

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. C-2696/PI-57
on its own motion, seeking to)
conduct an investigation into) ORDER CLOSING DOCKET
payphone pricing in the state of)
Nebraska.) Entered: May 4, 2004

BY THE COMMISSION:

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

On March 19, 2002, the Commission opened the above-captioned docket to review payphone pricing in the state of Nebraska in light of the release of the Federal Communications Commission's (FCC's) Wisconsin Order¹.

In an effort to complete its review, the Commission requested input from the parties on the following issues:

- a. Applicability of "new services" test² to Nebraska;
- b. Proposed payphone loop pricing methodologies;
- c. Telecommunications equipment necessary to provide payphone service;
- d. Unbundled Network Elements (UNE) to be included in the provision of payphone service; and
- e. Costs and/or functionalities that make payphone loops different from local loops.

In addition, the Commission required all companies providing payphone service in Nebraska, to provide information on:

- a. Number of payphones by exchange; and
- b. Number of payphones within city limits, by exchange.

Responses to the above-listed requests were filed by Mainstay Communications; Curtis Telephone Company; Hamilton Telecommunications; Diller Telephone Company; Pay Phone Concepts, Inc.; Keystone-Arthur Telephone Company; Clarks

¹ In the Matter of the Wisconsin Public Service Commission, FCC 02-25, adopted January 28, 2002; released January 31, 2002.

² See *Amendment of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture*, CC Docket No. 89-79, Report and Order and Order on Further Reconsideration and Supplemental Notice of Proposed Rulemaking, 6 FCC Rcd 4524 (July 11, 1991); *In the Matter of Telephone Company-Cable Television Cross-Ownership Rules*, CC Docket No. 87-266, Mem. Opinion and Order on Reconsideration and Third Further Notice of Proposed Rulemaking, 10 FCC Rcd 244, 340-47, paras. 209-22 (Nov. 7, 1994) (defining new services test).

Telecom; Pierce Telephone Company, Inc.; WestTel Systems/Hooper Telephone Company; K&M Telephone Company; Southeast Nebraska Telephone Company; Great Plains Communications; Benkelman Telephone Company, Inc.; Dalton Telephone Company; Nebraska Central Telephone Company; Arlington Telephone Company; Blair Telephone Company; Eastern Nebraska Telephone Company; Rock County Telephone Company; Hartington Telecommunications Company; Hershey Cooperative Telephone Company; NebCom, Inc; Northeast Nebraska Telephone Company; Stanton Telecom, Inc.; Nebraska Central Telephone Company; Three River Telco; Home Acquisition Company, Inc.; Consolidated Telephone Company; Consolidated Telco, Inc.; Stanton Telecom, Inc.; ALLTEL Nebraska, Inc.; Sprint; the Nebraska Telecommunications Association; Frontier Communications and Qwest.

Upon review of the comments filed herein, the Commission concluded it was necessary and appropriate to await the final determination of the appeal of the FCC's Wisconsin Order. Now the appellate decision has been rendered and the Commission is prepared to issue its findings in this proceeding.

Accordingly, upon review of the rates and services being provided across the state of Nebraska, the Commission is of the opinion and finds that non-RBOC payphone rates are appropriately priced in light of today's competitive environment.

With regard to Qwest, the only RBOC operating in the state of Nebraska, the Commission devoted particular review and focus on its filed payphone rates.

The Commission's staff analysis concludes that the rates contained in Qwest's tariff are indeed competitive and appropriate when compared to the existing Residential and Business rates. While a more exhaustive examination could be performed, there is no information to suggest that a cost analysis would be productive or provide a basis to alter the conclusions of the staff analysis.

Therefore, in light of this finding, the Commission will discontinue any further review at this time. Should any party identify a valid basis for the Commission to reevaluate its findings at some point in the future, it may petition the Commission to do so at the appropriate time.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that payphone rates are appropriately priced in light of today's competitive environment in the state of Nebraska.

IT IS FURTHER ORDERED that in consideration thereof, Application No. C-2696/PI-57 should be, and is hereby, closed.

MADE AND ENTERED in Lincoln, Nebraska on this 4th day of May, 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director