

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

GENERAL ADMINISTRATION

Notice was duly published August 31, 2004 on Page 7 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held September 8, 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:

Monday, September 13, 2004:

C-3204 Commission Hearing Room, Lincoln. Oral Argument
11:00 Sprint Communications, L.P., Overland Park, Kansas, seeking approval of an amendment to its Certificate of Public Convenience and Necessity to provide local exchange telecommunications service in all exchanges within the State of Nebraska in which Sprint is not currently certificated. Commissioner Landis chairing.

PI-83 Video Hearing. Commission Library, Lincoln, and Panhandle
6:00 MT Learning Center, High Plains Room, 4502 Avenue I, Scottsbluff. In the Matter of the Commission, on its own motion, seeking to investigate the feasibility and propriety of the regulation of wireless carriers. Commissioner Vap chairing.

Friday, September 17, 2004:

C-3228 Video Conference. Commission Library, Lincoln; Hastings
9:00 Public Library, 2nd Floor, 517 West 4th Street; and McCook Community College, McMillen Hall, Room 208, 1205 East 3rd Street, McCook. Time Warner Cable Information Services (Nebraska), LLC, d/b/a Time Warner Cable, Stamford, Connecticut, seeking authority to provide local and interexchange voice services within the State of Nebraska. Commissioner Landis chairing.

UNIVERSAL SERVICE FUND

NUSF-26 In the Matter of the Commission, on its own motion, seeking to establish a long-term universal service funding mechanism: Motion made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to enter an order approving the proposed Telehealth Plan. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting. Commissioners Vap, Boyle and Johnson thanked all parties who helped in the development of the Plan. Commissioner Boyle introduced Steve Martin, President, Blue Cross/Blue Shield, who thanked all the parties as well.

In the Matter of late-filed carrier remittances: Jeff Pursley discussed the late-filed carrier remittances. Motion made by Commissioner Rod Johnson, seconded by Commissioner Anne Boyle, to levy a late fee against Alltel Communications and that the existing complaint against Z-Tel Communications be amended to include the July, 2004 data period. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

NUSF-25 In the Matter of the Commission, on its own motion, seeking to establish guidelines for the purpose of certifying the use of federal universal service support: Motion made by Commissioner Rod Johnson, seconded by Commissioner Anne Boyle, to accept the late-filed self-certification affidavits from Pierce Telephone and Keystone-Arthur Telephone Company. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

NUSF-26 In the Matter of the Commission, on its own motion, seeking to establish a long-term universal service funding mechanism: Jeff Pursley distributed and discussed Procedural Order No. 3, a Hearing Officer's Order that was entered earlier this day.

NUSF-2 In the Matter of the Commission, on its own motion, seeking to establish guidelines for administration of the Nebraska Telephone Assistance Program: Jeff Pursley reported on the comments that were received on September 7, 2004.

COMMUNICATIONS DEPARTMENT

Cheryl Elton provided a report on telecommunications complaints received by the Communications Department during the preceding month. Commissioner Boyle requested that staff develop a means to address the many complaints about an auto-dialer device operated by Mort Sullivan.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3228 In the Matter of Time Warner Cable Information Services (Nebraska), LLC, d/b/a Time Warner Cable, Stamford, Connecticut, seeking a certificate of authority to provide local and interexchange voice services within the State of Nebraska: Commissioner Landis will preside as Hearing Officer. Gene Hand informed the Commission that a Motion for Protective Order was filed and presented to the Commission with a proposed order to grant that motion. Motion made by Commissioner Rod Johnson, seconded by Commissioner Anne Boyle, to enter an order granting the Motion. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson, and Frank Landis Excused Not Voting. Gene Hand informed the Commission that a letter had been drafted to Time Warner Cable, Inc. responding to the companies plans for testing. Gene Hand also informed the Commission that a Motion to Compel had been filed and that the Hearing Officer was going to rule on that motion.

C-3247 In the Matter of Operator Communications, Inc., San Francisco, California, seeking to withdraw its authority to operate as a reseller of telecommunications services within the State of Nebraska: Motion made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

C-3248 In the Matter of Long Distance Wholesale Club, Dallas, Texas, seeking to withdraw its authority to operate as a resale carrier of intrastate interLATA and intraLATA telecommunications services within the state of Nebraska, previously granted in C-1303: Motion made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson, and Frank Landis Excused Not Voting.

C-3250 In the Matter of Leo G. Hartman, Randall J. Raile and Kacey Railey, seeking approval of the change of controlling interest in Hartman Telephone Exchanges, Inc.: Motion made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3244 In the Matter of United Telephone Company of the West d/b/a Sprint, Overland Park, Kansas, seeking approval of its Interconnection Agreement for Commercial Mobile Radio Services with NE Colorado Cellular, Inc., Fort Morgan, Colorado: Motion made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

C-3245 In the Matter of XO Network Services, Inc., Reston, Virginia, seeking approval of its request for an internal corporate reorganization whereby it will be merged into XO Communications Services, Inc., Reston, Virginia: Motion made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

SC-005 In the Matter of Maurice Gene Hand, Director, Communications Department, and Mr. Jeffrey L. Pursley Director, Nebraska Universal Service Fund Department, versus Long Distance Savings: A hearing was set for October 26, 2004, at 2:00 p.m. in the Commission Hearing Room, Lincoln. Commissioner Vap will preside as Hearing Officer.

C-3201 In the Matter of Qwest Communications Corporation, Denver, Colorado, seeking authority to operate as a competitive local exchange carrier of telecommunications services within the State of Nebraska: Commissioner Boyle will preside as Hearing Officer. The hearing previously scheduled for September 28, 2004, was rescheduled for October 6, 2004, at 2:00 p.m. in the Commission Hearing Room, Lincoln.

Gene Hand informed the Commission that the U.S. Court of Appeals in Washington ordered the Federal Communications Commission (FCC) to respond within 15 days to a petition filed by the U.S. telecom Association, Verizon Communications, Inc., telephone companies and Qwest Communications International to invalidate the Commission's recently adopted interim network unbundling rules and to ensure the Commission complies with the federal appeals court's March Ruling that vacated the agency's previous network unbundling regime.

COMMUNICATIONS DEPARTMENT (Cont.)

Gene Hand informed the Commission that the Nebraska Internet Enhancement Fund Advisory Board would meet via video on October 25, 2004, at 10:00 a.m. in the Commission Library, Lincoln; Chadron State College, Student Center, Scottsbluff Room, 10th and Main; Columbus Public Library, Columbus Room, 2nd Floor, 2504 14th Street, Columbus; McCook Community College, McMillen Hall, Room 208, 1205 East 3rd Street, McCook; Panhandle Learning Center, High Plains Room, 4502 Avenue I; and Western Nebraska Community College, Room 122, 371 College Drive, Sidney.

Gene Hand informed the Commission that the Telecommunications Relay Service Advisory Board would meet on September 23, 2004, at 12:30 p.m. in the Commission Library, Lincoln.

C-3204 In the Matter of Sprint Communications, L.P., Overland Park, Kansas, seeking approval of an amendment to its Certificate of Public Convenience and Necessity to provide local exchange telecommunications service in all exchanges within the State of Nebraska in which Sprint is not currently certificated: Commissioner Landis will preside as Hearing Officer. Gene Hand informed the Commission that an oral argument regarding objections and motions was scheduled for September 13, 2004, at 11:00 a.m. in the Commission Hearing Room, Lincoln. A telephone bridge has been established at 402-472-6290.

Gene Hand reported there will be a demonstration for deaf and hard-of-hearing consumers interested in learning more about D-Link video phones, captioned telephone (CapTel) and Video Relay Service (VRS). The demonstration will be held Saturday, September 25, 2004, from 1:30 p.m. to 4:30 p.m. at the Omaha Association of the Deaf Hall, 4050 Hillside Avenue, Omaha.

Commissioner Boyle informed the Commission and public that if they wished to hear Federal Communications Commissioner Michael Copps speak at Creighton University on October 5, 2004, they should contact Kathy Lahman.

NATURAL GAS DEPARTMENT

NG-0005 In the Matter of the Tariff for Natural Gas Service Available in the Entire Territory Served by Kinder Morgan, Inc. in the State of Nebraska: Motion was made by Commissioner Rod Johnson, seconded by Commissioner Anne Boyle, to enter an order granting waiver of 30-day notice period. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

NATURAL GAS DEPARTMENT (Cont.)

NG-0017 In the Matter of ONEOK Energy Marketing Company, Topeka, Kansas, seeking authority, and to include temporary authority, as a Competitive Natural Gas Provider in the state of Nebraska: Motion was made by Commissioner Rod Johnson, seconded by Commissioner Anne Boyle, to enter an Order Nunc Pro Tunc. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

NG-0025/ In the Matter of the Complaint and Petition of ONEOK Energy PI-85 Marketing Company, Tulsa, Oklahoma, seeking suspension of Kinder Morgan, Inc.'s proposed changes to the terms and conditions of its Agriculture Choice Gas Service - Seasonal Service and Choice Gas Service Tariffs, and petitioning the Commission to open an investigation: Motion was made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to enter an order closing the docket. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

Laura Demman reported that a total of 20 consumer complaints and inquiries were received during the month of August.

GRAIN WAREHOUSE DEPARTMENT

GWC-391 In the Matter of John A. Fecht, Director, Warehouse Department, Complainant, vs. Strausville Grain, Inc.: Motion made by Commissioner Rod Johnson, seconded by Commissioner Anne Boyle, to enter an order dismissing the complaint in part. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

There were three grain warehouse bonds not filed for the two-cent increase for review of financial statements.

GW-5 In the Matter of Thelen Grain Company, Wood River: John Fecht discussed the letter sent to the accountant.

GW-2141 In the Matter of Pender Grain Inc., Pender: John Fecht informed the Commission on the status of Pender Grain, Inc. Pender.

GW-2164 In the Matter of B4 Inc., dba B4 Grain, Kearney, seeking cancellation of its Grain Warehouse License: Application was granted effective August 31, 2004.

GRAIN WAREHOUSE DEPARTMENT (Cont.)

Grain Dealer Division

There were six Grain Dealers that have not been renewed due to background checks.

GD-378 In the Matter of Nationwide Mutual Insurance Company seeking cancellation of its Continuous Grain Dealer Bond No. 7900645267 in the amount of \$88,000.00, issued on behalf of Battle Creek Farmers Cooperative, Non-Stock, Battle Creek: Application was granted effective September 1, 2004.

GW-1107 In the Matter of Employers Mutual Casualty Company seeking cancellation of its Continuous Grain Dealer Bond No. S29 81 10 in the amount of \$212,000.00, issued on behalf of Farmers Cooperative Association of McCool Junction: Application was granted effective September 1, 2004.

GD-2164 In the Matter of B4 Inc. dba B4 Grain, Kearney, seeking cancellation of its Grain Dealer License: Application was be granted effective August 31, 2004.

HOUSING AND RECREATIONAL VEHICLE DEPARTMENT

Mark Luttich led a discussion to determine a method of providing information to a Nebraska resident in reference to a request for manufactured home complaint history presently on file with the Commission. Mark Luttich will contact the requestor to determine his specific concern(s) and wants and to explain the Commission's present data.

TRANSPORTATION DEPARTMENT

B-1557 In the Matter of Hope Transportation, Inc., Omaha, seeking Supp. 1 to extend its authority as a common carrier of passengers in open class service by vans between points in Cass, Otoe, Lancaster counties and between points in said counties on the one hand, and, on the other hand, points in Nebraska 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: The application was held over until the September 21 Commission meeting. The Commissioners will deliberate before then.

Rate Division

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-F: The fuel surcharge was increased to 30 cents per mile and the taxi surcharge retained at 40 cents per trip.

GENERAL ADMINISTRATION

Motion made by Commissioner Rod Johnson, seconded by Commissioner Anne Boyle, to approve the following Commission invoices. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson, and Frank Landis Excused Not Voting.

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| DAS - Communications | \$ 3,097.62 |
| DAS - Personnel | 678.65 |
| DAS - Transportation Services Bureau | 543.98 |
| Advantage Chevrolet | 589.02 |
| Ted Burkey | 752.50 |
| Kelly Services | 940.63 |
| Kelly Services | 634.38 |
| Robert Bowman | 877.65 |
| Kent Pribyl | 1,131.04 |
| Anne Boyle | 270.00 |

Motion made by Commissioner Rod Johnson, seconded by Commissioner Anne Boyle, to purchase 4,000 Recreational Vehicle Seals at a cost of \$3,160.00. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

Upon agreement of all Commissioners present, authorization was granted for Laura Demman to attend the NARUC Utility Rate School to be held in Clearwater Beach, Florida, from October 24-29, 2004.

Andy Pollock reported on the Commission Policy Manual and Internal Administrative Procedures Manual and will put them on the September 21 agenda for approval.

John Burvainis led a discussion on the staff recommendations for budget modifications: Motion made by Commissioner Rod Johnson, seconded by Commissioner Anne Boyle, to approve the staff recommendations for budget modifications, as modified. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

Motion made by Commissioner Rod Johnson, seconded by Commissioner Anne Boyle, to go into closed session to discuss personnel matters. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting. The Commission went into closed session at 11:05 a.m.

Motion made by Commissioner Rod Johnson, seconded by Commissioner Anne Boyle, to return to open session. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson, and Frank Landis Excused Not Voting. The Commission returned to open session at 11:20 a.m.

GENERAL ADMINISTRATION (Cont.)

Motion made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to offer the part-time motor transportation investigator position to Jim Joneson. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

The Commission discussed the staff recommendation for authority to contract out for Public Advocate services under the Natural Gas Regulatory Act. Andy Pollock made the recommendation after informing the Commission that he, Commissioner Frank Landis and Laura Demman had consulted with Senator Dave Landis on the issue. Mr. Pollock also pointed out that the Commission, through a formal Request for Proposal process, had contracted out for the services of the Harding, Shultz & Downs law firm to act as the Public Advocate in the Aquila rate case and on an on-going, monitoring basis. Mr. Pollock asked for authority to negotiate a contract with the Harding, Shultz & Downs firm for Public Advocate services on a six-month trial basis as part of a four-year contract. Motion made by Commissioner Anne Boyle, seconded by Commissioner Rod Johnson, to approve the staff recommendation. Motion passed with Commissioners Anne Boyle, Rod Johnson, and Jerry Vap voting AYE, Commissioners Lowell Johnson and Frank Landis Excused Not Voting.

The meeting adjourned at 11:22 a.m. with Commissioners Boyle, Rod Johnson, and Vap present, and Commissioners Lowell Johnson and Landis excused. The next regularly scheduled meeting will be held on September 21, 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 September 20, 2004.

Chairman

Executive Director