

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on) RULE AND REGULATION NO. 186
its own motion, seeking to amend)
Title 291, Chapter 5, Telecommuni-) ORDER RELEASING SECOND SET OF
cations Rules and Regulations, to) PROPOSED RULES AND NOTICE OF
adopt rules in accordance with) HEARING
Nebraska Legislative Bill 715)
[2012].) Entered: December 18, 2012

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) opened the above-captioned proceeding to amend Title 291, Chapter 5, Telecommunications Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 715 passed in 2012 by the Nebraska Legislature regarding the regulation of boundaries of local exchange carriers. Under the provisions of LB 715, the Legislature added provisions related to advanced telecommunications capability service, adding consideration of the provision of such advanced services when application for a change in the boundaries of local exchange carriers is received by the Commission.

The Commission released a first set of proposed rules and requested comments from interested parties. Comments were timely received from the Rural Independent Companies (RIC) and Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink (CenturyLink). Based upon the comments received, revisions to the proposed rules have been made and a Second Set of Proposed Rules and Regulations attached hereto as Appendix is released for comment.

Changes made to the First Set of Proposed Rules and Regulations originally released on September 25, 2012, include additional language in section 002.26C clarifying the notice to affected companies and additional language in section 002.26.C1 clarifying the requirement of written notification of consent to a proposed boundary change application.

Accordingly, the Commission releases a second set of proposed rules, which are set forth in the Appendix, incorporated herein by reference.

Comments on the proposed rules as amended shall be filed by interested parties on or before **3:00 p.m., January 18, 2013**. Parties filing comments should file one (1) original with five (5) paper copies and one (1) electronic copy in Word format emailed to deena.ackerman@nebraska.gov and nichole.mulcahy@nebraska.gov.

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The Commission finds that this matter should be set for hearing on **Tuesday, January 29, 2013, at 2:00 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 a second set of proposed rules are released for comment. Interested parties shall file comments on or before **3:00 p.m., January 18, 2013.** Parties filing comments should file one original with five (5) paper copies and one (1) electronic copy in Word format emailed to deena.ackerman@nebraska.gov and nichole.mulcahy@nebraska.gov.

IT IS FURTHER ORDERED that this matter be set for hearing on **Tuesday, January 29, 2013, at 2:00 p.m.** in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 18th day of December, 2012.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Tom Schram
Dave Boyle
Gerald L. Up

//s//Rod Johnson
//s//Frank E. Landis

Chairman

Rod Johnson

ATTEST:

John Barvackis

Deputy Director

APPENDIX

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

Add the following new rule and renumber remaining rules in Section 002 accordingly:

002.26 Exchange Boundary Changes:

002.26A For purposes of this section advanced telecommunications capability service means high-speed, broadband telecommunications capability provided by a local exchange carrier that enables users to originate and receive high-quality voice, data, graphics, and video communications using any technology.

002.26B Any person may file an application with the Commission to obtain advanced telecommunications capability service furnished by a telecommunications company in the local exchange area adjacent to the local exchange area in which the applicant resides.

002.26C The Commission shall serve upon each telecommunications company directly affected by the application a copy of the application. In the event both telecommunications companies directly affected do not consent to the application, a hearing shall be scheduled and notice of the hearing shall be sent to each affected telecommunications company at least thirty (30) days prior to the hearing on the application.

002.26C1 Any telecommunications company directly affected by the application shall, within thirty (30) days of receiving notice pursuant to section 002.26C, notify the Commission in writing whether or not the telecommunications company consents to the application.

002.26D If an application for the revision of an exchange service area includes more than one customer in a particular exchange, the Commission shall consider the circumstances of each customer and the impact to the obligations of any affected telecommunications company which has not consented to the application.

002.26E Upon the completion of the hearing on such an application made pursuant to section 002.26C, if a hearing is required, the Commission may grant the application, in whole or in part, if the evidence establishes the following:

002.26E1 That such applicant is not receiving, and will not within a reasonable time receive, reasonable advanced telecommunications capability service from the telecommunications company which furnishes telecommunications service in the local exchange area in which the applicant resides;

002.26E2 That the revision of the exchange service area required to grant the application is economically sound, will not impair the capability of any telecommunications company affected to serve the remaining subscribers in any affected exchanges, and will not impose an undue and unreasonable technological or engineering burden on any affected telecommunications company; and

002.26E3 That the applicant is willing and, unless waived by the affected telecommunications company, will pay such construction and other costs and rates as are fair and equitable and will reimburse the affected telecommunications company for any undepreciated investment in existing property as determined by the commission.

002.26E4 The amount of any payment by the applicant for construction and other costs associated with providing service to the applicant pursuant to section 002.26E3, may be negotiated between the applicant and the affected telecommunications company.

002.26F In the event the Commission lawfully grants an application pursuant to section 002.26E, the telecommunications company ordered to provide the advanced telecommunications capability service shall be issued a certificate of convenience and necessity to serve that area added to its local exchange area by the Commission, if necessary.

002.26G The Commission shall set the date when the service granted shall take effect and, in doing so, shall take into consideration any construction or major repair which will be required of the telecommunications company involved.

002.26H If the Commission refuses to grant an application made pursuant to section 002.26B, no new application for the same advanced telecommunications capability service shall be filed or shall be considered by the Commission until one year has elapsed after the date of mailing of the Commission order.

Make the following changes to Section 003.01C.

003.01C The following subsections of the preceding section in this chapter shall apply to interexchange carriers with the terms "exchange carrier", "access line service", and "central office" replaced by "interexchange carrier", "interexchange service" and "switching office" respectively if the service is provided as a common carrier. If the interexchange service is provided as a contract carrier, the contract shall govern the terms and conditions, if any, of the subsections below apply:

<u>002.02</u>	Adequacy of Service
<u>002.03</u>	Interruptions of Service
<u>002.05</u>	Emergency Operations and Power
<u>002.08</u>	Maintenance Program
<u>002.09</u>	Operator Rules
<u>002.11</u>	Answering Time Objectives
<u>002.15</u>	Application for Service
<u>002.16</u>	Refusal of Service and Disconnection
<u>002.17</u>	Customer Billing
<u>002.19</u>	Rules Governing Credit and Deposits
<u>002.23</u>	Records
<u>002.26</u>	
<u>002.27</u>	Transfer of Ownership of Exchange Carriers of their Properties
<u>002.3132</u>	Rate Regulation