

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 add rules regarding customer)
billing practices.)

RULE AND REGULATION NO. 172

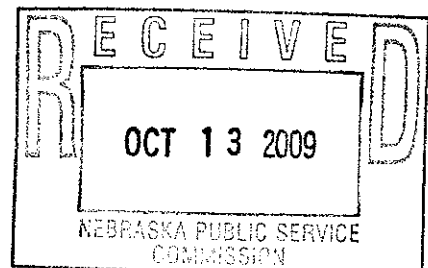
PREFILED TESTIMONY OF

MICHAEL G. ORCUTT

ON BEHALF OF

NEBRASKA TECHNOLOGY AND TELECOMMUNICATIONS, INC.

OCTOBER 13, 2009



1 **I. PERSONAL BACKGROUND AND EXPERIENCE**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 **A.** My name is Michael G. Orcutt. My business address is 2308 South 156th Circle, Omaha,
4 Nebraska.

5 **Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

6 **A.** I am the Chief Executive Officer of Nebraska Technology & Telecommunications, Inc.,
7 which primarily does business as NT&T. I am responsible for the day-to-day operations
8 of NT&T.

9 **Q. PLEASE BRIEFLY DESCRIBE YOUR WORK EXPERIENCE.**

10 **A.** I joined NT&T in August 1997 as the Vice-President of Business Development, and
11 became its CEO in 2004. Prior to NT&T I was employed as a District Manager for
12 McLeodUSA, a competitive local exchange carrier (CLEC), primarily working out of the
13 Omaha office. Prior to McLeodUSA, I was International Account Manager for
14 Communications at AMCI, selling RF Data Transmission Communications to railroads.
15 Before AMCI, I was Area Sales Manager for Telecom USA, a directory publisher. In
16 total, I have over 20 years of experience in the telecommunications industry.

17 **II. BACKGROUND-NT&T**

18 **Q. WHEN WAS NT&T FOUNDED AND WHY?**

19 **A.** NT&T was founded in early 1997 by a group of rural Nebraska independent telephone
20 companies and their owners, to take advantage of opportunities created by the adoption of
21 the federal Telecommunications Act of 1996. The owners sought to bring the benefits of
22 competition to customers throughout all of Nebraska, including those rural Nebraska
23 exchanges owned by U.S. West (now Qwest), GTE (now Citizens), and Aliant (later

1 ALLTEL and now Windstream). Today NT&T remains a Nebraska company, owned by
2 Nebraskans for the benefit of Nebraskans.

3 **Q. IS NT&T AUTHORIZED TO PROVIDE TELECOMMUNICATIONS SERVICES**
4 **IN THE STATE OF NEBRASKA?**

5 A. Yes. NT&T was certified by the Nebraska Public Service Commission ("Commission")
6 as a Local Exchange Carrier in Docket C-1523 on September 15, 1997. On October 28,
7 1997, NT&T was also certified by the Commission as an interLATA and intraLATA
8 interexchange carrier in Docket C-1627.

9 **Q. DOES NT&T CURRENTLY PROVIDE TELECOMMUNICATIONS SERVICES**
10 **IN NEBRASKA?**

11 A. Yes. NT&T provides local telecommunications services in Nebraska, specifically in
12 those exchanges served by Qwest, Windstream, and Citizens. NT&T also provides
13 interexchange (long distance) telecommunications services throughout the entire state of
14 Nebraska.

15 **III. SUPPORT FOR PROPOSED SUBSECTION 002.17C**

16 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

17 To testify in support of rules and regulations proposed by the Commission that would
18 remedy the kinds of issues NT&T and its customers face as a result of Windstream's
19 recent change in its policy as it relates to proration.

20 **Q. PLEASE SUMMARIZE YOUR CONCERNS REGARDING WINDSTREAM'S**
21 **CURRENT PRORATION PRACTICES.**

22 A. In or around December 2008 Windstream filed a tariff change that, among other things,
23 provides that Windstream will bill one month in advance and will no longer prorate

1 charges or provide credit for any partial service if the end user/customer changes, adds or
2 terminates service on a date prior to the last day of the billing cycle. Windstream
3 implemented the Nonproration Tariff Change in or around January 2009.

4 The Nonproration Tariff Change adversely affects end user/customers and is
5 anticompetitive. Among other things, end user/customers will be less likely to consider
6 switching service to a competitor such as NT&T as the Nonproration Tariff Change will
7 force customers to pay Windstream for service that is not actually received in the event
8 the end user/customer has switched service to a competitor, and will cost competitors
9 such as NT&T additional fees in the event they attempt to make the end user/customer
10 whole as a result of charges for services not actually received from Windstream by virtue
11 of the Nonproration Tariff Change.

12 **Q WHAT WITHIN THE PROPOSED RULE AND REGULATION AMENDMENTS**
13 **WOULD ADDRESS THIS ISSUE?**

14 A. The proposed subsection 002.17C seeks to establish a uniform policy as it relates to the
15 issuance of final bills, including the issue of proration. Among other things, the section
16 would require a carrier to “refund the pro rata portion of the month’s charges for the
17 period of days remaining in the billing period after termination of service to the
18 customer.”

19 **Q. DOES NT&T SUPPORT PROPOSED SUBSECTION 002.17C?**

20 Yes, NT&T supports the adoption of the Commission’s proposed Rule 002.17C for
21 several reasons. As it relates to prorating the bills of both retail and wholesale customers,
22 the customer should only be required to pay for the services that it requests and that are
23 actually rendered to it by the service provider. Thus, if a customer requests that the

1 service provider terminate the customer's service prior to the end of a billing cycle, the
2 customer should only be required to pay for services up to the termination date as
3 requested by the customer. Accordingly, monthly charges should be prorated to the date
4 requested by the customer for termination of service. If the customer orders service on a
5 date that does not correspond with the service provider's monthly billing period, the
6 initial month services should be prorated from the date the services are actually rendered
7 for the initial month. All subsequent months of service should be billed in full until such
8 time as the customer terminates service, and at such time the final bill should be prorated
9 to the date of termination. In this way, the principle that the customer should only pay for
10 the services it orders and are rendered to it by the service provider is fulfilled.

11 If Windstream's billing practices are permitted to continue and the Commission does not
12 adopt its proposed Rule 002.17C, not only will retail and wholesale customers be harmed
13 by paying for services that such customers did not request and that were not rendered to
14 them, but competitors of Windstream stand to be harmed as well.

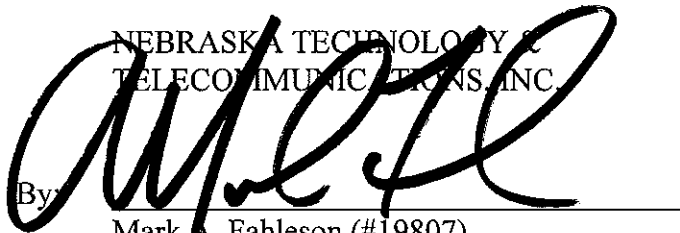
15 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

16 A. Yes it does, although I reserve the right to testify on any issues raised at the hearing on
17 October 19, 2009 and to answer any questions the Commissioners may have.

18

DATED: October 13, 2009

NEBRASKA TECHNOLOGY &
TELECOMMUNICATIONS, INC.

A large, stylized handwritten signature in black ink, appearing to read 'M. Fahleson', is written over a horizontal line. The signature is positioned to the left of the typed name and address.

By:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that an original and a copy of the foregoing Testimony of Michael Orcutt were served by hand delivery to the Public Service Commission and a copy was served via U.S. mail on October 13, 2009, addressed as shown below, to the following:

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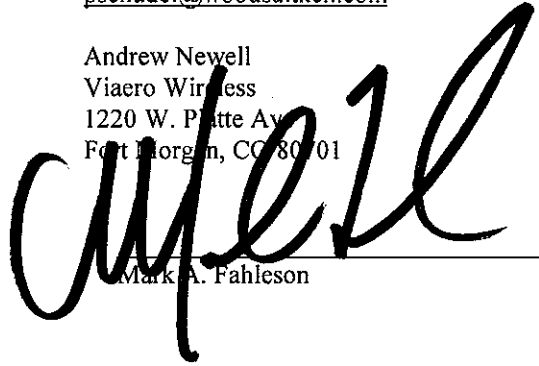
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