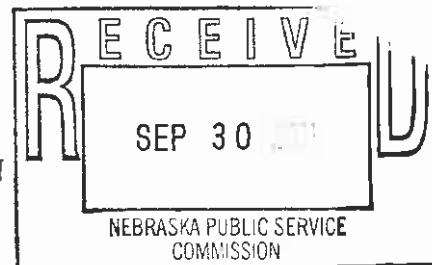


**BEFORE THE
NEBRASKA PUBLIC SERVICE COMMISSION**



In the Matter of the Commission, on its own)
Motion, seeking to amend Title 291, Chapter)
5, Telecommunications Rules and)
Regulations, to adopt rules regarding)
intrastate switched access regulation.)

Rule and Regulation No. 178

**RURAL INDEPENDENT COMPANIES' COMMENTS ON
SECOND SET OF PROPOSED RULES**

INTRODUCTION

The Rural Independent Companies¹ respectfully submit these Comments in response to the Commission's Order Releasing Second Set of Proposed Rules dated August 16, 2011 (the "Order"). In the Order, the Commission seeks comment on the Second Set of Proposed Rules and Regulations regarding intrastate switched access service regulation (the "Second Version Rule 178"). The Rural Independent Companies appreciate this opportunity to submit these Comments regarding the Second Version Rule 178.

On May 27, 2011 the Rural Independent Companies submitted Comments in this matter on the first version of Rule 178 (the "May 27 Comments"). A number of the recommendations set forth in the May 27 Comments have been incorporated in the Second Version Rule 178. The Rural Independent Companies submit the following comments on additional issues that are offered for the Commission's consideration.

¹ Arlington Telephone Company, Blair Telephone Company, Cambridge Telephone Co., Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hamilton Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Company, Inc., K & M Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Southeast Nebraska Communications, Inc., Stanton Telephone Co., Inc., and Three River Telco are identified as the "Rural Independent Companies".

DISCUSSION

The Notice Requirement Of Section 014.01G Should Be Inapplicable If The Change In The Provision Of Access Service Is Made Pursuant To The Terms Of A Filed And Effective Tariff.

Proposed section 014.01G presumably is included in Rule 178 as a response to the multiple formal complaints that have been initiated by interexchange carriers relating to the determinations by some local exchange carriers to change the routing of intrastate tandem switched transport service, including the selection of the first point of switching and the selection of facilities to any switching point and to end offices. These routing changes were accomplished in accordance with the terms of filed and effective intrastate switched access tariffs. Further, notice of such changes was accomplished in accordance with standard industry practice of filing revisions to the Local Exchange Routing Guide which were made not less than 45 days prior to the effective date of the routing change. Additionally, in some cases, although not required by law or industry practice, local exchange carriers provided written notice directly to interexchange carriers of such routing changes.

While the Rural Independent Companies do not object to the notice requirement of Section 014.01G as a general matter, it is nonetheless recommended that the proposed revised 30-day notice requirement should be restored to the formerly-provided 10-day notice requirement in the first version of Rule 178. Additionally, such notice requirement should only be applicable if the action that results “in a substantial increase in the bills rendered for such [switched access] service” is not accomplished pursuant to the terms of a filed and effective tariff, or if notice of a greater duration is required by

law or industry practice. Thus, the Rural Independent Companies again suggest the following addition to proposed section 014.01G which was initially presented in the May 27 Comments:

The requirements of this section 014.01G shall be inapplicable in the event that the change, modification or adjustment in question is made by the carrier pursuant to the terms of an effective tariff on file with the Commission, or if notice of a duration greater than 10 days is required by law or industry practice.

Language Should be Added to Section 014.02C to Cause the Optional Suspension to be Applicable to an Addition of a New Rate Element to an Existing Tariff.

Section 014.02C is a new sub-section added to the Second Version Rule 178 providing that the Commission shall have the discretion to suspend the effectiveness of an access tariff proposed by a carrier that has *no existing tariff*. The Rural Independent Companies support this new sub-section, however, an additional provision is needed to complete the intended purpose of the sub-section.

As written, Section 014.02C only addresses optional suspension in the context of a carrier that has “no existing access rate tariff on file with the Commission . . .” The sub-section should further address the circumstance in which a carrier does have an existing access rate tariff on file with the Commission, but seeks to *add a new rate element* to the existing tariff. To accomplish this result, the Rural Independent Companies recommend that the following phrase be added following the comma in the forth line of Section 014.02C: “or that is adding a new rate element to an existing access rate tariff on file with the Commission,”.

A Minor Correction is Needed in Section 014.03C2.

In section 014.03C2 there is a reference in the last sentence to “section 014.03C3.” However, there is no such section in the Second Version Rule 178. Presumably, this reference is intended to be to section 014.03C2a. This reference should be corrected or if there is no exception intended, the exception clause should be deleted.

The Rural Independent Companies Offer Additions to Section 014.03 of Proposed Rule 178.

At the public hearing held in connection with the Commission’s consideration of the *NUSF-74 Order*, the Rural Independent Companies offered a suggested addition to the *NUSF-74 Order*. The Rural Independent Companies renew that suggestion to add the following language after the first sentence of proposed section 014.03B:

At the option of the carrier seeking to change its intrastate access rates, in its response such carrier may advise the Commission and all affected interexchange carriers that the revised access rates will be implemented effective as of the date of filing the response. If the carrier elects to implement the revised access rates on an interim basis, the carrier expressly acknowledges that such implementation is subject to the requirement to true up any differences in the interim rates and the access rates which are finally approved by the Commission as fair and reasonable.

Considerable time is required to comply with the procedural steps set forth in proposed sections 014.02 and 014.03, including publication of notice, negotiations by the parties and possible filing of a petition for the Commission to review the proposed access rate changes. A total of up to 120 days may elapse between the date of the publication of the notice of access tariff filing and the last day on which a request may be filed seeking Commission review of such access rates. In addition, section 86-140(1) allows up to 90 days for the Commission to complete a hearing on the access charge review, and the Commission is afforded 60 days following the hearing to enter its order. This means that

implementation of a local exchange carrier's proposed access charge rate changes may be delayed by a complaining interexchange carrier for at least 270 days or nine (9) months following the filing of a tariff requesting a change to access charge rates.

As a result of this extended time frame, the Rural Independent Companies request the addition of the language set forth above that would afford the local exchange carrier seeking the access rate changes an option to implement the proposed access changes on an interim basis effective on the date that the local exchange carrier files its response to the application for access charge review. In the event the local exchange carrier opts to implement such changes on an interim basis, it would do so subject to a commitment to true up the interim access charge rates based upon the Commission's final order determining whether such access charges are fair and reasonable.

Implementation of interim rates subject to true-up is conceptually consistent with the procedure provided by *Neb. Rev. Stat.* § 86-155 that allows implementation of a proposed rate or charge that has not been determined by the Commission within six months and 30 days from the filing of an application for approval. Therefore, the Rural Independent Companies urge the Commission to incorporate the above suggested language in section 014.03B of the Second Version Rule 178.

CONCLUSION

The Rural Independent Companies respectfully request that the Commission adopt Second Version Rule 178 subject to the modifications and comments set forth above.

Dated: September 30, 2011. Arlington Telephone Company, Blair Telephone Company, Cambridge Telephone Co., Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hamilton Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Company, Inc., K & M Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Southeast Nebraska Communications, Inc., Stanton Telephone Co., Inc., and Three River Telco (the "Rural Independent Companies")

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 30th day of September, 2011, counsel for the Rural Independent Companies caused the original and five (5) paper copies of the foregoing Comments to be filed with the Commission; and caused one electronic copy of the Comments to be served on the Commission Staff persons identified below:

Nebraska Public Service Commission

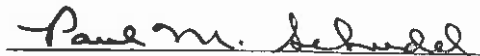
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