

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Lincoln) Application No. C-2910
Electric System, Lincoln,)
seeking contract carrier permit) ORDER DENYING STAY
authority.)
) Entered: August 19, 2003

BY THE COMMISSION:

On March 27, 2003, Lincoln Electric System (LES) filed with the Nebraska Public Service Commission (Commission) an application for contract carrier permit authority. On July 8, 2003, the Nebraska Telecommunications Association (NTA) and Nebraska Cable Communications Association (NCCA) filed a Motion for Stay of Proceedings.

Oral arguments were held before the Commission on August 5, 2003, in the Commission Hearing Room. Appearances were made as follows: Mark Ayotte, Doug Curry and William Austin on behalf of LES; Jack Shultz on behalf of the NTA and NCCA; Paul Schudel on behalf of ALLTEL Nebraska, Inc. (ALLTEL); and Chris A. Post on behalf of the Commission.

Mr. Shultz, on behalf of the NTA and NCCA, argued that if the Commission elected to embark on a rulemaking, or alternatively, a Commission investigation as requested by the NTA and NCCA in its Petition for Rulemaking filed on July 8, 2003, then it would make sense to stay the LES application for contract carrier authority until such action was completed.

Mr. Ayotte, on behalf of LES, strongly opposed the stay of proceedings. He indicated that LES does not believe that the NTA or the NCCA are allowed as intervenors to stop the proceeding. Mr. Ayotte further argued that the Commission itself does not have the authority to stay a pending application.

As a result of the oral arguments, it was clear that the question before the Commission is what rules, regulations and/or requirements should be applied to a political subdivision that seeks a contract carrier permit. Therefore, the Commission issued a Declaratory Ruling in Application No. C-2925 outlining the specific rules, regulations and requirements that LES must comply with in order to be granted a contract carrier permit.

In consideration thereof, the Commission finds no reason to stay the processing of the LES application for contract carrier authority. Accordingly, the request for stay in Application No. C-2910 is hereby denied.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the request for stay in Application No. C-2910 is hereby denied.

MADE AND ENTERED at Lincoln, Nebraska, this 19th day of August, 2003.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director