

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Sue Vanicek, Director of the) Application No. 911-030.29
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: May 5, 2009

BY THE COMMISSION:

On or about January 27, 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 April 21, 2009. 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

A copy of the Complaint was served on Respondent via certified mail return receipt requested, on or about February 5, 2009. To date no Answer has been received. "Except where good cause shown . . . failure to answer will be construed as an admission of the allegations in the complaint."²

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

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

Therefore, the Commission finds that Respondent failed to file the required quarterly report for the fourth quarter 2008 due on January 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

Commission staff recommended that a fine in the amount of \$1,460.00 and an additional \$100 in administrative costs be assessed against Respondent. Respondent has few subscribers in Nebraska and has remitted only small amounts of enhanced wireless 911 surcharges during 2008.

Based upon the above, the Commission finds that administrative fines in the amount of **five hundred dollars (\$500) 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 that administrative fines in the amount of **five hundred dollars (\$500) 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.

MADE AND ENTERED at Lincoln, Nebraska this 5th day of May, 2009.

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

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director