

Chair Boyle called the regularly scheduled meeting to order at 1:04 p.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson and Vap present and Commissioner Landis excused.

GENERAL ADMINISTRATION

Notice was duly published October 22, 2002, on Page 7 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held October 29, 2002, at 1:00 p.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

COMMUNICATIONS DEPARTMENT

FC-1305 In the Matter of Curt Simonson, Big Springs, vs. Qwest Communications, Inc., Omaha, alleging fraudulent business practices: Upon agreement of all Commissioners present, Qwest's motion to dismiss was denied and a hearing was set for a date later to be determined. Commissioner Vap will preside as Hearing Officer.

FC-1306 In the Matter of Mid America Pay Phones, Omaha, vs. ALLTEL, Lincoln, alleging unsatisfactory business practices: Gene Hand discussed the ALLTEL answer received October 22, 2002. A hearing was set for December 9, 2002, at 1:30 p.m. in the Commission Hearing Room. Commissioner Rod Johnson will preside as Hearing Officer.

C-2057/  
PI-28 In the Matter of the Commission, on its own motion, seeking to conduct an investigation into the potential exhaust of assignable telephone numbers within the 402 area code: Dick Palazzolo provided an update of the current exhaust forecast and a plan submitted by Qwest to consolidate rate centers. A docket will be opened to evaluate the Qwest proposed rate center consolidation plan.

C-2683 In the Matter of Nebraska Public Power District, Columbus, seeking authority to lease dark fiber to Frontier Telecommunications Company of Nebraska, Burnsville, Minnesota: Gene Hand informed the Commission that confirmation was received that the fiber was put in service October 14, 2002, and that beginning January, 2003, distance learning classes will use these facilities. Commissioners were informed that the initial lease payment to the Nebraska Internet Enhancement Fund was received in the amount of \$29,334.02.

C-2716 In the Matter of the petition received from residents of the Bertrand exchange, served by Citizens Communications, requesting extended area service (EAS) to the Holdrege exchange, served by Qwest Communications: Gene Hand discussed Qwest's request that a waiver of the ballot process be granted pursuant to Rule 002.27D1. Upon agreement of all Commissioners present, the waiver was granted.

COMMUNICATIONS DEPARTMENT (Cont.)

C-2750 Amended In the Matter of Qwest Corporation, Denver, Colorado, seeking approval of its revised statement of generally available terms (SGAT) pursuant to Section 252(f) of the 1996 Telecommunications Act (Amended application with revised Exhibit A was filed by Qwest.): Chris Post informed the Commission that Qwest filed an updated Exhibit A to the statement of generally available terms and conditions.

C-2764 In the Matter of Tralee Telephone Company, LLC, Kalamazoo, Michigan, seeking authority to obtain a Certificate of Public Convenience and Necessity to transact the business of a reseller of interexchange telecommunications services and for approval of its initial tariff: Upon agreement of all Commissioners present, the application was withdrawn at applicant's request.

C-2765 In the Matter of Ridley Telephone Company, LLC, Kalamazoo, Michigan, seeking authority to obtain a Certificate of Public Convenience and Necessity to transact the business of a reseller of interexchange telecommunications services and for approval of its initial tariff: Upon agreement of all Commissioners present, the application was withdrawn at applicant's request.

C-2780 In the Matter of Level 3 Communications, LLC, Broomfield, Colorado, seeking arbitration to resolve issues relating to an interconnection agreement with Qwest Communications, Denver, Colorado: Gene Hand discussed the Level 3 motion for selection of an arbitrator. The parties were encouraged to select an arbitrator prior to the November 5, 2002, Commission meeting. If no arbitrator has been selected, the parties should appear at that meeting and argue the motion before the Commission.

C-2807 In the Matter of Advanced Telcom, Inc., Salem, Oregon, seeking approval to withdraw the certificate of authority granted in Application C-2291 and associated tariff: Upon agreement of all Commissioners present, the application was granted.

C-2808 In the Matter of Shared Communications Services, Inc., Salem, Oregon, seeking approval to withdraw the certificate of authority granted in Application C-1322 and associated tariff: Upon agreement of all Commissioners present, the application was granted.

C-2814 In the Matter of the joint application of Cable & Wireless USA, Inc., Vienna, Virginia, and Primus Telecommunications, Inc., McLean, Virginia, seeking approval of a transfer of customer base: Upon agreement of all Commissioners present, the application was granted.

COMMUNICATIONS DEPARTMENT (Cont.)

Gene Hand discussed the Dark Fiber Sales and Maintenance Agreement between the City of South Sioux City and FiberComm, LC, submitted by Steven G. Seglin on October 3, 2002. The staff was directed to draft a letter for the Chair's signature concurring that the agreement is a sale of dark fiber and, therefore, not subject to the lease provisions under Nebraska statutes.

Gene Hand informed the Commission that notification was received on behalf of RT Communications, Worland, Wyoming, informing the Commission of their plans to implement rate changes to comply with Wyoming Public Service Commission orders to remove cross-subsidization of services. The staff was directed to prepare a response consistent with Nebraska statutes, supporting RT Communications, Inc. proposal and accepting the proposed tariff.

Gene Hand informed the Commission that the next Educational Seminar covering central office issues is scheduled for at 9:30 a.m. on November 6, 2002, in the Commission Hearing Room, Lincoln, with Alltel giving the presentation.

Gene Hand informed the Commission that hard copies of the annual report on telecommunications were received from the printers.

Gene Hand discussed the Department of Justice evaluation of Qwest's Federal Communications Commission application for long distance authority in Nebraska (WC Docket 02-314).

Gene Hand provided copies to the Commission of the October 26, 2002, Lincoln Journal Star article captioned, "Commission to add billing standards to regulations".

Gene Hand discussed a message that is on current ALLTEL bills. The message describes automated clearing house (ACH) transactions and ALLTEL's intentions to convert payments made by check to electronic transactions. This method of payment will result in customers not getting checks returned to them from their bank. ALLTEL has informed the staff that this conversion will not take place in Nebraska and customers can ignore the message. The Commissioners made it clear that ALLTEL should provide notice to the Commission prior to implementing this method of payment and before customers are notified.

C-2809 In the Matter of All-Star Acquisition Corporation, Potomac, Maryland, seeking authority for a Certificate of Public Convenience and Necessity to transact the business of a reseller of interexchange telecommunications services and for approval of its initial tariff: Upon agreement of all Commissioners present, the application was granted.

COMMUNICATIONS DEPARTMENT (Cont.)

C-2812 In the Matter of ePHONE Telecom, Inc., Herndon, Virginia, seeking authority to operate as an interexchange carrier of telecommunications services within the state of Nebraska: Upon agreement of all Commissioners present, the application was granted.

C-2813 In the Matter of the joint application of United Telephone Company of the West, d/b/a Sprint, Overland Park, Kansas, and Budget Phone, Inc., Shreveport, Louisiana, seeking approval of their master interconnection and resale agreement: Upon agreement of all Commissioners present, the agreement was approved.

C-2815 In the Matter of the joint application of Qwest Corporation, Denver, Colorado, and Ionex Communications North, Inc., Addison, Texas, jointly seeking approval of their amendment to the wireline interconnection agreement previously approved in C-2281: Upon agreement of all Commissioners present, the amendment was approved.

C-2816 In the Matter of the joint application of Qwest Corporation, Denver, Colorado, and McLeodUSA Telecommunications Services, Inc., Sioux Falls, South Dakota, jointly seeking approval of their amendment to an interconnection agreement previously approved in C-2023: Upon agreement of all Commissioners present, the amendment was approved.

FC-1302 In the Matter of Airwave Wireless Communications, Inc., Scottsbluff, vs. Qwest Communications, Omaha, alleging failure to honor an interconnection agreement: A video hearing was scheduled for December 18, 2002, at 1:30 p.m. in the Commission Library, Lincoln; Omaha State Office Building, Room 207, 2nd Floor, 1313 Farnam, Omaha; and Panhandle Learning Center, High Plains Room, 4502 Avenue I, Scottsbluff. Commissioner Vap will preside as Hearing Officer.

FC-1303 In the Matter of Margaret Jacobsen, Papillion, vs. McLeodUSA, Sioux Falls, South Dakota, alleging excessive fees: A hearing was set for December 3, 2002, at 10:00 a.m. in the Commission Hearing Room, Lincoln. Commissioner Lowell Johnson will preside as Hearing Officer.

FC-1304 In the Matter of Todd J. Eggerling, Martell, Complainant, vs. Alltel Communications, Lincoln, Defendant, requesting removal of a pedestal: A hearing was set for November 26, 2002, at 10:00 a.m. in the Commission Hearing Room, Lincoln. Commissioner Landis will preside as Hearing Officer.

WATER DEPARTMENT

Gene Hand and Laura Davenport discussed the informal complaint received from Jeff Carlton regarding former private water company, Cinnamon Acres. Upon agreement of all Commissioners present, a letter will be sent informing Mr. Carlton that the Commission believes the new Sanitary Improvement District is not subject to the provision of the statutes regarding private water companies.

WIRELESS E-911 DEPARTMENT

Laura Davenport informed the Commission that the Wireless E911 Advisory Board public meeting will be held via video on Friday, November 15, 2002, at 9:00 a.m. CST in the Commission Library, Lincoln, and the Von Riesen Library, Room 6, Basement Level, 1205 East 3<sup>rd</sup> Street, McCook.

RULES AND REGULATIONS

Rule and Regulation #154 In the Matter of the Commission, on its own motion, seeking to amend Title 291, Chapter 7, Transmission Lines Rules and Regulations, to adopt the 2002 edition of the National Electrical Safety Code as the official rules of the Commission for the construction, operation, and maintenance of overhead and underground electric transmission lines and to recodify the document in its entirety to meet Secretary of State formatting requirements for formatting: Upon agreement of all Commissioners present, a Certificate of Adoption was entered.

Rule and Regulation #155 In the Matter of the Commission, on its own motion, seeking to amend Title 291, Nebraska Administrative Code, Chapter 5, Telecommunications Rules and Regulations, by adding new sections in accordance with the provisions of LB 1211 and to clarify and harmonize existing sections: The hearing previously set for October 28, 2002 was continued to December 3, 2002, 3:00 p.m. in the Commission Hearing Room, Lincoln. Commissioner Boyle will preside as Hearing Officer.

LEGISLATION

Commissioner Boyle reported on meetings with Senators during the November Special Session regarding NUSF.

GRAIN WAREHOUSE DEPARTMENT

PI-60 In the Matter of the Commission, on its own motion, seeking to conduct an investigation into exemptions from grain dealer licensure, protection for producers against loss, grain dealer bond limits and related issues: The Commission requested the staff to begin work on drafting language for a bill to consider changes in the financial statements, bonding coverage, fines, paying for exams as necessary by the warehousemen, background checks and definitions.

GRAIN WAREHOUSE DEPARTMENT (Cont.)

GW-2141      In the Matter of Pender Grain, Inc., Pender: Upon agree-  
GWC-377      ment of all Commissioners present, an order was entered to  
dismiss the complaint as satisfied.

GW-2120      In the Matter of Deshler Grain and Feed LLC, Deshler, seek-  
seeking cancellation of their grain warehouse license:  
John Fecht briefed the Commission on the close out of this warehouse.  
Upon agreement of all Commissioners present, October 18, 2002, was  
accepted as the date to cancel the license pursuant to their request.

GW-2142      In the Matter of Employers Mutual Casualty Company seeking  
cancellation of their Public Grain Warehouse Bond No.  
T210186 for \$480,700 issued for Hallam Grain Co., Hallam: The appli-  
cation was approved effective October 18, 2002.

TRANSPORTATION DEPARTMENT

B-1558      In the Matter of MAVM Ventures, LLC, dba A & B Shuttle,  
Supp. 2      Shuttle, Omaha, seeking authority as a common carrier in  
Nebraska intrastate commerce in the transportation of  
passengers between points in Douglas, Sarpy, and Lancaster counties,  
on the one hand, and, on the other hand, points in Nebraska over  
irregular routes in sedans, buses, and vans: Upon agreement of all  
Commissioners present, the application was granted in part as modi-  
fied.

B-1563      In the Matter of VIP Specialists, Lincoln, seeking to ex-  
Supp. 1      tend its authority in the transportation of passengers by  
bus in Nebraska intrastate commerce over irregular routes:  
Upon agreement of all Commissioners present, the application was  
granted.

B-1571      In the Matter of Maplewood Counseling Associates, Inc., dba  
Maplewood Behavioral Health, Ralston, seeking authority as  
a contract carrier for the transportation of behaviorally challenged  
individuals who are under psychological care, physical care, or both,  
or who are diagnosed with mental illness under continuing contracts  
with the Department of Health and Human Services, Value Options, and  
Partners Network between points in Nebraska over irregular routes.  
RESTRICTION: Transportation will be restricted to the extent that the  
escort-drivers who provide transportation services are certified as  
Family Support Workers after receiving the required training as out-  
lined by the Nebraska Department of Health and Human Services or are  
certified as Community Treatment Aides as defined by NMAP SERVICES 471  
NAC 32-002.10G COMMUNITY TREATMENT AIDE SERVICES, LEVELS I and II:  
Upon agreement of all Commissioners present, the application was  
dismissed without prejudice.

TRANSPORTATION DEPARTMENT (Cont.)

B-1589 In the Matter of Napoleon P. Agonor dba Ultimate Transit, Omaha, seeking authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers by passenger van between points in Omaha, Bellevue, Papillion, LaVista, Ralston and Elkhorn in open class service: The video hearing previously set for October 21, 2002, was continued to December 11, 2002, at 9:00 a.m. in the Commission Library, Lincoln, and the Nebraska State Office Building, Room 207, 2<sup>nd</sup> Floor, 1313 Farnam, Omaha. Commissioner Boyle will preside as Hearing Officer.

B-1597 In the Matter of Caring Network, Inc., Omaha, seeking authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers in open class service over irregular routes between points in Douglas, Sarpy, Washington, Cass and Dodge counties by vans. To include transportation of clients of the Nebraska Department of Health and Human Services. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized: A video hearing was scheduled for November 20, 2002, at 9:00 a.m. in the Commission Library, Lincoln; Nebraska State Office Building, Room 207, Second Floor, 1313 Farnam Street, Omaha; and Public Library, Second Floor, 517 West 4<sup>th</sup> Street, Hastings. Commissioner Boyle will preside as Hearing Officer.

B-1600 In the Matter of Y Turner's Unlimited, Inc., Omaha, seeking authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers from McKinley Street southwest to State Street; State Street west to 120<sup>th</sup> Street, 120<sup>th</sup> Street south to Interstate 80; Interstate 80 east to 72<sup>nd</sup> Street; 72<sup>nd</sup> Street south to Harrison Street; Harrison Street east to 16<sup>th</sup> Street; and 16<sup>th</sup> Street north to McKinley Street. To include clients of the Nebraska Department of Health and Human Services: RESTRICTION: The transportation of railroad train crews and their baggage is not authorized: A video hearing was set for November 21, 2002, at 9:00 a.m. in the Commission Library, Lincoln; Nebraska State Office Building, Room 207, Second Floor, 1313 Farnam Street, Omaha; Public Library, Second Floor, 517 West 4<sup>th</sup> Street, Hastings; and Von Riesen Library, Room 6, Basement level, enter through Room 5, 1205 East 3<sup>rd</sup> Street, McCook. Commissioner Boyle will preside as Hearing Officer.

Inspector Robert Harrison presented a report of work on criminal background checks.

Andy Pollock discussed a letter concerning policy on donated passenger services. The Commission approved the proposed letter with some modifications.

Rate Division

LR-235 In the Matter of Laidback Limousine, Inc., Omaha, seeking authority to amend its limousine rates through the addition of SUV limousine rates: Upon agreement of all Commissioners present, the application was granted.

TRANSPORTATION DEPARTMENT (Cont.)

MR-1003 In the Matter of the National Motor Freight Traffic Association, Inc., Alexandria, Virginia, agent for and on behalf of participating carriers, seeking authority to place in effect on Nebraska intrastate traffic the provision of Supplement 5 to the National Motor Freight Classification, NMF 100-AB: Upon agreement of all Commissioners present, the application was granted.

MR-930 In the Matter of Movers and Warehouse Division, Nebraska Motor Carriers Association, Lincoln, seeking authority to establish a fuel surcharge in Nebraska Official Household Goods Tariff 7-E: The fuel surcharge was retained at 16 cents per mile and the taxi surcharge was increased to 20 cents per trip.

GENERAL ADMINISTRATION

Upon agreement of all Commissioners present, the following invoices were approved:

DAS - Communications	\$ 3,381.16
DAS - Materiel Division - Copy Services	2,152.10
DAS - Transportation Services Bureau - Voyager Billing	630.20
Ted Burkey	3,000.00
Kevin Hergott	424.28
Tyler Frost	402.00
Mark Luttich	280.08
Anne Boyle	1,049.24
Rod Johnson	1,085.39

NEBRASKA EQUIPMENT DISTRIBUTION PROGRAM

Aksarben TDD Service	936.30
Associated Hearing Health Care	314.50
Carl A. Johnson	1,386.05
Grand Island Hearing Aid Center	503.76
Hearing Aid Specialists Inc	2,291.00
R & J Enterprises	1,256.00
Harris Communication	198.65
Sherard Hearing Aid Center	109.00
K-D Communications	1,080.70

Attention was called to the following proceedings:

Wednesday, October 30, 2002:

GW-2138 Video Hearing. Commission Library, Lincoln, and Public  
GWC-368 Library and Information Center, 2020 First Avenue, Kearney.  
Oral Argument on Claims. Atlanta Grain, Atlanta. Commissioner Vap chairing.

GENERAL ADMINISTRATION (Cont.)

Upon agreement of all Commissioners present, authorization was granted for Commissioner Boyle to attend a meeting of wireless companies, Public Utility Commissioners and staff and the Federal Communications Commission on October 21, 2002, in Washington, DC.

Upon agreement of all Commissioners present, authorization was granted for Robert Bowman to travel to Clay Center, Kansas, on October 9, 2002, to perform a modular housing unit factory inspection at Wardcraft Homes with all expenses, including time, to be reimbursed to the Commission by Wardcraft Homes.

Upon agreement of all Commissioners present, authorization was granted for Kent Pribyl to travel to Smith Center, Kansas, on October 31, 2002, to perform a recreational vehicle factory inspection at Peterson Industries, Inc. with all expenses, including time, to be reimbursed to the Commission by Peterson Industries.

Upon agreement of all Commissioners present, a resolution was entered regarding employee mileage reimbursement.

Commissioner Rod Johnson left the Commission Hearing Room.

Upon agreement of all Commissioners present, the contract of Ted Burkey was amended.

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The meeting adjourned at 3:05 p.m. with Commissioners Boyle, Lowell Johnson and Vap present and Commissioners Rod Johnson and Landis excused. The next regularly scheduled meeting will be held on November 5, 2002, at 1:00 p.m. with an agenda to be available in the office of the Executive Director at 1:00 p.m. on November 4, 2002.

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Chair

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Executive Director