

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Sue Vanicek, Director of the) Application No. 911-030.31
Nebraska Telecommunications)
Infrastructure and Public)
Safety Department of the)
Nebraska Public Service)
Commission,)
Complainant,) ORDER SUSTAINING COMPLAINT
v.) AND ASSESSING PENALTIES
Cozac Wireless, d/b/a Movida)
Communications, Inc., Kansas)
City, Missouri,)
Respondent.) Entered: October 20, 2009

BY THE COMMISSION:

On or about April 21, 2009, Sue Vanicek, Director of the Nebraska Telecommunications Infrastructure and Public Safety Department (Department) of the Nebraska Public Service Commission (Commission) filed a complaint against Cozac Wireless, d/b/a Movida Communications, Inc., (Respondent) Kansas City, Missouri.

Hearing on this matter was held on September 22, 2009, in conjunction with hearings for Docket Nos. 911-033.09 and NUSF-37.189. Respondent failed to appear.

O P I N I O N A N D F I N D I N G S

"As the commission may require, each wireless carrier shall report to the commission on a quarterly basis for each county ...the following information: (a) The number of telephone numbers or functional equivalents served; (b) the telephone numbers or functional equivalents from which it has collected surcharge revenue; (c) the number of wireless towers by county; and (d) the current implementation status of enhanced wireless 911 service in each county served by that wireless carrier."¹ Pursuant to Docket No. 911-010 entered March 30, 2004, such reports are due to the Commission by the 15th of the month immediately following the end of each calendar quarter. Respondent did not timely file the required quarterly report for the first quarter 2009, due April 15, 2009.

¹ Neb. Rev. Stat. § 86-459(2) (Cum. Supp. 2008).

A copy of the Complaint was served on Respondent via certified mail return receipt requested, on or about May 13, 2009. "Except where good cause is shown . . . failure to answer will be construed as an admission of the allegations in the complaint."² No answer was received.

Respondent filed the required quarterly report for the first quarter, 2009 on September 18, 2009, five months after the due date. Therefore, the Commission finds that Respondent failed to timely file the required quarterly report for the first quarter 2009 due on April 15, 2009 pursuant to § 86-459(2).

"Each wireless carrier shall comply with [§ 86-459(2)] regardless of whether the wireless carrier receives reimbursement from the fund. Wireless carriers failing to comply with this section may be administratively fined by the commission pursuant to section 75-156."³

At hearing, Commission staff recommended that a fine in the amount of \$3,300.00 and an additional \$100 in administrative costs be assessed against Respondent. Respondent had previously violated § 86-459(2), and was therefore subject to the Department fining policy for subsequent violations.⁴

Based upon the above, the Commission finds that administrative fines in the amount of **three thousand three hundred dollars (\$3,300.00) and an additional one hundred dollars (\$100)** in administrative costs should be assessed against Respondent. Respondent should remit the costs and administrative penalties to the Commission within thirty (30) days of this order.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that administrative fines in the amount of **three thousand three hundred dollars (\$3,300.00) and an additional one hundred dollars (\$100)** in administrative costs should be assessed against Respondent.

IT IS FURTHER ORDERED that Respondent shall remit the costs and administrative penalties to the Commission within thirty (30) days of this order.

² Neb. Admin. Code, Title 291, Ch. 1 § 5.08D (1992).

³ Neb. Rev. Stat. § 86-459(5) (Cum. Supp. 2008).

⁴ See PSC Docket 911-030.29 entered May 5, 2009.

MADE AND ENTERED at Lincoln, Nebraska this 20th day of
October, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director