BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Disposition of Property Tax Revenues for Taxable Year 1991 and Certain Other Tax Years by Certain Affected Telecommunications Companies: Diller Telephone Company, RESPONDENT.	Application No. C-931(12) ORDER NUNC PRO TUNC ORDER APPROVING DISPOSITION FOR TAX YEARS 1989, 1990, 1991 AND 1992 Entered: July 22, 1993

BY THE COMMISSION

The Commission previously entered a final order for the above-named Respondent in this docket July 13, 1993. We find that several typographical errors in that order occurred. We now issue this order nunc pro tunc to correct those non-substantive errors. Therefore, we re-enter the C-931(12) order as follows:

O P I N I O N A N D F I N D I N G S

The Commission opened this docket May 14, 1992. A format was established to approve or disapprove plans submitted by certain affected telecommunications companies. Specifically, this docket sought 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. Subsequently, we considered a plan offered by Diller Telephone Company, Diller, Nebraska ("Diller") and approved it July 14, 1992.

Shortly thereafter, 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 (LB 1). This new legislation has since 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 accept a stipulation offered by Diller and the Staff. It approximates the stipulations described above and already approved, except in the amount of revenue available for disposition for the tax years in question. Staff moved that the order of abeyance be lifted as it applies to Diller. We grant that motion.

The Commission, being fully advised, finds: the proposed stipulation between Diller and the Staff should be adopted and incorporated by reference into this order as Exhibit 1 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 Diller, just as the C-931 docket did. Because the stipulation and this order apply to Diller for the 1992 tax

year, this order also concludes Diller'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 stipulation be and it is hereby adopted and incorporated by reference into this order as Exhibit 1 and made the findings and final determination of the Commission as applied to Diller Telephone Company.

IT IS FURTHER ORDERED that the proposed plan offered by the Respondent disposing of revenues from decreased personal property taxes for the 1991 tax year **as recalculated in Exhibit 1** be, and it is hereby, approved pursuant to this order.

IT IS FURTHER ORDERED this order concludes Diller Telephone Company's participation in the C-992 docket.

IT IS FINALLY ORDERED that this order nunc pro tunc substitute for the order originally entered July 13, 1993 and it is this order which shall be the binding order on Diller Telephone Company.

MADE AND ENTERED at Lincoln, Nebraska this 22nd day of July, 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