

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

NEBRASKA TECHNOLOGY &) Application No. FC-1336
TELECOMMUNICATIONS, INC.,)
)
Complainant,)
) MOTION TO DISMISS BILLING
v.) POLICIES CLAIM DENIED
)
WINDSTREAM NEBRASKA, INC.,)
)
Respondent.)

Entered: July 23, 2009

BY THE HEARING OFFICER:

On May 13, 2009, Nebraska Technology & Telecommunications, Inc. (NT&T) filed a Formal Complaint against Windstream Nebraska, Inc. (Windstream), alleging violations of an interconnection agreement and of anti-competitive behavior. On June 1, 2009, Windstream filed its Answer and a Motion to Dismiss the billing policies claim in the Complaint.

A planning conference was held to establish a procedural schedule for this complaint. In accordance with the procedural schedule, NT&T filed its opposition to Windstream's Motion to Dismiss on July 14, 2009. Windstream filed a Reply to NT&T's Response on July 21, 2009.

Based on the arguments made by counsel in the Motion, Opposition, and Response, as Hearing Officer I find the Motion to Dismiss the Billing Policies Claim should be denied. Rule and Regulation No. 172 addresses billing proration issues generally. However, NT&T claims that it plans to argue issues specific to Windstream's billing practices which may not be fully or timely addressed by the Commission in Rule and Regulation No. 172. I find NT&T's arguments persuasive. NT&T should have the opportunity to make a case for its billing practices claim in this proceeding.

O R D E R

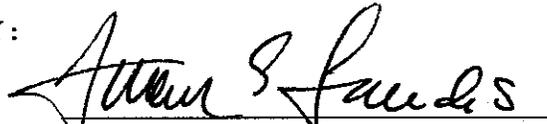
IT IS THEREFORE ORDERED by the Hearing Officer in the above-captioned complaint that Windstream's Motion to Dismiss the Billing Policies Claim in NT&T's Complaint shall be and it is hereby denied.

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MADE AND ENTERED at Lincoln, Nebraska, this 23rd day of July,
2009.

BY:

A handwritten signature in cursive script, appearing to read "Frank E. Landis", written over a horizontal line.

Frank E. Landis
HEARING OFFICER