

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 829

Introduced by Fischer, 43.

Read first time January 10, 2008

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to the Public Service Commission; to amend
2 section 75-126, Reissue Revised Statutes of Nebraska,
3 sections 86-324 and 86-465, Revised Statutes Cumulative
4 Supplement, 2006, and section 86-435, Revised Statutes
5 Supplement, 2007; to provide powers and duties to
6 the commission regarding rates for telecommunications
7 services; to eliminate obsolete language; to harmonize
8 provisions; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 75-126, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 75-126 (1) Except as otherwise provided in this section,
4 no common carrier shall:

5 (a) Charge, demand, collect, or receive from any person
6 a greater or lesser compensation for any services rendered than
7 it charges, demands, collects, or receives from any other person
8 for doing a like or contemporaneous service unless required under
9 section 86-324, 86-435, or 86-465;

10 (b) Make or give any undue or unreasonable preference or
11 advantage to any particular person;

12 (c) Subject any type of traffic to any undue or
13 unreasonable prejudice, delay, or disadvantage in any respect
14 whatsoever;

15 (d) Charge or receive any greater compensation in the
16 aggregate for the transportation of a like kind of property or
17 passengers for a shorter than for a longer distance over the
18 same line or route, except as the commission may prescribe in
19 special cases to prevent manifest injuries, except that no manifest
20 injustice shall be imposed upon any person at intermediate points.
21 This section shall not prevent the commission from making group or
22 emergency rates;

23 (e) Demand, charge, or collect, by any device whatsoever,
24 a lesser or greater compensation for any service rendered than that
25 filed with or prescribed by the commission; or

1 (f) Change any rate, schedule, or classification in
2 any manner whatsoever before application has been made to the
3 commission and permission granted for that purpose, except as
4 otherwise provided in section 86-155.

5 (2) This section shall not prohibit any common carrier
6 from, and a common carrier shall not be subject to any fine,
7 penalty, or forfeiture for, performing services free or at reduced
8 rates to:

9 (a) The United States, the State of Nebraska, or any
10 governmental subdivision thereof;

11 (b) The employees, both present and retired, of such
12 common carrier;

13 (c) Any person when the object is to provide relief in
14 case of any disaster;

15 (d) Any person who transports property for charitable
16 purposes;

17 (e) Ministers and others giving their entire time to
18 religious or charitable work; or

19 (f) Any person who is legally blind or visually
20 handicapped.

21 Sec. 2. Section 86-324, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 86-324 (1) The Nebraska Telecommunications Universal
24 Service Fund is hereby created. The fund shall provide the
25 assistance necessary to make universal access to telecommunications

1 services available to all persons in the state consistent with the
2 policies set forth in the Nebraska Telecommunications Universal
3 Service Fund Act. Only eligible telecommunications companies
4 designated by the commission shall be eligible to receive support
5 to serve high-cost areas from the fund. A telecommunications
6 company that receives such support shall use that support only
7 for the provision, maintenance, and upgrading of facilities and
8 services for which the support is intended. Any such support should
9 be explicit and sufficient to achieve the purpose of the act.

10 (2) Notwithstanding the provisions of section 86-124, in
11 addition to other provisions of the act, and to the extent not
12 prohibited by federal law, the commission:

13 (a) Shall have authority and power to subject eligible
14 telecommunications companies to service quality, customer service,
15 and billing regulations. Such regulations shall apply only to the
16 extent of any telecommunications services or offerings made by an
17 eligible telecommunications company which are eligible for support
18 by the fund. The commission shall be reimbursed from the fund
19 for all costs related to drafting, implementing, and enforcing the
20 regulations and any other services provided on behalf of customers
21 pursuant to this subdivision;

22 (b) Shall have the authority, after notice and hearing,
23 to determine whether rates for supported services provided
24 for telehealth as defined in section 71-8503 are fair and
25 reasonable. The commission may require documentation to demonstrate

1 that the rates for the supported service do not exceed the
2 telecommunications company's actual cost of providing such
3 services;

4 ~~(b)~~ (c) Shall have authority and power to issue orders
5 carrying out its responsibilities and to review the compliance
6 of any eligible telecommunications company receiving support for
7 continued compliance with any such orders or regulations adopted
8 pursuant to the act;

9 ~~(e)~~ (d) May withhold all or a portion of the funds to be
10 distributed from any telecommunications company failing to continue
11 compliance with the commission's orders or regulations;

12 ~~(d)~~ (e) Shall require every telecommunications company to
13 contribute to any universal service mechanism established by the
14 commission pursuant to state law. The commission shall require,
15 as reasonably necessary, an annual audit of any telecommunications
16 company to be performed by a third-party certified public
17 accountant to insure the billing, collection, and remittance
18 of a surcharge for universal service. The costs of any audit
19 required pursuant to this subdivision shall be paid by the
20 telecommunications company being audited;

21 ~~(e)~~ (f) Shall require an audit of information provided
22 by a telecommunications company to be performed by a third-party
23 certified public accountant for purposes of calculating universal
24 service fund payments to such telecommunications company. The costs
25 of any audit required pursuant to this subdivision shall be paid by

1 the telecommunications company being audited; and

2 ~~(f)~~ (g) May administratively fine pursuant to section
3 75-156 any person who violates the Nebraska Telecommunications
4 Universal Service Fund Act.

5 (3) Any money in the fund available for investment
6 shall be invested by the state investment officer pursuant to
7 the Nebraska Capital Expansion Act and the Nebraska State Funds
8 Investment Act.

9 ~~(4)(a)~~ The State Treasurer shall transfer funds from the
10 Nebraska Telecommunications Universal Service Fund to the General
11 Fund upon certification by the Director of Administrative Services
12 that the current cash balances in the General Fund and the Cash
13 Reserve Fund are inadequate to meet current obligations. Such
14 certification shall include the dollar amount to be transferred
15 which shall not exceed the amount by which the General Fund and
16 Cash Reserve Fund are inadequate to meet current obligations.
17 The total of such transfers shall not reduce the Nebraska
18 Telecommunications Universal Service Fund balance below an amount
19 sufficient to meet the obligations on the fund for the next
20 sixty days. Any transfers made pursuant to this subsection shall
21 be reversed upon notification by the Director of Administrative
22 Services that sufficient funds are available or on June 30, 2007,
23 whichever occurs first.

24 ~~(b)~~ Any transfer under this subsection not reversed
25 within thirty days after the initial transfer shall accrue

1 ~~interest in the amount of five percent annually. Interest shall~~
2 ~~be calculated beginning on the thirty-first day after the initial~~
3 ~~transfer and continue until the transfer is completely reversed.~~
4 ~~The interest calculated shall be credited to the Nebraska~~
5 ~~Telecommunications Universal Service Fund.~~

6 ~~(c) Any transfer of funds which has not been reversed~~
7 ~~as provided in this subsection, with accrued interest, shall be~~
8 ~~considered an encumbrance against the General Fund.~~

9 ~~(d) This subsection terminates on June 30, 2007.~~

10 Sec. 3. Section 86-435, Revised Statutes Supplement,
11 2007, is amended to read:

12 86-435 (1) A governing body may incur any nonrecurring or
13 recurring charges for the installation, maintenance, and operation
14 of 911 service and shall pay such costs out of general funds which
15 may be supplemented by funds from the imposition of a service
16 surcharge. A governing body incurring costs for 911 service may
17 impose a uniform service surcharge of up to fifty cents per month
18 on each telephone number or functional equivalent of service users
19 whose primary place of use is within the governing body's 911
20 service area, except for those service users served by wireless
21 carriers as defined in section 86-456 and those service users who
22 have no access to 911 service. The initial service surcharge may be
23 imposed at any time subsequent to the execution of an agreement for
24 911 service with a service supplier.

25 (2) Except in a county containing a city of the

1 metropolitan class, such uniform service surcharge in subsection
2 (1) of this section may be increased by an additional amount not
3 to exceed fifty cents per month. Such additional increase shall be
4 made only after:

5 (a) Publication of notices for a public hearing. Such
6 notices shall:

7 (i) Be published at least once a week for three
8 consecutive weeks in a legal newspaper published or of general
9 circulation in the areas affected;

10 (ii) Set forth the time, place, and date of such public
11 hearing; and

12 (iii) Set forth the purpose of the public hearing and the
13 purpose of the increase; and

14 (b) A public hearing is held pursuant to such notices.

15 (3) If 911 service is to be provided for a territory
16 which is included in whole or in part in the jurisdiction of
17 two or more governing bodies, the agreement for such service
18 shall be entered into by each such governing body unless any
19 such governing body expressly excludes itself from the agreement.
20 Such an agreement shall provide that each governing body which
21 is a customer of 911 service will pay for its portion of the
22 service. Nothing in this subsection shall be construed to prevent
23 two or more governing bodies from entering into a contract which
24 establishes a separate legal entity for the purpose of entering
25 into such an agreement as the customer of the service supplier or

1 any supplier of equipment for 911 service.

2 (4) If a governing body's 911 service area includes
3 a local exchange area which intersects governmental boundary
4 lines, the affected governmental units may cooperate to provide
5 911 service through an agreement as provided in the Interlocal
6 Cooperation Act or the Joint Public Agency Act. The agreement shall
7 provide for the assessment of a uniform service surcharge within a
8 governing body's 911 service area. The service surcharge on each
9 telephone number or functional equivalent of service users whose
10 primary place of use is within the governing body's 911 service
11 area, except for those service users served by wireless carriers
12 as defined in section 86-456 and those service users who have no
13 access to 911 service, shall be the same as the amount allowed in
14 subsections (1) and (2) of this section.

15 (5) Funds generated by the service surcharge
16 shall be expended only for the purchase, installation,
17 maintenance, and operation of telecommunications equipment and
18 telecommunications-related services required for the provision of
19 911 service.

20 (6) The Public Service Commission shall have the
21 authority, after notice and hearing, to determine whether rates for
22 telecommunications-related services required for the provision of
23 911 service are fair and reasonable. The commission may require
24 documentation to demonstrate that the rates for the services do not
25 exceed the actual cost of providing such services.

1 Sec. 4. Section 86-465, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 86-465 (1) The commission shall, in consultation with the
4 advisory board:

5 (a) Determine the costs to implement wireless automatic
6 location identification;

7 (b) Determine the level of funding needed to trigger
8 disbursements pursuant to the Enhanced Wireless 911 Services Act;

9 (c) Determine the percentage of the fund to be allocated
10 to each funding purpose, including the percentage that shall be
11 designated for funding 911 service under subdivision (2) (c) of this
12 section;

13 (d) Determine how the funds distributed under
14 subdivisions (2) (a) and (2) (c) of this section are to be allocated
15 among the wireless carriers and the public safety answering points;
16 and

17 (e) Establish a mechanism for determining the level
18 of funding available to each public safety answering point and
19 wireless carrier for costs determined to be eligible by the
20 commission under subsection (2) of this section.

21 (2) The commission shall, in consultation with the
22 advisory board, establish eligibility standards and criteria
23 for fund disbursement applications and standards and criteria
24 concerning the level of fund disbursement for each application. In
25 establishing such criteria and standards, the following purposes

1 may be eligible for funding:

2 (a) Costs incurred or to be incurred by wireless carriers
3 to implement enhanced wireless 911 service pursuant to a service
4 agreement with a public safety answering point or pursuant to a
5 request for service from a public safety answering point. Such
6 costs may include, but not be limited to, the portion of the costs
7 for new equipment used for providing enhanced wireless 911 service,
8 costs to lease another vendor's equipment or services to provide
9 enhanced wireless 911 service, costs to create or maintain any
10 data base or data base elements used solely for enhanced wireless
11 911 service, and other costs of establishing enhanced wireless 911
12 service. The portion of the costs of equipment or services used in
13 the wireless carrier's main infrastructure resulting in revenue to
14 the wireless carrier is not eligible for funding;

15 (b) Costs incurred or to be incurred by public safety
16 answering points to implement enhanced wireless 911 service may
17 include, but not be limited to, purchases of new equipment, costs
18 of upgrades, modification and personnel training used solely to
19 process the data elements of enhanced wireless 911 service, and
20 maintenance costs and license fees for new equipment;

21 (c) Costs incurred or to be incurred by public safety
22 answering points for the purchase, installation, maintenance, and
23 operation of telecommunications equipment and telecommunications
24 services required for the provision of enhanced wireless 911
25 service; and

1 (d) Expenses incurred by members of the advisory board
2 while performing duties required by the act.

3 (3) The commission shall have the authority, after notice
4 and hearing, to determine whether rates for services related to the
5 provision of enhanced wireless 911 service are fair and reasonable.
6 The commission may require documentation to demonstrate that the
7 rates for the services do not exceed the actual cost of providing
8 such services.

9 ~~(3)~~ (4) The commission shall have any powers necessary to
10 carry out the intent and purposes of the act.

11 Sec. 5. Original section 75-126, Reissue Revised
12 Statutes of Nebraska, sections 86-324 and 86-465, Revised Statutes
13 Cumulative Supplement, 2006, and section 86-435, Revised Statutes
14 Supplement, 2007, are repealed.