BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Petition for Declaratory Ruling of Arapahoe Telephone Company, Arlington Telephone Company, Blair Telephone Company, Eastern Nebraska Telephone Co. and Rock County Telephone Company, all d/b/a American Broadband; Hamilton Telephone Company; Glenwood Telephone Membership Corp.; Hemingford Cooperative Telephone Company; Nebraska Central Telephone Company; and Northeast Nebraska Telephone Company (the "Rural Companies") seeking a determination that Qwest Corporation is not authorized to assess intrastate transit charges on Extended Area Service traffic Originated by customers of the rural companies.	)	Application No. C-4162/DR-0004 ORDER FINDING PETITION IS MATTER OF STATEWIDE COMMERCIAL IMPORTANCE Entered: April 28, 2009

BY THE COMMISSION:

On April 7, 2009, several rural telephone companies petitioned the Commission to issue a Declaratory Ruling finding that Qwest Corporation is not authorized to assess intrastate transit charges on Extended Area Service traffic originated by customers of the rural companies.

Declaratory Ruling proceedings are governed in part by the state Administrative Procedure Act[1] and Commission Rules of Procedure[2].

> Any person may petition an agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, regulation, or order within the primary jurisdiction of the agency. An agency shall issue a declaratory order in response to a petition for that order unless the agency determines that issuance of the order under the circumstances would be contrary to a rule or regulation adopted

[1] Neb. Rev. Stat. § 84-901 et seq. (Reissue 2008).
[2] Neb. Admin. Code, Title 291, Ch. 1 (1992).

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in accordance with subsection (2) of this section . . . ."[3]

Each agency is required to issue rules and regulations that "describe the classes of circumstances in which the agency will not issue a declaratory order and be consistent with public interest and with the general policy of the Administrative Procedure Act to facilitate and encourage agency issuance of reliable advice."[4]

Pursuant to the Rules of Commission Procedure, "[i]f a petition of declaratory ruling presents a question of statewide commercial importance or such is noted during or after hearing on the petition, the Commission shall not issue a declaratory ruling but will resolve such question in an investigative proceeding."[5]

The Petition filed by the Rural Companies seeks a determination which, on its face, would impact all telephone companies' rights and responsibilities relative to EAS traffic and transit charges. As such, the Commission finds that the Petition presents a question of statewide commercial concern. Therefore, the Commission finds it should resolve the question presented through an investigative proceeding.

The Commission will open an investigatory proceeding concurrent with the entry of this order to address the issues raised by the Petition.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that since the Petition for Declaratory Ruling on its face presents questions of statewide commercial importance, that a statewide investigation be opened to address the issues contained in the Petition.

IT IS FURTHER ORDERED that since a Declaratory Ruling will not be issued in this docket that the docket shall be, and it is hereby closed.

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[3] § 84-912.01(2).
[4] § 84-912.01(2).
[5] Neb. Admin. Code, Title 291, Ch. 1, § 019.05 (1992).

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MADE AND ENTERED at Lincoln, Nebraska, this 28th day of April, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

//s// Frank E. Landis

ATTEST:

Executive Director

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