

Chairman Frank Landis called the regularly scheduled meeting to order at 10:00 a.m. with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Gerald Vap present. Chairman Landis invited the public to address the Commission and also announced that a copy of the Nebraska Open Meetings Act was posted in the meeting room. No announcements were made.

#### GENERAL ADMINISTRATION

Notice was duly published February 3, 2009 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 10, 2009 at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

Attention was called to the following proceedings:

#### Tuesday, February 10, 2009:

C-3997      Commission Hearing Room, Lincoln.  
9:00        In the Matter of Embarq Corporation, Overland Park, Kansas, and CenturyTel, Inc., Monroe, Louisiana, seeking approval of transfer of control of United Telephone Company of the West d/b/a Embarq and Embarq Communications, Inc. Commissioner Jerry Vap presiding as Hearing Officer.

#### Wednesday, Thursday, February 11 and 12, 2009:

B-1733      Commission Hearing Room, Lincoln. In the Matter of Papio  
9:00        Transport Services, Inc., Papillion, seeking authority as a common carrier in open class service in the transportation of passengers and their baggage over irregular routes between points in Douglas and Sarpy counties and between points in said counties over irregular routes. HHS Designation: Yes. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized. Commissioner Schram presiding as Hearing Officer.

#### COMMUNICATIONS DEPARTMENT

C-3998/  
PI-146      In the Matter of the Commission, on its own motion, seeking comment on the request by United Way of the Midlands to be assigned the use of "211" in York County for access to First Call for Help (FCFH), a comprehensive information and referral service: 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, Frank Landis, Tim Schram and Jerry Vap voting AYE.

COMMUNICATIONS DEPARTMENT (Cont.)

C-4141 In the Matter of the Commission, on its own motion, seeking to determine the surcharge for the statewide Telecommunications Relay System (TRS) to be effective July 1, 2009, in the State of Nebraska: Motion made by Commissioner Jerry Vap, seconded by Commissioner Rod Johnson, to enter an order opening the docket and scheduling a hearing for March 10, 2009 at 1:30 p.m. in the Commission Hearing Room, Lincoln. Commissioner Tim Schram presiding as Hearing Officer. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

C-3206 In the Matter of the Commission, on its own motion, seeking to administer the Nebraska Internet Enhancement Fund. Commissioner Tim Schram presiding as Hearing Officer: Gene Hand informed the Commission that \$132.68 was transferred out of the Competitive Marketplace Fund to the Nebraska Internet Enhancement Fund (NIEF) on February 6, 2009.

C-3978 In the Matter of Tammy Hubl, Guide Rock, seeking authority to receive telephone service from Glenwood exchange of the Glenwood Telephone Membership Corporation. Commissioner Rod Johnson presiding as Hearing Officer: Gene Hand discussed the Hearing Officer order entered February 9, 2009 scheduling a hearing for March 3, 2009, at 1:30 p.m. in the Commission Hearing Room, Lincoln.

C-3206 In the Matter of the Commission, on its own motion, seeking to administer the Nebraska Internet Enhancement Fund. Commissioner Tim Schram presiding as Hearing Officer. Gene Hand announced the next NIEF Advisory Board meeting is scheduled for February 26, 2009, at 10 a.m. in Commission Hearing Room, Lincoln with video connections to Columbus Public Library, Columbus Room, 2<sup>nd</sup> Floor, 2504 14<sup>th</sup> Street, Columbus and Western NE Community College, Room 122, 371 College Drive, Sidney.

TELECOMMUNICATIONS INFRASTRUCTURE AND PUBLIC SAFETY DEPARTMENT

NUSF-1 PO #7 In the Matter of the Commission, on its own motion, seeking to establish guidelines for administration of the Nebraska Universal Service Fund: Motion made by Commissioner Jerry Vap, seconded by Commissioner Tim Schram, to grant PAETEC Communication's request for an extension until March 2, 2009, to complete the NUSF Remittance Worksheet audit due December 31, 2008. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

TELECOMMUNICATIONS INFRASTRUCTURE AND PUBLIC SAFETY DEPARTMENT (Cont.)

NUSF-37. In the Matter of Sue Vanicek, Director, Telecommunications Infrastructure and Public Safety Department, Complainant, v. Cause Based Commerce, Inc., Respondent: Motion made by Commissioner Tim Schram, seconded by Commissioner Anne Boyle, to enter an order dismissing the complaint. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

NUSF-69 In the Matter of Commission, on its own motion, seeking to implement policies and procedures related to providing dedicated universal service support for wireless telecommunications services: Motion made by Commissioner Jerry Vap, seconded by Commissioner Tim Schram, to enter an order approving, in part, the application of Viaero Wireless. Motion passed with Commissioners Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE, and Commissioner Anne Boyle present, not voting.

NUSF-69.02 In the Matter of the Commission, on its own motion, seeking to implement policies and procedures related to providing dedicated universal service support for wireless telecommunications services: Motion made by Commissioner Rod Johnson, seconded by Commissioner Tim Schram, to enter an order approving, in part, the application of Long Lines Wireless LLC. Motion passed with Commissioners Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE, and Commissioner Anne Boyle present, not voting.

LEGISLATIVE REPORT

Motion made by Commissioner Anne Boyle, seconded by Commissioner Tim Schram, to change the staff recommendation on LB 652 (NTIPS) from neutral to opposed and accept other staff recommendations as follows. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

Neutral LB 658 (Natural Gas) and Monitor LB 485 (Natural Gas), LB 245 (Transportation), and LB 354, LB 533 and LB 678 (Miscellaneous).

TRANSPORTATION DEPARTMENT

B-1655 In the Matter of JT Investments, Holdrege, seeking revocation and cancellation of the common carrier authority in Certificate B-1655. Motion made by Commissioner Jerry Vap, seconded by Commissioner Anne Boyle, to enter an order revoking the authority. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

TRANSPORTATION DEPARTMENT (Cont.)

B-1731 In the Matter of Archway Transportation, Omaha, seeking authority as a contract carrier in open class service in the transportation of clients of the Nebraska Department of Health and Human Services by van and wheelchair van between points in the state of Nebraska. HHS Designation: Yes. RESTRICTION: The transportation of railroad train crews is not authorized. Commissioner Boyle presiding as Hearing Officer: Upon agreement of all Commissioners, a video connection at McMillen Hall, Room 208, 1205 E. 3<sup>rd</sup> Street, McCook has been added for the hearing scheduled for March 4, 2009.

Rate Division

LR-294 In the Matter of OMALiNK, Lincoln, seeking authority to adjust its rates and charges: Motion made by Commissioner Jerry Vap, seconded by Commissioner Anne Boyle, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

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 Goods Tariff 7F and Tariff 22: The Tariff 7F fuel surcharge was retained at \$.42 per mile and the Tariff 22 fuel surcharge was decreased to \$.60 per truck per trip.

HOUSING DEPARTMENT

Mark Luttich provided an update on the financial status of the department.

GRAIN WAREHOUSE DEPARTMENT

GW-2119 In the Matter of M. G. Waldbaum Grain Company dba Wayne Grain & Feed, Wayne, seeking a \$250,000.00 deductible on its stock insurance coverage: Motion made by Commissioner Jerry Vap, seconded by Commissioner Tim Schram, to enter an Order granting the deductible. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

GENERAL ADMINISTRATION

Motion made by Commissioner Rod Johnson, seconded by Commissioner Tim Schram, to approve the Executive Director's recommendation to approve the following Commission invoices. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

GENERAL ADMINISTRATION (Cont.)

Forest Rivers Industries	\$ 500.00
Voyager	1,035.35
West	855.75
Kent Pribyl	763.43
Gerald Vap	682.00

Motion made by Commissioner Jerry Vap, seconded by Commissioner Rod Johnson, to approve the Executive Director's recommendation to authorize Kent Pribyl to travel to Sabetha, Kansas, on February 13, 2009, to investigate a modular housing unit consumer complaint with all expenses, including time, to be reimbursed to the Commission by Quality Homes, Inc., Summerfield, Kansas. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

Motion made by Commissioner Tim Schram, seconded by Commissioner Jerry Vap, to approve the Executive Director's recommendation to upgrade a Commission employee from probationary status to permanent status. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

Motion made by Commissioner Jerry Vap, seconded by Commissioner Rod Johnson, to enter into closed session to discuss personnel issues. The Commission entered into closed session at 10:35 a.m. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

Motion made by Commissioner Jerry Vap, seconded by Commissioner Tim Schram, to return to open session. The Commission returned to open session at 10:55 a.m. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

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The meeting adjourned at 10:56 a.m. with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Gerald Vap present. The next regularly scheduled meeting will be held on February 24, 2009, 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, 2009.

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Chair man

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Executive Director