

NEBRASKA ADMINISTRATIVE CODE

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TITLE 291 - NEBRASKA PUBLIC SERVICE COMMISSION

CHAPTER 10 - NEBRASKA UNIVERSAL SERVICE FUND RULES AND REGULATIONS

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001 GENERAL:

001.01 Definitions: As used in this chapter, unless the context otherwise requires, the following definitions shall apply:

001.01A Access Service: The offering of access to exchange services or facilities for the purpose of the origination or termination of interexchange services.

001.01B Access Charge Pass-Through: Changes in charges for interexchange services that correspond to changes in charges for access services ordered by the Commission pursuant to Neb. Rev. Stat. Section 75-609(2) (Reissue 1996).

001.01C Assessable Revenue: Revenues defined by Commission Rule to be subject to the Nebraska Universal Service Fund surcharge. The Commission may, on an interim basis, designate services to be subject to the NUSF surcharge by order until such time as a rulemaking can be completed.

001.01D Basic Local Exchange Service: The origination, termination, and transmission of two-way switched voice telecommunications or its functional equivalent within a local exchange area, excluding extended area service(s).

001.01E Benchmark Price: The target price for a telecommunications service as determined by Commission order.

001.01F Commission: The Nebraska Public Service

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Commission.

001.01G Connection Charges: Charges assessed for commencing services including any charges that a telecommunications company automatically assesses to provide subscribers with telecommunications services.

001.01H Department: The Department established within the Commission for the administration of the Nebraska Universal Service Fund.

001.01I Director: The Director of the Department established within the Commission for the administration of the Nebraska Universal Service Fund.

001.01J Extended Area Service: A telecommunications service which groups two or more local exchange areas for the origination, termination, and transmission of two-way switched voice telecommunications or its functional equivalent without an interexchange toll charge or an optional enhanced area calling plan that has been found acceptable by the Commission.

001.01K Federal Act: The federal Communications Act of 1934, as amended, including the federal Telecommunications Act of 1996, Public Law 104-104.

001.01L Fiscal Year: The period from July 1 of one year to June 30 of the following year.

001.01M Interexchange Service: Telecommunications service between points in different local exchange areas.

001.01N Local Exchange Area: A geographical area established by a telecommunications company for the

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administration of telecommunications services for purposes of the NUSF, generally encompassing a city, town, or village and its environs approved by the Commission.

001.01O Nebraska Eligible Telecommunications Carrier (NETC): A telecommunications company specifically designated by Commission order to receive support from the Nebraska Universal Service Fund consistent with the Federal Act and State Law.

001.01P Nebraska Universal Service Fund (NUSF): The Nebraska Telecommunications Universal Service Fund as described in Neb. Rev. Stat. Section 86-1401 et. seq. and administered in accordance with the Commission rules and regulations and Commission orders.

001.01Q NUSF Surcharge: The NUSF surcharge set annually by Commission order pursuant to Neb. Rev. Stat. 86-1409.

001.01R Service Area: A geographic area designated by the Commission in which an NETC must provide service.

001.01S Subscriber: Any person, firm, partnership, corporation, limited liability company, municipality, cooperative, organization, governmental agency or any other entity provided with telecommunications service by a telecommunications company.

001.01T Support Area: A geographic area within a service area designated by the Commission in which an NETC receives a specific level of NUSF support.

001.01U Supported Service: A telecommunications service, excluding interexchange service and extended area

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service, designated by Commission Rule for which an NETC providing such service may receive support from the NUSF. The Commission may, on an interim basis, in accordance with Commission rules and regulations, designate a supported telecommunications service by order until such time as a rulemaking can be completed.

001.01V Telecommunications: The transmission, between or among points specified by the subscriber, of information of the subscriber's choosing, without a change in the form or content of the information as sent or received.

001.01W Telecommunications Company: Any natural person, firm, partnership, limited liability company, corporation, or association entity offering telecommunications service for hire in Nebraska intrastate commerce without regard to whether such company holds a certificate or permit from the Commission.

001.01X Telecommunications Service: The offering of telecommunications for a fee.

001.02 Procedures involving the administration of the NUSF shall be governed by the Nebraska Universal Service Fund Rules and the Rules of Commission Procedure unless otherwise prescribed by order of the Commission.

001.03 The Commission will specify, by order, the manner in which information shall be filed with the Department. Upon a showing of good cause, the Director may accept information filed in a manner other than prescribed in a Commission order.

002 COLLECTION OF THE NUSF SURCHARGE:

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002.01 Assessable Revenue: The NUSF surcharge shall be assessed on all end-user telecommunications services provided in Nebraska intra-state commerce.

002.01A The NUSF surcharge shall be assessed on telecommunications services in accordance with Commission rules and regulations and Commission orders.

002.01B Specific Categories of Telecommunications Service subject to the NUSF Surcharge:

002.01B1 Local Exchange Service:

002.01B1a Charges for monthly service, local calling, extended area service or its functional equivalent, connection charges, vertical features and other local exchange service.

002.01B1b Local private line and special access service.

002.01B1c Other local exchange service revenues not explicitly excluded in Rule 002.01D.

002.01B2 Mobile Radio Services, Radio Paging Services and Wireless Telecommunications Services:

002.01B2a Monthly service and activation charges.

002.01B2b Message charges including roaming, but excluding toll charges.

002.01B2c All other mobile radio

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service, radio paging service and wireless telecommunications service revenues not explicitly excluded in Rule 002.01D.

002.01B3 Interexchange Services:

002.01B3a Prepaid calling card (including card sales to customers and non-carrier distributors) reported at face value of cards.

002.01B3b Operator and toll calls with alternative billing arrangements (credit card, collect, call-back, etc).

002.01B3c Ordinary interexchange (direct dialed MTS, customer toll-free 800/888 service, "10-10" calls, associated monthly account maintenance, etc).

002.01B3d Interexchange private line services.

002.01B3e All other interexchange services not explicitly excluded in Rule 002.01D.

002.01C Hotels, Motels and Other Entities:

002.01C1 The NUSF surcharge shall be assessed on charges made to hotels, motels and other entities for telecommunications services that may be re-billed by the customer to another party.

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002.01D Excluded Services:

002.01D1 Interstate Telecommunications Services:

The NUSF surcharge shall not be assessed on interstate telecommunications services. Interstate telecommunications services include Federal Subscriber Line Charges (SLC), Primary Interexchange Carrier Charges (PICC), Number Portability Surcharges, and similar federal charges and surcharges.

002.01D1a Joint Use Services: In cases where a charge is made for both intrastate and interstate telecommunications service, and the interstate telecommunications service is not charged separately or cannot be readily determined, the NUSF surcharge shall apply to the total charge, except as provided in Rule 002.01D1b.

002.01D1b Allocation Factor: When the intrastate portion of a joint use service charge cannot be determined or if such determination would result in an undue administrative burden, a telecommunications company may request that the Commission approve an allocation factor to determine the intrastate portion of the service or may adopt any relevant FCC safe harbor provisions.

002.01D2 Pay Telephone Coin Revenue: The NUSF surcharge shall not be assessed on coin services

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pro- vided from pay telephones.

002.01D3 Intermediate Services: The NUSF surcharge shall not be assessed on intermediate telecommunica- tions services, such as access service, that are provided by one telecommunications company to another as long as the company receiving such ser- vice collects the NUSF surcharge from the retail services that it provides to its subscribers through the use of the intermediate service.

002.01D4 Taxes and Surcharges: The NUSF surcharge shall not be assessed on local, state, or federal taxes, 911 surcharges, telecommunication relay ser- vice surcharges, or similar taxes or surcharges.

002.02 NUSF Surcharge Shown on Subscriber Bills: The NUSF surcharge shall be explicitly shown on subscriber bills as "NE Universal Service".

002.03 Uncollectible Amounts: Telecommunications companies shall be allowed to deduct uncollectible amounts from revenues that are sub- ject to assessment of the NUSF surcharge.

002.03A Non-Payment of the NUSF Surcharge: Non-payment of the NUSF surcharge shall be considered non-payment for the service rendered by the telecommunications company and shall be subject to appropriate remedies, including disconnection of service.

002.04 Exemptions:

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002.04A Lifeline Recipients: Qualifying subscribers that are enrolled in the Nebraska Lifeline Service Program are exempt from assessment of the NUSF surcharge. This exemption is limited to the single local exchange service line receiving Lifeline support and the services provided thereon.

003 REMITTANCE:

003.01 Filing Options:

003.01A Monthly: Telecommunications companies shall remit the NUSF surcharge on a monthly basis to the NUSF except as provided in Rule 003.01B.

003.01B Quarterly: A telecommunications company whose assessable revenue is less than \$20,000 for a given fiscal year may remit on a quarterly basis to the NUSF.

003.02 Remittance Worksheets: Remittance worksheets shall be received by the Department no later than the 15th day following the end of a remittance period. In the event the 15th day falls on a weekend or a holiday, the remittance worksheet is due on the next business day.

003.03 Remittances to the NUSF: Except as provided in Rule 003.03A, all remittances must be transferred electronically to the Nebraska State Treasurer. Remittances must be received by the Nebraska State Treasurer no later than the 15th day following the end of remittance period. In the event the 15th day falls on a weekend or a holiday, the electronic remittance is due on the next business day.

003.03A Department Initiated Remittances: A telecommunications company may elect to have the

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Department initiate the electronic transfer of such company's remittance to the NUSF.

003.03A1 Authorization and Banking Information:

A telecommunications company electing to have the Department initiate the electronic transfer of remittance to the NUSF shall provide the necessary authorization and banking information required by the Director.

003.03A2 Initiation of Transfer: The receipt of a telecommunications company's remittance worksheet will result in the Department's initiation of the electronic transfer of the telecommunications company's remittance to the NUSF if the appropriate indication is made on said remittance worksheet. Said electronic transfer will be done in accordance with authorization granted to the Department by the telecommunications company.

003.04 True-Up: A telecommunications company may, at its option, revise any remittance information previously reported to the NUSF except as provided in Rules 003.04A and 003.04B. Such revision shall be reflected as a net adjustment in the next remittance worksheet filed with the Department.

003.04A Mandatory: Except as provided in Rule 003.04B, if a telecommunications company's reported remittance information varies from actual results by more than one percent (1%) and one thousand dollars (\$1,000) in a fiscal year, said company must reflect the revised information as a net adjustment to the next remittance worksheet filed with the Department.

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003.04B Director Approval: If a telecommunications company's remittance information varies from actual results by more than ten percent (10%) or one hundred thousand dollars (\$100,000), said company shall obtain the written approval of the Director before making a net adjustment to the next remittance worksheet filed with the Department.

003.05 Audit Requirements: A telecommunications company whose assessable revenue is greater than one million dollars (\$1,000,000) in a given fiscal year shall have all information used in determining its assessable revenue audited. Such audit must be performed on an annual basis and a written report of the results of such audit shall be provided to the Department before the end of the fiscal year next following the audit period.

003.06 Confidential Treatment: All remittance information provided by companies will be treated as confidential and proprietary by the Department.

004 PAYMENTS:

004.01 Nebraska Eligible Telecommunications Carrier:

004.01A Designation of Eligibility: Only a telecommunications company explicitly designated as an NETC by the Commission for the expressly stated purpose of receiving funding from the NUSF by Commission order shall be eligible to receive NUSF funding.

004.01B Provision of Services:

004.01B1 NUSF Funding: An NETC shall only

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receive NUSF funding for the actual provision of supported services as described in Rule 004.02.

004.01B2 Provision to All Subscribers: An NETC shall provide services for which it receives NUSF funding to all requesting subscribers within a service area.

004.01C Commission Orders: An NETC must be in compliance with all Commission orders relative to the NUSF in order to be eligible to receive NUSF funding.

004.01D Additional Criteria: The Commission may impose, on an interim basis, such requirements as it deems reasonably necessary to carry out the goals of the NUSF until such time as a rulemaking can be completed.

004.02 Supported Services:

004.02A Basic Local Exchange Service: Basic local exchange service, for purposes of receiving NUSF funding, consists of:

004.02A1 Single party service or the functional equivalent within a support area for which an NETC is receiving support, including a block of calling time within a Commission approved local exchange area, for which there are no per-minute or additional charges, that has been approved by Commission order. This does not include extended area service(s).

004.02A2 Dual tone multi-frequency signaling or the functional equivalent;

004.02A3 A standard "white page" or alpha directory listing at the customer's option;

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004.02A4 Access to directory assistance services;

004.02A5 Equal access to interexchange services;

004.02A6 Access to emergency 911 or Enhanced 911 services;

004.02A7 Access to operator services;

004.02A8 Toll blocking for qualifying low-income subscribers.

004.02B Other Services: The Commission may, on an interim basis, designate a supported telecommunications service by order until such time as a rulemaking can be completed.

004.03 Required Information: A telecommunications company shall submit the information required by the Director for the purpose of calculating NUSF funding. Such information shall be due within 60 days from the date of such request or the date determined by the Director, whichever is later.

004.04 Use of NUSF Funding: NUSF funding shall be used by telecommunications companies solely for the provision, maintenance and upgrading of facilities and services for which support is intended.

004.05 Payments Made: NUSF payments to an NETC will be made on a monthly basis and will be made on the last state business day of the month.

004.06 Audit Requirements: A telecommunications company that receives NUSF funding shall have an independent third party perform, and attest to the validity of, an audit pursuant to the requirements in this Rule.

004.06A Provided Information: All information provided pursuant to Rule 004.03 shall be audited.

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004.06B Use of NUSF Funding: The audit shall include an attestation regarding the use of NUSF funding and whether such use was in accordance with Rule 004.04.

004.06C Annual Audit: A telecommunications company that receives NUSF funding shall perform an audit pursuant to this section on an annual basis, except as provided in Rule 004.06D. The results of each annual audit shall be provided to the Department by the end of the following fiscal year.

004.06D Tri-Annual Audit: A telecommunications company that receives NUSF funding, and does not conduct an annual third party audit in the ordinary course of its business, may elect to perform an independent third party audit pursuant to this Rule once per three-year period. The results of each tri-annual audit shall be provided to the Department by the end of each year that is evenly divided by three.

005 ACCESS PASS-THROUGH:

005.01 Required Pass-Through: A telecommunications company that receives a reduction in charges for access services ordered by the Commission pursuant to Neb. Rev. Stat. Section 75-609(2) shall pass on said reductions fully to its subscribers. This reduction shall be passed through to subscribers in a fair and reasonable manner.

005.02 Companies Required to Demonstrate Pass-Through: The Commission, at its discretion, may require telecommunications companies to demonstrate that reductions in access charges have been passed through pursuant to Rule 005.01.

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005.03 Demonstration of Pass-Through: A telecommunications company that is required to demonstrate compliance with Rule 005.01 pursuant to Rule 005.02 shall demonstrate such compliance in accordance with a consistent set of data in a manner acceptable to the Commission.

005.03A Submission of Information: Information to demonstrate compliance with Rule 005.01 shall be submitted within 60 days of receiving notice from the Commission or by the date specified by the Commission, whichever is later.

006 NEBRASKA LIFELINE AND LINK-UP PROGRAMS:

006.01 Lifeline Service Program:

006.01A Defined: Lifeline service shall mean the offering of basic local exchange services, consisting of those features described in Rule 004.02A, at a reduced rate to qualifying subscribers.

006.01B Reduction in Rates: Telecommunications companies that offer Lifeline service shall offer such service at the reduced rates specified by order of the Commission.

006.01C Requirement to Offer Service: In cases where a qualifying subscriber has a past due balance, telecommunications companies must provide Lifeline services to that subscriber as long as said subscriber is making monthly payments towards any past due amounts.

006.01D Toll Blocking: Telecommunications companies that offer Lifeline service shall offer toll blocking, if such service is available, to all qualifying subscribers at the time such persons subscribe to Lifeline service.

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006.01E Service Deposits: Telecommunications companies that offer Lifeline service shall not collect a service deposit to initiate Lifeline service, if the qualifying subscriber voluntarily elects toll blocking from the company, if available.

006.01E1 If toll blocking is unavailable, the telecommunications company may collect a service deposit.

006.01E2 If a qualifying subscriber has a past due amount, the telecommunications company may not collect a service deposit if the subscriber is making reasonable monthly payments towards any past-due amounts.

006.01F Disconnection:

006.01F1 Telecommunications companies that offer Lifeline service shall not disconnect a qualifying subscriber for non-payment of toll charges unless granted a written waiver by the Commission for a specific customer.

006.01F1a Upon reasonable notice, a telecommunications company may block a qualifying subscriber's access to toll services for non-payment.

006.01F2 Telecommunications companies that offer Lifeline service shall not disconnect a qualifying subscriber for non-payment until 60 days after all Lifeline and Link-Up credits due for a particular billing period have been fully applied to any billed amounts for which the qualifying subscriber has not made full and complete payment.

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006.02 Link-Up Program:

006.02A Defined: Link-Up service shall mean a reduction in the telecommunications company's customary charge for commencing Lifeline service for a single connection at a subscriber's principal place of residence.

006.02B Reduction: The Link-Up reduction shall be either half of the amount of connection charges or thirty dollars (\$30), whichever is less.

006.02B1 Deferred Payment Schedule:

Telecommunications companies that offer Link-Up service must offer a deferred schedule of payment for connection charges, for which the subscriber does not pay interest. Charges of up to two hundred dollars (\$200) may be deferred for a period not to exceed one year.

006.02C Subsequent Benefits: Telecommunications companies that offer Link-Up service shall allow a subscriber to receive the benefit of the Link-Up program for a second or subsequent time only for a principal place of residence with an address different from the residence at which the Link-Up assistance was previously provided.

006.03 Qualifications:

006.03A Programs: To qualify for the Lifeline and/or Link-Up programs, a subscriber must be eligible to receive aid from at least one of the following:

- (1) Medicaid;
- (2) Food Stamps;
- (3) Supplemental Security Income (SSI);
- (4) Federal Public Housing Assistance; or

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(5) Low Income Home Energy Assistance Program (LIHEAP).

006.03A1 The Commission may, on an interim basis, designate additional low-income eligibility criteria by order until such time as a rulemaking can be completed.

006.03B Subscriber Name: The subscriber that receives aid from a program listed in Rule 006.03A must have his or her name on the account with the telecommunications company in order to qualify to receive support from the Lifeline and/or Link-Up programs.

006.04 Requirements to Offer:

006.04A All NETCs that offer exchange services shall be required to offer Lifeline and Link-Up services to qualifying subscribers.

006.04B The Commission may at its discretion require, upon notice and hearing, a telecommunications company that provides exchange services to provide Lifeline and Link-Up services to qualifying subscribers.

006.05 Directory: Telecommunications companies that offer Lifeline and/or Link-Up service shall provide printed information describing such programs in telephone directories.

006.05A Required Information: The information listed in telephone directories shall contain information on the following:

- (1) Voluntary toll blocking; and
- (2) Availability of reduced deposits.

006.05B Directory Index: If the telephone directory

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provided by a telecommunications company that offers Lifeline and/or Link-Up services contains an index, a reference to the information regarding such services shall be listed in the index.

006.06 Advertising: Telecommunications companies that offer Life-line and/or Link-Up services shall advertise the availability of such services through a bill insert or prominent bill message on an annual basis.

006.07 Notification: Telecommunications companies that offer Life-line service shall inform all qualifying subscribers at the time said persons subscribe to Lifeline service that credits due may not appear on their initial bills and that service will only be disconnected in accordance with Rule 006.01E.

007 ADMINISTRATIVE PENALTIES:

007.01 Violation of Rules: A telecommunications company not in compliance with Sections 003.02, 003.03, 003.04, 004.03, 004.04, 004.06C, 004.06D, 005.01, and 005.03A is subject to civil penalties as provided in Title 291, Chapter 1, Section 027 of the Rules of Commission Procedure.

007.02 Refusal to Pay an Administrative Fine: A telecommunications company that refuses or fails to pay an administrative fine within sixty (60) days from the date the fine is imposed shall be subject to Rule 007.04.

007.03 Repeated Violations: A telecommunications company that repeatedly violates the NUSF Rules shall be subject to Rule 007.04.

007.04 Show Cause Order: A telecommunications company that is in

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violation of Rule 007.02 or 007.03 shall be subject to a Show Cause Order filed pursuant to the Rules of Commission Procedure and the following penalties may be imposed on such company:

007.04A Certificated or Permitted Telecommunications

Company: A telecommunications company that holds a Certificate of Public Convenience and Necessity or a permit granted by the Commission may have such certificate or permit revoked.

007.04B Non-Certificated or Permitted Telecommunications

Company: A telecommunications company that does not hold a Certificate of Public Convenience and Necessity or a permit from the Commission may be ordered to cease and desist from providing telecommunications services in Nebraska intrastate commerce.

007.05 Fine Limits: No administrative fine may exceed the limits set forth in the Neb. Rev. Stat. Section 75-156.

007.06 Notice: Whenever the Commission seeks to impose an administrative penalty pursuant to Rule 007 due to a violation, the Director shall notify such telecommunications company in writing sent by certified United States Mail, return receipt requested, (a) setting forth the date, facts, and nature of each act or omission upon which each charge of a violation is based, (b) specifically identifying the particular statute, certificate, permit, or order violated, (c) that a hearing will be held and the time, date, and place of the hearing, (d) that in addition to the civil penalty provided in Rule 007, that the Commission may enforce additional penalties and relief as provided by law, and (e) that upon failure to pay any civil penalty determined by the Commission, the penalty may be collected by civil action in the District Court of Lancaster County, Nebraska.

007.06A Waiver of Hearing: Any telecommunications company

EFFECTIVE DATE: September 16, 2002

LAST ISSUE
DATE: NONE

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that receives notice of a violation of Rule 007 pursuant to Rule 007.06 may waive its right to a hearing and comply with any civil penalties described in said notice. The hearing will be canceled only upon receipt of a written request from the affected telecommunications company and receipt of any administrative penalties that are due.