

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Sue Vanicek, Director of the)	Application No. 911-033.09
Nebraska Telecommunications)	
Infrastructure and Public Safety)	
Department of the Nebraska)	
Public Service Commission,)	
)	
Complainant,)	ORDER SUSTAINING COMPLAINT
v.)	AND ASSESSING PENALTIES
)	
Cozac Wireless, LLC d/b/a Movida)	
Communications, Kansas City,)	
Missouri,)	
)	
Respondent.)	ENTERED: OCTOBER 20, 2009

BY THE COMMISSION:

On or about March 31, 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, LLC d/b/a Movida Communications, Kansas City, Missouri (Respondent).

Hearing on this matter was held September 22, 2009 in conjunction with hearings for Docket Nos. 911-030.31 and NUSF-37.189. Respondent failed to appear.

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

"Each wireless carrier who has a subscriber with a billing address in Nebraska shall collect a surcharge set by the Commission."¹ In addition, "[w]ireless carriers shall remit funds together with any form approved by the Commission to be used with such remittances."² "Each wireless carrier shall remit monthly to the Commission the amount of surcharge collected together with any forms required by the Commission no later than sixty (60) days after the last day of the month."³ Respondent did not file Wireless E911 remittance worksheets or remittance payments to the Department by the 60th day following the end of the remittance period(s), for July, 2008; October, 2008; November, 2008; January, 2009, and February, 2009.

1 Neb. Admin. Code, Title 291, Ch. 5 § 005.02 (1992).

2 Neb. Admin. Code, Title 291, Ch. 5 § 005.04B (1992).

3 Neb. Admin. Code, Title 291, Ch. 5 § 005.07 (1992).

A copy of the complaint was served on Respondent via certified mail return receipt requested on or about May 4, 2009. "Except where good cause is shown . . . failure to answer will be construed as an admission of the allegations in the complaint."⁴ No answer was received.

Respondent filed the Wireless E911 remittance worksheets with the Commission for the aforementioned remittance periods on September 21, 2009, several months after the respective due dates. However, the worksheets were not signed and Department staff has been unable to collect the necessary remittance payments from Respondent. Therefore, the Commission finds that Respondent failed to timely file Wireless E911 remittance worksheets or payments for the periods listed above.

Pursuant to Neb. Rev. Stat. § 75-156, Commission rules and regulations and the fining policy adopted by the Commission on October 3, 2006, Respondent is subject to fines for failure to timely file Wireless E911 remittance worksheets or payments for the periods listed above. At hearing, Commission staff recommended that administrative fines in the amount of \$250.00, late handling fees of \$500.00, and an additional \$500.00 in administrative penalties be assessed against Respondent. This amount is based on the cumulative and repeat late filing schedule described in the Commission fining policy.

Based upon the above, the Commission finds that administrative fines in the amount of **seven hundred fifty dollars (\$750.00) and late handling fees in the amount of five hundred (\$500.00)** should be assessed against Respondent. Respondent should remit the outstanding remittance payments, 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 administrative fines in the amount of **seven hundred fifty dollars (\$750.00) and late handling fees in the amount of five hundred (\$500.00)** are assessed against Respondent.

IT IS FURTHER ORDERED that Respondent shall remit the outstanding remittance payments, costs and administrative penalties to the Commission within thirty (30) days of this order.

⁴ Neb. Admin. Code, Title 291, Ch. 1 § 5.08D (1992).

MADE AND ENTERED at Lincoln, Nebraska, this 20th day of October, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director