O'Neill Grain Co., O'Neill: John Fecht discussed the shortage of corn.

GENERAL ADMINISTRATION

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to approve the following Commission invoices. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

DAS - Communications	\$ 3,017.61
DAS - Materiel	589.11
Kelly Services	700.00
Liberty Consulting Group	3,992.04
Anne Boyle	389.07
Anne Boyle	437.40
Lowell Johnson	134.80
Lowell Johnson	214.70
Rod Johnson	249.48
Gerald Vap	190.36

Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson, to go into closed session to discuss personnel and investigatory matters. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE. The Commission went into closed session at 10:37 a.m.

GENERAL ADMINISTRATION (Cont.)

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to return to open session. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE. The Commission returned to open session at 10:58 a.m.

Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to upgrade a staff member's employment status from probationary to permanent. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to convert the current half-time attorney position to full-time and open the position. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Jerry Vap voting AYE and Commissioner Frank Landis voting NAY.

Motion made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to convert the current half-time motor transportation investigator position to full-time, open the position and extend an offer. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Jerry Vap voting AYE and Commissioner Frank Landis voting NAY.

Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to convert the current temporary Nebraska Telephone Assistance Program Specialist position to permanent, open the position and extend an offer. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Jerry Vap voting AYE and Commissioner Frank Landis voting NAY.

Motion made by Commissioner Frank Landis, seconded by Commissioner Anne Boyle, to approve making the merit-based compensation plan permanent following legislative passage of the Commission budget. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to approve making salary increases permanent following legislative passage of the Commission budget. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voting AYE.

Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson, to approve the COLA plan recommended by the Executive Director. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

The meeting adjourned at 11:03 a.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, Landis and Vap present. The next regularly scheduled meeting will be held on Wednesday, July 6, 2005, at 10:00 a.m. with an agenda to be available in the office of the Executive Director at 10:00 a.m. on July 5, 2005.

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Chairman

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Executive Director