

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) APPLICATION NO. PSAP-004.1
of Custer County, Broken, Bow,)
seeking approval of funding for) ORDER DENYING REQUEST FOR
implementation of E-911,) FUNDING
associated training and)
salaries.) Entered: June 5, 2002

BY THE COMMISSION:

By application filed March 19, 2002, Custer County seeks approval of funding for implementation of E-911, associated training and salaries.

A hearing in this matter was held on May 7, 2002, at 2:00 p.m., in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

E V I D E N C E

Mr. Bill Keller testified on behalf of Custer County. Mr. Keller is Communications Supervisor for Custer County. Custer County seeks funding for specific items identified in its application, namely, Motorola telephones, enhanced 911 (E-911) equipment, automatic location identification (ALI) circuits, a "Telecommunicator Course" from Advanced Systems Technology, Inc. and salary costs for increased labor.

Mr. Keller testified that the Introducer's Statement of Intent for LB 585, the enabling legislation for the Enhanced Wireless 911 Fund, provides that costs incurred by public safety answering points (PSAPs) to implement E-911 will be eligible for funding. He testified that the intent of the bill was to upgrade PSAPs to E-911. He testified that Custer County's application "was to upgrade from ANI, which is a basic E-911 system, to a capability to receive Phase 1 information." (Tr. 8:14-17.) He testified that Custer County feels that it should recover for the extra burden that wireless technology has put on its PSAP.

Mrs. Virginia Vance testified on behalf of the Wireless Enhanced 911 Advisory Board. Mrs. Vance testified that the advisory board considered Custer County's request, and recommended that the Commission deny the request. She testified that the equipment for which Custer County sought funding in this application is for landline E-911, and not solely for wireless 911.

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

This request for funding is being processed pursuant to Neb. Rev. Stat. §§ 86-2201 to 86-2214. (2001 Supp.), 291 Neb. Admin. Code, Chapter 1, Section 5, and Progression Order No. 3 in Commission Docket No. 911-001, entered January 29, 2002.

In order to be eligible, all costs must have been incurred or will be incurred for the purchase, installation, maintenance and operation of telecommunications equipment and telecommunications services required for the provision of enhanced wireless 911 service. Neb. Rev. Stat. § 86-2210 (2001 Supp.) Such costs include, but are not limited to, purchases of new equipment, costs of upgrades, modification and personnel training used solely to process the data elements of enhanced wireless 911 service, and maintenance costs and license fees for new equipment. (Id.)

Custer County did not present sufficient evidence to establish that the items for which Custer County seeks cost recovery meet the eligibility requirements of Neb. Rev. Stat. § 86-2210. Mr. Keller testified that Custer County's application "was to upgrade from ANI, which is a basic E-911 system, to a capability to receive Phase 1 information." (Tr. 8:14-17.) Mrs. Vance testified that all items for which Custer County applied were for landline E-911, not wireless 911. The Commission finds that Custer County's upgrades that are the subject of this application are for landline 911 and not for enhanced wireless 911 service.

Custer County applied and was approved for funding for wireless 911 service by Order of this Commission on April 2, 2002, in Application No. PSAP-004 (Exhibit 4). Furthermore, Neb. Rev. Stat. §§ 86-1001 to 86-1009 (Reissue 1999) provides a mechanism by which PSAPs can pay for landline 911 and E-911 equipment. The plain language of the wireless E-911 statutes (Neb. Rev. Stat. §§ 86-2201 to 86-2214), and the separate statutory schemes for landline and wireless 911 indicate that the Enhanced Wireless 911 Fund should only be used for wireless E-911 and should not be used to pay for upgrades for landline E-911.

Although it is not necessary in order to dispose of this case, the Commission wishes to address the legislative history of the enabling legislation because the issue was raised by Custer County. When looking at the legislative history of LB 585 [2001], which was codified as Neb. Rev. Stat. §§ 86-2201 to 86-2214, it is clear that the Nebraska Legislature intended that the Enhanced Wireless 911 Fund only pay for wireless E-911 and not for landline 911 or E-911 (See, Exhibit 3.). Exhibit 3 shows that the introduced version of the bill differs from the bill that was finally passed. Language allowing for recovery of costs incurred for 911 and E-911 was present in the introduced version of LB 585, but was removed by AM1099 (Id.). Furthermore, the Introducer's Statement of Intent and the Committee Statement predate AM1099 and predate the Final Reading bill that was ultimately passed by the Legislature (Id., Exhibits 7 and 8).

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. PSAPS-004.1 be, and it is hereby, denied.

MADE AND ENTERED at Lincoln, Nebraska, this 5th day of June, 2002.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director