

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska ) Application No. 911-017/PI-116  
Public Service Commission, on )  
its own motion, to establish )  
interim policies for the ) PROGRESSION ORDER NO. 2  
Administration of the Enhanced )  
Wireless 911 Fund pending )  
Implementation of LB 1222 )  
[2006]. ) Entered: December 16, 2008

BY THE COMMISSION:

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

On January 9, 2007, the Nebraska Public Service Commission (Commission) established interim policies for the Administration of the Enhanced Wireless 911 Fund (Fund) pending Implementation of LB 1222 [2006]. In addition to establishing other policies, the order set a deadline of February 16, 2007 for the filing of invoices by wireless carriers for past billing periods and for PSAPs to file funding or reimbursement requests, who could have requested reimbursement or funding under the prior law, but were advised to wait pending the outcome of legislative action.

Subsequently, Progression Order Number 1, entered February 13, 2007, amended the interim policy establishing a statewide allocation factor of 55% wireless to 45% wireline, until the permanent funding mechanism is established and prohibiting any increase in costs for local exchange carriers during the interim period.

On February 29, 2008, NE-Colorado Cellular, Inc. d/b/a Viaero Wireless (Viaero) submitted a funding request for implementation of Phase II in three counties. The interim policy does not specifically address whether these costs are reimbursable, and no other wireless carrier has requested reimbursement for similar costs. Due to concerns of ensuring that all wireless carriers are treated similarly and not over-committing available monies in the Fund, the Commission denied Viaero's request in an order entered on November 13, 2008 in Application No. 911-022.09. Pursuant to the decision in docket 911-022.09, the Commission directed that the interim policy be amended to be consistent with its findings in the Viaero application.

The Commission also finds that certain areas of the interim policy required clarification. Therefore, the Commission further amends the interim policy to state that a PSAP may request a waiver or adjustment of the funding allocation factor for good cause, including but not limited to, financial need. Additionally, all counties are responsible for ensuring that they

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have complied with all bidding requirements pursuant to state and local law.

An amended interim policy is attached hereto as Appendix A. Policies regarding mapping, Phase I funding, Phase II funding, wireless carrier costs, GIS data development and the Data Repository, multiple PSAPs within a county and, other miscellaneous issues remain in effect.

The Commission may amend the interim policy at any time.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the interim policy as set forth in Appendix A attached hereto, and incorporated herein by this reference, be adopted.

IT IS FURTHER ORDERED that the amended interim policy supersedes the previous policy adopted in this docket on February 13, 2007.

MADE AND ENTERED at Lincoln, Nebraska, this 16<sup>th</sup> day of December, 2008.

COMMISSIONERS CONCURRING:

NEBRASKA PUBLIC SERVICE COMMISSION

Chair:

ATTEST

Executive Director

//s// Anne C. Boyle  
//s// Frank E. Landis

## Second Amended Interim Implementation Policy

### PSAP Funding Requests for Shared Costs

Requests for reimbursement for any equipment, software, hardware, or services shared between wireless and wireline enhanced 911 service filed after **February 16, 2007** will be subject to an allocation factor of 55% (fifty-five percent) wireless and 45% (forty-five percent) wireline. This interim policy does not guarantee funding for any particular request. All requests must be reviewed on a case-by-case basis on their own merits.

**Funding will be determined based upon the statewide allocation factor until such time as the funding mechanism is established pursuant to LB 1222 [2006]. A PSAP may request a waiver or adjustment of this allocation factor for good cause, including, but not limited to, financial need.**

### Mapping

All PSAPs, counties or cities who have developed GIS data on their own and do not submit requests for reimbursement, must do so **no later than February 16, 2007**. All data must be provided in a form consistent with the standards set forth by the Commission to be included in the data repository prior to a PSAP receiving any funding or access to the data repository. The Commission staff will continue to develop a policy regarding access to and use of the data repository.

The Commission will continue to fund the development of GIS data up to 100% during the interim period. Any requests for funding for the development of GIS data will continue to be reviewed on a case-by-case basis.

### PSAP Phase II Funding

Any requests by PSAPs for Phase II LEC costs, whether already incurred or new costs, will be considered on a case-by-case basis. Any requests for reimbursement of already incurred Phase II costs must be submitted **no later than February 16, 2007**. Failure to submit requests for reimbursement of already incurred costs by said date, may constitute a waiver of reimbursement.

### Testing

During the interim period, all PSAPs, wireless carriers, LECs and vendors involved in the implementation of Phase I or Phase II wireless enhanced 911, must do so consistent with the Phase I standards adopted by the Commission in Progression Order No. 5 in Docket No. 911-011/PI-79 and the Phase II standards adopted by the Commission on October 17, 2006 in the same docket. The applicable testing standards shall be followed on any initial implementation and if an additional tower is being implemented, this includes notifying

the Commission, appropriate LEC and the PSAP. Failure to comply with applicable testing guidelines may result in loss of funding and/or possible fines.

#### Wireless Carrier and LEC Costs

Any wireless carrier who has not submitted invoices for previous billing periods must file with the Commission all invoices for previous billing periods by February 16, 2007. Furthermore, all invoices for billing periods up through December, 2006 must be filed by February 16, 2007. Failure to submit these invoices may constitute a waiver of any funds previously approved.

Wireless carriers will not receive funding for Phase II costs at this time. Any costs currently approved for Phase I that will continue with Phase II implementation will continue to be reimbursed consistent with Commission rules, other terms of the interim policy, and Commission Orders.

The Commission will not approve any increase in Wireless Carrier or LEC costs during the effectiveness of the interim policy.

The Commission will continue to consider costs associated with new implementations, increases in subscriber counts, new towers, etc. This does not include increases in the actual rates.

#### Phase I Funding

All PSAPs ready to move forward with Phase I and wireless service providers should submit requests for funding consistent with Progression Order No. 5 and Commission procedures set forth herein. The Commission and staff may request additional information in order to properly consider each request.

#### GIS Data Development and the Data Repository

Due to the length of time necessary for development and the need statewide, funding for the development of GIS data and the data repository will continue during the transition period. Any PSAP which has developed its own data, must provide that data in a form consistent with the standards set forth by the Commission to be included in the data repository prior to receiving any funding or access to the data repository. The Commission staff will be developing a policy regarding access to and use of the data repository.

#### Multiple PSAPs Within a County

Pending implementation of LB 1222, the Commission will provide funding for only one PSAP per County consistent with Neb. Rev. Stat. § 86-465(1)(e) (2005 Supp.) as amended LB 1222 [2006]. Furthermore, no funding will be provided for backup PSAPs. In cases in which funding is currently being provided to multiple PSAPs within a county, funding will continue during the interim period and the issue will be resolved in conjunction with the establishment of a permanent funding mechanism. If during the

interim period, any new funding requests are received from PSAPs serving an area served by multiple PSAPs, each request will be reviewed on a case-by-case basis.

#### Miscellaneous

All funding requests will continue to be reviewed by the Wireless E911 Advisory Board consistent with past practices. All parties requesting funding will be notified when their request is on the Board's agenda. The Board's funding recommendations will be forwarded to the Commission. Final decision on any funding request will be made by the Commission. Any PSAP, wireless carrier, vendor or LEC may request a hearing before the Commission on any funding request.

All funding requests for equipment and/or hardware/software should include any additional expenses related to maintenance of the equipment. After February 16, 2007, all PSAPs shall utilize vendors of choice as outlined in Docket No. 911-011/PI-79. Any PSAP wishing to use a vendor other than a vendor of choice, should file a request for approval prior to the signing of any contract with the vendor.

All counties are responsible for ensuring compliance with all state and local laws and rules and regulations which govern the bidding process.

Should the Commission determine that money is no longer available for funding, no new funding requests will be approved.

The Commission may amend this policy at any time during the interim period.