

Chairman Vap called the regularly scheduled meeting to order at 10:03 a.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, Landis and Vap present.

GENERAL ADMINISTRATION

Notice was duly published February 10, 2004, on Page 8 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held February 18, 2004, at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

Attention was called to the following proceedings:

Wednesday, February 18, 2004:

MCC-3151 Commission Hearing Room, Lincoln.
1:30 Andy Pollock, Director, Motor Transportation Department vs. Mike's Moving. Commissioner Boyle chairing.

COMMUNICATIONS DEPARTMENT

FC-1316 In the Matter of Nebraska Technology Operations Center, d/b/a Kearney.net, Kearney, vs. Citizens/Frontier Communication, Burnsville, Minnesota, alleging a billing error: Gene Hand advised the Commission that a formal complaint had been received. The answer date is February 29, 2004; therefore, because February 29 is a Sunday, the answer will be due March 1, 2004.

C-3012 In the Matter of the Commission, on its own motion, seeking to conduct a critical cost analysis for Aliant Communications Co., d/b/a ALLTEL, as a result of the Nebraska Technology & Telecommunications, Inc. and ALLTEL arbitration conducted in Application C-2648: Dr. Dave Rosenbaum provided the Commissioners with an analysis of Alltel's proposed UNE loop rates by comparing them to other loop rates in the region and loop rates developed for Alltel using the C-2576 methodology. Chris Post discussed means of obtaining comments from parties on Dr. Rosenbaum's analysis. The staff was directed to prepare an order seeking comments from parties regarding the loop analysis.

C-3026 In the Matter of the Commission, on its own motion, seeking to conduct a 9-month proceeding as contemplated by the Federal Communications Commission in its Triennial Review Order adopting new rules for network unbundling obligations: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle to enter an order denying the stay, but granting a 30-Day Extension. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3087 In the Matter of El Paso Networks, LLC, Houston, Texas, seeking to surrender its certificate of operating authority to provide interexchange carrier telecommunications service, previously granted in Application C-2617, and its certificate of operating authority to operate to provide resold and facilities based dedicated and private line local exchange telecommunications services, previously granted in Application C-2616, in the State of Nebraska: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, Jerry Vap voting AYE.

C-3088 In the Matter of Adelpia Business Solutions Operations, Inc., Coudersport, Pennsylvania, seeking to cancel its certificate of operating authority to provide local exchange and interexchange telecommunications services within the State of Nebraska, previously granted in Application C-2217: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, Jerry Vap voting AYE.

C-3095 In the Matter of Qwest Corporation, Denver, Colorado, seeking arbitration to resolve issues relating to interconnection rates, terms, conditions and related arrangements with AT&T Communications of the Midwest, Inc., and TCG Omaha, Denver, Colorado: Gene Hand advised the Commission that the parties had chosen Frank G. Lamancusa of Telecom Dispute Solutions as an arbitrator.

C-3110 In the Matter of Clarks Telecommunications Co.; Consolidated Telephone Company; Consolidated Telco, Inc., and C-3120 Consolidated Telcom, Inc.; Hamilton Telephone Company; Hartington Telecommunications Co.; Hershey Cooperative Telephone Co.; K & M Telephone Company; Nebraska Central Telephone Company; Northeast Nebraska Telephone Company; Sodtown Telephone Company; Stanton Telecom, Inc.; Three River Telco, seeking suspension or modification of the Federal Communications Commission requirement to implement Wireline-Wireless Number Portability pursuant to 47 U.S.C. Section 251(f)(2): Gene Hand discussed these waiver requests and recommended hearings be scheduled consecutively on the same date. There was an opinion that further similar waiver requests may be filed in the near future. Commissioner Vap will be hearing officer.

Tyler Frost and Dr. Dave Rosenbaum will be attending the 2004 Eastern Economic Association 30th Annual Conference in Washington, D.C., from February 19 to 22, 2004, to present their paper, "Estimating Forward Looking Loop Costs for Telecommunication Services." Tyler Frost reported on the paper he and Dr. Rosenbaum will present Sunday. The Commissioners congratulated Mr. Frost on being asked to present the paper.

COMMUNICATIONS DEPARTMENT (Cont.)

John Burvainis provided a report to the Commission on the current status of the Competitive Telephone Marketplace Fund.

Gene Hand reported on issues on the FCC's February 12, 2004, open meeting agenda.

Gene Hand reported that Cingular has announced an agreement to purchase AT&T Wireless for \$41 billion. If the merger is approved, Cingular will be the largest wireless carrier with 46 million subscribers.

Gene Hand reported that Hamilton Communications has been successful in adding Maine to the states where they are the Relay Service provider and they are currently submitting TRS proposals to North Dakota and Oregon.

Gene Hand provided copies of a February 18, 2004, Lincoln Journal Star article announcing that Alltel will be eliminating 40 Nebraska jobs.

UNIVERSAL SERVICE FUND

NUSF-32 In the Matter of the Commission, on its own motion, seeking to conduct an inquiry into the failure of various companies to comply with Commission Orders and, at its own discretion, impose administrative fines against the named defendants. Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson to approve an order initiating a Show Cause and setting a hearing for March 23, 2004, at 1:30 p.m. in the Commission Hearing Room, Lincoln. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, Jerry Vap voting AYE.

NUSF-37.8 In the Matter of Jeffrey L. Pursley, Director, Nebraska Universal Service Fund Department, Nebraska Public Service Commission, Complainant, vs. Evercom Systems, Incorporated, Respondent: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson to dismiss the complaint. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, Jerry Vap voting AYE.

Jeff Pursley reported on Late-Filed Carrier Remittances. The Commission approved, without exception, a late fee of \$50.00 to be levied against Leap Communications, d/b/a Cricket Communications, Global Crossing, and Budget Call Long Distance, Inc., and that a complaint be filed against Electric Lightwave.

UNIVERSAL SERVICE FUND (Cont.)

NUSF-37.22 In the Matter of Jeffrey L. Pursley, Director, Nebraska Universal Service Fund Department, Nebraska Public Service Commission, Complainant, vs. NUI Telecom, Inc., Respondent(s): Jeff Pursley discussed the complaint to be filed against NUI for habitual late-filed carrier worksheets.

Jeff Pursley reported that Cricket Communications has requested a second extension to file their remittance. The Commission approved Cricket Communications' second extension request.

Commissioner Landis inquired about comments made by Senator Stevens to the Joint Board regarding USF support of all lines versus primary lines. At this time, Senator Stevens is in favor of supporting all lines; however, Commissioner Landis wants the Commission to be on record in favor of supporting only primary lines. Jeff Pursley suggested that when the FCC opens this issue for comment, that would be the time to formally comment.

E911 DEPARTMENT

Kara Thielen updated the Commission on the status of Phase I Implementation and gave a report on the status of advanced/basic implementation.

NATURAL GAS AND WATER DEPARTMENT

NG-0001 In the Matter of Aquila, Inc., d/b/a Aquila Networks
NG-0002 (Aquila), Omaha, seeking a general rate increase for
NG-0003 Aquila's Rate Area One, Rate Area Two and Rate Area
Three: Motion made by Commissioner Lowell Johnson,
seconded by Commissioner Rod Johnson to approve an assessment order
for HSD-006. Motion passed with Commissioners Anne Boyle, Lowell
Johnson, Rod Johnson, Frank Landis, Jerry Vap voting AYE. Commis-
sioner Rod Johnson added a statement on rate case order.

NG-0016 In the Matter of ONEOK Energy Marketing and Trading Com-
pany, L.P., Tulsa, Oklahoma, seeking authority, and to
include temporary authority, as a Competitive Natural Gas Provider in
the state of Nebraska: Motion made by Commissioner Frank Landis,
seconded by Commissioner Lowell Johnson to grant Competitive Natural
Gas Provider authority. Motion passed with Commissioners Anne Boyle,
Lowell Johnson, Rod Johnson, Frank Landis, Jerry Vap voting AYE.

Laura Demman reported that information was received from Kinder Morgan that on February 13, 2004, an interstate pipeline was severed by a snowplow near a delivery point for Tilden which is served by Aquila. Service to 398 customers was temporarily interrupted, but has since been reestablished.

RULES AND REGULATIONS

Rule and Regulation #156 In the Matter of the Commission, on its own motion, seeking to amend Title 291, Chapter 13, Modular Housing Unit Construction Rules and Regulations, by creation of an ad hoc committee and to adopt rules in accordance with current construction codes: Chris Post informed the Commission that the rules had been approved by the Attorney General on February 17, 2004.

Rule and Regulation #158 In the Matter of the Commission, on its own motion, seeking to amend Title 291, Chapter 8, Grain Warehouse and Grain Dealer Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 735 [2003]: Commissioner Lowell Johnson moved the enter an amended Certificate of Adoption and Commissioner Rod Johnson seconded the motion. Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis and Jerry Vap voted AYE. Commissioner Boyle will write a concurring opinion.

LEGISLATIVE REPORT

Andy Pollock updated the Commission on pending legislation.

GRAIN WAREHOUSE DEPARTMENT

The following shortage was discussed:

GW-589 Soybeans at Midland Co-op, Funk.

GW-1510 In the Matter of Kelley Bean Co., Inc., Morrill, seeking cancellation of lost bean receipts 11158 through 11200, and Negotiable Grain Warehouse Receipts B545833 through B545834: Application was granted.

Grain Dealer Division

The following applicant was granted a Grain Dealer License, subject to the fulfillment of all statutory requirements, for the license period ending June 30, 2004:

		<u>SECURITY</u>
GD-2021	Cooperative Producers, Inc., Hastings	\$ 37,000
GD-2850	In the Matter of Union Insurance Company seeking cancellation of its Continuous Grain Dealer Bond No. 237 59 55 in the amount of \$35,000.00, issued on behalf of James D. Larson dba Agro Distributing, Funk: Application was granted effective February 18, 2004.	

HOUSING DEPARTMENT

Mark Luttich updated the Commission on the Dutchman recreational vehicle furnace recall. Presently, Dutchman's legal counsel is reviewing the Commission's denial of an approval letter dated February 13, 2004. The Commission did not accept Dutchman's proposal of allowing consumer inspection of code compliance. Discussion continued regarding the possibility of a Commission initiated press release to protect consumers should Dutchman fail to react in a timely fashion.

TRANSPORTATION DEPARTMENT

B-1598 In the Matter of Clifford Dennis, dba Heartland Transportation, Creighton: Upon agreement of all Commissioners, the Notice of Pending Dismissal was sustained and the application dismissed.

B-1609 In the Matter of Judy Mohler, dba Cruising with "Care", Hastings, seeking authority as a common carrier in open class service by van and PT Cruiser between points within a 100-mile radius of Hastings over irregular routes. To include the transportation of Health and Human Services clientele and their subcontractors thereof. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized: Upon agreement of all Commissioners, the application was denied.

B-1535 In the Matter of Guard-Rite Security Services, LLC, Norfolk, seeking to extend its authority as a common carrier of passengers by sedans and vans in open class service between points in Nebraska over irregular routes including clients of the Nebraska Department of Health and Human Services or subcontractors thereof. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized: The video hearing previously set for February 19, 2004, was continued to March 22, 2004, at 10:00 a.m. in the Commission Library, Lincoln, and Northeast Community College, Maclay Building, Room 1221, 801 East Benjamin Avenue, Norfolk. Commissioner Rod Johnson will preside as Hearing Officer.

M-12873 In the Matter of William C. McGraw, Jr., dba R & R Delivery, York: Upon agreement of all Commissioners, an order dismissing the show cause was entered.

M-14170 In the Matter of Chuck Garcia, dba AAR Piano Moving, Omaha, seeking authority as a common carrier of household goods by van/straight truck between points in Omaha and five (5) miles beyond its corporate limits over irregular routes. RESTRICTION: Limited to the transportation of pianos: Upon agreement of all Commissioners, the Show Cause was sustained and the application dismissed.

TRANSPORTATION DEPARTMENT (Cont.)

M-14177 In the Matter of Brian Everett Benson, dba B.E.#1 Service, Omaha, seeking revocation and cancellation of the common carrier authority in Certificate M-14177: Upon agreement of all Commissioners, the revocation was granted and the authority in M-14177 revoked.

M-14181 In the Matter of Adam Baker/Alex Baker, dba A & A Moving Company, Fremont, seeking authority as a common carrier of household goods by truck between points in Dodge County over irregular routes: Upon agreement of all Commissioners, the Show Cause was sustained and the application dismissed.

Rate Division

TR-132 In the Matter of Safeway Cabs, Inc., Omaha, seeking authority to amend the Omaha taxicab rates: The hearing previously set for January 27, 2004, was continued to February 26, 2004, at 10:00 a.m. in the Commission Hearing Room, Lincoln. Commissioner Boyle will preside as Hearing Officer.

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 increased to 18 cents per mile and the taxi surcharge was retained at 30 cents per trip.

Commissioner Rod Johnson left the Commission Hearing Room.

GENERAL ADMINISTRATION

The Commission approved the following invoices:

DAS IMServices	\$ 315.24
DAS Materiel	405.68
Ted Burkey	2,107.50
Kelly Services	532.00
Kelly Services	691.25
Mark Luttich	326.91
Kent Pribyl	298.62
Rod Johnson	863.51

Upon agreement of all Commissioners, Commission minutes for the month of January, 2004, were approved.

Commissioner Rod Johnson returned to the Commission Hearing Room.

The meeting adjourned at 11:45 a.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, Landis and Vap present. The next regularly scheduled meeting will be held on February 24, 2004, at 10:00 a.m. with an agenda to be available in the office of the Executive Director at 10:00 a.m. on February 23, 2004.

Chairman

Executive Director