

Chair Anne Boyle called the regularly scheduled meeting to order at 10:01 a.m. with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Gerald Vap and Tim Schram present. Chair Boyle invited the public to address the Commission and 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 July 23, 2013 on Page 7 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held July 30, 2013 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, July 30, 2013:

- 11:00 Commission Hearing Room, Lincoln.  
B-1760 In the Matter of Timeless Transport, LLC, Omaha. Commissioner Tim Schram presiding as Hearing Officer.
- 11:00 Commission Hearing Room, Lincoln. (Immediately Following)  
B-1816 In the Matter of Ronald A. King, Columbus, seeking authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers and their baggage in Platte County, and between points in Platte County, on the one hand, and, on the other hand, points in Nebraska over irregular routes. Commissioner Rod Johnson presiding as Hearing Officer.
- 1:30 Commission Hearing Room, Lincoln.  
911-020.07 In the Matter of Sue Vanicek, Director of the Nebraska Telephone Infrastructure and Public Safety Department of the Nebraska Public Service Commission, Complainant, v. 365 Wireless, LLC; Broadvox-CLEC, LLC; Covista, Inc.; Cozad Telephone Company; Ionex Communications North, Inc.; Teleport Communications of America, LLC; and XO Communications Services, LLC, Respondent(s). Commissioner Anne Boyle presiding as Hearing Officer.

#### COMMUNICATIONS DEPARTMENT

Motion made by Commissioner Rod Johnson, seconded by Commissioner Jerry Vap, to enter orders granting applications AD-556r through AD-559r. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

COMMUNICATIONS DEPARTMENT (Cont.)

- AD-556r In the Matter of the Application of Victory Enterprises, Inc., Davenport, Iowa, seeking authority to register the connection of an automatic dialing-announcing device.
- AD-557r In the Matter of the Application of Campaign Marketing Strategies, Inc., Arlington, Virginia, seeking authority to register the connection of an automatic dialing-announcing device in Chicago, Illinois.
- AD-558r In the Matter of the Application of Campaign Marketing Strategies, Inc., Arlington, Virginia, seeking authority to register the connection of an automatic dialing-announcing device in New York, New York.
- AD-559r In the Matter of the Application of Campaign Marketing Strategies, Inc., Arlington, Virginia, seeking authority to register the connection of an automatic dialing-announcing device in Los Angeles, California.
- C-4602/  
DC-83 In the Matter of the Nebraska Public Service Commission regarding the 2012 Annual Report Filings. Commissioner Anne Boyle presiding as Hearing Officer: Motion made by Commissioner Tim Schram, seconded by Commissioner Frank Landis, to enter an order dismissing the complaint, in part. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.
- C-4611 In the Matter of the Application of Ionex Communications North, Inc. d/b/a Birch Communications, Atlanta, Georgia, seeking approval to transfer customers and assets from Earnest Communications, Inc., Norcross, Georgia: Motion made by Commissioner Jerry Vap, 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.
- C-4612 In the Matter of the Application of Primus Telecommunications, Inc., McLean, Virginia, seeking approval of a transfer of control to PTUS, Inc., Cedar Rapids, Iowa: Motion made by Commissioner Rod Johnson, seconded by Commissioner Tim Schram, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.
- C-4614 In the Matter of the Application of Ionex Communications North, Inc. d/b/a Birch Communications, Atlanta, Georgia, seeking approval to transfer customers and assets from Lightyear Network Solutions, LLC, Louisville, Kentucky: Motion made by Commissioner Tim Schram, seconded by Commissioner Frank Landis, 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-4613 In the Matter of the Application of United Telephone Company of the West d/b/a CenturyLink, Denver, Colorado, seeking approval of Amendment No. 1 to the CMRS Interconnection Agreement with Alltel Communications, LLC d/b/a Verizon Wireless, Little Rock, Arkansas, previously approved in C-3278: Motion made by Commissioner Tim Schram, seconded by Commissioner Jerry Vap, to enter an order approving the application. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

C-4621/ NUSF-89 In the Matter of the Commission, on its own motion, seeking to conduct an inquiry into the operations of Telrite Communications d/b/a Life Wireless, an eligible telecommunications provider for the limited purpose of participating in the Lifeline program within the State of Nebraska, for violations of Commission Rules and Regulations regarding Lifeline in Nebraska: This matter was discussed on the Nebraska Telecommunication Infrastructure and Public Safety Department's agenda.

Gene Hand updated the Commission on the Connect America Fund (CAF) Phase 1 incremental support Frontier will be allocating to Nebraska.

Gene Hand reported that the U.S. Senate Committee on Commerce, Science and Transportation has scheduled a business meeting, including a vote on Tom Wheeler to become Chairman of the Federal Communications Commission (FCC).

Gene Hand reported that the Federal Communications Commission (FCC) will use 2013 HCLS benchmarking for another year (2014), allowing summing of the CapEx and OpEx caps.

Gene Hand presented a report on the National Association of Regulatory Utility Commissioners (NARUC) Summer Meeting in Denver, Colorado, from July 19-24, 2013.

TELECOMMUNICATIONS INFRASTRUCTURE AND PUBLIC SAFETY DEPARTMENT

911-042.57 In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to administer funding for public safety answering points for the implementation and provision of Enhanced Wireless 911 service: City of Alliance: Motion made by Commissioner Jerry Vap, seconded by Commissioner Tim Schram, to enter an order denying the use of funding. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

TELECOMMUNICATIONS INFRASTRUCTURE AND PUBLIC SAFETY DEPARTMENT (Cont.)

911-042.60 In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to administer funding for public safety answering points for the implementation and provision of Enhanced Wireless 911 service: Thayer County: Motion made by Commissioner Rod Johnson, seconded by Commissioner Frank Landis, to enter an order approving the use of funding. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

Sue Vanicek informed the Commission that the next Wireless E-911 Advisory Board Meeting will be held October 21, 2013 at 10:00 a.m. in the McCook Police Department Conference Room, 505 West C Street, McCook.

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: ATS Mobile Telephone, Credit Union Wireless and Nebraska Technology and Telecommunications, Inc: Sue Vanicek discussed the deviation of remittance audit language. Motion made by Commissioner Frank Landis, seconded by Commissioner Tim Schram, to accept the audit language as presented. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

NUSF-37.289 In the Matter of Sue Vanicek, Director of the Nebraska Telecommunications Infrastructure and Public Safety Department of the Nebraska Public Service Commission, Complainant, v. IDT America Corporation, Respondent: Motion made by Commissioner Jerry Vap, seconded by Commissioner Frank Landis, to enter an order dismissing the complaint. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

C-4621/  
NUSF-89 In the Matter of the Commission, on its own motion, seeking to conduct an inquiry into the operations of Telrite Communications d/b/a Life Wireless, an Eligible Telecommunications Provider for the limited purpose of participating in the Lifeline Program within the state of Nebraska, for violations of Commission Rules and Regulations regarding Lifeline in Nebraska: Motion made by Commissioner Jerry Vap, seconded by Commissioner Frank Landis, to enter a show cause order scheduling a hearing for August 27, 2013 at 1:30 p.m. in the Commission Hearing Room, Lincoln. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE. Commissioner Anne Boyle was appointed as Hearing Officer.

TELECOMMUNICATIONS INFRASTRUCTURE AND PUBLIC SAFETY DEPARTMENT (Cont.)

Sue Vanicek discussed the late-filed NUSF remittance worksheets: Motion made by Commissioner Tim Schram, seconded by Commissioner Rod Johnson, to levy late-fees against Hypercube Telecom, LLC and N.E. Colorado Cellular, Inc. and that complaints be opened against U.S. Telecom Long Distance, Inc. and Zito Midwest, LLC. Motion passed with Commissioners Boyle, Johnson, Landis, Schram and Vap voting AYE.

NATURAL GAS DEPARTMENT

NG-0013 PO #40 In the Matter of the Commission, on its own motion, to evaluate and establish, on a quarterly basis, an assessment for jurisdictional utilities pursuant to the State Natural Gas Regulation Act [LB 790, 2003]. Commissioner Frank Landis presiding as Hearing Officer: Motion made by Commissioner Frank Landis, seconded by Commissioner Rod Johnson, to enter Progression Order 40. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis and Tim Schram voting AYE.

NG-0072 CA-004 ES-004 In the Matter of SourceGas Distribution LLC, Golden, Colorado, seeking approval of an infrastructure system replacement cost recovery charge, pursuant to Sections 66-1865 and 66-1866 of the State Natural Gas Regulation Act. Commissioner Jerry Vap presiding as Hearing Officer: Motion made by Commissioner Jerry Vap, seconded by Commissioner Rod Johnson, to enter Assessment Orders CA-004 and ES-004. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis and Tim Schram voting AYE.

Laura Demman provided a report on NARUC activities.

RULES AND REGULATIONS

Rule and Regulation #183 In the Matter of the Commission, on its own motion, seeking to amend Title 291, Chapter 9, Natural Gas and Pipeline Rules and Regulations, to adopt rules regarding pipelines and to implement the provisions of the Major Oil Pipeline Siting Act. Commissioner Jerry Vap presiding as Hearing Officer: Nichole Mulcahy informed the Commission that this rule was signed by the Governor and became effective July 27, 2013.

Rule and Regulation #185 In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to amend Title 291, Chapter 11, Automatic Dialing-Announcing Devices Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 720 [2008] now codified in Neb. Rev. Stat. §§ 86-236 to 86-257 (Re-issue of 2008). Commissioner Tim Schram presiding as Hearing Officer: Motion made by Commissioner Tim Schram, seconded by Commissioner Frank Landis, to enter an order adopting the amended second set of proposed rules and issuing an amended Certificate of Adoption. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

RULES AND REGULATIONS (Cont).

Rule and In the Matter of the Commission, on its own motion, seeking  
Regulation to amend Title 291, Chapter 5, Telecommunications Rules and  
#186 Regulations, to adopt rules in accordance with the Nebraska  
Legislative Bill 715 [2012]. Commissioner Frank Landis  
presiding as Hearing Officer: Nichole Mulcahy informed the Commission  
that this rule was signed by the Governor and became effective  
July 21, 2013.

Rule and In the Matter of the Commission on its own motion, seeking  
Regulation to amend Title 291, Chapter 15, Enhanced 911 Rules and  
#188 Regulations, in accordance with Nebraska Legislative Bill  
1091 [2012]; to correct errors and make changes to reflect  
the current Commission orders and policies. Commissioner Jerry Vap  
presiding as Hearing Officer: Nichole Mulcahy informed the Commission  
that this rule was signed by the Governor and became effective  
July 22, 2013.

Rule and In the Matter of the Commission, on its own motion, seeking  
Regulation to amend Title 291, Chapter 14, Recreational Vehicles Rules  
#189 and Regulations, to adopt rules in accordance with Nebraska  
Legislative Bill 751. Commissioner Tim Schram presiding as  
Hearing Officer: Nichole Mulcahy informed the Commission that this  
rule was signed by the Governor and became effective July 27, 2013.

Rule and In the Matter of the Commission, on its own motion, seeking  
Regulation to amend Title 291, Chapter 5, Telecommunications Rules and  
#190 Regulations, to adopt rules in accordance with Nebraska  
Legislative Bill 1091 [2012] regarding electronic remit-  
tances. Commissioner Tim Schram presiding as Hearing Officer: This  
rule was signed by the Governor and became effective July 22, 2013.

Rule and In the Matter of the Commission, on its own motion, seeking  
Regulation to amend Title 291, Chapter 8 Grain Warehouse Rules and  
#191 Regulations, to update rules regarding grain warehouses,  
grain dealers and grain moisture meters: Motion made by  
Commissioner Jerry Vap, seconded by Commissioner Rod Johnson, to enter  
an order opening the docket, releasing the first set of proposed rules  
and seeking comments due September 13, 2013. Motion passed with Com-  
missioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry  
Vap voting AYE. Commissioner Jerry Vap was appointed as Hearing Offi-  
cer.

TRANSPORTATION DEPARTMENT

B-1841 In the Matter of Point to Point Charters, LLC, Lincoln, seeking authority as a common carrier in Nebraska intra-state commerce in the transportation of passengers by bus between points in Nebraska over irregular routes. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized. HHS Designation: No: Motion made by Commissioner Frank Landis, 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.

Rate Division

BR-426 In the Matter of Point to Point Charters, LLC, Lincoln, seeking to set its rates and charges: Motion made by Commissioner Frank Landis, seconded by Commissioner Tim Schram, to enter an order granting the application on an emergency basis. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.

BR-427 In the Matter of Black Out Party Bus, Lincoln, seeking to set its rates and charges: Motion made by Commissioner Frank Landis, seconded by Commissioner Tim Schram, to enter an order granting the application on an emergency basis. 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 fuel surcharge in Nebraska Official Goods Tariff 7F and Tariff 22: The Tariff 7F fuel surcharge was increased to \$1.14 per mile, and that Tariff 22 to \$7.88 per truck per trip. Commissioner Tim Schram presiding as Hearing Officer: The hearing previously scheduled for August 14, 2013 at 1:00 p.m. was moved to August 14, 2013 at 10:00 a.m. in the Commission Hearing Room, Lincoln.

HOUSING AND RECREATIONAL VEHICLES DEPARTMENT

Motion made by Commissioner Tim Schram, seconded by Commissioner Frank Landis, to enter orders opening dockets RVF-7, MODF-7, and MANF-6 and scheduling a hearing for August 20, 2013, at 11:00 a.m. in the Commission Hearing Room, Lincoln. Motion passed with Commissioners Anne Boyle, Frank Landis, Rod Johnson, Tim Schram and Jerry Vap voting AYE. Commissioner Tim Schram was appointed as Hearing Officer.

RVF-7 In the Matter of the Commission, on its own motion, seeking to determine the fees for the Recreational Vehicle Program.

HOUSING AND RECREATIONAL VEHICLES DEPARTMENT (Cont.)

- MODF-7 In the Matter of the Commission, on its own motion, seeking to determine the seal fee amount for the Modular Housing Program.
- MANF-6 In the Matter of the Commission, on its own motion, seeking to determine the seal fee amount for the Manufactured Home Program.

GRAIN WAREHOUSE DEPARTMENT

- GW-2061 In the Matter of Colon Elevator Co, Colon: John Fecht discussed a shortage of corn and soybeans.
- GW-2122 In the Matter of Carroll Feed and Grain Co., Carroll: John Fecht discussed a shortage of soybeans.
- GW-2134 In the Matter of Schaefer Grain and Feed, Inc., Plainview: John Fecht discussed a shortage of oats.
- GW-2136 In the Matter of Pierce Elevator, Inc., Pierce: John Fecht discussed a shortage of corn and soybeans.
- GW-2189 In the Matter of Bossen Livestock Company dba Bossen Feeding Company, Arcadia: John Fecht discussed a shortage of corn.

Grain Dealer Division

- GD-2930/  
GDC-437/  
GDC-440 In the Matter of John A. Fecht, Director, Warehouse Department, Nebraska Public Service Commission, Complainant v. George Pfeifer d/b/a George Pfeifer Trucking, Spencer, Respondent: Motion made by Commissioner Jerry Vap, seconded by Commissioner Tim Schram, to enter orders dismissing the complaints. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE.
- GDC-439 In the Matter of John A. Fecht, Director, Warehouse Department, Nebraska Public Service Commission, Complainant v. Frontier Trading, Inc., Roff, Oklahoma a/k/a Heartland-Frontier Trading Company and Frontier Trading Company, Respondent: John Fecht discussed the Hearing Officer order entered July 17, 2013 continuing the hearing previously scheduled for July 31, 2013 to August 28, 2013 at 10:00 a.m. in the Commission Hearing Room, Lincoln.



GENERAL ADMINISTRATION

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

AS Central Services-OCIO Network Services	\$	3,311.79
AS Personnel-SOS		2,542.29
AS Personnel-SOS		1,104.69
Anne Boyle		1,269.90
Rod Johnson		1,922.49
Frank Landis		1,244.32
Tim Schram		193.10
Gerald Vap		796.68

The following invoices were paid between July 17 and 29, 2013 and should be ratified:

Sprint Relay	\$	42,915.55
Anne Boyle		742.12

NEBRASKA EQUIPMENT DISTRIBUTION PROGRAM

Alternative Hearing	\$	618.86
Greatcall, Inc.		49.00
Weitbrecht Communications		167.40
Alternative Hearing		233.66
Beltone		1,484.64
ENT Physicians of Kearney		300.00
Glassman Hearing Aid Technology		225.00
The Hearing Clinic Inc.		358.46
Carl A. Johnson		411.24
League of Human Dignity		174.75
Professional Hearing-Aid Services		231.89
Sherard Hearing Aid Center		487.12
Teltex, Inc.		1,622.70
U-Save Pharmacy & Medical Supply		247.06
White's Hearing Aid Specialists		927.08

Motion made by Commissioner Tim Schram, seconded by Commissioner Frank Landis, to approve the Executive Director's recommendation to enter into closed session to discuss pending litigation. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE. The Commission entered into closed session at 10:50 a.m.

Nichole Mulcahy discussed pending litigation.

GENERAL ADMINISTRATION (Cont.)

Motion made by Commissioner Jerry Vap, seconded by Commissioner Frank Landis, to approve the Executive Director's recommendation to return to open session. Motion passed with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Tim Schram and Jerry Vap voting AYE. The Commission returned to open session at 11:00 a.m.

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The meeting adjourned at 11:00 a.m. with Commissioners Anne Boyle, Rod Johnson, Frank Landis, Gerald Vap and Tim Schram present. The next regularly scheduled meeting will be held on August 6, 2013 at 10:00 a.m. with an agenda to be available in the office of the Executive Director at 10:00 a.m. on August 5, 2013.

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Chair

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Executive Director