

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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Notice was duly published June 22, 2021 on page 8 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held on June 29, 2021 at 10:00 AM in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

Chair Dan Watermeier called the regularly scheduled meeting to order at 10:00 AM with Commissioners Rod Johnson, Mary Ridder, Tim Schram and Dan Watermeier present in the Commission Hearing Room, and Commissioner Crystal Rhoades present virtually. Chair Watermeier stated that a copy of the Nebraska Open Meetings Act is posted in the meeting room and invited the public to address the Commission. No public comments were received. No announcements were made.

Attention was called to the following proceedings:

Tuesday, July 13, 2021:

Commission Meeting

10:00 a.m. Commission Hearing Room

C-5236/ Communications Annual Report - **Hearing**
DC-99 11:00 a.m. - Commission Hearing Room and via WebEx
Commissioner Tim Schram - Hearing Officer

C-5272 Nebraska Broadband Bridge Act - **Hearing**
1:00 p.m. - Commission Hearing Room and via WebEx
Commissioner Mary Ridder - Hearing Officer

COMMUNICATIONS DEPARTMENT

C-5252 In the Matter of the Application of DCT Telecom Group, LLC, Cleveland, Ohio, and MBS Holdings, Inc., Atlanta, Georgia, seeking authority to obtain debt financing. Motion made by Commissioner Tim Schram, seconded by Commissioner Rod Johnson, to enter an Order granting the application. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

C-5257 In the Matter of the Application of LCR Telecommunications, LLC, Southfield, Michigan, seeking authority to withdraw its interexchange certificate of authority and cancel its tariff. Motion made by Commissioner Mary Ridder, seconded by Commissioner Tim Schram, to enter an Order granting application. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

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- C-5262 In the Matter of the Application of Marsha Barr, Liberty, seeking authority to receive advanced telecommunications capability service from the North Summerfield Exchange of Blue Valley Telecommunications, Inc. Motion made by Commissioner Mary Ridder, seconded by Commissioner Rod Johnson, to enter an Order granting application. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.
- C-5255 In the Matter of the Application of Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska, Mound, Minnesota, seeking approval of an Interconnection Agreement with Bandwidth.com CLEC, LLC, Raleigh, North Carolina. Motion made by Commissioner Rod Johnson, seconded by Commissioner Tim Schram, to enter an Order approving application. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.
- C-5258 In the Matter of the Application of Qwest Corporation dba CenturyLink QC, Denver, Colorado, seeking approval of a Resale Forbearance Amendment to their Interconnection Agreement with Nebraska Technology and Telecommunications, Inc., Omaha, Nebraska;
- C-5259 In the Matter of the Application of Qwest Corporation dba CenturyLink QC, Denver, Colorado, seeking approval of an FCC Modernizing Unbundling and Resale Requirements Amendment to its interconnection Agreement with Nebraska Technology and Telecommunications, Inc., Omaha, Nebraska;
- C-5260 In the Matter of the Application of Qwest Corporation dba CenturyLink QC, Denver, Colorado, seeking approval of an Unbundling Network Elements - Resale Forbearance Amendment to its interconnection agreement with Clear Rate Communications, Inc., Troy, Michigan;
- C-5261 In the Matter of the Application of Qwest Corporation dba CenturyLink QC, Denver, Colorado, seeking approval of an Unbundling and Resale Requirements Amendment to its interconnection agreement with Clear Rate Communications, Inc., Troy, Michigan;
- C-5264 In the Matter of the Application of Qwest Corporation dba CenturyLink QC, Denver, Colorado seeking approval of an FCC Modernizing Unbundling and Resale Requirements Amendment to its interconnection agreement with Glenwood Telecommunications, Inc., Blue Hill, Nebraska; and
- C-5265 In the Matter of the Application of Qwest Corporation dba CenturyLink QC, Denver, Colorado seeking approval of an Unbundled Network Elements and Resale Forbearance Amendment to its interconnection agreement with Glenwood Telecommunications, Inc., Blue Hill, Nebraska. Motion made by Commissioner Mary Ridder, seconded by Commissioner Tim Schram, to enter Orders approving applications C-5258, C-5259, C-5260, C-5261, C-5262, C-5264 and C-5265. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

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NUSF-37.392 In the Matter of Cullen Robbins, Director of the Nebraska Universal Service Fund Department of the Nebraska Public Service Commission, Complainant v. Spiral Communications LLC, Respondent. Motion made by Commissioner Rod Johnson, seconded by Commissioner Tim Schram, to enter an Order dismissing Complaint. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

NUSF-92, In the Matter of the Nebraska Public Service Commission, on PO #12 its own Motion, to administer the Nebraska Universal Service Fund Broadband Program. Motion made by Commissioner Mary Ridder, seconded by Commissioner Rod Johnson, to enter an Order Opening Application Window on July 23, 2021, closing September 1, 2021. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

NUSF-131 In the Matter of the Nebraska Public Service Commission, on its own Motion, to establish reverse auction procedures and requirements. Motion made by Commissioner Tim Schram, seconded by Commissioner Mary Ridder, to enter an Order opening docket, seeking comments due July 30, 2021, with reply-comments due August 13, 2021. A Hearing has been scheduled for August 31, 2021, at 1:30 p.m. in the Commission Hearing Room, Lincoln. Motion passed with Commissioners Rod Johnson, Mary Ridder, Tim Schram and Dan Watermeier voting AYE, and Commissioner Crystal Rhoades voting NAY.

NUSF-108, In the Matter of the Nebraska Public Service Commission, on PO #6 its own Motion, to make adjustments to its high-cost distribution mechanism and make revisions to its reporting requirement. Commissioner Ridder presiding as Hearing Officer. Cullen Robbins informed the Commission that a Hearing Officer's Order issuing a Protective Order was entered on June 22, 2021.

STATE 911 DEPARTMENT

911-042.43 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: Cedar County. Motion made by Commissioner Mary Ridder, seconded by Commissioner Rod Johnson to enter an Order approving the use of set-aside funds. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

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Director Dave Sankey recommended and sought Commission appointment of the members of the 911 Service System Advisory Committee to include Stuart DeLaCastro, Emergency Communications Director of Sarpy County as a County Official; Shelly Holzerland, Director of Communications of Fremont/Dodge County 911 as a Municipal Official; Brent Lottman, Sheriff of Nemaha County as the Sheriff PSAP Manager Representative; Neil Miller, Sheriff of Buffalo County as the Nebraska Association of County Officials Representative; Randy Obermier, Commissioner of York County as a Nebraska Association of County Officials Representative; Troy Shoemaker, Fire Chief of Alliance as the Fire Department Representative; Brian Thompson, Vice President of External Relations of Consolidated Companies as a Telecommunications Industry Representative; Jon Rosenlund, Emergency Management Director of Grand Island as the Emergency Manager Representative; Michael Bauer, Captain of Command Services Norfolk Police Department as the Law Enforcement Representative, Stan Shearer, EMS Omaha Fire Department as the Emergency Medical Services Representative; Carla Zarybnicky, Southeast 911 Communications Director as a City Official; Kathy Allen, Douglas County 911 Director as the PSAP Non-Sheriff Representative; Jon Osborne, CenturyLink as a Telecommunications Representative. Motion made by Commissioner Tim Schram, seconded by Commissioner Mary Ridder to approve appointments to the 911 Service System Advisory Committee. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

NATURAL GAS DEPARTMENT

NG-111.1/ In the Matter of the Commission, on its own motion, seeking
PI-237 to investigate the effect of the February 2021 cold weather event upon the cost of gas supply purchased by Nebraska gas utilities. Motion made by Commissioner Tim Schram, seconded by Commissioner Rod Johnson, to enter an order. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

P-12.32 In the matter of Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy, Rapid City, South Dakota, seeking to extend its service area for purposes of serving an Omaha Public Power District site in Sarpy County. Motion made by Commissioner Mary Ridder, seconded by Commissioner Tim Schram, to enter an order. Motion passed with Commissioners Rod Johnson, Mary Ridder, Tim Schram and Dan Watermeier voting AYE, and Commissioner Crystal Rhoades voting NAY.

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- NG-111/
PI-237 In the Matter of the Commission, on its own motion, seeking to investigate the effect of the February 2021 cold weather event upon the cost of gas supply purchased by Nebraska gas utilities.
- NG-111.1 Black Hills Nebraska Gas, LLC.
- NG-111.2 NorthWestern Energy. Motion made by Commissioner Tim Schram, seconded by Commissioner Mary Ridder, to enter assessment orders NG-111.1/BA-5, NG-111.1/BA-6 and NG-111.2/BA-7. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.
- NG-101 In the Matter of the Commission, on its own motion, opening an investigatory docket for the purpose of general monitoring of issues regarding the natural gas industry and jurisdictional utilities in Nebraska.
- NG-101.1 Black Hills/Nebraska Gas Utility Company, LLC, and Black Hills Gas Distribution, LLC, d/b/a Black Hills Energy.
- NG-101.2 NorthWestern Corporation d/b/a NorthWestern Energy. Nichole Mulcahy informed the Commission that the next quarterly status meeting for Black Hills will be Tuesday, July 27, 2021, at 2:30 p.m. and NorthWestern will be Wednesday, July 28, 2021, at 2:00 p.m.

TRANSPORTATION DEPARTMENT

- B-1761 In the Matter of the Nebraska Public Service Commission, on its own motion, seeking revocation of the Certificate of Public Convenience and Necessity issued to Limousine Services, LLC, Omaha, in Docket No. B-1761;
- B-1794 In the Matter of the Nebraska Public Service Commission, on its own motion, seeking revocation of the Certificate of Public Convenience and Necessity issued to Big O's Party Bus, LLC, Columbus, in Docket No. B-1794;
- B-2013 In the Matter of the Nebraska Public Service Commission, on its own motion, seeking revocation of the Certificate of Public Convenience and Necessity issued to Premier Limousine, LLC, Kearney, in Docket B-2013; and
- M-14224 In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to revoke the Certificate of Public Convenience and Necessity issued to Daniel's Moving and Storage of Omaha, LLC, Phoenix, Arizona, in Docket No. M-14224. Motion made by Commissioner Tim Schram, seconded by Commissioner Mary Ridder, to enter an Order revoking Certificate Numbers B-1761, B-1794, B-2013, and M-14224. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

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B-1864 In the Matter of the Application of Smiley's, Winslow, Nebraska, seeking cancellation and revocation of its Certificate of Public Convenience and Necessity issued in Docket No. B-1864. Motion made by Commissioner Rod Johnson, seconded by Commissioner Mary Ridder, to enter an Order granting the cancellation of Certificate Number B-1864. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

B-2018 In the Matter of the Application of Compassion Care Senior Services, LLC d/b/a Compassion Care Medical Transport, Omaha, seeking to extend its authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers by sedan, van, and SUV in open class service between points in Lancaster and Saunders counties, and between said counties, over irregular routes. RESTRICTIONS: HHS Designation: No. Motion made by Commissioner Tim Schram, seconded by Commissioner Rod Johnson, to enter an Order granting application. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

MR-1024 In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to prescribe rates and charges under the Omaha Area Flat Rate System for motor carriers providing passenger transportation in taxi service between Omaha Eppley Airfield and Omaha area hotels and motels. Motion made by Commissioner Mary Ridder, seconded by Commissioner Tim Schram, to enter an Order opening docket and publishing flat rate schedule. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

MR-1025/
PI-238 In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to investigate the use of differential rates and charges by motor carriers providing intrastate passenger transportation services. Motion made by Commissioner Tim Schram, seconded by Commissioner Mary Ridder, to enter an Order opening docket and setting hearing. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier voting AYE.

GRAIN WAREHOUSE DEPARTMENT

GW-19 etal In the Matter of the attached list of completed list of warehouse license renewals for the 2nd quarter of 2021. Terri Fritz reported on the 2nd quarter grain warehouse renewal list.

GW-615 In the Matter of Oshkosh Grain, Inc., Oshkosh, Nebraska: Terri Fritz reported on shortage of corn and wheat.

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GD-3047 In the Matter of the Application of GreenAmerica Biofuels Ord, LLC, Knoxville, Tennessee, seeking authority to operate as a grain dealer pursuant to Neb. Rev. Stat. § 75-903 Reissue 2018). Motion made by Commissioner Mary Ridder, seconded by Commissioner Tim Schram to enter an order granting application. Motion passed with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram, and Dan Watermeier voting AYE.

GD-19 etal In the Matter of the attached list of completed list of dealer license renewals for the 2nd quarter of 2021. Terri Fritz reported on the 2nd quarter grain dealer renewal list.

GENERAL ADMINISTRATION

To authorize Commissioner Tim Schram to travel to and attend the National Association of Regulatory Utility Commissioners (NARUC) Summer Policy Summit on July 20, 2021, in Denver, Colorado, with all expenses to be paid by the Commission. Motion made by Commissioner Rod Johnson, seconded by Commissioner Mary Ridder. Motion passed with Commissioners Rod Johnson, Mary Ridder, Tim Schram and Dan Watermeier voting AYE, and Commissioner Crystal Rhoades present not voting.

To authorize Commissioner Dan Watermeier to travel to and attend the National Association of Regulatory Utility Commissioners (NARUC) Summer Policy Summit from July 18, 2021, to July 21, 2021 in Denver, Colorado, with all expenses to be paid by the Commission. Motion made by Commissioner Tim Schram, seconded by Commissioner Rod Johnson. Motion passed with Commissioners Rod Johnson, Mary Ridder, Tim Schram and Dan Watermeier voting AYE, and Commissioner Crystal Rhoades present not voting.

To authorize Commissioner Crystal Rhoades to travel to and attend the National Association of Regulatory Utility Commissioners (NARUC) Summer Policy Summit from July 18, 2021 to July 22, 2021, in Denver, Colorado, with expenses to be reimbursed by NARUC. Motion made by Commissioner Rod Johnson, seconded by Commissioner Tim Schram. Motion passed with Commissioners Rod Johnson, Mary Ridder, Tim Schram and Dan Watermeier voting AYE, and Commissioner Crystal Rhoades present not voting.

Executive Director's recommendation to enter into an Interagency Agreement for Services with the Nebraska Department of Justice. Motion made by Commissioner Mary Ridder, seconded by Commissioner Rod Johnson. Motion passed with Commissioners Rod Johnson, Mary Ridder, Tim Schram and Dan Watermeier voting AYE, and Commissioner Crystal Rhoades voting NAY.

Commissioner Crystal Rhoades asked that the following be added to the minutes:

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I object to paying the Attorney General's office for services they are already legally required to provide, and for which they have already been paid via appropriation from the legislature. The Attorney General is a high executive office created by the Nebraska Constitution to provide legal services and representation to every state agency on behalf of the people of Nebraska. Neb. Const. art. IV, sec. 1. The Attorney General operates what is essentially a huge law firm, known as the Department of Justice, which receives millions in legislative appropriations. See, Neb. Rev. Stat. § 84-201.

Nonetheless, the Attorney General's office demands that the Public Service Commission sign a contract of adhesion each biennium that requires us to pay tens of thousands of dollars annually to provide "timely" services that the legislature has already paid them for.

Maybe this is appropriate for code agencies under the Governor's control, who would not otherwise be able to call on the AG's office for assistance. But the Public Service Commission is a constitutional agency established by the Nebraska Constitution, and the Attorney General has a specific job duty in statute to "give such advice as the commission may require and perform such other services within the line of duty as the commission may require." Neb. Rev. Stat. § 75-108. When a petition is filed to enforce a Commission order, statute requires that "the Attorney General shall prosecute the petition at the request of the commission, and the costs and expenses on the part of the commission of any such prosecution shall be paid out of the appropriations for the expenses of the commission." Neb. Rev. Stat. § 75-141. The Attorney General is also legally required "to give, when required, without fee, his or her opinion in writing upon all questions of law" to the Public Service Commission. Neb. Rev. Stat. § 86-205(4) (emphasis added).

Perhaps it would be worthwhile if the contract with the Attorney General's office ensured the Commission access to a preferred attorney, however that is not laid out in the agreement and thus is not guaranteed, which begs the question as to whether this agreement is enforceable.

Inevitably, some NUSF funds will be allocated to pay the cost of this agreement, even though some or all of the legal services provided may be completely unrelated to NUSF. This is probably improper and possibly illegal, as the statutes related to NUSF do not permit us to use the funding for litigation costs not related to NUSF. See, Neb. Rev. Stat. § 86-324.

We should not be paying the Attorney General's office for services they are already obligated to provide. Therefore, I would reject this agreement.

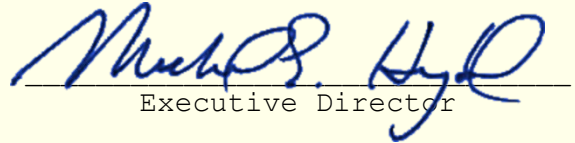
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The meeting adjourned at 10:45 AM with Commissioners Rod Johnson, Crystal Rhoades, Mary Ridder, Tim Schram and Dan Watermeier present. The next regularly scheduled meeting will be held on July 13, 2021 at 10:00 AM with an agenda to be available in the office of the Executive Director at 10:00 AM on July 12, 2021.

Chair



Executive Director