

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. 911-018/PI-
Public Service Commission, on) 117
its own motion, seeking to)
establish audit requirements) ORDER ADOPTING REMITTANCE
related to the Wireless Enhanced) AUDIT POLICIES
911 Fund.)
Entered: April 10, 2007

BY THE COMMISSION:

B A C K G R O U N D

The Nebraska Public Service Commission opened this docket on its own motion June 6, 2006, seeking to establish remittance audit requirements related to the Enhanced Wireless 911 Fund. The Commission solicited comments relating to concerns raised by the State Auditor's Office, that every wireless carrier remitting the surcharge to the Fund be audited, and invited comments to a staff proposal, which recommended, in part, that all wireless carriers be audited at least once every three years, that the Fund pay for the remittance audits, and that each remittance audit be for a one-year test period. Comments were received.

The State Auditor issued an Attestation Report, dated March 24, 2006, recommending, in part, that the Commission "implement procedures to ensure all money due the Commission is remitted," that "the Commission consider statutory or rule and regulation changes to make the audit requirements of the enhanced wireless 911 services consistent with the Nebraska universal services surcharge requirements," and that "the Commission implement procedures to ensure all unpaid surcharges by customers are collected."

A hearing was held on this matter on February 28, 2007, in conjunction with NUSF-33/PI-68.

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

The Commission may require an audit of any wireless carrier's books and records concerning the collection and remittance of any amounts collected, pursuant to the Enhanced Wireless 911 Services Act. Neb. Rev. Stat. Section 86-459(3), as amended by Neb. Laws LB 661 (2007).

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The Commission has a statutory responsibility to ensure that all wireless carriers are properly collecting and remitting the Enhanced Wireless 911 surcharge. Reasonable criteria for the frequency and conduct of audits of remittances must be employed to limit the administrative costs to the Fund, rate payers, and carriers.

The Commission recognizes that any policy established must be sufficiently flexible to address the varying circumstances of carriers. Currently multiple carriers remit only de minimus amounts, and in such cases the cost of a remittance audit, absent irregularities, are not warranted. However, other larger carriers remit significant amounts monthly. At the same time, the Commission must maintain the discretion to conduct audits in order to address irregularities that arise.

Therefore, the Commission finds that based upon the remittance audit requirements of the Enhanced Wireless 911 Fund and the comments and testimony received, the remittance audit policy set forth in Appendix A attached hereto and incorporated herein by this reference, should be adopted.

This policy establishes a two-tiered system requiring annual audits or three-year audits depending upon the revenue of the carrier. The policy also includes a waiver process for smaller carriers.

The Commission intends to review the effectiveness of the three-year audit cycle for carriers in the second tier, and, with the counsel of the State Auditor's Office, may consider whether to move all carriers to a three-year audit cycle in the future.

To the extent necessary, said policies will be included in a future rule and regulation proceeding.

Pursuant to Neb. Rev. Stat. § 86-459(3) as amended by LB 661 [2007], "[t]he wireless carrier shall maintain all records required by this section, records of the amounts collected pursuant to section 86-457, and remittance records for a period of five years after the date of remittance to the fund."

Additionally, "The costs of any audit required by the commission shall, at the Commission's discretion, be paid by the audited wireless carrier. A wireless carrier shall not be required to pay for more than one remittance audit or more than

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one collection audit per year, unless the commission orders subsequent audits for good cause." § 86-459(3).

The Commission reserves the right to modify the audit policy at any time.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Remittance Audit Policies for the Enhanced Wireless 911 Fund as set forth in Appendix A and described herein, are adopted.

MADE AND ENTERED at Lincoln, Nebraska, this 10th day of April, 2007.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Gerald L. Uy

Chairman

Dane C. Boyle

ATTEST:

Frank E. Landis

John S. Pollack

Executive Director

//s//Frank E. Landis

//s//Rod Johnson

**Remittance Audit Policies for the Nebraska Universal
Service Fund and the Enhanced Wireless 911 Fund**

The Nebraska Public Service Commission hereby adopts the foregoing policies to be applied to audits of remittances to the Nebraska Universal Service Fund (NUSF) and Enhanced Wireless 911 Fund.

1. **Two Tiers.** There shall be a two-tiered remittance audit program for NUSF. In the first tier carriers with more than \$1 million in annual assessable revenue shall be subject to annual remittance audits. The second tier requires a remittance audit once every three years for carriers with annual assessable revenue of less than \$1 million. In order to qualify for the second tier, a carrier's revenue must be less than \$1 million for each of the preceding three (3) years. For purposes of remittance audits for the Enhanced Wireless 911 Fund, the tier assigned for the NUSF audit shall apply.
2. **Notice and Filing.** Notices of audits will be sent to carriers by the Commission **no later than June 1st**. Audits shall be due **on December 31st** or the next following business day if this falls on a weekend.
3. **Audit Waivers.** Audit Waivers may be granted at the discretion of the Commission based upon the following criteria: In order to be eligible for consideration for a remittance audit waiver, during the prior three years a carrier shall have annual assessable revenue of under \$100,000 in each of the three prior years, shall have no late-filed remittances, shall have been in compliance with all applicable Commission Rules & Regulations, and shall provide a satisfactory explanation for any variances of more than ten percent from any month to the next proceeding month in any information contained on the remittance form including but not limited to remittances, lines, subscribers and revenue. Carriers seeking a waiver shall make a written request on the supplied waiver form to the Commission **no later than August 1st** prior to the remittance audit due date attesting that the audit waiver criteria have been met. The granting of a waiver will be at the discretion of the Commission even if all the above criteria are met.

4. **Coordination between NUSF and E911.** NUSF and E-911 remittance audits shall be conducted simultaneously when circumstances permit, however, the period being audited and the scope of each audit may include different years for non-annual remittance audits.
5. **Audit Scope.** Each non-annual remittance audit shall include a review of not less than one year of remittances; however, the Commission reserves the right to extend the scope of the audit to include other time periods when irregularities are observed.
6. **Audit Expenses.** All remittance audits shall be conducted at the expense of the carrier.
7. **Records Retention.** Carriers shall retain at least five years of remittance records.