

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, ) Application No. C-2738/PI-58  
on its own motion, seeking to )  
investigate telecommunications ) ORDER OPENING DOCKET  
companies' terms, conditions and ) AND SETTING HEARING  
rates for the provision of wireless )  
termination service. ) Entered: June 5, 2002

BY THE COMMISSION:

On April 24, 2002, Great Plains Communications, Inc. filed an application with the Commission to set reasonable rates, terms and conditions for Intra-major trading area (IntraMTA) wireless termination and to approve its wireless termination service tariff, designated as Application No. C-2726. On April 29, 2002, Hamilton Telephone Company and the Nebraska Independent Telephone Association (NITA), on behalf of 18 NITA member companies, both filed applications to set reasonable rates, terms and conditions for IntraMTA wireless termination and to approve their wireless termination service tariffs. Hamilton Telephone Company's application was designated as Application No. C-2727 and NITA's application was designated as Application No. C-2728.

With their applications, Great Plains Communications, Inc., Hamilton Telephone Company and the NITA (the Applicants) submitted proposed wireless termination service tariffs. The applicants' tariffs seek to provide the terms, conditions and rates for traffic that originates from Commercial Mobile Radio Service (CMRS) providers' end-users and terminates to applicants' exchanges through a third party tandem provider and for which there is no agreement between a CMRS provider and the applicant who terminates the wireless traffic.

The applicants state in their applications that interconnection arrangements have been reached between CMRS providers and tandem providers for compensation of transport, termination and transiting of wireless traffic but that the applicants have not been a party to those agreements nor have they received an offer to be a party to those agreements. According to the applicants, they continue to incur costs for terminating CMRS traffic without receiving compensation for use of their networks.

The applicants maintain that a wireless termination service tariff provides a competitively neutral manner to determine the terms, conditions and rates for the termination of wireless traffic from all CMRS providers. Further, the applicants main-

tain that it is an efficient and enforceable means for addressing all CMRS providers that are receiving the same services.

The applicants state in their applications that the termination of wireless traffic utilizes the same transport, local switching and loop facilities as termination of interexchange traffic from interexchange carriers. Therefore, the applicants maintain that it is just and reasonable that the rate for wireless traffic termination be set at the same level as current composite intrastate switched access rates.

There are different Federal Communications Commission-authorized licensed territories, the largest of which is the Major trading area. The FCC defines wireless calls that originate and terminate within the MTA as local. There are three MTAs in Nebraska. The largest MTA in Nebraska is the Omaha MTA (MTA 45). This MTA covers the state with the exception of the Panhandle, which is in the Denver MTA and three counties in Northeast Nebraska, which are in the Des Moines MTA.

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

The Commission hereby opens this docket to investigate the terms, conditions and rates as filed in the applicants' wireless termination service tariffs. As Application Nos. C-2726, C-2727 (withdrawn May 22, 2002) and C-2728 are factually related, they will be consolidated into this proceeding. The Commission begins this process by seeking pre-filed testimony and hearing on the following issues:

1. Can the applicants lawfully apply tariffs to CMRS providers for traffic that originates from CMRS providers' end-users and terminates to the applicants' exchanges through a third party tandem provider in the absence of an approved interconnection agreement?
2. If the answer to Question No. 1 is yes, are the terms, conditions and rates in the applicants' filings fair, just and reasonable?
3. Should wireless carriers be allowed to file tariffs with the Commission to recover the costs associated with terminating access similar to those requested by wireless carriers in WT Docket No. 01-316 before the FCC?

4. If the answer to Question 3 is yes, what rate may be reasonably charged for such service?

Interested parties may file pre-filed testimony on the questions listed above on or before July 8, 2002. The hearing on the issues herein described will be held on August 14, 2002, at 9:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska. Parties wishing to testify may summarize the testimony filed with the Commission and supply limited rebuttal testimony. Cross-examination will be limited in time, based upon the number of parties participating. Limitations on cross-examinations will be made known to the parties on or before July 24, 2002. Interested parties will be afforded the opportunity to file post-hearing briefs or proposed orders within ten days following the release of the transcript.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that issues and information contained within Applications Nos. C-2726, C-2727 and C-2728 are hereby consolidated into Application No. C-2738/PI-58.

IT IS FURTHER ORDERED that as a result of said consolidation, Applications Nos. C-2726 and C-2728 are dismissed.

IT IS FINALLY ORDERED that the issues and procedural schedule as framed above be, and are hereby, adopted.

MADE AND ENTERED at Lincoln, Nebraska, this 5th day of June, 2002.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director