

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. C-3535/
Public Service Commission, on) PI-111
its own motion, seeking to)
establish procedures for the)
treatment of commercial) ORDER OPENING DOCKET AND
agreements not subject to the) SEEKING COMMENT
filing requirements of § 252 of)
the Telecommunications Act of)
1996.)

Entered: January 18, 2006

BY THE COMMISSION:

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

In August of 2003, the Federal Communications Commission (FCC) issued its Triennial Review Order which shortened the list of unbundled network elements (UNEs) incumbent local exchange carriers (ILECs) were required to make available to competitive local exchange carriers (ILECs). *In the matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978 (Triennial Review Order). On February 4, 2005 the FCC released its latest list of elements in the Triennial Review Order on Remand (TRRO), further limiting the elements subject to mandatory unbundling. *In the Matter of Unbundled Access to Network Elements*, WC Docket No. 04-313. Although certain UNE arrangements, such as UNE-P are no longer subject to mandatory combination/unbundling, there may be cases where ILECs continue to lease to CLECs access to these UNE arrangements. The FCC encouraged ILECs to continue to work with CLECs and develop mutual arrangements for access to their network.

Over the past several months, the Commission has reviewed a number of "commercial agreements" to determine whether these agreements should be filed for Commission approval. See, e.g., Application No. C-3255. The Commission believes that a case by case analysis is best to ensure that all agreements which should be filed under Section 252 of the Telecommunications Act of 1996 are indeed filed and made available for 251(i) adoption. However, the Commission acknowledges that certain commercial agreements may fall outside of the FCC's interpretation of the Act's filing requirements. In those instances, the Commission finds that procedures are developed for consistent treatment and

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acknowledgement. For example, it may be important for carriers to receive an acknowledgement from the Commission that an agreement need not be filed. Further, as carriers tend to negotiate similar arrangements with a number of CLECs, it may be important to have procedures in place to ensure that all similar agreements are treated alike. At the same time, the Commission would like to make a forum available in cases where there may be a dispute or question as to the applicability of the Commission's jurisdiction to approve an agreement.

Accordingly, the Commission solicits comments so that it may develop a policy which will then be incorporated into a rulemaking proceeding. Interested parties are requested to file comments on or before March 1, 2006.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that interested parties may file comments responsive to the Commission's investigation on or before March 1, 2006. Parties filing comments are required to file five (5) paper copies as well as one (1) electronic copy in Word or PDF format. Electronic copies may be sent via electronic mail to gene.hand@psc.ne.gov and shana.knutson@psc.ne.gov.

MADE AND ENTERED at Lincoln, Nebraska this 18th day of January, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Gerald F. Kelly
Anne C. Boyle

Frank E. Landis

//s// Lowell C. Johnson
//s// Frank E. Landis

Lowell C. Johnson
Chairman

ATTEST:
Arts Pollack
Executive Director