BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Emergency Petition of MCI Telecommunications Corporation and AT&T Communications of the Midwest Inc. to Investigate Compliance of Nebraska LECs with FCC Payphone Orders.	Docket No. C-1519 DISMISSED IN PART Entered: November 25, 1997

BY THE COMMISSION:

OPINION AND FINDINGS

With the passage of the Telecommunications Act of 1996 (the Act) Congress made sweeping changes in the structure of telecommunications regulation. One such change anticipated by the Act was to promote competition among payphone service providers and to promote the widespread deployment of payphone service to the benefit of the general public. In two separate orders, the Federal Communications Commission (FCC) sought to implement these changes. The FCC orders provided direction to Local Exchange Carriers (LECs) concerning the removal of pay telephone investment and associated costs from regulated operations.

First, on November 8, 1996 the FCC released its Order on Reconsideration FCC 96-439, in CC Docket Numbers 96-128 and 91-35 which issued several directives relevant to Nebraska Public Service Commission Docket C-1519. In the relevant portion, the FCC directed that incumbent LECs must remove any charges that recover the costs of payphones from both interstate and intrastate access tariffs by April 15, 1997. The FCC stated that once this is achieved, those LECs will be eligible to receive on an interim basis, a flat rated, monthly amount as compensation for each payphone.

The FCC modified and clarified various points with the subsequent release of an additional order in CC Docket No. 96-128 on April 4, 1997. In that order, the FCC declared that the states must ensure that payphone costs for unregulated equipment and subsidies be removed from intrastate access service rates.

On April 11, 1997, MCI Telecommunications Corporation (MCI) and AT&T Communications of the Midwest, Inc. (AT&T), both of Denver, Colorado, jointly filed an emergency petition with this Commission seeking to determine the level of compliance with the FCC orders in Nebraska. The Commission opened this Docket, C-1519 in response to the petiton.

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On May 2, 1997, the Commission sent a letter and survey to all local exchange carriers providing telecommunications services in Nebraska. This survey identified those things that a LEC must do to ensure compliance with the FCC orders, and further requested that the LEC report the progress made toward full compliance.

The response to the survey was mixed among the state's LECs. To date, we find that five (5) companies have fully complied with both of the FCC directives. As such, the Commission finds that these companies should be excused from any further action under C-1519. The companies that have complied fully are:

Aliant Communications;
Curtis Telephone Co.;
Keystone Arthur Telephone;
Plainview Telephone; and
United Telephone of the West.

There are thirty-five (35) companies that have partially complied with the FCC orders. These companies are set forth in Appendix A, attached to and made apart of, this order. Each company listed in Appendix A has either independently filed access charge residual (ACR) rate reductions in its state access tariff, or such a rate reduction was filed on its behalf by the Nebraska Telephone Association (NTA). Despite compliance with this portion of the FCC's order, those companies listed in Appendix A have not filed the other required tariff changes. In order to fully comply with the FCC directives, each company listed in Appendix A must file either a line rate for pay station access lines (PAL), a coin line supervision rate, or both. Each LEC operating in Nebraska must file these changes with this Commission in order to be in full compliance with the FCC directives. Further, despite having returned the survey sent to them by this Commission, the companies listed in Appendix A have not made those changes in their General Exchange Tariffs.

In addition to those companies in partial compliance listed in Appendix A, two other companies have not complied with the FCC directives. U.S. West Communications, Inc. (US West) and GTE Midwest Incorporated (GTE) have filed changes to their General Exchange Tariffs regarding coin line supervision and public access lines. However, neither US West nor GTE have filed changes to their State Access tariff rates, or lowered their respective ACR rates.

US West and GTE each filed a separate reply to the Emergency Petition to argue that they are not required to make the instructed changes. In its reply, GTE asserted that it was excused from the requirement to reduce its state ACR rate because it sold its pay station investment to Mid America Payphones in March of 1996.

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In its reply, US West claimed that "there is no intrastate payphone subsidy contained in the rates of any other service in Nebraska. Therefore, no rate reductions for access or any other service was needed."

Nonetheless, the Commission finds that both companies are still required to develop and file a new intrastate ACR rate. Contrary to the claims of GTE, the Commission finds that GTE is required to lower its rate element because its State access tariffs pre-date GTE's sale of its pay stations. Further, both US West and GTE continue to include pay station investment and expense figures as part of their respective access tariffs. Both GTE and US West must re-evaluate their separation studies used to develop proper access tariff rates, to insure the intrastate portion of pay station investment and costs have been removed, and file new lower ACR state rate as is required.

ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Aliant Communications; Curtis Telephone Co.; Keystone Arthur Telephone; Plainview Telephone; and United Telephone of the West have fully complied with the FCC orders cited above, and therefore are excused from any further action or requirements under this Docket.

IT IS FURTHER ORDERED that those companies listed in Appendix A, attached hereto and made a part of this order, and U.S. West Communications, Inc. and GTE Midwest Incorporated, are to fully comply as directed herein no later than December 31, 1997.

MADE AND ENTERED in Lincoln, Nebraska on this 25th Day of November, 1997.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

//s//Rod Johnson
//s//Frank E. Landis
//s//Daniel G. Urwiller

Executive Director

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