BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Disposition Property Tax Revenue for Taxable Year 1991 and Certain Other Tax Years by Certain Affected Telecommunications Companies:	Application No. C-931(51)
Lincoln Telephone Long Distance (Lintel Systems), RESPONDENT.	ORDER APPROVING DISPOSITION FOR TAX YEARS 1989, 1990, 1991 AND 1992
	Entered: July 22, 1993

BY THE COMMISSION

OPINION AND FINDINGS

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 Cum. Supp.) governs our review. Subsequently, we intended to consider a plan from Lincoln Telephone Long Distance ("LTLD"), but before that occurred the Nebraska Supreme Court ruled in the Bahensky and Jaksha decisions that the property tax scheme (upon which the Commission and the companies relied in calculating the amount of revenues available for disposition in 1991) was unconstitutional. The Commission's Communications 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.

Nebraska voters 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 its tax policy to the Bahensky and Jaksha rulings (LB 1). This new legislation has since survived the Court's scrutiny (see 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 Respondents US West Communications and Lincoln Telephone Company, we lifted the order of abeyance as it applied to those two companies and reviewed modified plans for disposition. Hearing was held in the Commission Hearing Room, Lincoln, Nebraska on June 2, 1993. All Commissioners were present to hear testimony. En-

tered 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 order entered June 16, 1992.

We now consider whether to accept a stipulation offered by LTLD and the Staff. It approximates the stipulations described above and already approved, except in the amount of the revenue available for disposition for those tax years. In addition, the stipulation specifies the method of disposition chosen by LTLD to dispose of the 1991 revenue. For 1991, LTLD proposes to use the available revenue to finance a software upgrade of the DMS 250 digital switching system used by it. Staff moved that the order of abeyance be lifted as it applies to LTLD. We grant that motion.

The Commission, being fully advised, finds: The proposed stipulation between LTLD 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 as it applies to the 1989, 1990, 1991 and 1992 tax years.

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 LTLD, just as the C-931 docket did. Because this stipulation and order apply to the 1992 tax year, LTLD's participation in the C-992 is concluded.

ORDER

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 Lincoln Telephone Long Distance for the 1989, 1990, 1991 and 1992 tax years.

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 FINALLY ORDERED that this order concludes Lincoln Telephone Long Distance's participation in the C-992 docket.

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