

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. 911-002
Commission, on its own motion,)
seeking to determine the)
surcharge for the Enhanced) ORDER SETTING SURCHARGE
Wireless 911 Fund.)
)
) Entered: October 23, 2012

BY THE COMMISSION:

The Commission, on its own motion, scheduled a hearing on this matter pursuant to an order entered September 5, 2012, to determine the annual surcharge for the Enhanced Wireless 911 Fund (Fund), pursuant to *Neb. Rev. Stat. § 86-458* (2008).

Notice of hearing was sent to all interested parties including all wireless service providers and public safety answering points on or about September 5, 2012. Further notice was published in the Omaha World Herald, the Lincoln Journal Star, and The Daily Record, Omaha, on September 24 and on October 1, 2012. Additional notices were published in The Daily Record on October 5 and 8, 2012.

The hearing was held on October 10, 2012. Angela Melton appeared on behalf of the Commission staff. Loel Brooks appeared on behalf of Viaero Wireless.

E V I D E N C E

Tyler Frost, staff economist, testified on behalf of Commission staff. Mr. Frost testified that a 10% reduction in the surcharge amount from \$0.50 to \$0.45 would allow the Fund to maintain a sufficient funding balance for five years. Mr. Frost further testified that at the end of five years, the balance of the Fund may need to be addressed once more and adjustments made to arrest the five year decrease in the ending balance of the Fund.

Sue Vanicek, Director of the Nebraska Telecommunications Infrastructure and Public Safety Department, next testified on behalf of Commission staff. Ms. Vanicek provided an overview of the current status of the Fund and an explanation regarding the adjustment to be made to the Fund balance. Ms. Vanicek explained that at least a six-month operating reserve should be maintained in the Fund and that the current balance represents roughly a two-year operating reserve. Ms. Vanicek stated that two primary objectives of maintaining this reserve are to plan

for the implementation of Next Generation 911 (NextGen 911) and replace broken or outdated equipment.

However, she stated that both the timing and cost of implementing NextGen 911 are uncertain and that, according to the FCC, implementation could be as many as five to ten years in the future. Ms. Vanicek also noted that many of the equipment systems for which replacement was anticipated have already been replaced and that the PSAPs have had time to set aside annual 911-SAM allocation savings to purchase equipment. She recommended that in order to achieve an appropriate reserve in light of the inherent uncertainties associated with NextGen 911 and the reduced need to replace equipment, the surcharge should be reduced from the current rate of \$.50 and fixed at \$.45.

Kara Thielen testified on behalf of Viaero Wireless. Ms. Thielen stated that the surcharge should not be reduced at this time and that the Commission should instead consider immediately implementing a NextGen 911 plan.

Mark Conrey testified on behalf of Douglas County 911. Mr. Conrey stated that the surcharge should not be reduced because of the upcoming costs associated with implementing NextGen 911 and that statewide oversight is needed to accomplish such implementation.

Todd Thalken, a captain with the Columbus Police Department, testified on behalf of the Platte County PSAP. Mr. Thalken stated that the surcharge should not be reduced and agreed with Mr. Conrey that statewide oversight is needed for NextGen 911 implementation. Mr. Thalken also testified that legislative change is necessary to make IP-based expenses payable by the Fund.

Beth Ferrell testified on behalf of the Nebraska Association of County Officials. Ms. Ferrell testified that the surcharge should not be reduced, because she believes it may be politically difficult to increase the surcharge in the future when additional funding is needed.

The Enhanced Wireless 911 Advisory Board recommended that the surcharge not be reduced and that it remain at the current rate of \$0.50.

F I N D I N G S A N D C O N C L U S I O N S

Pursuant to *Neb. Rev. Stat.* § 86-457, the surcharge may be increased by the Commission up to \$.70 per active telephone

number or functional equivalent for all counties but Douglas County, which remains capped at \$.50.

The Commission understands the concerns expressed by witnesses and the Advisory Board regarding the reduction of the wireless 911 surcharge. However, the funding needed for NextGen 911 remains speculative and is not sufficient to justify maintaining high reserves in the Fund. Furthermore, the Commission must act to balance current funding needs with the interest of the wireless subscribers paying the surcharge. Based upon an estimated 1.3 million wireless subscribers in Nebraska, a ten percent (10%) reduction in surcharge represents approximately a savings of \$1.56 million to subscribers during the Commission's two-year budget cycle.

Therefore, the Commission finds that based upon testimony provided by staff and the current fund balance the surcharge should be reduced to forty-five cents (\$.45) per active telephone number or functional equivalent, per month. The Commission will have the opportunity to revisit the surcharge level annually. We will continue to monitor funding needs, revenue projections and the fund balance and will make adjustments in the future should it be necessary.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the surcharge for the Enhanced Wireless 911 Fund should be set at forty-five cents (\$.45) per active telephone number or functional equivalent, per month effective January 1, 2013.

MADE AND ENTERED at Lincoln, Nebraska, this 23rd day of October, 2012.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Vice Chair

ATTEST:

Executive Director

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Tim Schram

Frank E. Landis

//s//Anne C. Boyle
//s//Frank E. Landis

Anne Boyle
Vice Chair

ATTEST:

Phil S. H. 20
Executive Director