

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska ) Application No.  
Public Service Commission, on ) PI-62/C-2777/NUSF-29  
its own motion, seeking to )  
investigate the impact of ) ORDER OPENING DOCKET AND  
telecommunications carrier ) SEEKING COMMENT  
bankruptcies. )  
 ) Entered: August 13, 2002

BY THE COMMISSION:

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

The Nebraska Public Service Commission (Commission) initiates the above-captioned docket, on its own motion, to examine the effects of past and possible future bankruptcy filings by telecommunications carriers in the state of Nebraska. In addition, we wish to investigate the impact insolvent carriers have on eligible telecommunications carriers (ETCs) serving high-cost areas of the state, and the actual or potential impact on universal service.

We find that this subject has taken on a renewed sense of urgency due to the recent revelations regarding accounting irregularities of MCI WorldCom, the nation's second largest interexchange carrier, resulting in a Chapter 11 bankruptcy filing. The list of telecommunications carriers that have already filed for bankruptcy protection is significant.<sup>1</sup>

**A. General:**

In particular, we are concerned about potential service cut-offs, proper customer notice and customer migration in the event that a large carrier or a carrier of last resort is unable to fulfill its service obligations. Therefore, we solicit public comments on the following questions:

1. What role should the Commission take when informed of potential or actual bankruptcy proceedings of a certificated telecommunications carrier?

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<sup>1</sup> Among the list of companies are Williams Communications, Flag Telecom, Adelphia Business Solutions, McLeod USA, Global Crossing, Rhythms Links, 360networks, PSINet, Teligent, Winstar, E.spire, Northpoint and ICG. See <http://www.precursorgroup.com> (May 20, 2002).

- a. Should this role change depending on the type of telecommunications carrier filing for bankruptcy? If so, please explain.
  - b. Should the Commission's role vary based upon the underlying facts or nature of the bankruptcy petition?
  - c. Should the Commission take any action when telecommunications carriers are feared insolvent but have not officially filed a bankruptcy petition? If so, what actions should the Commission take? If not, why not?
  - d. How should the Commission exercise its jurisdiction over a telecommunications carrier subject to the protection of a bankruptcy court?
2. What action, if any, should the Commission take in ensuring that potential customer migration is handled smoothly and efficiently?
  3. What special obligations do carriers of last resort assume? How can the Commission ensure that financially strained carriers of last resort do not cut-off service to consumers?
  4. Do the Federal Communications Commission's discontinuance rules as provided in 47 C.F.R. § 63 provide adequate protections for consumers? If not, what other rules are necessary?

Comments on the foregoing and any other issues germane to this investigation may be filed with the Commission, on or before **September 16, 2002**.

**B. Nebraska Universal Service Fund:**

Another particular concern to the Commission is the impact of carrier bankruptcies on access revenues received by ETCs. We believe that as increasing numbers of telecommunications carriers declare bankruptcy, access revenues received by ETCs may be materially reduced, which may result in the curtailment of investments by such ETCs, such investments being required to effect the legislative policies as stated in Neb. Rev. Stat. §§ 86-1401 (Reissue 1999) relating to universal service. The Commission has the authority pursuant to the Nebraska

Telecommunications Universal Service Fund Act, Neb. Rev. Stat. §§ 86-1401 through 86-1411 (the NUSF Act), to investigate the extent of such revenue reductions and to administer the Nebraska Universal Service Fund (NUSF) in a manner that mitigates the adverse impact of bankruptcies on universal service in this State.

Accordingly, the Commission solicits public comment on the following issues:

1. What procedures, if any, should the Commission implement relevant to uncollectible revenues when such revenues are uncollectible because of an insolvent or bankrupt telecommunications carrier?
2. What criteria should the Commission consider?
3. To what extent are current eligible telecommunications carriers impacted by access revenue uncollectibles resulting from the filing of bankruptcy petitions by carriers purchasing access?
  - a. ETCs are permitted to submit empirical data to the Commission setting forth access revenue uncollectibles.
  - b. Any data submitted pursuant to the above paragraph should reflect any amounts that were recovered or not recovered either through bankruptcy proceedings or in the ordinary course of business.

Comments on the foregoing and any other issues germane to this investigation may be filed with the Commission, on or before **September 6, 2002**.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned docket be, and it is hereby, opened to investigate the effects of bankruptcy filings by telecommunications carriers in the state of Nebraska.

IT IS FURTHER ORDERED that comments on the issues set forth above and on any other issue germane to this investigation may be filed in accordance with the comment period established

herein. Commenters must file one (1) original, five (5) paper copies and one (1) electronic copy with the Commission.

MADE AND ENTERED at Lincoln, Nebraska, this 13th day of August, 2002.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director