

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Sue Vanicek, Director of the	)	Application No. NUSF-37.189
Nebraska Telecommunications	)	
Infrastructure and Public Safety	)	
Department of the Nebraska	)	
Public Service Commission,	)	
	)	ORDER SUSTAINING COMPLAINT
Complainant,	)	AND ASSESSING PENALTIES
v.	)	
	)	
Cozac Wireless, LLC d/b/a Movida	)	
Communications,	)	
	)	
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 911-033.09. Respondent failed to appear.

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

"Telecommunications companies shall remit the NUSF surcharge on a monthly basis to the NUSF except as provided in Rule 003.01B."<sup>1</sup> Companies whose assessable revenue is less than \$20,000 for a given fiscal year are given the option of remitting on a quarterly basis.<sup>2</sup> Additionally, Sections 003.02 and 003.03 provide that remittance worksheets shall be received by the Department no later than the 15th day following the end of a remittance period and all remittance payments must be transferred electronically to the Nebraska State Treasurer no later than the 15<sup>th</sup> day following the end of the remittance period. Respondent failed to file the required remittance worksheet or remittance payment to the Department by the 15<sup>th</sup> day following the end of the remittance period(s) for July 2008; October 2008; November 2008; January 2009; February 2009 and March 2009.

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1 Neb. Admin. Code, Title 291, Ch. 10 § 003.01A (1992).

2 Neb. Admin. Code, Title 291, Ch. 10 § 003.01B (1992).

A copy of the complaint was served on Respondent via certified mail return receipt requested on or about April 30, 2009. "Except where good cause shown . . . failure to answer will be construed as an admission of the allegations in the complaint."<sup>3</sup> No answer was received.

Respondent filed the NUSF remittance worksheets with the Commission for the aforementioned remittance periods on September 21, 2009, several months after the worksheets were due. However, Department staff has been unable to collect the necessary remittance payments from Respondent. Therefore, the Commission finds that Respondent failed to timely file NUSF 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 NUSF remittance worksheets or payments for the periods listed above. At hearing, Commission staff recommended that administrative fines in the amount of \$300.00, late handling fees of \$600.00, 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 **three hundred dollars (\$300.00)**, **late handling fees in the amount of six hundred (\$600.00)**, and **an additional five hundred dollars (\$500.00) in administrative penalties** 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 **three hundred dollars (\$300.00)**, **late handling fees in the amount of six hundred dollars (\$600.00)**, and **an additional five hundred dollars (\$500)** in administrative penalties should be 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.

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<sup>3</sup> 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

Chairman

COMMISSIONERS CONCURRING:

ATTEST:

Executive Director