

Chairman Frank Landis called the regularly scheduled meeting to order at 10:00 a.m. with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Gerald Vap present. Chairman Landis invited the public to address the Commission and also announced that a copy of the Nebraska Open Meetings Act was posted in the meeting room. No announcements were made.

#### GENERAL ADMINISTRATION

Notice was duly published May 5, 2009 on Page 7 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held May 12, 2009 at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

Attention was called to the following proceedings:

#### Tuesday, May 12, 2009

Schedule Commission Hearing Room, Lincoln and video at Panhandle  
A&E Rates Research & Extension Center, High Plains Room, 4502 Avenue  
1:30 I, Scottsbluff. In the Matter of fixing reasonable storage  
rates and charges for public grain warehouses. Commissioner  
Jerry Vap presiding as Hearing Officer.

B-1514 Commission Hearing Room, Lincoln. In the Matter of All  
2:00 Nations Church of the Lord Jesus Christ, dba All Nations  
Specialized Transport & Travel Service, Lincoln, seeking  
authority as a common carrier in Nebraska intrastate com-  
merce in the transportation of passengers in special party  
and charter operations by bus and passenger van between  
points in Nebraska over irregular routes. RESTRICTION:  
The transportation of railroad train crews and their  
baggage is not authorized: Commissioner Landis presiding  
as Hearing Officer.

#### Wednesday, May 13, 2009

NG-0055/ Commission Hearing Room, Lincoln. Workshop.  
PI-143 In the Matter of the Commission, on its own motion, seeking  
10:00 to investigate revenue decoupling and energy efficiency  
programs for natural gas public utilities. Commissioner  
Landis presiding as Hearing Officer.

#### COMMUNICATIONS DEPARTMENT

Motion made by Commissioner Tim Schram, seconded by Commissioner Anne Boyle, to enter orders granting applications AD-481r and AD-482r. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

COMMUNICATIONS DEPARTMENT (Cont.)

AD-481r In the Matter of The Spoken Hub, LLC, New York, New York, seeking authority to register the connection of an automatic dialing-announcing device in New York, New York.

AD-482r In the Matter of The Spoken Hub, LLC, New York, New York, seeking authority to register the connection of an automatic dialing-announcing device in Philadelphia, Pennsylvania.

C-4153/  
PI-148 In the Matter of the Commission, on its own motion, seeking to investigate Windstream Nebraska, Inc.'s tariff provision regarding non-proration of charges billed one month in advance when a customer initiates account action. Commissioner Frank Landis presiding as Hearing Officer: Motion made by Commissioner Jerry Vap, seconded by Commissioner Anne Boyle, to enter an order closing the docket. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

C-4161 In the Matter of NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions, Arlington, Virginia, seeking a name change to Verizon Enterprise Solutions LLC: Motion made by Commissioner Rod Johnson, seconded by Commissioner Tim Schram, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

C-4166/  
DC-76 In the Matter of the Commission, on its own motion, regarding the 2008 Annual Report Filings. Commissioner Tim Schram presiding as Hearing Officer: Motion made by Commissioner Anne Boyle, seconded by Commissioner Tim Schram, to enter orders to Show Cause and schedule a hearing for August 4, 2009 at 1:30 p.m. in the Commission Hearing Room, Lincoln. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

FC-1335 In the Matter of the Formal Complaint of AT&T Communications of the Midwest, Inc., Denver, Colorado, seeking a determination that OrbitCom, Inc., Sioux Falls, South Dakota, failed to negotiate intrastate access charges and that OrbitCom's tariffed intrastate switched access rates are unfair and unreasonable: Motion made by Commissioner Tim Schram, seconded by Commissioner Anne Boyle, to enter an order granting the Motion to Consolidate. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

Motion made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to enter orders granting applications C-4157 through C-4159. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

COMMUNICATIONS DEPARTMENT (Cont.)

- C-4157 In the Matter of Qwest Corporation, Denver, Colorado, seeking approval of a Wireline Interconnection Agreement with NetTalk.Com, Inc., North Miami Beach, Florida.
- C-4158 In the Matter of Qwest Corporation, Denver, Colorado, seeking approval of a Collocation Engineering and Installation Labor Charges Amendment to the Interconnection Agreement with McLeodUSA Telecommunications Services, Inc., Hiawatha, Iowa, previously approved in Docket C-2023.
- C-4159 In the Matter of Qwest Corporation, Denver, Colorado, seeking approval of an Expedite Requests Amendment to the Interconnection Agreement with Windstream of the Midwest, Inc., Little Rock, Arkansas, previously approved in Docket C-1530.
- E-2210 In the Matter of Nebraska Public Power District, Columbus, seeking authority to construct, operate and maintain an electric transmission line in Sherman and Valley Counties: Motion made by Commissioner Anne Boyle, seconded by Commissioner Jerry Vap, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

Gene Hand discussed the announcement that Verizon has agreed to sell wireless assets to AT&T including those in a 10 county area in Nebraska.

TELECOMMUNICATIONS INFRASTRUCTURE AND PUBLIC SAFETY DEPARTMENT

Motion made by Commissioner Jerry Vap, seconded by Commissioner Anne Boyle, to enter orders approving the funding requests for recurring and non-recurring costs of Enhanced Wireless 911 implementation in Docket's 911-023.79 and 911.023.80. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

- 911-23.79 Morrill County, Public Safety Answering Point, Bridgeport.  
911-23.80 Pierce County, Public Safety Answering Point, Pierce.

NUSF-1, In the Matter of the Commission, on its own motion, seeking  
P.O. #7 to establish guidelines for administration of the Nebraska  
Universal Service Fund: LCR Telecommunications, LLC:  
Motion made by Commissioner Tim Schram, seconded by Commissioner Anne Boyle, to grant LCR's second extension request to file their NUSF Remittance Audit for 2006, that was due December 31, 2008, no later than May 31, 2009. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

TELECOMMUNICATIONS INFRASTRUCTURE AND PUBLIC SAFETY DEPARTMENT (Cont.)

NUSF-37. In the Matter of Jeffrey L. Pursley, Director, Telecommunications Infrastructure and Public Safety Department, 165 Complainant, v. Charter-Fiberlink Nebraska, Inc., Respondent(s): Commissioner Johnson presiding as Hearing Officer. Motion made by Commissioner Jerry Vap, seconded by Commissioner Anne Boyle, to enter an order dismissing the complaint and removing the carrier from the hearing scheduled for May 19, 2009. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

NUSF-50 In the Matter of the Commission, on its own motion, seeking to make adjustments to the Universal Service Fund mechanism established in Docket NUSF-26. Commissioner Jerry Vap presiding as Hearing Officer: Waiver request received from Elsie Communications and Dalton Telephone Company. Motion made by Commissioner Anne Boyle, seconded by Commissioner Tim Schram, to enter an order denying the waiver. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

NATURAL GAS DEPARTMENT

FC-1333 In the Matter of the Formal Complaint of Tim Edens, North Platte, vs. NorthWestern Energy, Sioux Falls, South Dakota, alleging inaccurate billing. Commissioner Jerry Vap presiding as Hearing Officer: Laura Demman discussed the order entered May 5, 2009, by the Hearing Officer granting a Motion for Pro Hac Vice.

P-0012.26 In the Matter of Black Hills Corporation, Omaha, providing  
P-0012.27 notice required by *Neb. Rev. Stat.* Section 66-1863, as amended, that it intends to extend or enlarge its service area or extend a gas main(s): Motion made by Commissioner Anne Boyle, seconded by Commissioner Tim Schram, to enter orders closing the dockets. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

LEGISLATIVE REPORT

Angela Melton discussed pending legislation.

TRANSPORTATION DEPARTMENT

B-1640 In the Matter of VIP Limousine, LLC, Omaha, seeking Commission approval to waive the age qualification for driving a motor vehicle: Motion made by Commissioner Rod Johnson, seconded by Commissioner Tim Schram, to enter an order waiving the age qualification for driving a motor vehicle. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

TRANSPORTATION DEPARTMENT (Cont.)

B-1694 In the Matter of Todd Friesen, dba Your Limo Service, Grand Island, seeking authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers and their baggage in limousine service between points in Hamilton, Hall, Nance, Merrick, Buffalo, Clay, Howard, York, Adams, Phelps, Polk and Sherman counties and between points in said counties. HHS Designation: No. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized: Motion made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to enter an order dismissing the application. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

B-1720 In the Matter of Phoenix Counseling, Inc., dba Phoenix Transportation Services, Omaha, seeking authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers and their baggage by van in open class service between points in Douglas, Cass, Sarpy, and Washington counties and between points in said counties. HHS Designation: Yes. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized. Upon agreement of all Commissioners, a video hearing was scheduled for July 2, 2009, at 10:00 a.m. in the Commission Hearing Room, Lincoln, and Nebraska State Office Building, 1313 Farnam Street, Room 207, Omaha. Commissioner Anne Boyle was appointed Hearing Officer.

B-1734 In the Matter of Global Connections & Services, Inc., dba "Quick Drop," Omaha, seeking authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers and their baggage by van in open class service between points in the state of Nebraska over irregular routes. HHS Designation: Yes. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized: Motion made by Commissioner Tim Schram, seconded by Commissioner Jerry Vap, to enter an order dismissing the application. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

M-14206 In the Matter of James Dunbar, dba Little Nate's Moving, Omaha, seeking authority as a common carrier in Nebraska intrastate commerce in the transportation of household goods within the state of Nebraska over irregular routes. Upon agreement of all Commissioners, a video hearing was scheduled for June 3, 2009, at 10:00 a.m. in the Commission Hearing Room, Lincoln, and Nebraska State Office Building, 1313 Farnam Street, Room 207, Omaha. Commissioner Boyle was appointed Hearing Officer.

TRANSPORTATION DEPARTMENT (Cont.)

Rate Division

BR-344 In the Matter of CUSA ES, LLC, dba Coach America Crew Transport, Dallas, Texas, seeking authority to adjust its rates and charges: Motion made by Commissioner Jerry Vap, seconded by Commissioner Tim Schram, to enter an order granting the application as amended. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

BR-345 In the Matter of Laidlaw Transit, Inc., Omaha, seeking authority to adjust its rates and charges: Motion made by Commissioner Anne Boyle, seconded by Commissioner Tim Schram, to enter an order granting the application as modified. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

LR-299 In the Matter of Alvin D. Kramer, Beemer, seeking authority to adjust its rates and charges: Motion made by Commissioner Jerry Vap, seconded by Commissioner Tim Schram, to enter an order granting the application on an emergency basis. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

TR-171 In the Matter of Safeway Cab, Happy Cab, Yellow Cab, Checker Cab and Cornhusker Cab, Omaha, seeking authority to adjust its rates and charges: Upon agreement of all Commissioners, a video hearing was scheduled for May 28, 2009, at 10:00 a.m. in the Commission Hearing Room, Lincoln, and the Nebraska State Office Building, 1313 Farnam, Room 207, Omaha.

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 Goods Tariff 7F and Tariff 22: The Tariff 7F fuel surcharge was increased to \$.44 per Mile and the Tariff 22 fuel surcharge to \$.88 per truck per trip.

GRAIN WAREHOUSE DEPARTMENT

GW-1883 In the Matter of Salem Grain Co., Inc., Salem, seeking a measure-up of grain in its facilities, with fees to be paid by the applicant: Motion made by Commissioner Jerry Vap, seconded by Commissioner Tim Schram, to grant the request. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

GW-2171 In the Matter of Archer Grain Company, Archer: Motion made by Commissioner Rod Johnson, seconded by Commissioner Jerry Vap, to enter an order taking possession of the warehouse. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

GENERAL ADMINISTRATION

Motion made by Commissioner Tim Schram, seconded by Commissioner Anne Boyle, to approve the Executive Director's recommendation to approve the following Commission invoices. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

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| Daily Record | \$ 660.60 |
| Voyager      | 781.13    |
| West         | 855.75    |
| Gerald Vap   | 1,034.00  |

Motion made by Commissioner Jerry Vap, seconded by Commissioner Rod Johnson, to approve the Executive Director's recommendation to authorize Tim Sandusky and Scott Elston to travel to and attend the following Federal Railroad Administration (FRA) training classes, with all expenses to be paid by the FRA.

Tim Sandusky to attend Investigative Skills Fundamentals to be held in Louisville, Kentucky, from June 8 through 12, 2009.

Tim Sandusky and Scott Elston to attend Accident Investigation Fundamentals to be held in Columbus, Ohio, from July 12 through 17, 2009.

Tim Sandusky to attend Federal Rail Integrity Fundamentals to be held in Louisville, Kentucky, from August 10 through 14, 2009.

Motion made by Commissioner Rod Johnson, seconded by Commissioner Jerry Vap, to approve the Executive Director's recommendation to approve Commission minutes for the month of April, 2009. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

Motion made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to approve the Executive Director's recommendation to authorize Don Gray to travel to and attend the Alliance for Telecommunications Industry Solutions (ATIS) - Industry Numbering Committee (INC) 106 Meeting to be held in Overland Park, Kansas, from June 21 through 23, 2009. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

Motion made by Commissioner Tim Schram, seconded by Commissioner Anne Boyle, to enter into closed session to discuss pending litigation. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE. The Commission entered into closed session at 11:04 a.m.

GENERAL ADMINISTRATION (Cont.)

Motion made by Commissioner Tim Schram, seconded by Commissioner Rod Johnson, to return to open session. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE. The Commission returned to open session at 11:11 a.m.

08-1764 In the Matter of Vonage Holdings Corp. v. NPSC: Request that the Nebraska Attorney General file a motion for re-hearing before the 8<sup>th</sup> Circuit Court of Appeals.

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The meeting adjourned at 11:13 a.m. with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Gerald Vap present. The next regularly scheduled meeting will be held on May 19, 2009, at 10:00 a.m. with an agenda to be available in the office of the Executive Director at 10:00 a.m. on May 18, 2009.

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Chairman

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Executive Director