

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

**NOTICE OF FILING OF AMENDED TESTIMONY**

COMES NOW N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless, and hereby provides the Nebraska Public Service Commission and all parties to this docket with notice that it has filed the attached amended testimony of Kara Thielen with respect to the above-referenced docket.

Dated this 13<sup>th</sup> day of October, 2009.

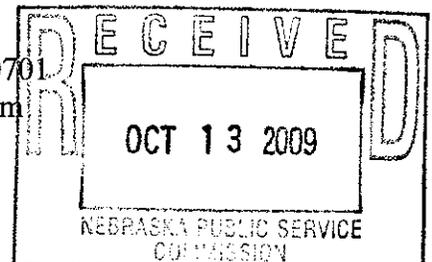
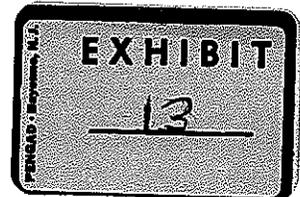
**NE COLORADO CELLULAR, INC.,  
d/b/a VIAERO WIRELESS**

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

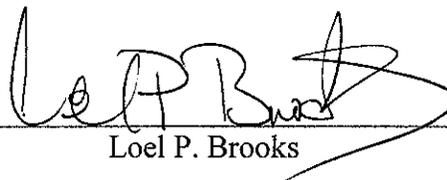


## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 13th day of October, 2009, an original, eight copies and an electronic copy of the Amended Testimony of Kara Thielen on behalf of N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless, in Application No. 911-019/PI-118 were hand-delivered to:

Mike Hybl  
Executive Director  
Nebraska Public Service Commission  
1200 "N" Street, Suite 300  
Lincoln, NE 68509-4927

Angela DuVall Melton  
Legal Counsel  
Nebraska Public Service Commission  
1200 "N" Street, Suite 300  
Lincoln, NE 68509-4927



Loel P. Brooks

The undersigned hereby certifies that on this 13th day of October, 2009, a copy of the Amended Testimony of Kara Thielen on behalf of N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless, in Application No. 911-019/PI-118 was mailed via U.S. mail to:

Shelly Holzerland  
Fremont/Dodge County 911  
725 North Park Avenue  
Fremont, NE 68025

Jon Rosenlund  
Hall County-Grand Island  
Emergency Management/Communications  
100 East 1<sup>st</sup> Street  
P.O. Box 1967  
Grand Island, NE 68802

Julie J. Righter  
Communications Coordinator  
Lincoln Emergency Communications Center  
575 South 10<sup>th</sup> Street  
Lincoln, NE 68508

Larry Dix  
Nebraska Association of County Officials  
625 South 14<sup>th</sup> Street, Suite 200  
Lincoln, NE 68508

Bill Ashburn  
Enhanced Wireless 911 Advisory Board  
300 North 44<sup>th</sup> Street, Suite 202  
Lincoln, NE 68503

GeoComm  
601 West St. Germain Street  
St. Cloud, MN 56301



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Loel P. Brooks

1                                   BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

2  
3   **IN THE MATTER OF THE NEBRASKA            )   Application No. 911-019/PI-118**  
4   **PUBLIC SERVICE COMMISSION, ON            )**  
5   **ITS OWN MOTION, TO IMPLEMENT            )**  
6   **PROVISIONS OF LB 1222 [2006] AND        )**  
7   **TO ESTABLISH A PERMANENT FUNDING        )**  
8   **MECHANISM FOR WIRELESS ENHANCED        )**  
9   **911 SERVICE                                )**

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11  
12  
13                                   **TESTIMONY OF**  
14                                   **KARA THIELEN**  
15                                   **ON BEHALF OF**  
16                                   **N.E. COLORADO CELLULAR, INC., D/B/A VIAERO WIRELESS**  
17  
18

19   **Q:    Please state your name and business address.**

20   A:    Kara Thielen. My business address is N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless  
21         ("Viaero"), 1224 West Platte Ave, Fort Morgan, CO 80701.

22   **Q:    What is your position with Viaero?**

23   A:    I am the company's E-911 Director.

24   **Q:    What are your responsibilities on behalf of Viaero?**

25   A:    I am responsible for all E-911 activities for Viaero, which includes managing the  
26         implementation of Phase I and II for Viaero in our service area, submitting requests for  
27         cost recovery, and assuring that we meet FCC and State guidelines in reference to all E-  
28         911 activities. I currently serve on the Colorado E-911 Public Utility Commission Task  
29         Force representing Viaero.

30   **Q:    Prior to your current position, what other positions have you held in the E-911**  
31         **/Telecommunications Field?**

1 A: I have 14 years of 911 experience: 1) 911 dispatcher for the Story County Sheriff's  
2 office in Nevada, IA (1994-1995); followed by 2) Intrado, where I established the  
3 Wireless E-911 department for the State of Minnesota and managed the AT&T account  
4 implementing Phase I (1996-1998); 3) E-911 Coordinator for Level 3 Communications,  
5 handling all 911 activities for the company (1998-2001); 4) E-911 Director for the  
6 Nebraska Public Service Commission (2001-2006) (one of the creators of the department,  
7 and was responsible for program management, project management, administrative and  
8 technical functions in the long and short term planning, organizing, and directing of  
9 activities and services related to the statewide implementation and operation of the  
10 wireless E-911 system for the State of Nebraska); 5) Comcast as Senior Manager of E-  
11 911 Data operations for their national voice footprint, (managed 60 people who were  
12 responsible for maintaining the E-911 databases and transmitting all E-911 data to  
13 various E-911 providers across the country) (2006-2008).

14 **Q. Are you authorized to testify on behalf of Viaero?**

15 A: Yes, I am.

16 **Q: What is the purpose of your testimony?**

17 A: The purpose of my testimony is to provide input and recommendations to the Nebraska  
18 Public Service Commission ("Commission") concerning the Commission's proposed  
19 Wireless 911 Support Allocation Model ("911-SAM") described in the Commission's  
20 Order Seeking Comment and Establishing Procedural Schedule adopted on July 7, 2009  
21 ("Order Seeking Comment").

22 **Q: What authorization does Viaero possess to provide wireless telecommunications**  
23 **services in the State of Nebraska?**

1 A: Viaero is a "telecommunications carrier" as defined in 47 U.S.C. § 153(44) and 47 C.F.R.  
2 § 51.5, and for the purposes of Part 54 of the FCC's Rules (47 C.F.R. § 54.1, et seq.),  
3 Viaero is considered a common carrier. Viaero holds authorizations from the FCC to  
4 provide Personal Communications Services ("PCS") in the Norfolk, Nebraska, Grand  
5 Island-Kearney, Nebraska, North Platte, Nebraska and Hastings, Nebraska Basic Trading  
6 Areas. Viaero is a commercial mobile radio service ("CMRS") provider pursuant to the  
7 definition of "mobile service" provider in 47 U.S.C. § 153(27). Viaero provides  
8 interstate telecommunications services as defined in 47 U.S.C. § 254(d) and 47 C.F.R. §  
9 54.5. Viaero was designated an Eligible Telecommunications Carrier ("ETC") by  
10 Commission Order entered on October 18, 2005 in Application C-3324.

11 **Q: Has Viaero received funding from Nebraska's Enhanced Wireless 911 Fund ("911**  
12 **Fund") for its Phase I implementation costs?**

13 A: Yes. Viaero has received several funding requests from the 911 Fund for certain Phase I  
14 implementation costs.

15 **Q: Has Viaero received funding from the 911 Fund for any of its Phase II**  
16 **implementation costs?**

17 A: Not to date.

18 **Q: Has any other wireless carrier received funding from the 911 Fund for Phase II**  
19 **implementation costs?**

20 A: There is no record indicating that any wireless carrier has received funding from the 911  
21 Fund for Phase II implementation costs.

22 **Q: Have any PSAPs received funding for their Phase II implementation costs?**

1 A: Yes, the Commission's website shows that many PSAPs have received funding for Phase  
2 II implementation costs.

3 **Q: As Viaero's E-911 Director, have you been involved in Viaero's requests for cost**  
4 **recovery from the 911 Fund?**

5 A: Yes, since assuming the position of E-911 Director for Viaero, I have been in charge of  
6 all of Viaero's requests for cost recovery from Nebraska's 911 Fund. I was also centrally  
7 involved in the development of the Nebraska Public Service Commission's policies  
8 regarding E-911 cost recovery during my tenure as the Commission's E-911 Director  
9 from 2001 to 2006.

10 **Q: Have you reviewed and are you familiar with the Commission's Order Seeking**  
11 **Comment, wherein the Commission described the 911-SAM?**

12 A: Yes. I have reviewed and evaluated the 911-SAM Model proposed by the Commission  
13 in the Order Seeking Comment. The Commission's proposed 911-SAM is the first step  
14 towards defining how a permanent funding mechanism would work based on the  
15 information the Commission has evaluated to date. Viaero appreciates the Commission's  
16 efforts and is delighted to respond to the numerous questions posed by the Commission in  
17 this Docket. While Viaero is interested in the PSAP and LEC Funding Support  
18 mechanisms contained in the 911-SAM, Viaero's primary focus in this testimony will be  
19 on the proposals dealing with the wireless carrier funding.

20 **Q: Does Viaero currently provide emergency services?**

21 A: Yes, Viaero provides all of its customers with access to emergency service through  
22 standard 911, in all areas where Viaero has coverage.

1 Viaero has implemented Phase I with counties that have requested such service and has  
2 upgraded its network to Implement Phase II where Public Safety Answering Points  
3 (“PSAPs”) are Phase II capable.

4 Viaero equips its towers for Phase II E-911 deployment as requested from the local PSAP  
5 pursuant to the timelines mandated by the FCC. Usually, once a PSAP is capable of  
6 receiving Phase II E-911 data from the wireless carrier, that PSAP requests Phase II  
7 implementation from the carrier. Implementation is completed 6 to 18 months later, as  
8 required by federal law. Viaero will continue to comply with the requirements imposed  
9 by the FCC regarding E-911 implementation as it has across its entire network to date.  
10 Viaero’s E-911 deployment status throughout its service territory is set forth in the map  
11 attached hereto as Exhibit A.

12 **Q: Should payments from the 911 Fund to Wireless Service Providers (“WSPs”) be**  
13 **made on a monthly or quarterly basis?**

14 A: Viaero believes that monthly payments to WSPs would be preferred and would permit  
15 WSPs like Viaero to best manage their capital equipment needs and facilitate their  
16 coordination with vendors. Since wireless E-911 facilities do not provide revenue for  
17 WSPs, but rather constitute mandated expense obligations, monthly reimbursement  
18 payments would ease the economic burden on all WSPs, especially smaller Tier III  
19 carriers like Viaero, who are actively deploying wireless E-911 infrastructure in the State.

20 **Q: Should WSPs have to demonstrate compliance with federally established testing and**  
21 **accuracy standards as set forth in 47 C.F.R. § 20.18(H)?**

22 A: WSPs are required to comply with federally established testing and accuracy standards  
23 for Phase II E-911 service pursuant to 47 C.F.R. 20.18 (h). Applicants for 911 Fund

1 support should certify that such requirements will be met in accordance with applicable  
2 rules and regulations. Failure to demonstrate compliance with such requirements could  
3 result in suspension of further support payments until compliance is achieved and  
4 certified to the Commission.

5 **Q: Prior to receiving funding from the 911 Fund, should WSPs have to report and**  
6 **account for any additional funding that may support 911 services, including but not**  
7 **limited to federal and state universal service funds and revenues generated through**  
8 **surcharges invoked by the WSP itself?**

9 A: The permanent E-911 funding mechanism should be structured in a fashion that takes  
10 into account revenue received by wireless carriers through alternative sources which is  
11 used to pay for Phase II implementation costs. These other revenue sources would  
12 include self-recovery surcharges imposed directly on wireless customers used to fund  
13 Phase II costs and monies received through other grants or surcharges from federal or  
14 state agencies or governmental subdivisions. The goal would be to limit cost recovery  
15 from the 911 Fund to those costs which are not otherwise recovered from other sources.  
16 This "offset" mechanism would not only reduce the demand on the 911 Fund, but it  
17 would allow the Commission to better determine the level of funding that is appropriate  
18 to accomplish the public policy objectives of the 911 Act, while recognizing and reacting  
19 to the different economic challenges facing wireless carriers which are deploying Phase II  
20 service in areas of the state where service is needed the most.

21 **Q: Should funding to WSPs be suspended for failure to (i) timely file required annual**  
22 **or quarterly reports; (ii) timely submit reimbursement or remittance worksheets,**  
23 **and (iii) comply with Commission audit requirements?**

1 A: Viaero believes that E-911 Fund support payments should be suspended for failure to (i)  
2 timely file required annual or quarterly reports to the Commission or (ii) timely submit  
3 reimbursement or remittance worksheets and (iii) comply with Commission audit  
4 requirements only if the Commission finds, through a formal complaint proceeding, that  
5 such failure(s) warrants suspension or termination of such support payments.

6 **Q: Should WSPs have to provide specific cost information?**

7 A: Viaero believes that WSPs applying for support from the 911 Fund should provide  
8 specific cost information concerning the requested costs sought to be reimbursed from the  
9 911 Fund.

10 **Q: The Commission has proposed the establishment of a WSP Grant Program which**  
11 **would be available to all WSPs for recovery of certain eligible costs incurred in the**  
12 **provision of Enhanced 911 service. What should be the parameters of the WSP**  
13 **Grant Program, including permissible purposes, eligibility criteria and application**  
14 **processes and standards?**

15 A: Permissive Purposes. The WSP Grant Program constitutes a creative and valuable  
16 mechanism for utilizing allocated but unclaimed E-911 funds for other eligible costs  
17 incurred in the provision of wireless enhanced 911 services. Due to the fact that the  
18 initial allocation of available E-911 funds under the 911-SAM is based on a cost proxy  
19 representing costs previously paid to WSPs for eligible costs, (a significant portion of  
20 which is comprised of recurring costs which the E-911 Fund is obligated to continue  
21 paying), combined with the forecasted decline in the support amount which will be  
22 available for allocation, it is unlikely that support funding from the initial allocation will  
23 permit significant expenditures of a nature not previously approved by the Commission.

1           Therefore, the WSP Grant Fund will constitute an important source of revenue for costs  
2           not previously approved by the Commission for reimbursement to WSPs, such as costs of  
3           implementing Phase II enhanced wireless 911 service ("Phase II service") and next  
4           generation costs. It is undisputed that the ultimate objective of the FCC's mandate to  
5           deploy a national wireless 911 system is to achieve universal Phase II capability,  
6           requiring all WSPs to deploy automated location identification services to the PSAP  
7           which would enable the call taker (PSAP dispatcher) to receive both the carrier's wireless  
8           phone number and the caller's specific location by latitude and longitude,<sup>1</sup> regardless of  
9           the technology used. The FCC also recognizes that the growing market penetration of  
10          both wireless telephone service and Voice over Internet Protocol ("VoIP") telephony  
11          requires the nation's 911 system to deploy new technology to handle the text, data,  
12          images and video that are currently utilized in personal communications and that are  
13          essential to emergency response objectives.<sup>2</sup>

14          Even though implementation of Phase II E-911 service is the stated national goal of the  
15          FCC, as well as the articulated state goal of the Nebraska Public Service Commission  
16          ("Commission"), the Commission's Orders to date have precluded all WSPs from  
17          receiving E-911 Funding for the deployment of Phase II services, citing the need to focus  
18          priority on the state-wide deployment of Phase II infrastructure at the PSAP level first.<sup>3</sup>  
19          However, after eight years of direct funding from the E-911 Fund, according to the  
20          Commission's 2008 Annual Report 78% (essentially all) of the State's PSAPs are Phase

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<sup>1</sup> *In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Third Report and Order*, FCC 99-245 (rel. October 6, 1999) ("*Third Report and Order*").

<sup>2</sup> 47 C.F.R. 400, E-911 Grant Program.

<sup>3</sup> PSC Order Denying Application of N.E. Colorado Cellular, d/b/a/ Viaero Wireless, Inc., November 13, 2008.

1 II compliant. Further, the Commission recently applied for federal funds under the federal  
2 Enhanced 911 Act<sup>4</sup> for funding to equip the four remaining rural PSAPs for Phase II  
3 wireless 911 service and to assist in the funding for the completion of intertandem  
4 trunking between Grand Island and Scottsbluff. If this federal grant is approved,  
5 matching funds will be provided through the 911 Fund. Therefore, the Commission's  
6 goal of provisioning the state's PSAPs for Phase II capability is nearly complete, opening  
7 up the opportunity for utilization of the available wireless E-911 support funds for other  
8 critical wireless E-911 implementation costs, such as Phase II implementation costs and  
9 costs for migrating to IP-enabled emergency services.

10 Viaero has consistently advocated to the Commission and the Nebraska Legislature that  
11 any funding mechanism developed by the Commission should include some form of cost  
12 recovery for wireless carriers for their costs of implementing Phase II service. Viaero's  
13 position is based on the Nebraska Legislature's expression of public policy when  
14 considering the enactment of the 911 Act in 2001, and on the interests of consumers  
15 across the State of Nebraska who desire the benefits of a reliable wireless public safety  
16 system throughout the State and not just in urban areas and along highways.

17 It is now essential that the Commission permit 911 Funds to be directed to support WSP  
18 costs associated with implementation and operation of Phase II E-911 services, using  
19 whatever new access technology may develop in the marketplace. The introduction of  
20 each new technology will require new engineering and system modification for WSPs  
21 and PSAPs alike. Therefore, the 911 Fund must not be restricted by limiting cost  
22 reimbursement to any specific wireless technology or any specific networked

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<sup>4</sup> Docket No. 911-040/PI-152.

1 communication device due to the rapid evolution of technology platforms and  
2 communication devices. Nor should the Commission design and implement eligibility  
3 criteria which ignores the essential role of WSPs in the origination of E-911 calls from  
4 consumers throughout the state, especially in rural areas where ubiquitous wireless  
5 service coverage is a fundamental pre-condition to the operation of a meaningful and  
6 reliable wireless E-911 emergency network.

7 Eligibility Criteria and Application Process. The WSP Grant Program should be  
8 constructed with the same eligibility criteria which the Commission has employed for  
9 receipt of 911 Fund support in the past. Each WSP must be a "telecommunications  
10 carrier" as defined in 47 U.S.C. § 153(44) and 47 C.F.R. § 51.5 and for the purpose of  
11 Part 54 of the FCC's Rules (47 C.F.R. § 54.1 et seq.). Each WSP must hold authorization  
12 for the FCC to provide personal communication services ("PCS") and must be a  
13 commercial mobile radio service ("CMRS") provider pursuant to the definition of  
14 "mobile service" provider in 47 U.S.C. § 153(27). Each WSP must provide interstate  
15 telecommunication service, as defined in 47 U.S.C. § 254(d) and 47 C.F.R. § 54.5.  
16 Further, every WSP must be licensed to provide wireless telecommunications service in a  
17 service area within the State of Nebraska. A WSP should not, however, be required to  
18 have been designated as an Eligible Telecommunications Carrier (ETC) by the  
19 Commission prior to receiving support from the 911 Fund.

20 Any WSP desiring reimbursement from the 911 Fund should submit a written application  
21 for support to the Commission setting forth, at a minimum, the following information:

- 22 a) Intended funding request by county, including anticipated future tower  
23 construction in each county;

- 1           b)     Supporting documentation for each location (facility) to be funded  
2                     including:  
3                 i)     Actual Invoices  
4                 ii)    Vendor bios  
5                 iii)   Construction contracts  
6                 iv)    Purchase orders  
7                 v)     Equipment/Software lists  
8           c)     Itemized recurring and non-recurring costs;  
9           d)     Maintenance costs and contracts;  
10          e)     Applicant's qualifications and background;  
11          f)     WSP licensed service area and maps;  
12          g)     Other sources of funding for E-911 costs and/or cost reimbursement and  
13                     amounts received or applied for;  
14          h)     Certification regarding utilization of 911 Funds

15 **Q:     What WSP costs should be designated as "eligible costs" for funding from the Grant**  
16 **Program?**

17 A:     The Order Seeking Comment in this Docket acknowledges that the 911 Act identifies  
18 various costs which "may" be deemed to be "eligible costs" for WSPs, as determined  
19 from time to time by the Commission.<sup>5</sup> Further, the Commission has proposed that  
20 eligible costs also include costs for database upgrades and management and certain  
21 "transportation and facility charges" incurred in the implementation and provision of  
22 enhanced 911 services. While the phrase "transportation and facility charges" is not

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<sup>5</sup> Viaero supported the legislative changes in 2006 (LB1222). See 911-038/PI-142 Comments.

1 specifically defined, the phrase seems sufficiently directed to the provision of enhanced  
2 wireless 911 services to fit within the broad definition of “other costs of establishing  
3 enhanced wireless 911 service” as set forth in the 911 Act.

4 The actual character of costs historically deemed by the Commission to be “eligible” for  
5 reimbursement from the 911 Fund has followed a rather logical progression dictated by  
6 the requirements of physically developing and deploying, from scratch, a statewide  
7 enhanced wireless 911 network. The Commission began the process in 2003 with a  
8 policy that was directed toward four major initial objectives: (1) deploying a statewide  
9 GIS system for use by WSPs and PSAPs in order to ultimately achieve the FCC’s  
10 mandated location identification (Phase II) enhanced wireless 911 system; (2)  
11 establishing Phase I capability at all PSAPs in the state, (3) establishing tandem trunking  
12 throughout the state and (4) supporting the state-wide implementation of Phase I services  
13 by WSPs. As this process evolved through 2006, the Commission repeatedly determined  
14 that the initial priority of the 911 Fund was to implement a viable Phase I system  
15 throughout the State, thereby assuring the deployment of the necessary infrastructure for  
16 the implementation of the ultimate objective, Phase II E-911.<sup>6</sup> Viaero supported the  
17 Commission’s initial determinations of priority for use of the E-911 Fund.<sup>7</sup>

18 In 2006 and 2007, the Commission began funding the deployment of Phase II equipment  
19 and software for PSAPs, while deferring Phase II reimbursement to WSPs. The  
20 Commission’s Interim Policy, initially proposed in 2006 and adopted on January 9, 2007,  
21 made support for WSP Phase II costs a secondary objective while continuing to focus on

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<sup>6</sup> In the Matter of the Nebraska Public Service Commission, on its Own Motion, to Establish Interim Policies, January 30, 2006.

<sup>7</sup> Id.

1 the deployment of Phase II capability to all PSAPs in the State, and the development of a  
2 permanent funding E-911 mechanism mandated by the Legislature in LB1222 in 2006,  
3 that continues to this day by virtue of the Commission's Order denying Viaero's  
4 application for reimbursement of Phase II costs, entered on November 13, 2008,<sup>8</sup> and the  
5 subsequent modification of its Interim E-911 Funding Policy on December 16, 2008 to  
6 conform the Interim Policy with the Viaero Order.<sup>9</sup>

7 Without regard to the merits of the Commission's determination in the Viaero  
8 Order, and its subsequent conforming amendment to the Interim Policy, the  
9 history of the Commission's decisions concerning the utilization of E-911 funds  
10 demonstrates a progressive change in the nature of the actual eligible costs being  
11 supported from the 911 Fund; from basic Phase I capability, to fundamental GIS  
12 mapping systems, to Phase II capability of PSAPs, to intertandem trunking, and  
13 now towards next generation applications. While some of the recurring costs for  
14 Phase I services will transition automatically to Phase II services, other costs were  
15 "one-time" costs which were necessary to build the basic infrastructure necessary  
16 for transition to Phase II services. Therefore, the determination by the  
17 Commission of what constitutes "eligible costs" under both the pool of money  
18 initially allocated to each WSP, as well as the WSP Grant Program pool, must  
19 reflect the current status of the statewide E-911 system and the ongoing need to  
20 maintain and enhance the system in the future. With nearly all PSAPs now Phase  
21 II capable,<sup>10</sup> and the balance likely soon to become Phase II capable,<sup>11</sup> the focus

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<sup>8</sup> PSC Order Denying Application of N.E. Colorado Cellular, d/b/a/ Viaero Wireless, Inc., November 13, 2008.

<sup>9</sup> PSC Progression Order, December 16, 2008.

<sup>10</sup> See PSC Order Designating Projects for Federal Grant Application No. 911-040/PI-152, July 28, 2009.

1 must necessarily turn to the challenge of migrating to an IP-enabled E-911  
2 network and to the objective of ensuring that the rural and high cost portions of  
3 the State have access to the same level E-911 services as those living in urban  
4 areas, an objective mandated by the FCC and the State itself. The later objective  
5 can only now be fully realized by supporting the deployment of ubiquitous  
6 wireless signal coverage throughout the State, which can, in turn, only be  
7 accomplished through the construction of more cell towers which are Phase II  
8 capable in rural and high costs areas of the State by WSPs willing and able to  
9 make that capital investment. Where there is no signal coverage, or inadequate  
10 signal coverage, there can be no meaningful and reliable E-911 system, in spite of  
11 all the E-911 funds which have been spent to date to enable all the State's PSAPs  
12 to receive and process Phase II calls.

13 In light of the evolving character of the 911 Fund support distributed to WSPs and  
14 PSAPs, the Commission must recognize that the "eligible costs" needed to (i)  
15 complete a reliable state-wide E-911 system; (ii) maintain that system and (iii)  
16 provide for the migration to an IP-enabled network, are necessarily different than  
17 the character of the costs needed to build and develop the State's E-911 network  
18 to this point. Therefore, the character of those evolving costs must be  
19 incorporated into the structure of the 911-SAM, both in regard to the initial  
20 allocation pool and in regard to the WSP Grant Program.

21 **Q: Should the 911-SAM specifically identify "eligible costs" for funding from the 911**  
22 **Fund?**

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<sup>11</sup> 2006 Neb. Laws, LB 1222, January 18, 2006, Committee on Transportation and Telecommunications, Public Hearing, p. 8

1 A: Because the 911-SAM is merely a mathematical mechanism to allocate and  
2 forecast money, it does not identify or in any way make any independent analyses  
3 concerning the actual utilization of the money allocated. That analytical judgment  
4 process is strictly the responsibility of the Commission, as reflected in its policies  
5 and orders regarding the manner in which E-911 support can be used. Therefore,  
6 the 911-SAM is essentially not concerned with the issue of "eligible costs," but  
7 rather that certain amounts of money are allocated for qualified purposes as  
8 determined by the Commission. The essential limitation of the 911-SAM,  
9 however, is that the mechanism it utilizes for the allocation process is derived  
10 simply from the amount of support funding the Commission has historically  
11 distributed to WSPs and PSAPs during the development of the current wireless E-  
12 911 state-wide system. Therefore, the historic funding amounts used by the 911-  
13 SAM to allocate support to the WSPs have no particular relationship to any  
14 specific historic costs or needs, nor are those historic costs, in any specific way,  
15 related to any future costs or needs. Rather, the 911-SAM is simply a tool to  
16 allocate and distribute money based on historic experience. The 911-SAM only  
17 calculates changes in allocation of available support to particular WSPs based on  
18 who owns cell towers in a particular service territory, rather than on how much  
19 those WSPs are actually incurring in implementing E-911 Phase II services.  
20 However, the static and historic calculations used by the 911-SAM to develop the  
21 initial allocation formula, while essentially inflexible, derives some flexibility  
22 through the WSP Grant Program, which offers WSPs the opportunity to recover  
23 "other" eligible costs not funded in the initial allocation process.

1 **Q: Do you believe that the amount of funding directed to the WSP Grant Program**  
2 **should be arbitrarily limited or capped?**

3 A: Viaero is aware that some interested parties have suggested that funds directed to the  
4 WSP Grant Program be capped at some arbitrary level, and that support amounts in  
5 excess of the slated cap be either reallocated to the PSAPs or utilized in other ways.  
6 Viaero believes that adoption of an arbitrary cap would be extremely unwise and  
7 inconsistent with the objectives of the 911 Fund. In the event funds allocated to the WSP  
8 fund were not fully requested by WSPs, then the Commission could evaluate an alternate  
9 use of the excess funds as the needs of the ever-changing wireless E-911 system might  
10 then dictate. Until that time, the 911-SAM mechanism should be utilized to transfer  
11 unclaimed support funds to the WSP Grant Program for other important eligible  
12 purposes. Establishing an arbitrary limitation or cap would serve to undermine the  
13 Commission's ability to utilize support funds where they may be most needed in  
14 completing and maintaining an effective and robust E-911 system.

15 **Q: Is the 911-SAM structured to accurately forecast the future status of the 911 Fund?**

16 A: The forecasting function of the 911-SAM is based on pre-determined reserve  
17 levels, the expected balances of the 911 Fund, pre-existing payment commitments  
18 and surcharge remittance levels. Also included in the forecasting function are  
19 certain "common" inputs which are designed to anticipate future expenditures.  
20 However, if certain "assumptions" or inputs are found to be inaccurate, the 911-  
21 SAM's ability to reliably forecast the 911 Fund could be substantially  
22 undermined. For example, the useful life of equipment (presumably all  
23 equipment purchased by PSAPs and WSPs with support from the 911 Fund) has

1        been identified in the 911-SAM as 4.7 years. However, discussions at the July 13,  
2        2009 E-911 Advisory Board meeting indicated that there was no consensus on the  
3        actual useful life of PSAP equipment. Several PSAPs indicated that they had  
4        been utilizing equipment since 2004 and that the existing vendor service contract  
5        being paid from the 911 Fund often provided for equipment replacement when  
6        necessary. Most PSAP representatives indicated that the existing software being  
7        utilized was fine and did not need to be replaced. Clearly, forecasting the status  
8        of the 911 Fund without a real understanding of the useful life of equipment  
9        previously purchased through the 911 Fund would dramatically impact the  
10       projected level of support available for other purposes.

11       Further, significant concern has been recently voiced at recent E-911 Advisory  
12       Board meetings, and in other quarters, about the fact that as a distinct category of  
13       costs, the costs paid to LECs to transport calls to the PSAPs represents the largest  
14       single category of costs paid out of the 911 Fund. It has been alleged that the  
15       LEC's tariffed rates billed to PSAPs significantly exceed the LEC's actual cost of  
16       providing transportation services and also includes a profit factor to the LECs,  
17       unlike the payments to WSPs and PSAPs which are strictly cost-based and do not  
18       include a profit. The 911-SAM assumes that the LEC costs will be paid in the  
19       future on the same basis, but a change in that practice could dramatically change  
20       the level of support available for other eligible costs.

21       In light of these two examples, the 911-SAM may suffer from several significant  
22       flaws which could serve to overestimate the on-going costs to the 911 Fund in  
23       years ahead.

1 **Q: Does the 911-SAM Model change the role of the Commission in the design**  
2 **and implementation of the state's E-911 system?**

3 A: While not the subject of a specific request for comment, the Commission's Order  
4 Seeking Comment and the Commission's Workshop presentations on the 911-  
5 SAM held August 12, 2009, revealed that the Commission plans to make  
6 allocated support payments directly to PSAPs and WSPs rather than paying  
7 vendors directly for approved costs of service, as has historically been the  
8 practice. While this new process will serve the objective of reducing the  
9 Commission's time and expense devoted to paying vendors, it also seems to  
10 suggest that the Commission with permit, even require, PSAPs to take over the  
11 responsibility of selecting, managing and contracting with vendors on their own  
12 without the regular guidance and involvement of the Commission. Concern has  
13 been expressed, which Viaero shares, that this new administrative process carries  
14 with it the real danger that the future development of the State's wireless E-911  
15 system could become disjointed thereby undermining the efforts the Commission  
16 has historically employed to ensure a level of uniformity in the construction and  
17 operation of the wireless E-911 system. Continued guidance from some  
18 centralized governmental authority with expertise in the area of E-911 system  
19 operation and technology will be necessary to maintain a coordinated and uniform  
20 approach to the continued development of the State's wireless E-911 emergency  
21 system.

22 **Q: Do you have any further comments?**

1 A: Yes. Viaero appreciates the opportunity to comment on the proposed 911-SAM  
2 and the need to reimburse wireless carriers for Phase II costs in its funding  
3 mechanism. Both legislative history and practical need support the allocation of  
4 funding from the 911 Fund for costs incurred by wireless carriers for deployment  
5 of Phase II costs. Viaero is anxious to further participate with the Commission in  
6 its development of a permanent funding mechanism which is fair to Nebraska's  
7 wireless rate payers and to wireless carriers saddled with the responsibility for  
8 delivering Phase II services.

9 **Q: Does this conclude your testimony?**

10 A: Yes.

**EXHIBIT A**

