BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

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| In the Matter of the Disposition of Property Tax Revenues for Taxable Year 1991 and Certain Other Tax Years by Certain Affected Telecommunications Companies:<br><br>Hartman Telephone Exchanges, Inc.<br>Nebraska Central Telephone Company.<br>RESPONDENTS. | Application Nos. C-931(20) and C-931(26)<br><br>ORDER APPROVING DISPOSITION FOR TAX YEARS 1989, 1990, 1991, AND 1992<br><br>Entered: June 23, 1993 |

BY THE COMMISSION

## OPINION AND FINDINGS

The Commission on its own motion opened this docket May 14, 1992. This format was established to approve or disapprove plans submitted by certain affected telecommunications companies. Specifically, this docket seeks whether to approve disposition of excess revenues resulting from decreases in personal property taxes for the 1991 tax year. Neb. Rev. Stat. Section 86-803(9) (1992 Cumm. Supp.) governs our review. We approved plans offered by the Hartman Telephone Exchanges, Inc. ("Hartman") on June 30, 1992 and the Nebraska Central Telephone Company ("Central") on June 23, 1992.

After those orders were entered, the Nebraska Supreme Court ruled in the Bahensky and Jaksha cases that the property tax scheme (upon which the Commission and the companies relied in calculating the amount of revenue subject to disposition in 1991) was unconstitutional. The Commission's Communication Department (the Staff) then moved that we hold the C-931 docket in abeyance while the Legislature reacted to the court's rulings and we did so August 4, 1992.

The voters of the State subsequently approved an amendment to the State Constitution (AMENDMENT 1) and the Legislature, in special session, altered the State's personal property tax laws to adjust the State's tax policy to the Bahensky and Jaksha decisions (L.B. 1). The new legislation survived the court's scrutiny (MAPCO II) and this requires a new calculation of the 1991 revenues for disposition by the telecommunications carriers subject to this docket.

Based on proposed stipulations between the Staff and the

Respondents US West Communications and Lincoln Telephone Company, we lifted the order of abeyance as it applied to those companies and reviewed modified plans for disposition offered by them. Hearing was held in the Commission Hearing Room, Lincoln, Nebraska on June 2, 1993. All Commissioners were present to hear testimony. Entered into the record as Exhibits 5 and 6 were letters from Governor Ben Nelson and the State Tax Commissioner praising the stipulations and urging their approval.

Briefly, the stipulations we considered at that hearing re-calculated the amount of revenue for disposition for the 1991 tax year. In addition, the stipulations addressed tax years 1989, 1990, and 1992. After hearing, the Commission approved the Lincoln Telephone and US West dispositions as per the stipulations. This was done by an order entered June 16, 1993.

Now we consider whether to sanction similar stipulations offered by Hartman, Central, and the Staff. Both mirror the stipulations already approved, except in the amount of revenue available for disposition for the tax years in question (other than for Hartman for 1990 because it paid 100 percent of the taxes assessed against it for tax year 1990 and did not challenge that assessment). Staff moved that the order of abeyance be lifted as it applies to these Respondents. We grant that motion.

The Commission, being fully advised, finds: the proposed stipulation between these Respondents and the Staff should be adopted and incorporated by reference into this order as Exhibits 1 and 2 and should be made the findings and final determination of the Commission.

We also take judicial notice of the fact that a new docket (C-992) was opened to consider application of section 86-803(9) to the 1992 tax year. This docket applies to all telecommunications companies, including Hartman and Central, just as the C-931 docket did. Because the stipulation and this order apply to these Respondents for the 1992 tax year, this order also concludes Hartman's and Central's participation in the C-992 docket.

## O R D E R

**IT IS THEREFORE ORDERED** by the Nebraska Public Service Commission that the proposed stipulations be and they are hereby adopted and incorporated by reference into this order as Exhibits 1 and 2 and made the findings and final determination of the Commission as applied to the Hartman Telephone Exchanges, Inc. and to the Nebraska Central Telephone Company.

**IT IS FURTHER ORDERED** that the proposed plans offered by the Respondents which dispose of revenues from decreased personal property taxes for the 1991 tax year **as recalculated in Exhibits 1 and 2** be, and they are hereby, approved pursuant to this order.

**IT IS FINALLY ORDERED** this order concludes the Hartman Telephone Exchanges, Inc.'s and the Nebraska Central Telephone Company's participation in the C-992 docket.

**MADE AND ENTERED** at Lincoln, Nebraska this 23rd day of June, 1993.

**NEBRASKA PUBLIC SERVICE COMMISSION**

**COMMISSIONERS CONCURRING**

Daniel G Urwiller

Duane D. Gay

//s//Rod Johnson
//s//Frank E. Landis, Jr.
//s//James F. Munnelly

**Chairman**

**ATTEST:**

**Executive Director**