

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska ) Application No. 911-073/PI-232  
Public Service Commission, on )  
its own motion, to consider ) ORDER ADOPTING NEXT  
recommendations of the Service ) GENERATION 911 FUNDING  
System Advisory Committee for ) MODEL IMPLEMENTATION PLAN  
creation of a new funding )  
system for Next Generation 911. ) Entered: December 7, 2021

BY THE COMMISSION:

The Nebraska Public Service Commission ("Commission") opened this docket on May 5, 2020, for the purpose of considering the 911 Service System Advisory Committee's ("Advisory Committee") proposal for a new funding system for Next Generation 911 (the "NG911 Funding Model").<sup>1</sup>

On November 17, 2020, the Commission entered an Order adopting the Advisory Committee's NG911 Funding Model as the framework to provide wireless surcharge funding to the 911 service system in the Next Generation 911 environment, and directed 911 Department staff to create a plan for implementation of the NG911 Funding Model as provided in the Order.<sup>2</sup>

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

The 911 Service System Act<sup>3</sup> (Act), establishes "the Public Service Commission as the statewide implementation and coordinating authority to plan, implement, coordinate, manage, maintain, and provide funding assistance for a 911 service system consistent and compatible with national public safety standards advanced by recognized standards and development organizations."<sup>4</sup>

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<sup>1</sup> *In the Matter of the Nebraska Public Service Commission, on its own motion, to consider recommendations of the Service System Advisory Committee for creation of a new funding system for Next Generation 911, App. 911-073/PI-232, ORDER OPENING DOCKET AND SEEKING PUBLIC COMMENT (May 5, 2020).*

<sup>2</sup> *In the Matter of the Nebraska Public Service Commission, on its own motion, to consider recommendations of the Service System Advisory Committee for creation of a new funding system for Next Generation 911, App. 911-073/PI-232, ORDER ADOPTING FUNDING RECOMMENDATIONS (Nov. 17, 2020).*

<sup>3</sup> Neb. Rev. Stat. §§86-1001 to 86-1029.03.

<sup>4</sup> Neb. Rev. Stat. §86-1002.

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The Next Generation 911 Funding Model Implementation Plan ("Implementation Plan") attached hereto as Appendix A describes the funding transition process for PSAPs that are shifting from enhanced wireless 911 service to NG911 service, provides detail on the calculation of funding for NG911 PSAPs, prerequisites to receiving NG911 funding and a description of the eligible uses of wireless funding for NG911 PSAPs.

Accordingly, we find that the Implementation Plan attached hereto as Appendix A should be adopted for providing wireless funding for PSAPs operating in the Next Generation 911 environment.




### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the staff proposal attached as Appendix A be adopted as stated herein.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska this 7<sup>th</sup> day

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

  
Chair

ATTEST:

  
Deputy Director

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Commissioner Rhoades, dissenting:

I dissent. We should not be implementing such a fundamentally flawed approach to funding PSAPs in Nebraska. This new formula takes 40 percent of the available funding and divides it equally among all PSAPs as foundation aid, but allocates only 20 percent of funding to each PSAP based on the population served. This approach is fundamentally unfair to larger counties, whose residents are burdened with paying most of the cost of the statewide 911 system, but receive back an inordinately small percentage of the amount they are required to pay in.

It should be obvious that funding ought to be prioritized for locations that generate the most 911 calls, which means counties having the most population. However, this funding system allocates a scant 20 percent of funding to PSAPs based on population. For example, the PSAPs serving Douglas, Lancaster and Sarpy Counties collectively handle an average of 1,800 calls per day, which is over 65 percent of all 911 calls in the State of Nebraska. Not coincidentally, they also represent over 55 percent of state population. Yet under this funding formula they will each receive the same \$28,550.59 in foundation aid as each of the 20 PSAPs in the state that handle less than 5 calls per day, averaging only 1,234 calls per year.<sup>5</sup> Collectively, those torpid PSAPs handle less than 2.5 percent of all 911 calls in the State of Nebraska and serve less than 4.6 percent of state population, but will enjoy the same \$28,550.59 in annual foundation aid.

This approach will merely perpetuate the over subsidization of small PSAPs that has occurred under the current highly flawed PSAP funding model. We have given them more money than they can spend year after year, resulting in unused six figure war chests of 911 surcharge dollars "set aside" in small population counties with very limited call volume and population. Among other harms, this over subsidization has made these counties resistant to consolidation, which increases the overall cost to taxpayers while starving the PSAPs most needing the funding.

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<sup>5</sup> Chase County, City of Falls City, City of Wayne, Clay County, Dixon County, Dundy County, Fillmore County, Franklin County, Frontier County, Furnas County, Garden County, Hitchcock County, Howard County, Kearney County, Kimball County, Mid-Rivers 911, Morrill County, Nuckolls County, Perkins County, and Thayer County.

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Clearly, the 40 percent foundation aid level misallocates resources by diverting 911 funding from the areas of greatest need to areas that simply do not generate enough 911 calls to justify the cost.

One simple step that could be taken to fix this disparity would be to merely reverse the percentages of PSAP funding allocated to foundation aid and population. It would be far better to direct 20 percent of available funding to foundation aid and 40 percent to each PSAP based on population served. This would allocate vital additional dollars to PSAPs that actually receive a reasonable amount of 911 calls. It would also reduce the excessive subsidy being provided to a number of mostly idle PSAPs, and thereby encourage necessary consolidation.

Moreover, The Commission should be collecting information about actual costs to operate PSAPs. Awarding funding without doing any analysis about the funding needed for staffing, facilities, equipment, and training costs is imprudent. We need to have serious analysis of what is needed to provide robust and ubiquitous service statewide. The Commission should rely on that data to determine whether or not the current funding levels are sufficient to meet those needs and what adjustments are necessary to ensure equitable distribution of the funding based on needs and number of people served.

In short, the funding system implemented by this Order does not represent a financially responsible or efficient use of 911 surcharge funds, therefore, I dissent.

  
Crystal Rhoades  
Commissioner

**APPENDIX A**  
**911-073/PI-232**

**NEXT GENERATION 911 FUNDING MODEL  
IMPLEMENTATION PLAN**

The 911 Service System Act<sup>1</sup> directs the Nebraska Public Service Commission (“Commission”) to provide funding for the 911 Service System from the 911 Service System Fund, which consists of 911 surcharges collected by wireless carriers on all active wireless telephone numbers (“Wireless Surcharges”).<sup>2</sup> Wireline and VOIP service providers also collect 911 surcharges from their customers, however, these amounts are not allocated by the Commission. Wireline and VOIP surcharge revenues are remitted directly to local governing bodies for distribution to local Public Safety Answering Points (“PSAPs”) as a local responsibility under the control of local governing bodies, pursuant to the Emergency Telephone Communications Systems Act.<sup>3</sup>

The foundational technology for the Next Generation 911 system is statewide Emergency Services IP Network (“ESInet”) and Next Generation Core Services (“NGCS”). The entire cost to establish and operate the ESInet and NGCS will be paid solely from wireless surcharge revenues allocated by the Commission from the 911 Service System Fund, without the use of any local government wireline or VOIP surcharge revenues.<sup>4</sup> The 911 Service System Fund will also continue to be the sole source of funds to pay the tariffed costs of selective routing and ANI/ALI, statewide 911 contractual obligations, 911 department administration, and maintain an adequate emergency reserve balance. After payment of these amounts, the remaining funds in the 911 Service System Fund will be allocated to provide supplemental annual funding to local PSAPs and subsidize the 911 expenses of wireless carriers.<sup>5</sup>

**PSAP Annual Funding Allocations**

PSAPs that are not connected to the ESInet and NGCS (“Legacy PSAPs”) will continue to receive funding allocated by Commission Order as determined under Docket No. 911-019<sup>6</sup> (“Legacy Funding”). PSAPs that are connected to the ESInet and NGCS (“NG911 PSAPs”), will receive

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<sup>1</sup> Neb. Rev. Stat. §§ 86-1001 to 86-1029.03.

<sup>2</sup> Neb. Rev. Stat. § 86-457.

<sup>3</sup> Neb. Rev. Stat. §§ 86-420 to 86-441.01.

<sup>4</sup> Amounts in the 911 Service System Fund may be supplemented from time to time by federal grant funds, if made available by Congress.

<sup>5</sup> The Commission has opened a separate docket to explore NG911 cost recovery for wireless service providers. See, *In the Matter of the Nebraska Public Service Commission, on its own motion, to consider the appropriate level of wireless 911 surcharge funding for wireless service providers*, App. No. 911-074/PI-239, ORDER OPENING DOCKET AND SEEKING PUBLIC COMMENT (July 27, 2021).

<sup>6</sup> See, e.g., *In the Matter of the Nebraska Public Service Commission, on its own motion, to implement provisions of LB 1222 [2006] and to establish a permanent funding mechanism for wireless enhanced 911 service*, App. No. 911-019/PI-118, FINAL ORDER ADOPTING MODEL AND APPLICATION PROCESS (Feb. 23, 2010).

funding allocated from the 911 Service System Fund as determined according to the funding system adopted by the Commission via Order dated November 17, 2020 in Docket No. 911-073/PI-232<sup>7</sup> and supplemented by this Implementation Plan (the “NG911 Funding Model”).

Under the NG911 Funding Model, each eligible NG911 PSAP will receive annual funding equal to the sum of the following three components: (i) a Base Amount that will be the same for each NG911 PSAP; (ii) a Call Volume Amount, reflecting each PSAP’s share of overall statewide 911 call volume and (iii) a Population Amount, reflecting each PSAP’s share of overall state population. Annual funding will be divided into eleven payments delivered to each PSAP every month except June, to allow more time for PSAPs to use their full funding allocation prior to the end of each state fiscal year.

The process of determining the annual amount of funding allocated to NG911 PSAPs from the 911 Service System Fund will be transparent and based on measurable data. Data from the prior calendar year will be used to calculate the amount of annual funding to be provided to NG911 PSAPs during the following fiscal year.

Subject to the receipt of sufficient wireless surcharge revenues, the total amount of funding allocated to all PSAPs during the transition to statewide next generation 911 service (the “Transitional Period”) will be maintained at the same amount allocated for the 2020/2021 fiscal year, which is \$4,853,601.00.

As described below, a hypothetical NG 911 PSAP which received one percent of the state’s annual 911 calls and served one percent of the state’s total population would receive an allocation of wireless surcharge funding from the 911 Service System Fund equal to \$57,672.19. NG911 PSAPs that receive fewer calls and serve a smaller population would receive less funding. Conversely, NG911 PSAPs that receive more calls and serve a larger population would receive more funding.

#### Base Amount--40 percent of Total PSAP Funding

Forty percent of the total amount of annual funding allocated for payment directly to NG911 PSAPs will be divided into equal shares and distributed to each PSAP as the Base Amount. The total Base Amount available to be allocated to NG911 PSAPs will be 40 percent of \$4,853,601.00, which is \$1,941,440.40. Based on a total of 68 PSAPs, the annual Base Amount to be allocated to each PSAP is \$28,550.59.

The Base Amount will be maintained at this level until all Legacy PSAPs have transitioned to NG911 PSAPs. After all PSAPs have joined the NG911 system, the base amount will be reviewed annually for potential adjustment.

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<sup>7</sup> *In the Matter of the Nebraska Public Service Commission, on its own motion, to consider recommendations of the Service System Advisory Committee for creation of a new funding system for Next Generation 911*, App. No. 911-073/PI-232, ORDER ADOPTING FUNDING RECOMMENDATIONS (Nov. 17, 2020).

#### Call Volume Amount--40 Percent of Total PSAP Funding

Forty percent of the total amount of annual funding allocated for payment directly to NG911 PSAPs will be distributed to each NG911 PSAP based on its annual share of total statewide 911 call volume, determined according to ECaTS data. For PSAPs that do not have a full year of ECaTS data during the Transitional Period, full year totals will be extrapolated from available ECaTS data. Re-bids will not be included in determining call volume.

Initially, the total Call Volume Amount available to be allocated to NG911 PSAPs will be 40 percent of \$4,853,601.00, which is \$1,941,440.40. Based on currently available ECaTS data adjusted as stated above, total statewide 911 call volume for calendar year 2020 was 997,163 calls. Therefore, a hypothetical PSAP which answered 9,972 911 calls during the calendar year would be responsible for one percent of total statewide call volume and would receive one percent of the total statewide Call Volume Amount, which would be \$19,414.40.

The Call Volume Amount for each fiscal year will be determined based on the prior calendar year's ECaTS data, which will be available in January of the following year.

#### Population Amount--20 Percent of Total PSAP Funding

Twenty percent of the total amount of annual funding allocated for payment directly to NG911 PSAPs will be distributed according to the percentage of the total statewide population in each PSAP's service area, determined according to annual U.S. Census Bureau estimates.<sup>8</sup> Adjustments will be made for PSAP service areas that do not follow county lines in cases where it can be demonstrated that the actual population serves varies by five<sup>9</sup> percent or more from the U.S. Census estimate for the related counties.

Initially, the total Population Amount available to be allocated to NG911 PSAPs will be 20 percent of \$4,853,601.00, which is \$970,720.20. Based on U.S. Census data, the total population of Nebraska for calendar year 2020 was 1,961,504 persons<sup>10</sup>. Therefore, a hypothetical PSAP with 1,962 people in its service area would be responsible for serving one percent of the state's total population and would receive one percent of the total Population Amount, which is \$9,707.20.

Population will be determined according to annual U.S. Census Bureau county population estimates for the most recently available prior calendar year.<sup>11</sup>

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<sup>8</sup> Or the result of the actual census count, if more recent.

<sup>9</sup> Or some other percentage—should be based on whatever turns out to be a meaningful change in actual dollars allocated.

<sup>10</sup> <https://www.census.gov/quickfacts/fact/table/NE/POP010220#POP010220>

<sup>11</sup> See, e.g., <https://www2.census.gov/programs-surveys/popest/tables/2010-2019/counties/totals/co-est2019-annres-31.xlsx>

## **PREREQUISITES TO NG911 PSAP FUNDING**

NG911 PSAPs will need to meet certain requirements in order to receive funding from the Commission each year. As is currently the case, each PSAP will need to complete an annual application to receive funding. The application will need to be submitted to the Commission on or before March 31<sup>st</sup>. The Commission expects to make the annual application form available to PSAPs by early January of each year.

NG911 PSAPs must also have completed all annual audit requirements, adopted a Continuity of Operations Plan, be in compliance with applicable training standards, and have completed any outstanding cybersecurity review.

In addition, because ECaTS data will be used to determine the Call Volume component of annual PSAP funding, each NG911 PSAP must be connected to the statewide ECaTS system in order to receive funding.

Finally, each PSAP will need to certify that it has not diverted wireless, wireline, and VOIP 911 surcharge funds and otherwise complies the FCC rules governing 911 Fee Diversion.<sup>12</sup>

## **ELIGIBLE USES OF WIRELESS FUNDING FOR NG911 PSAPS**

Unlike Legacy PSAPs, the use of wireless surcharge funding provided by the Commission to NG911 PSAPs will not be subject to the wireless/wireline ratio. However, like Legacy PSAPs, NG911 PSAPs can only use wireless surcharge funds for a list of eligible expenses.

At the top of the list of eligible expenses for NG911 PSAPs is call handling equipment. The Commission strongly recommends that NG911 PSAPs make call handling equipment the top priority for the use of their wireless funding allocations. Call handling equipment is expensive and subject to a five-year replacement schedule to assure reliability and prevent obsolescence.

In addition to call handling equipment, eligible expenses for wireless 911 surcharge funds are:

- Regional connectivity between host and remote NG911 PSAPs, including last mile costs
- Geographic Information Systems (“GIS”) costs, including creation, maintenance, and updates to local GIS data
- Computer Aided Dispatch (CAD) systems
- NG911 PSAP usage of Logging Recorders
- Backup power equipment, such as uninterruptible power supplies and reserve generating equipment used by the PSAP
- Telecommunicator Training Costs
- Salaries for PSAP personnel
- PSAP radio consoles

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<sup>12</sup> See, *In the Matter of 911 Fee Diversion, New and Emerging Technologies 911 Improvement Act of 2008*, PS Docket Nos. 20-291 & 09-14, REPORT AND ORDER (Adopted June 24, 2021).

Also, as provided in FCC rules, 911 surcharge dollars may not be used to pay for “equipment or infrastructure for law enforcement, firefighters, and other public safety/first responder entities that does not directly support providing 911 services.”<sup>13</sup>

## **LOCAL CONTROL OF CAPITAL COST PLANNING**

The use of wireless surcharge funds allocated by the Commission to NG911 PSAPs for eligible expenses will be under local control. NG911 PSAPs will also be responsible for planning their own future capital costs and determining how much money to set aside from current revenue in order to cover such future expenses. The Commission will not oversee or pre-approve the use of any such funds set aside for future use by NG911 PSAPs.

However, the Commission will continue to use an annual audit process to confirm that NG911 PSAPs use their allocated wireless 911 surcharge funds for eligible expenses. In addition, NG911 PSAPs will provide the Commission with information about their equipment replacement planning as part of the annual funding application process. Upon request, the Commission may consider offering capital planning and budgeting assistance to individual PSAPs.

## **RULES FOR LEGACY PSAPS MAKING THE TRANSITION TO NG911**

Legacy PSAPs will continue to receive Legacy Funding until connected to the ESInet and NGCS. The Commission will continue to pay text-to-911 costs directly on behalf of Legacy PSAPs, however, a PSAP will need to request an Order indefinitely extending the three year text-to-911 funding cycle if its legacy text-to-911 funding will expire prior to transition.

In any event, all Legacy PSAP funding will be discontinued no later than December 31, 2023. After this date, the Commission will no longer allocate any funding to PSAPs via the Legacy Funding system. Any remaining Legacy PSAPs at that time must become NG911 PSAPs in order to receive any further allocations from the 911 Service System Fund.

After a Legacy PSAP makes the transition to NG911 PSAP, Legacy Funding will end, and funding under the NG911 Funding Model will commence, effective the second full calendar month following the month in which the PSAP connects to the ESInet and NGCS.

NG911 PSAPs will retain any Legacy Set-Aside funds they may have at the time of transition. However, the wireless/wireline ratio will not apply to the use of Legacy Set-Aside Funds by NG911 PSAPs. Funding Requests and Public Service Commission Orders will no longer be necessary for an NG911 PSAP to use Legacy Set-Aside funds for eligible expenses. NG911 PSAPs may also use Legacy Set-Aside funds as provided in any issued but unpaid funding orders.

The Commission encourages NG911 PSAPs to use their Legacy Set-Aside Funds to help make the adjustment to any reduction in direct funding under NG911 Funding Model. Except for personnel costs, Legacy Set-Aside funds may be used for any eligible expense without seeking PSC

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<sup>13</sup> 47 CFR 9.23(c)(3).

approval. PSAPs are encouraged to use other funds, such as wireline, VOIP or local general funds for personnel costs.

NG911 PSAPs will have three years from the date of their transition to use any Legacy Set-Aside Funds. Within six months after transition, each NG911 PSAP must adopt and provide the Commission with a three-year plan for spending all of its Legacy Set Aside Funds. Any set-aside funds not expended by an NG911 PSAP on or before the 3<sup>rd</sup> anniversary of its transition to the NG911 Funding Model will result in a reduction in annual funding of an equal amount in the following year.

Each NG911 PSAP will continue to be audited annually to confirm 911 Service System funds were used for eligible purposes according to legal requirements. The PSAP audit process will be reviewed for potential improvements after all PSAPs have become NG911 PSAPs.

## **NG911 FUNDING APPLICATION PROCESS**

The NG911 PSAP funding application will be essentially the same as today, with necessary revisions as noted previously. In addition, the NG911 PSAP funding application will include information about the PSAP's call handling equipment, including brand and model name, version number, date of purchase, and date of installation. The application will also require a description of the PSAP's equipment replacement plan and its three-year plan for using all of the PSAP's Legacy Set-Aside Funds.

Untimely NG911 Funding Applications will result in the PSAP receiving no funding from the Commission until the completed application is received and processed. Any monthly payments missed due to failure to timely file the PSAP funding application will be forfeited.

### Key Dates

The following are the anticipated key dates for the PSAP funding process. These anticipated dates may be subject to change based on the needs of PSAP and 911 Service System, as determined by 911 staff.

- October 15 – Prior year audit information due from PSAPs
- December 15 -- Application form revisions finalized
- January 1 – Funding applications delivered to PSAPs
- January 15 -- ECaTS call volume data available
- March 31– Funding application due back from PSAPs
- March 20 -- County population estimates available from US Census Bureau
- May 1 (on or about) -- PSAP funding amounts calculated
- May 15 (on or about) -- Commission adopts annual PSAP Funding Allocation Order
- July 1 – Annual Funding commences