BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, seeking to amend Title 291, Chapter 5, Telecommunications Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 723 [2010].	)	RULE AND REGULATION NO. 181 ORDER OPENING DOCKET, RELEASING PROPOSED RULES, SEEKING COMMENT, AND NOTICE OF HEARING Entered: June 14, 2011

BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

The Nebraska Public Service Commission (Commission), on its own motion, hereby opens this proceeding to amend Title 291, Chapter 5, Telecommunications Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 723 passed in 2010 by the Nebraska Legislature regarding the Telephone Relay System (TRS) program. Under the provisions of LB 723, the specific requirement that all carriers remit the TRS surcharge on a monthly basis was removed, giving the Commission the ability to define the TRS collection and remittance procedures through the rule and regulation process.

Accordingly, the Commission opens this rulemaking proceeding and releases proposed amendments, which are set forth in the Appendix, incorporated herein by this reference.

Comments on the proposed amendments shall be filed by interested parties on or before **3:00 p.m., July 15, 2011.** Parties filing comments should file one original with five (5) paper copies and one (1) electronic copy emailed to **deena.ackerman@nebraska.gov and nichole.mulcahy@nebraska.gov**.

The Commission finds that this matter should be set for hearing on **Tuesday, August 2, 2011, at 1:30 p.m.** in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Commission at (402) 471-0213 (TDD) or the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven days is needed when requesting an interpreter.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that this rulemaking amending Title 291, Chapter 5, Telecommunications Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 723 passed in 2010 by the Nebraska Legislature regarding the Telephone Relay System (TRS) program be, and it is hereby, open for public comment.

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IT IS FURTHER ORDERED that interested parties file comments on or before **3:00 p.m., July 15, 2011**. Parties filing comments should file one original with five (5) paper copies and one (1) electronic copy emailed to **deena.ackerman@nebraska.gov and nichole.mulcahy@nebraska.gov**.

IT IS FURTHER ORDERED that this matter be set for hearing on, **Tuesday, August 2, 2011, at 1:30 p.m.** in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 14th day of June, 2011.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

//s//Frank E. Landis
//s//Tim Schram

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APPENDIX

Amendments to Nebraska Administrative Code, Title 291, Chapter 5, Telecommunications Rules and Regulations:

010 NEBRASKA TELECOMMUNICATIONS RELAY SYSTEM:

010.01 Purpose: Provide a statewide telecommunications relay system and a statewide voucher program for the provision of specialized telecommunications equipment for qualified deaf, hard of hearing, or speech-impaired persons in Nebraska which enables them to communicate twenty-four (24) hours per day, seven (7) days per week, including holidays, with other persons who use conventional telephone systems.

010.02 Statutory Authority: This section is adopted pursuant to the Telecommunications Relay System Act.

010.03 Scope: Any person using NTRS shall not be charged for access to such system other than charges billed for in-state and out-of-state long-distance telephone service. NTRS shall at a minimum provide statewide in-state calls with charges for long-distance calls billed to the person making the call in a manner which the Commission determines will recover the cost of long-distance calls to the system; out-of-state calls with charges billed to the person making the call; and emergency calls.

010.04 Commission Authority: Procedures involving the administration of NTRS shall be governed by the Nebraska Telecommunications Relay System Rules and the Rules of Commission Procedure unless otherwise prescribed by order of the Commission. The Commission may enter into contracts with other agencies or private organizations to operate NTRS and NSTEP.

010.04A Administrative Fines: The Commission may administratively fine pursuant to Neb. Rev. Stat. Section 75-156 any person who violates the TRS Act.

010.05 Forms: The Commission will specify, by order, the manner in which information shall be filed with the Commission. Upon a showing of good cause, the Program Administrator may accept information filed in a manner other than prescribed in a Commission order.

010.06 Telecommunications Relay Surcharge: Each telephone company in Nebraska shall collect from each of the telephone subscribers with a surcharge not to exceed twenty (20) cents per month on each telephone number or functional equivalent in Nebraska, including wireless service.

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010.06A Relay Surcharge Shown on Subscriber Bills: The surcharge shall appear as a separate line-item charge on the subscriber's billing statement and shall be labeled as "Telecomm Relay Surcharge" or "Relay Surcharge".

010.06B Annual Surcharge Rate Determination:

010.06B1 Public Hearing: Before April 1 of each year the Commission shall hold a public hearing to determine the amount of surcharge necessary to carry out the provisions of the TRS Act.

010.06B2 Rate: After such hearing as required in Section 010.06B1, the Commission shall set the surcharge at the level necessary to fund the statewide NTRS and NSTEP for the following year plus a reasonable reserve.

010.06B3 Effective Dates: The surcharge set pursuant to 010.06B1 and 010.06B2 shall become effective for the next fiscal year beginning July 1.

010.06B4 Limitation: The surcharge rate shall not exceed twenty cents ($0.20) per month on each telephone number or functional equivalent in Nebraska, including wireless service. The surcharge shall only be collected on the first one hundred (100) telephone numbers or functional equivalent, per subscriber. The companies shall add the surcharge to each subscriber's local telephone bill.

010.06B5 Emergency Rate Setting: In an emergency the Commission may adjust the amount of the surcharge after a public hearing for such purpose.

010.06C Nebraska Telecommunications Relay System Fund: The fund shall consist of the surcharges credited to the fund, any monies appropriated by the Legislature, any federal funds received for telecommunications relay systems, and any other funds designated for credit to the fund.

010.07 Remittance:

010.07A Filing Requirements: The proceeds from the surcharge shall be remitted to the Commission ~~monthly~~ no later than thirty (30) days after the end of the remittance period ~~month~~ in which they were collected together with the forms approved by the Commission. In the event the thirtieth (30th) day falls on a weekend or holiday, the remittance form and surcharge proceeds shall be due on the next business day.

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010.07B Filing Options:

010.07B1 Monthly: Telephone companies shall remit the TRS surcharge on a monthly basis to the TRS Fund except as provided in sections 010.07B2 and 010.07B3.

010.07B2 Quarterly: A telephone company whose monthly remittance amount is less than twenty-five dollars ($25) may elect to remit on a quarterly basis.

010.07B3 Annually: A telephone company whose monthly remittance amount is less than twenty-five dollars ($25) may elect to remit on an annual basis. The period for annual remittances shall run July 1 through June 30, with the surcharge remittance due on July 30 annually.

010.07B4 Filing Election: A telephone company whose monthly remittance amount is less than twenty-five dollars ($25) must notify the Commission in writing of its election to remit quarterly or annually prior to the remittance period.

010.07C Remittance by Commission: The Commission shall remit the proceeds from the surcharge to the State Treasurer for credit to the Fund. **Previously numbered 010.07B**

010.07D Audits: The Commission may require an audit of any telephone company collecting the surcharge pursuant to the TRS Act. **Previously numbered 010.07C**

010.08 Adequacy of Service:

010.08A The vendor shall ensure that, except during network failure, at least ninety percent (90%) of all calls are answered by the relay center within ten (10) seconds from the time the call enters the TRS system during all times of the day and at least ninety-five percent (95%) of all calls are answered within ten (10) seconds for the month by any method which results in the caller's call immediately being placed, not put in a queue or on hold.

010.09 Directory Requirements: Telephone companies shall provide printed information in telephone directories at no charge regarding relay services.

010.09A Required Information: The information listed in telephone directories shall contain information on the following:

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010.09A1 Connecting to the relay, including a reference to 711 dialing;

010.09A2 Access numbers, including but not limited to TTY, Voice, ASCII, Fast ASCII, Speech to Speech, Spanish and Customer Service;

010.09A3 A reference to the NSTEP program including contact numbers for the PSC and the Nebraska Commission for the Deaf and Hard of Hearing and application information.

010.10 Notification: Telephone companies shall inform their subscribers of the availability of relay services through a bill insert or other prominent bill message on an annual basis.

010.11 Nebraska Specialized Telecommunications Equipment Program (NSTEP):

010.11A Eligibility: To qualify for NSTEP applicants must meet ALL of the following eligibility requirements:

010.11A1 Applicant is deaf, hard of hearing, speech-impaired, or dual-disabled and as a result of such impairment is unable to use a conventional telephone effectively.

010.11A2 Applicant is at least three (3) years of age or older and able to demonstrate the requisite skill to operate STE.

010.11A3 Applicant currently has telephone service or has applied for telephone service in the state of Nebraska at their primary place of residence.

010.11A4 Applicant is a resident of the state of Nebraska.

010.11A5 Applicant has not applied for NSTEP within the past five (5) years.

010.11A6 At the time of application, no other resident of applicant's household has STE in his or her possession.

010.11A7 Applicant has obtained a professional certification of the qualifying disability or disabilities as prescribed by the Commission.

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010.11B Equipment Selection: Except as provided in Section 010.11C, applicants may only choose one piece of STE and/or one telephone signaling device per household. A list of eligible equipment categories may be obtained from the Commission upon request.

010.11C Dual-Disabled Applicants: Dual-Disabled applicants desiring specialized equipment with further adaptive equipment for dually-disabled individuals shall complete a supplemental application form including certification from a qualified profession of applicant's dual-disability status and need for further adaptive equipment. Supplemental applications shall be available from the Commission upon request.

010.11D Voucher Procedure:

010.11D1 Once the Program Administrator receives a completed application form and verifies that all eligibility requirements have been met, the Program Administrator will issue a NSTEP voucher.

010.11D2 Applicant, or in the case of a minor, applicant's parent or guardian, shall sign the NSTEP voucher on line marked "Applicant's Verification."

010.11D3 Applicant shall deliver the signed voucher to the vendor from whom the applicant is purchasing the STE.

010.11E Reapplying: Reapplication for NSTEP is allowed only when one of the following requirements is satisfied.

010.11E1 Applicant has not received any STE in the five years previous to the date on the current application.

010.11E2 Applicant's medical condition has changed to such an extent that different equipment is required. Special approval is required to reapply under this section from the Nebraska Commission for the Deaf and Hard of Hearing.

010.11E3 The Commission or Program Administrator may waive the requirements of section 010.11E1 upon a showing of need by the applicant or upon request from the Nebraska Commission for the Deaf and Hard of Hearing.

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010.11F Vendors:

010.11F1 Participating Vendors: Only vendors recognized by the Commission as "Participating Vendors" will be eligible for reimbursement under NSTEP.

010.11F2 Application Process: Any vendor desiring to be recognized as a Participating Vendor in NSTEP shall submit the following: a completed application form; a return and exchange policy statement; a price list; and a statement that the vendor has read and agrees to adhere to the Commission's Rules and Regulations governing NSTEP. Participating Vendor application forms shall be available from the Commission upon request.

010.11F3 Approved Equipment List: The Commission shall maintain an approved equipment list that will be made available upon request. Vendor invoices submitted for payment of equipment not on the approved equipment list will not qualify for reimbursement.

010.11F4 Payment Authorization: Except as provided in Section 010.11F8, payment for equipment submitted under NSTEP shall be subject to the maximum allowable expense per applicant as determined by the Commission. Any costs incurred by the applicant in excess of the maximum allowable expense per applicant are the responsibility of the applicant. Setup costs shall not be included in the calculation of the maximum allowable expense per applicant.

010.11F5 Product Knowledge: Vendors shall maintain reasonable knowledge of all products being offered that qualify for reimbursement under NSTEP.

010.11F6 Vendor Payment: To receive payment under NSTEP, vendors shall submit voucher forms received from applicants along with an itemized invoice of applicant's purchase(s) to the Commission.

010.11F7 Setup Costs: If the applicant requests setup services from the vendor, the vendor may request reimbursement for the actual setup costs from NSTEP. The vendor may submit the actual costs of setup to the Commission on the same invoice as the equipment sale.

010.11F8 Special Authorization: If the applicant is determined to be dually-disabled, the maximum allowable expense per applicant pursuant to Section 010.11F4 does not apply.

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010.11G Applicant Responsibilities:

010.11G1 Maintenance: Any costs for general and regular servicing or maintenance of equipment purchased under NSTEP is the responsibility of the applicant.

010.11G2 Repairs: Any costs for repair of equipment purchased under NSTEP, regardless of whether said equipment is under warranty, is the responsibility of the applicant.

010.11G3 Warranties, Extended Warranties: Any costs associated with warranty provisions for repairs of any equipment purchased under NSTEP is the responsibility of the applicant. Any costs associated with purchasing warranties and/or extended warranties on equipment purchased under NSTEP are the responsibility of the applicant.

010.11G4 Structural Modifications: Any costs associated with structural modifications of existing structures necessary for NSTEP equipment operation is the responsibility of the applicant.

010.12 Telecommunications Relay System Advisory Committee: The Commission shall solicit advice on the administration of NTRS from the Telecommunications Relay System Advisory Committee. Such Committee shall be formed pursuant to the TRS Act.

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