

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission on its own motion, seeking to amend Title 291, Chapter 5, Telecommunications Rules and Regulations, by adding new sections and to adopt rules in accordance with the provisions of LB 585 [2001].

RULE AND REGULATION NO. 149  
) ORDER SETTING PUBLIC  
) HEARING ON PROPOSED  
) AMENDMENTS TO EXISTING RULES  
) ENTERED: May 8, 2001

BY THE COMMISSION:

On April 17, 2001, LB 585 [2001] went into effect upon the Governor's signature. LB 585 creates the Enhanced Wireless 911 Fund and establishes provisions governing the fund's administration. Under the bill's provisions, the Commission is given authority to administer the fund and the obligation to promulgate rules and regulations. On May 1, 2001, the Commission entered an order proposing amendments to existing rules pursuant to the provisions of LB 585. Since that order was entered, we received permission from the Governor's office to proceed with rulemaking. Accordingly, we find that we should set a public hearing to be scheduled for June 14, 2001, at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska. For the convenience of the public, the proposed amendments, which were first offered in our order of May 1, 2001, are attached as an appendix to this order.

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a public hearing be held to set an interim rate for the Enhanced Wireless 911 Surcharge on Thursday, May 31, 2001, at 10:00 a.m. CDT in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

IT IS FURTHER ORDERED that a public hearing be set for Thursday, June 14, 2001, at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska, to allow public comment on the proposed amendment to the rules.

MADE AND ENTERED in Lincoln, Nebraska on this 8TH day of May, 2001.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

Executive Director

**APPENDIX**

**Proposed Amendments to Title 291, Chapter 5**

1. Add the following section 005 to Title 291, Chapter 5, Telecommunications Rules and Regulations, as follows:

005 General:

005.01 Definitions: As used in this section, unless the context otherwise requires, the following definitions apply:

005.01A Advisory board means the Enhanced Wireless 911 Advisory Board.

005.01B Automatic number identification (ANI) means a feature by which a person calling a public safety answering point has his or her ten-digit telephone number simultaneously forwarded to the public safety answering point and to the public safety answering point's display and transfer units.

005.01C Commission means the Nebraska Public Service Commission.

005.01D Commissioner means a member of the Nebraska Public Service Commission or his or her designee.

005.01E E-911 or enhanced-911 service means a telephone exchange communications service by which one or more public safety answering points designated by the governing body may receive telephone calls dialed to the telephone number 911. E-911 service generally may provide, but is not limited to, selective routing, automatic number identification, and automatic location identification features.

005.01F Enhanced 911 wireless service means a telephone exchange communications service by which wireless carriers can provide automatic number identification, pseudo-automatic number identification, and wireless automatic location

identification information to a public safety answering point which has capability of providing selective routing, selective transfer, fixed transfer, automatic number identification, and wireless automatic location identification.

005.01G Fund means the Enhanced Wireless 911 Fund.

005.01H Governing body means the board of county commissioners or supervisors of a county, the city council of a city, the board of trustees of a village, or the board of directors of any rural or suburban fire protection district.

005.01I 911 service means a telephone service which provides a service user with the ability to reach a public safety answering point by dialing the digits 911 for the purpose of reporting emergencies. The level of technology used for 911 service in a particular 911 service area shall be determined by the governing bodies having jurisdiction over such area.

005.01J Pseudo-automatic number identification means a feature by which automatic number identification is provided to a public safety answering point of the ten-digit telephone number of the specific cell site or cell site sector from which a wireless call originated.

005.01K Public safety answering point (PSAP) means a twenty-four hour, local-jurisdiction communications facility which receives 911 service calls and either directly dispatches emergency services or relays calls to the appropriate public safety agency.

005.01L Public safety agency means the agency which actually provides firefighting, law enforcement, ambulance, emergency medical, or other emergency services.

005.01M Surcharge means the Enhanced Wireless 911 Surcharge.

005.01N Ten-digit telephone number means a telephone number assigned to a particular telephone account including the area code.

005.010 Wireless automatic location identification (ALI) means a feature by which information is provided to a public safety answering point identifying the location, the latitude and longitude within the parameters established by the Federal Communications Commission, of a wireless unit originating a call to a public safety answering point.

005.01P Wireless carrier means (a) any carrier of commercial radio service as defined in 47 U.S.C. 153(27) and 332 (d), as such sections existed on April 17, 2001, or (b) any cellular licensee, personal communications licensee, and specialized mobile radio carrier defined by 47 C.F.R. 20.18, as such section existed on April 17, 2001.

005.02 Enhanced Wireless 911 Surcharge: Commencing July 1, 2001, each wireless carrier who has a subscriber with a billing address in Nebraska shall collect a surcharge set by the Commission. Such surcharge rate shall be applied monthly to each access line served by the wireless carrier. The wireless carrier shall add the surcharge to each subscriber's billing statement.

005.02A The surcharge shall appear as a separate line-item charge on the subscriber's billing statement and shall be labeled as "Enhanced Wireless 911 Surcharge".

005.02B The wireless carrier shall not be liable for any surcharge not paid by a subscriber and shall not be obligated to take legal action to collect the surcharge.

005.02C The Commission may take any legal action as it deems necessary to collect unpaid surcharges in its own name, as a real party in interest, or by assigning such debt for collection to a third party.

005.03 Review of surcharge: The commission shall hold a public hearing annually to determine the amount of revenue necessary to carry out the provisions of 2001 Neb. Laws 585. After such hearing, the Commission shall determine the amount of money to be deposited into fund.

005.03A There shall be given thirty (30) days public notice for any public hearing set to review the surcharge.

005.03B After the public hearing, the Commission shall set the surcharge but in no case shall the Commission set the surcharge at a rate higher than allowed by statute.

005.04 Enhanced Wireless 911 Fund: The fund shall consist of the surcharges credited to the fund, any monies appropriated by the Legislature, any federal funds received for wireless emergency communication, and any other funds designated for credit to the fund.

005.04A The Commission shall remit the monies in the fund to the State Treasurer for credit to the Enhanced Wireless 911 Fund.

005.04B Wireless carriers shall remit funds together with any form approved by the Commission to be used with such remittances.

005.04C The Commission may allow for electronic fund transfers to the fund of any monies remitted by wireless carriers to the fund.

005.04D Money in the fund shall be used for the cost of administering the fund and for the purposes described in this section. The Commission shall keep the costs of administering the fund to a minimum.

005.05 Duties of the Commission and the Advisory Board: The commission shall, in consultation with the advisory board, and not less than once each year:

005.05A Determine the costs to implement wireless automatic location identification (ALI);

005.05B Determine the level of funding needed to trigger disbursements from the fund;

005.05C Determine the percentage of the fund to be allocated to each funding purpose; and,

005.05D Determine how the monies distributed from the fund are to be allocated among the wireless carriers and the public safety answering points.

005.06 Standards and Criteria for Eligibility and Disbursements: The Commission shall, in consultation with the advisory board, establish eligibility standards and criteria for (a) disbursement

applications and (b) the level of fund disbursement for each application.

005.06A In establishing such criteria and standards, the following purposes shall be eligible for funding:

005.06A1 Costs incurred or to be incurred by wire- less carriers to implement enhanced wireless 911 service pursuant to a service agreement with a public safety answering point or pursuant to a request for service from a public safety answering point.

005.06A1a The Commission may, in consultation with the advisory board, establish minimum criteria for service agreements entered into by public safety answering points.

005.06A1b A public safety answering point may enter into a service agreement with one or more wireless carriers.

005.06A1c Such costs shall include, but not be limited to, the portion of the costs for new equipment used for providing enhanced wireless 911 service, costs to lease another vendor's equipment or services to provide enhanced wireless 911 service, costs to create or maintain any database or database elements used solely for enhanced wireless 911 service, and other costs of establishing enhanced wireless 911 service.

005.06A1d The portion of the costs of equipment or services used in the wireless carrier's main infrastructure resulting in revenue to the wireless carrier shall not be eligible for funding.

005.06A2 Costs incurred or to be incurred by public safety answering points to implement enhanced wireless 911 service, including, but not limited to, purchase of new equipment, costs of upgrades, modifications, and personnel training used solely to process the data elements of enhanced wireless 911 service, and maintenance costs and license fees for new equipment.

005.06A3 Costs incurred or to be incurred by public safety answering points for the purchase, installation, maintenance, and operation of telecommunications equipment and telecommunications services required for the provision of enhanced wireless 911 service; and

005.06A4 Expenses incurred by members of the advisory board while performing duties required by these sections.

005.07 Obligations of the Wireless Carrier as to the Fund: 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.

005.07A The wireless carrier shall report the number of wireless lines served and the number of wireless lines from which the wireless carrier has collected surcharge revenue.

005.07B The wireless carrier shall maintain surcharge and remittance records for a period of two years after the date of the subscriber's billing statement.

005.07C The Commission may, at its own expense, require an audit of any wireless carrier's books and records concerning the collection and remittance of the surcharge.

005.08 Obligations of Public Safety Answering Points: Each public safety answering point shall report to the Commission annually, on or before September 1 of each year, (1) the name and location of the public safety answering point and (2) whether wireless 911 service or enhanced wireless 911 service is provided at such public safety answering point.

005.09 Enhanced Wireless 911 Advisory Board Composition and Powers: The advisory board shall be composed of nine individuals appointed by the Governor, the Director of Administrative Services or his or her designee, and one Commissioner. The advisory board shall advise the Commission concerning the implementation, development, administration, coordination, evaluation and maintenance of enhanced 911 service.

005.09A The advisory board shall designate a chairperson from

among its members for such term as its members shall agree. For its initial meeting, the Commission shall convene the advisory board and give proper notice to each of its members regarding the time and place of the meeting. After the initial meeting of the board, either the chairperson or the Commission may convene the advisory board, after proper notice, as needed. The board shall meet as often as necessary to carry out its duties. Members of the board shall be reimbursed for their actual and necessary expenses as provided by law. Such expenses shall be paid from monies in the fund.

005.09B The advisory board shall make recommendations to the Commission regarding the implementation of the fund, including:

005.09B1 The allocation of funds;

005.09B2 Any additional rules and regulations necessary to carry out the provisions related to the fund;

005.09B3 Any adjustments to the surcharge at the review of the surcharge by the Commission;

005.09B4 Any adjustments to the surcharge limit to recommend to the Legislature; and

005.09B5 The resolution of any disputes between public safety answering points and wireless carriers.

005.10 Applications for Disbursement from the Fund: A public safety answering point or wireless carrier shall be compensated for costs determined by the Commission to be eligible for funding.

005.10A A public safety answering point or wireless carrier may apply for disbursements from the fund by submitting a written application to the Commission on such form or in such format as the Commission shall designate.

005.10B The Commission shall receive and review each application, including supporting documentation. The Commission may, prior to approval or disapproval of an

application, give notice to the applicant that additional documentation is needed for review of the application and allow a period of time for the applicant to produce the needed documentation.

005.10C The Commission shall notify each applicant as to the Commission's decision to approve or disapprove the application within sixty (60) days after (a) the Commission receives the application or (b) receiving additional documentation needed for review of the application as requested by the Commission, whichever date is later.

005.10D Each entity which receives disbursements from the fund shall make a full accounting of the money received in a manner and form that the Commission may direct.

005.11 Information which may be Withheld from the Public: Information provided by wireless carriers to the advisory board or to the Commission pursuant to this section may be treated as records which may be withheld from the public upon request of the party submitting the records if the information qualifies as trade secrets or other proprietary or commercial information which, if released, would give advantage to business competitors and serve no public purpose.

005.12 Commission to Determine Efficient Delivery of Enhanced Wireless 911 Service: The Commission shall determine the most efficient method for providing enhanced wireless 911 service.

005.12A Such determination may include, but shall not be limited to:

005.12A1 The minimum and maximum number of PSAPs statewide to be funded;

005.12A2 A determination of the PSAPs that should be funded based on the geographic location of the PSAP;

005.12A3 Available technology for the provisioning and delivery of enhanced wireless E-911 services; and,

005.12A4 Cost determinations of technology for the provisioning and delivery of enhanced wireless E-911 services.

005.12B In determining the most efficient method for providing enhanced wireless 911 service, the Commission may enter an order, after notice and hearing, setting any strategies, goals, standards, or criteria that the Commission finds is necessary to achieve the objective of the efficient delivery of enhanced wireless E-911 service.

005.13 Liability: The Commission, governing bodies, and public safety agencies may provide enhanced wireless 911 service. In contracting for and providing such service, except for failure to use reasonable care or for intentional acts, the Commission, each governing body, each public safety agency, each wireless carrier, and their employees and agents shall be immune from liability or the payment of damages in the performance of installing, maintaining, or providing enhanced wireless 911 service.