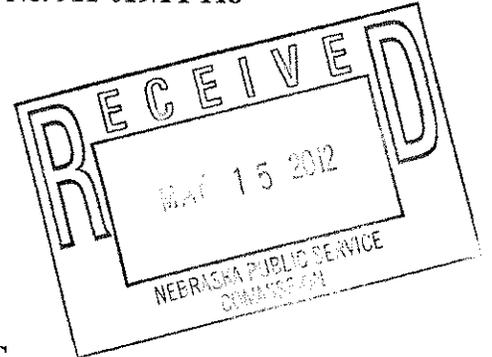


BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE NEBRASKA)
PUBLIC SERVICE COMMISSION, ON)
ITS OWN MOTION, TO IMPLEMENT)
PROVISIONS OF LB 1222 [2006] AND)
TO ESTABLISH A PERMANENT FUNDING)
MECHANISM FOR WIRELESS ENHANCED)
911 SERVICE)

Application No. 911-019/PI-118



COMMENTS
OF
N.E. COLORADO CELLULAR, INC.
d/b/a VIAERO WIRELESS

N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless (“Viaero”), by counsel and pursuant to the Nebraska Public Service Commission’s (“Commission”) Progression Order No. 5 Seeking Comment and Setting Hearing, dated April 24, 2012, (“**Progression Order No. 5**”), in the above-referenced Docket, is pleased to submit the following Comments. Viaero also submitted Comments on September 8, 2009, in response to the Commission’s Order Seeking Comment and Establishing Procedural Schedule, dated July 7, 2009, (“**Order Seeking Comment**”) on October 30, 2009, in response to the Commission’s Order Releasing Proposed Application Process for Comment, dated September 22, 2009, (“**Process Order**”) and on January 22, 2010, in response to the Commission’s Order Releasing Amended Model and Application Process for Comment and Setting Hearing, dated December 15, 2009 (“**Amended Model Order**”) and hereby incorporates those Comments herein by reference.

I. INTRODUCTION

Viaero is a “telecommunications carrier” as defined in 47 U.S.C. § 153(44) and 47 C.F.R. § 51.5, and for the purposes of Part 54 of the FCC’s Rules (47 C.F.R. § 54.1, et seq.), Viaero is considered a common carrier. Viaero holds authorizations from the FCC to provide Personal Communications Services (“PCS”) in the State of Nebraska and is a commercial mobile radio

service (“CMRS”) provider pursuant to the definition of “mobile service” provider in 47 U.S.C. § 153(27). Viaero provides interstate telecommunications services as defined in 47 U.S.C. § 254(d) and 47 C.F.R. § 54.5 and was designated an Eligible Telecommunications Carrier (“ETC”) by Commission Order entered on October 18, 2005, in Application C-3324. Viaero acquired its first FCC license in Colorado nearly twenty years ago. Over the past several years Viaero has acquired spectrum to expand its network into Colorado, Wyoming, South Dakota and Kansas and has dramatically expanded its coverage area in Nebraska. Viaero is licensed to serve almost all of Nebraska, except for its more populated eastern markets.

II. PROPOSED AMENDMENT TO FUNDING MECHANISM

Progression Order No. 5 sets forth the Commission’s proposal to amend the Commission’s permanent funding mechanism and process to provide funding for the utilization and provision of enhanced 911 services in accordance with the Commission’s decision on April 17, 2012 to expand the eligible expenses which qualify for funding by PSAPs to include certain personnel expenses directly related to the receipt and processing of 911 calls. Specifically, the Commission proposes to increase allocations to PSAPs from the E-911 Fund for the 2012-2013 funding year for the purpose of funding costs associated with personnel directly related to the receipt and processing of 911 calls. The increased allocation would be accomplished through a reduction in the Commission’s 911 funding allocation to wireless service providers (“WSPs”). Viaero opposes the Commission’s proposed reallocation of E-911 funds to PSAPs for several reasons.

First, there is no evidence to suggest that there are insufficient funds already available to satisfy the needs of PSAPs, including costs attributed to personnel costs. Certainly the Commission has recognized the need to quantify this matter by requiring the PSAPs to provide information regarding costs related to salaries for those individuals directly responsible for the

receipt and processing of 911 calls and the percentage of such individuals' time spent on duties other than 911 calls. With this information, the Commission could begin an analysis of whether the current funding allocation to PSAPs is sufficient to fund such costs and other eligible expenses. However, until such analysis is completed, it would be premature to reallocate additional 911 funds to PSAPs.

Second, while the Commission's proposal for reallocating E-911 funds to PSAPs is for the 2012-2013 funding year, the practical effect of even a single-year of funding reallocation would make such reallocation effectively permanent. Funding personnel costs to receive and process 911 calls is not a "one-time" funding need, unless the personnel costs are intended to address a one-time, short-term purpose or specific short-term project. That is not the case here. Once a funding stream has been established to support essential personnel costs, that funding stream will necessarily need to continue indefinitely to support the personnel infrastructure of each PSAP. The Commission will, therefore, create a perpetual subsidy to the PSAPs to support the essential personnel costs of each PSAP. Consequently, once funding is reallocated (i.e., WSP funding is reduced), it should be assumed that the reduction to the WSP funding allocation will be permanent, regardless of the future needs of the WSP industry. Such a commitment of funding to PSAPs would not be in the public interest at this time and would serve to perpetually limit the availability of funding to the WSP industry.

Third, no permanent or temporary reduction in the WSP allocation should be undertaken without a commensurate evaluation by the Commission of the future needs of the WSP industry to implement NextGen wireless 911 services and related network infrastructure. Progression Order No. 5 does not request comments from the WSP industry on this topic at all, therefore the Commission cannot make a reasoned and informed decision concerning the reduction of the WSP allocation without basic information regarding the needs of the wireless industry. It is

essential to the delivery of a robust and technologically advanced 911 system that the WSP providers can reasonably implement NextGen capability to the PSAPs so that the public safety needs of the state's wireless consumers can be preserved.

Finally, any award of 911 funding by the Commission to PSAPs for costs associated with personnel directly related to the receipt and processing of 911 calls should require that such personnel be adequately trained through a state-wide program administered by the Commission. Such a training program would ensure that 911 operators receive sufficient and consistent training which would be recognized by a training certificate issued by the Commission. Viaero has all too often found that many PSAP dispatchers are not well versed or trained in how the 911 system really works, what the electronic data on their screens is really telling them and how to interpret that data. As NextGen is implemented, the need for high level, uniform and comprehensive training will become even more important. If the Commission is going to pay to subsidize the cost of personnel, then those employees need to be properly trained and certified.

III. CONCLUSION

For the foregoing reasons, Viaero respectfully opposes the Commission's proposal to reallocate 911 funding for the WSP funding allocation in order to increase funding available to PSAPs to cover the costs associated with personnel directly related to the receipt and processing of 911 calls. There is no evidence that current funding to PSAPs is inadequate for this purpose, nor is there any evidence that WSPs will not need increased funding to cover the costs of the implementation of Next Gen 911 wireless services. Further, any reallocation of funding to the PSAPs for these purposes will necessarily become permanent, thereby permanently limiting the availability of funding the WSP industry. Finally, any funding allocated to the PSAPs for personnel costs should be tied to the verification that such supported personnel are properly trained to perform their duties.

Respectfully submitted this 15th day of May, 2012.

**NE COLORADO CELLULAR, INC.,
d/b/a VIAERO WIRELESS**

By  _____

Loel P. Brooks, #15352
BROOKS, PANSING BROOKS, PC, LLO
1248 "O" Street, Suite 984
Lincoln, NE 68508-1424
lbrooks@brookspanlaw.com

and

Andrew Newell
General Counsel
Viaero Wireless
1224 W. Platte Avenue
Fort Morgan, Colorado 80701
andrew.newell@viaero.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 15th day of May, 2012, an original, five copies and an electronic copy of the Comments of N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless, in Application No. 911-019/PI-118 were delivered to:

Angela Melton
Legal Counsel
Nebraska Public Service Commission
1200 "N" Street, Suite 300
Lincoln, NE 68509-4927
angela.melton@nebraska.gov

Brandy Zierott
Nebraska Public Service Commission
1200 "N" Street, Suite 300
Lincoln, NE 68509-4927
brandy.zierott@nebraska.gov



Loel P. Brooks