

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Sue Vanicek, Director of the)	Application No. 911-029.07
Nebraska Telecommunications)	
Infrastructure and Public Safety)	
Department of the Nebraska)	
Public Service Commission,)	
)	
Complainant,)	COMPLAINT
v.)	
)	
Alltel Communications of)	
Nebraska, Lincoln,)	
)	
Respondent.)	Filed: February 3, 2009

COMES NOW, Ms. Sue Vanicek, Director of the Nebraska Telecommunications Infrastructure and Public Safety Department (NTIPS) of the Nebraska Public Service Commission (Commission) (hereinafter "Complainant") for Complaint against Alltel Communications of Nebraska, Lincoln, (hereinafter "Respondent") and alleges the following:

1. Complainant is the Director of the Nebraska Telecommunications Infrastructure and Public Safety Department (NTIPS) of the Nebraska Public Service Commission (Commission).

2. Respondent is a wireless carrier as defined by Neb. Rev. Stat. § 86-456 (2008 Supp.).

3. Jurisdiction is proper pursuant to the Enhanced Wireless 911 Services Act, Neb. Rev. Stat. § 86-442 et seq.

4. Pursuant to Neb. Rev. Stat. § 86-465(3) (2008 Supp.), "The commission shall have any powers necessary to carry out the intent and purposes of the act."

5. Pursuant to Neb. Rev. Stat. § 86-459(4) (2008 supp.), "Each wireless carrier shall comply with all commission rules and regulations regarding enhanced wireless 911 service."

6. Pursuant to Application No. 911-001/PI-52, Progression Order No. 5, "The PSAP, the wireless carrier, the local exchange carrier, and the Director shall establish schedules for testing prior to activating wireless enhanced 911 service. Any testing

must be scheduled at least two weeks in advance, unless all parties agree otherwise."

7. The Commission notified wireless carriers, including the Respondent, via certified mail, dated April 4, 2007, that due to occurrences of testing violations, the Commission would thereafter file Complaints against wireless carriers in the event of future testing violations.

8. The Complainant alleges the Respondent violated Progression Order No. 5 when it failed to notify the Commission prior testing prior to activating wireless enhanced 911 service in relation to a cell tower testing of Site No. 326 in Washington County conducted in December 2008:

9. The Complainant further alleges that due to the Respondent's failure, Respondent is subject to administrative fines and administrative fees pursuant to § 75-156 (2008 Supp.) and § 86-459(5) (2008 Supp.).

WHEREFORE, the complainant prays that this Commission

- a. enter an order setting this matter for hearing;
- b. after hearing, enter an order finding the Respondent guilty of the alleged violation, and levy an administrative penalty and administrative fees against the Respondent as authorized by Neb. Rev. Stat. § 86-459(5) (2008 Supp.), for each violation pursuant to Neb. Rev. Stat. § 75-156 (2008 Supp.), an amount not to exceed \$10,000 dollars per violation per day up to \$2 million dollars per violation per year;
- c. after hearing, enter an order to withhold funding from the Respondent pursuant to Neb. Rev. Stat. § 86-442 et seq. (2008 Supp.); and
- d. after hearing, enter an order for any and all other relief as deemed appropriate by the Commission and as authorized by law.

Respectfully Submitted,

Sue Vanicek
Nebraska Public Service Commission
300 The Atrium Building
1200 N Street
P.O. Box 94927
Lincoln, Nebraska 68509

State of Nebraska)
) ss
County of Lancaster)

VERIFICATION

Sue Vanicek, being first duly sworn on oath, deposes and says that she is the duly-appointed Director of the Nebraska Telecommunications Infrastructure and Public Safety Department of the Nebraska Public Service Commission; that she is the Complainant in the foregoing pleading; that she has read the allegations contained therein; and understands them to be true to the best of her knowledge and belief.

Sue Vanicek

SUBSCRIBED AND SWORN to before me on this _____ day of _____, 2009.

Notary Public

(SEAL)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above Complaint was sent by First Class United States Mail postage prepaid on _____, 2009 to the following: Mr. Bill Ashburn, Alltel Communications, 300 North Street, Suite #202, Lincoln, NE 68503

Angela Melton, #21755
Staff Attorney
Nebraska Public Service Commission
1200 "N" Street, Suite #300
P O Box 94927
Lincoln, NE 68509

N O T I C E

1. Pursuant to Neb. Admin. R. & Regs., title 291, chapter 1, section 005.09, the Respondent is hereby notified that an answer to this complaint shall be filed and shall admit or deny each material allegation of the complaint. The answer shall assert any affirmative defenses which the Respondent may assert. The answer shall be filed with the Commission within twenty (20) days after service of the complaint. Except for good cause shown, failure to answer will be construed as an admission of the allegations in the complaint. Failure to file an answer or to appear at the hearing allows the Commission to (a) immediately enter an order assessing a civil penalty and administrative fees as provided by law; or (b) to proceed with the hearing and receive evidence of the alleged violation and to assess a civil penalty and administrative fees as provided by law.

2. Pursuant to Neb. Rev. Stat. §§ 86-459(5) (Cum. Supp. 2006), as amended by 2007 Neb. Laws LB 661, and 75-156, (Cum. Supp. 2006), the Commission may impose an administrative penalty and administrative fees against the Respondent not to exceed ten thousand dollars (\$10,000.00) for each violation per day up to two million dollars (\$2,000,000) per violation per year.