

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska                    ) Application No. 911-019/PI-118  
Public Service Commission, on                    )  
its own motion, to implement                    )  
provisions of LB 1222 [2006] and                ) ORDER MAKING FINDINGS,  
to establish a permanent funding                ) ESTABLISHING SCHEDULE AND  
mechanism for wireless enhanced                ) SETTING HEARING  
911 service.                                        )  
  ) Entered: June 26, 2012

BY THE COMMISSION:

On February 23, 2010, the Nebraska Public Service Commission (Commission) entered an order pursuant to Neb. Rev. Stat. § 86-465(1)(e) adopting a permanent funding mechanism and process to provide funding for the implementation and provision of enhanced 911 service.

On April 17, 2012, the Commission entered an order expanding eligible expenses to include certain personnel expenses directly related to the receipt and processing of 911 calls.<sup>1</sup> Personnel costs were not previously factored into the permanent funding mechanism and therefore the allocations to public safety answering points (PSAPs) do not reflect those costs. The addition to the list of eligible expenses did not increase funds allocated to PSAPs through the permanent funding mechanism.

Therefore, the Commission proposed amending the current permanent funding mechanism to include a personnel cost module and in order to modify allocations to PSAPs for the 2012-2013 funding year consistent with the expansion of eligible costs.

Additionally, due to the fact that of the \$1.6 million allocated to wireless service providers (WSPs) for the 2011-2012 fiscal year, WSPs requested only \$719,000, the Commission proposed changing the "WSP Support Per Tower" input included in the 911-SAM. A change to the "WSP Support Per Tower" input would result in a reallocation of "Support Available" between the PSAP, GIS, and WSP cost categories.

E V I D E N C E

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<sup>1</sup> *In the Matter of the Commission, on its own motion, seeking to investigate and determine costs eligible for funding from the Enhanced Wireless 911 Fund pursuant to Neb. Rev. Stat. § 86-465(2)(b) and (c), Application No. 911-054/PI-181 Order Amending List of Eligible Expenses (Apr. 17, 2012).*

Written comments on both issues were received from the Region 26 Council; North Platte Police Department; City of Lincoln; Holdrege Police Department; Dawson County Sheriff's Office; NE Colorado Cellular, Inc., d/b/a Viaero Wireless; Douglas County Communications 911 Department; Washington County Sheriff's Office; City of Fremont Police Department; and City of Beatrice Police Department.

The Commission held a hearing on this matter on May 23, 2012.

Tyler Frost, economist for the Commission, testified to the method he used in developing a personnel cost proxy method. Mr. Frost testified that he used population data and the number of positions at each PSAP location to determine the number of positions needed in relation to a given population. Mr. Frost then compiled data collected from PSAPs and the Bureau of Labor Statistics to determine the average hourly cost per employee. Mr. Frost further testified that this cost is multiplied by the PSAP specific wireless ratio to determine the personnel cost proxy. Mr. Frost then testified that implementing the personnel module would not create another category, but these costs would flow into the PSAP cost category. Mr. Frost also testified that he had examined the possibility of a change to the "WSP Support Per Tower Input," but found no data to support a change to that input and recommended the Commission make no change.

Sue Vanicek, director of the Nebraska Telecommunications and Public Safety department, testified that the Commission would need to allocate additional funds to the PSAPs in order to provide funding for a portion of the personnel costs. She testified that while PSAPs are authorized to set aside up to 75% of their annual allocation for future equipment purchases, less than 10% of PSAPs set aside the maximum amount and 16% did not set aside any amount for future equipment purchases. Ms. Vanicek further testified that several PSAPs had provided documentation indicating that their entire allocation had been used on only a few of the eligible expenses, such as telephone bills and maintenance costs. Ms. Vanicek testified that an increase in the allocation of funding to PSAPs did not necessitate insufficient funding for wireless service providers because wireless service providers had requested less than half of the money allocated to them in both the 2011-2012 and 2012-2013 fiscal years.

Alma Beland of Region 26 Communications testified that the geographic area covered by a PSAP should be considered as well as the population in determining how many positions are necessary. Ray Richards, Scotts Bluff County Communications, agreed with Ms.

Beland and testified that it was sometimes difficult to get accurate wireless/landline 911 ratios.

Kara Thielen, 911 Director at Viaero Wireless, testified there is no evidence to suggest insufficient funds already available to satisfy the needs of the PSAPs including cost attributed to personnel costs and that more funds should not be made available until a complete analysis is performed. Ms. Thielen also testified that if funding were reallocated for 2012-2013 funding year, it would effectively be permanently reallocated due to the need to continue support for personnel infrastructure. Ms. Thielen then testified that no reduction should be made to the wireless allocation without an evaluation of the future needs of the wireless carrier industry. Finally, Ms. Thielen testified that, if funding were allocated to personnel costs, the Commission should require and administer training for all personnel to ensure competence.

Mark Conrey, Douglas County 911 Communications Director, testified that wireless calls have a negative impact on a PSAP's ability to process calls and that the wireless call volume should be a part of the funding allocation. Julie Righter, Director of the Lincoln Emergency Communications Center, testified in agreement with Mr. Conrey that call volume should be considered. Donna Mainwaring, representing Fillmore County, testified that call volume is not a good proxy because PSAPs with lower call volumes have the exact same expenses in hiring and training personnel as those with higher volumes.

#### FINDINGS AND CONCLUSIONS

The development of the 911-SAM in conjunction with a shift in the focus of the wireless 911 program from implementation to operations continues to evolve. The Fund is not intended to cover all possible costs incurred by PSAPs and wireless carriers in the provision of enhanced wireless 911 service. Therefore, the Commission must balance the interests of wireless carrier subscribers, the public's need for reliable enhanced wireless 911 service, and the funding requirements of the wireless service providers and PSAPs. Additionally, many of the PSAPs discussed the current efforts underway to consolidate in order to reduce costs and increase efficiencies in the system. Therefore, the Commission finds that it is necessary to take a broader approach to the update originally proposed by Commission staff.

Based upon the evidence presented, the Commission finds that in addition to the annual update of the model, Commission staff

should investigate the possibility of modifying the 911-SAM in the following respects:

- (a) include a personnel cost module within the PSAP cost category pursuant to the Commission staff proposal;
- (b) a possible reduction in the surcharge; and
- (c) simplify wireless service provider funding by phasing out the individual grant program and transitioning funding for capital expenditures to the monthly allocation.

The modifications should be made in order to increase efficiencies and decrease costs through streamlining the funding process at the Commission level and avoid hindering current consolidation efforts by PSAPs. Also, the level of the Fund should be reduced to allow for at least six (6) months reserve.

Commission staff should release a copy of the modified 911-SAM and resulting allocations via the Commission's website. In addition to the amounts allocated to individual PSAPs and Wireless Service Providers, information posted on the website should include the amount of the proposed reduced surcharge, the total amounts to be paid, the resulting fund balances. Hearing on the modified 911-SAM should be held in conjunction with the annual surcharge hearing.

Finally, multiple witnesses testified that call volumes should be incorporated into the 911-SAM. The personnel cost module is intended to capture an element of cost related to personnel within the PSAP cost category of the 911-SAM. It is not intended to reflect the actual personnel cost of each PSAP. Additionally, the calculation used to determine the cost proxy utilizes population and the number of 911 call taker positions reported by each PSAP in its annual funding application. Because the number of positions needed at each PSAP is based in some measure upon the call volume of the PSAP, the use of call volumes as a separate variable is unnecessary.

Because of the time necessary to make the proposed modifications, release the results for comment and to hold a hearing, the Commission is concerned about suspending PSAP and Wireless Service Provider funding pending the outcome for the 2012-13 funding year. Therefore, pending the resolution of this matter, the Commission finds that PSAP and Wireless Service Provider applications for funding for the 2012-13 funding year

should be processed and if approved, each PSAP and Wireless Service Provider will receive the same allocation as those calculated for the 2011-12 funding year. Each will receive a monthly payment based upon an eleven (11) month funding year. Appendix A, attached hereto and incorporated herein by this reference, outlines the allocations and potential payments based upon allocations from the 2011-12 funding year.

To the extent that a PSAP did not previously receive funding, the PSAP will receive the allocation that they would have received based upon the model, had they applied. The model does not provide specific allocations to wireless service providers that do not apply for funding. Therefore, for any wireless service provider that did not receive funding during the 2011-12 funding year, Commission staff may estimate the amount to be paid in the interim period based upon the amount requested and similarly situated wireless service providers.

Once a final decision is made regarding modifications to the model and allocations for the 2012-13 funding year, the Commission will true-up funding amounts for PSAPs and Wireless Service Providers including but not limited to making any adjustments for pre-existing commitments that may have expired or otherwise changed, for any adjustments necessary based upon the audit for the 2010-11 funding year, deductions from funding for any late filed applications, and for any change in allocation resulting from the addition of the personnel cost module. All true-ups will be made retroactively to July 1, 2012.

The modified 911-SAM anticipating a possible reduction in the surcharge and resulting allocations shall be released on or before **July 24, 2012** via the Commission's website.

All interested parties may file comments on the modified model and resulting allocations with the Commission **on or before 3:00 p.m. on August 21, 2012**. All parties filing comments should file one original and five (5) paper copies and email one electronic copy to [brandy.zierott@nebraska.gov](mailto:brandy.zierott@nebraska.gov) and [angela.melton@nebraska.gov](mailto:angela.melton@nebraska.gov).

The Commission further finds that hearing on this matter shall be scheduled for **August 28, 2012 at 1:30 p.m. CDT** in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

For the convenience of interested parties, the Hearing Officer finds that the hearing shall also be held via video conferencing at the following sites:

Ainsworth Public Library, 5<sup>th</sup> and Main, Ainsworth, Nebraska;

Columbus Public Library, Columbus Room, Second Floor, 2504 14<sup>th</sup> Street, Columbus, Nebraska;

McMillen Hall Room 208, 1205 East 3<sup>rd</sup> Street, McCook, Nebraska;

Northeast Community College, Maclay Building, Room 167A, 801 East Benjamin Avenue, Norfolk, Nebraska; and

Panhandle Research & Extension Center, High Plains Room, 4502 Avenue I, Scottsbluff, Nebraska.

The hearing will be held in legislative format. Therefore, no cross examination will be permitted. However, the Commissioners and Commission staff reserve the right to ask questions.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Commission at (402) 471-0213 (TDD) or the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven days is needed when requesting an interpreter.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that in addition to completing the annual update of the model, the 911-SAM should be modified as set forth herein.

IT IS FURTHER ORDERED that the modified 911-SAM and resulting allocations should be released via the Commission website on or before **July 24, 2012**.

IT IS FURTHER ORDERED that all interested parties should file comments with the Commission **on or before 3:00 p.m. on August 21, 2012**. All parties filing comments should file one original and five (5) paper copies and e-mail one electronic copy to brandy.zierott@nebraska.gov and angela.melton@nebraska.gov.

IT IS FURTHER ORDERED that a hearing on this matter shall be scheduled for **August 28, 2012 at 1:30 p.m.** in the Commission Hearing Room, 1200 N Street, Suite 300, Lincoln, Nebraska and via video conference at the locations listed herein.

MADE AND ENTERED at Lincoln, Nebraska, this 26th day of June, 2012.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Tim Schram*

*Anne Boyle*

*Gerald L. Vaz*

//s// Rod Johnson  
//s// Frank Landis

Chairman

ATTEST:

*Shel S. 1/4*  
Executive Director