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NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, On its own motion, seeking to Determine the surcharge for the Enhanced Wireless 911 Fund.	)	Application No. 911-002
In the Matter of the Nebraska Public Service Commission on its own motion, to establish a funding mechanism for general costs associated with the provision of Enhanced Wireless 911	)	Application No. 911-027

COMMENTS OF VERIZON WIRELESS

As a party with significant interest in the widespread availability of wireless E-911 service capabilities and as a contributor to the Enhanced Wireless 911 system in Nebraska, Verizon Wireless[1] has a number of concerns with the Commission's proposal to increase the E-911 assessment on wireless customers to pay for general administrative and operating costs of Public Safety Answering Points ("PSAPs") in Nebraska. The Commission's proposal conflicts with the E-911 statutory directives for raising and using E-911 assessments and fails to provide any incentives to increase the efficiency of PSAP operations in light of possible reductions in funding from landline customers. Verizon Wireless therefore opposes the Commission's proposal to increase wireless E-911 consumer assessments by $.20 per number per month.

It appears from the Notice that certain PSAPs in Nebraska are experiencing funding shortfalls due to declines in local exchange carrier subscribership (and resulting

[1] Verizon Wireless submits this filing on behalf of Omaha Cellular Telephone Company and Sioux City MSA Limited Partnership, both which do business as Verizon Wireless in Nebraska.

E-911 assessments). The Commission draws an unsupported connection between the loss of landline assessments and the increase in wireless subscribers. Landline losses could be attributable to many other factors, including VOIP, e-mail, dropping of second lines due to DSL, etc). However, even if a portion for the landline losses were coincident with some customers signing up for wireless service, the PSAPs would have already received additional E-911 assessments from each of those added wireless customers. To consider raising the Enhanced Wireless 911 Surcharge on wireless consumers to pay for PSAP costs associated with providing landline E-911 service would double-tax wireless consumers, and improperly apply the Enhanced Wireless 911 Surcharge to costs other than the authorized costs for providing wireless E-911 services.

Beyond the lack of a factual nexus between the reduction in landline assessments and the increase in wireless subscribers, there is a significant legal deficiency in proposing to increase assessments on wireless customers to make up for a shortfall in wireline E-911 assessments. Specifically, the Nebraska statutes provide for separate E-911 funding for landline local exchange services and wireless services. The statutory authority for funding of E-911 services for landline local exchange services is found in Neb. Rev, Stat. §86-420 through §86-441 and the statutory authority for wireless E-911 services is contained in Neb. Rev, Stat. §86-442 through §86-470. The statutes are clear: surcharges on landline customers pay for certain landline E-911 costs and surcharges on wireless consumers pay for certain wireless E-911 costs. The relevant statutory provisions are as follows:

> Neb. Rev, Stat. § 86-435 (1) A governing body may incur any nonrecurring or recurring charges for the installation, maintenance, and operation of 911 service and **shall pay such costs out of general funds** which may be supplemented by funds from the imposition of a service surcharge. A governing body incurring costs for 911 service may impose a uniform service surcharge of up to

fifty cents per month **on each local exchange access line physically terminating in the governing body's 911 service area**. (emph. added).

Neb. Rev, Stat. § 86-463. The Enhanced Wireless 911 Fund is created. The fund shall consist of the surcharges credited to the fund, any money appropriated by the Legislature, any federal funds received for wireless emergency communication, and any other funds designated for credit to the fund. **Money in the fund shall be used for the costs of administering the fund and the purposes specified in section 86-465** unless otherwise directed by federal law with respect to any federal funds… (emph. added).

Neb. Rev, Stat. § 86-465 (2). The commission shall, in consultation with the advisory board, establish eligibility standards and criteria for fund disbursement applications and standards and criteria concerning the level of fund disbursement for each application. In establishing such criteria and standards, the following purposes shall be eligible for funding:

….(b) Costs incurred or to be incurred by public safety answering points **to implement enhanced wireless 911 service**, including, but not limited to, purchases of new equipment, costs of upgrades, modification and personnel training used solely to process the data elements of enhanced wireless 911 service, and maintenance costs and license fees for new equipment; (emph. added);

(c) 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** . . . (emph. added).

If local governing bodies conclude that the surcharges collected from local exchange landline customers are insufficient to fund their long term PSAP costs related to providing landline E-911 service, they should consider alternatives to balance their budgets, such as consolidating with smaller PSAPs to more efficiently serve their areas or seeking additional funds from general tax revenues. It is not appropriate to assess wireless customers for the costs of providing landline E-911 service absent significant changes to the underlying statutes. Nor is it appropriate to expand the definition of allowable costs to include "general" PSAP administrative costs, given the specific delineation in the statutes of allowable reimbursable expenses. As noted above, Section 86-465 (2)(c) limits reimbursable costs to be the "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." General overhead expenses are not reimbursable from the wireless E-911 assessments on wireless customers.

For the reasons stated above, Verizon Wireless respectfully urges the Commission to reconsider its proposal to increase the wireless E-911 assessment on wireless customers by $.20 per month.

Respectfully submitted,

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VERIZON WIRELESS

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