

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. C-1620
on its own Motion, Seeking to)
Establish a Policy to Handle)
the Treatment of Subscriber) Policy Entered
Names Filed in Basic Local Rate)
Cases and Extended Area Service)
Petitions.) Entered: December 23, 1997

BY THE COMMISSION:

On September 15, 1997, this docket was opened to establish a policy to handle the treatment of subscriber names filed in basic local rate cases and extended area service (EAS) petitions. In its initial order, the Commission tentatively concluded that subscriber names should not be released and that it was sufficient to simply disclose the total number of subscribers. A copy of the initial order was sent by first class mail to all certificated local exchange carriers on September 18, 1997. Comments to the order were due on or before October 15, 1997. Comments were filed by MCI, the Nebraska Telephone Association and the Nebraska Independent Telephone Association. No reply comments were accepted.

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

Subscribers may file petitions with the Commission protesting basic local exchange rate increases pursuant to Neb. Rev. Stat. Sections 75-609.01 and 86-803(3). If a sufficient number of petitions are filed from affected subscribers, the Commission is charged with reviewing whether the proposed change in rate is fair, just, and reasonable.

We find withholding names of subscribers who have protested basic local exchange rate increases to be permissive under Neb. Rev. Stat. Section 84-712.05(5) (Reissue 1994). This statute provides public bodies, charged with investigating or examining citizen complaints, may withhold certain records from the public. We believe, given the predominantly monopolistic marketplace of local telephone service, it is appropriate to protect the identities of subscribers.

We believe consumers should be able to freely protest basic local rate increases without fearing that their names will be disclosed to the affected local exchange carrier. Most Nebraskans have no choice in their local exchange carrier. As such, very few consumers can seek basic local service from an alternative local provider at a comparable price.

We find it reasonable under the mandates of Sections 75-609.01 and 86-803(3) to simply disclose the total number of petitioners who have protested a basic local rate increase, on an exchange-by-exchange basis.

While we believe it is prudent to restrict the disclosure of subscriber names in rates cases, we agree with the comments filed by MCI. MCI states automatic disclosure of subscriber names is not necessary; however, parties should be able to review petitions for good cause, subject to a confidentiality agreement. We agree with this position. Therefore, any party desiring to view the names of subscribers who have filed petitions in a rate case must file a petition with the Commission requesting such disclosure and demonstrate good cause why such names should be released. If subscriber names are released to any party, a confidentiality agreement should be signed.

We previously concluded that the names of EAS petitioners should be kept confidential. We change our tentative conclusion. Our EAS rules provide that an EAS petition shall be presented to the affected local exchange carrier. As such, no Commission policy should be entered regarding the confidential treatment of EAS petitioners.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the names of subscribers who file petitions opposing basic local exchange rate increases shall be kept confidential unless good cause for disclosure is demonstrated by an affected party. If names are disclosed, a confidentiality agreement shall be signed.

IT IS FURTHER ORDERED that the names of subscribers who sign extended area service petitions are not confidential and shall be disclosed upon request.

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MADE AND ENTERED in Lincoln, Nebraska, on this 23rd day of December, 1997.

COMMISSIONERS CONCURRING:




//s//Rod Johnson
//s//Frank E. Landis

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman



ATTEST:


Executive Director

COMMISSIONER DISSENTING:

//s//Daniel G. Urwiller