BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, seeking to investigate the requirements, costs and impact of the implementation of Next Generation 911 in Nebraska relating to the provision of Enhanced Wireless 911 Service.	)))))	Application No. 911-045/PI-166

COMMENTS OF N.E. COLORADO CELLULAR, INC.

N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless ("Viaero") hereby files these comments in response to the Nebraska Public Service Commission's (the "Commission") Order Opening Docket (the "Order") in the above-captioned proceeding, entered October 30, 2012. Viaero welcomes the opportunity to provide the Commission with information on the subjects raised in the Order.

1. **Please identify the federal, state and local authorities, agencies, and governing bodies, whose participation and cooperation will be necessary for the implementation of NextGen 911 with respect to the receiving and processing of 911 calls. In commenting please provide the following specifics:**

    a. **The basis and scope of their authority including references to applicable state and federal statutes, administrative or court orders, and regulations;**

Implementing NextGen 911 will require coordination and support at the federal and state government levels, including, the Commission, local and regional governmental authorities within Nebraska, and Public Safety Answering Points (PSAPs).

The FCC is currently seeking comment on the legal and statutory framework for NextGen 911 services pursuant to the Next Generation 9-1-1 Advancement Act of 2012 which is

part of the Middle Class Tax Relief and Job Creation Act of 2012.[1] Section 6509 of the Act directs the Commission to issue a report, within one year of enactment, containing recommendations for the legal and statutory framework for NextGen 911 services. The FCC's Order requires that comments be submitted by December 13, 2012. Specifically, the FCC is seeking comment on what role it should have in overseeing deployment of NextGen 911 services across the nation.[2] In its Order, the FCC makes clear that it is seeking state implementation of NextGen 911 and a transition that allows coordination with connecting states and regions to ensure and facilitate a high level of functionality for NextGen 911.[3] While the process is underway at the federal level to implement policy related to NextGen 911, authority over 911 services clearly remains with the states. As the FCC coordinates a national discussion on the nationwide implementation of NextGen 911, the Commission must continue to pursue proactive discussions on creating a statewide policy concerning the implementation of NextGen 911 in Nebraska.

While the FCC has delegated NextGen 911 implementation to the states, in Nebraska, it is questionable whether any single entity, whether the Commission or a local government agency, is authorized to implement and oversee a uniform, statewide system. Nebraska's legislature has in essence created two separate 911 systems in Nebraska – the landline system that is governed by local governing bodies,[4] and a wireless system that is administered by the Commission.[5]

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[1] Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96 (2012), Title VI, Subtitle E.
[2] See *In the Matter of Framework for Next Generation 911 Deployment , Facilitating the Deployment of Text-to-911 and other Next Generation 911 Applications,* and *Comment on the Legal and Statutory Framework for NG911 Services Pursuant to the Next Generation 9-1-1 Advancement Act of 2012*, PS Docket Nos. 10-255, 11-153, 10-225.
[3] See *Comment on the Legal and Statutory Framework for NG911 Services Pursuant to the Next Generation 9-1-1 Advancement Act of 2012*, PS Docket Nos. 10-255, 11-153, 10-225, p. 3.
[4] Neb. Rev. Stat. § 86-426.
[5] Neb. Rev. Stat. § 86-465.

Nebraska's legislature enacted the Emergency Telephone Communications Systems Act, Neb. Rev. Stat. §§ 86-420 – 86-441.01 (the "Wireline Act"), "to fund the development, installation, and operation of 911 emergency telephone communications systems throughout the state." § 86-421. Under the Wireline Act, governing bodies are defined as the county board, 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.[6] The governing bodies are charged with ensuring that service users can use telephone services to dial 911 for the purpose of reporting emergencies.[7] And, they are authorized to levy a surcharge "on each telephone number or functional equivalent of service users" to install, maintain, and operate 911 services within their district.[8] In sum, local governing bodies have authority to charge residents having a landline telephone to fund 911 services, and likewise have control over the level of technology to be used for the provision of 911 service in a particular 911 service area.[9]

While local governing bodies have control over the provision of 911 services through telephone landline services, the Enhanced Wireless 911 Services Act, LB 585 codified at Neb. Rev. Stat. §§ 86-422-86-470 (the "Wireless Act"), gave the Commission oversight for collecting and distributing funds collected from wireless carriers to fund the equipment that the wireless carriers and the PSAPs need to implement wireless 911 systems. The technology required to route a wireless call to the appropriate PSAP, and to allow the PSAP to obtain the caller's telephone number and location, is different than that required for transmitting a landline 911 call. Equipping PSAPs with the necessary technology to obtain the same information from wireless 911 calls as from landline 911 calls is funded, in part, pursuant to the Wireless Act.

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[6] § 86-426.
[7] § 86-428.
[8] § 86-435.
[9] § 86-428.

When the Wireless Act was first proposed to the Nebraska legislature, the Division of Communications in the Nebraska Department of Administrative Services was originally identified as the state agency to establish the wireless surcharge, manage the fund, and issue grants to wireless carriers and PSAPs to develop and implement the appropriate technology requirements.[10] However, an amendment was made to the bill to have the Commission administer and oversee the fund. In the course of developing the Wireless Act, the Legislature determined that the Commission, which already had experience in managing a statewide telecommunications system and related funding mechanisms, was in the best position to lead and implement statewide policy over the Wireless 911 Fund.[11]

The legislative history of LB 585 clearly shows intent by the Legislature for the Commission to oversee implementation of enhanced wireless 911 services on a statewide basis, as well as make decisions about funding priorities and regulation process. The Commission was charged with oversight on how to most efficiently and effectively implement enhanced wireless 911 throughout the entire state. And similar to NextGen 911, when LB 585 was passed, it was part of a nationwide move toward the implementation of enhanced wireless 911. Consequently, the Commission has the experience in coordinating statewide 911 policies.

However, because the regulatory bodies for landline 911 services is different than wireless 911 services, the question remains whether jurisdiction exists for the Commission to implement the entirety of NextGen 911. Nebraska statutes make clear that the Commission has no authority over landline 911 services, and the Wireless Act contains definitions that appear to be too narrow to permit the Commission to exercise authority for the implementation of Internet-Protocol based NextGen 911. The legislative history of the Wireless Act shows that

[10] Laws 2001, L.B. 585.
[11] Laws 2001, L.B. 585, A.M. 462.

commentators were concerned about future technology changes requiring coordinated statewide implantation in order for PSAPs to meet public safety needs.[12]

Local governing bodies under the Wireline Act were given authority over local, landline 911 services. However, there is no advisory board or statewide coordinated oversight for landline 911 services. In contrast, wireless 911 services have coordinated statewide oversight by virtue of the Commission's control of the wireless surcharge fund, but the Commission clearly lacks authority over the level of technology to be used for the provision of landline 911 services.[13] Consequently, the State has a group of local governing bodies which have only control over landline 911 services, but no central, statewide authority to implement NextGen 911, while the Commission has statewide oversight of wireless 911, but the statute giving the Commission that authority does not appear broad enough to allow the Commission to implement an IP-based NextGen 911 system. While the partial goal of the Legislature in in placing authority with the Commission to fund wireless 911 development was due to the Commission's experience in working with evolving technology which could give structure to a statewide uniform system, the Act seems too narrow to grant the Commission authority to implement an overall NextGen 911 system.

b. Any efforts, projects or initiatives currently in progress or being planned related to any portion of the implementation of NextGen 911; and

The nation is clearly moving towards NextGen 911. As previously mentioned, the FCC is currently accepting comments on the nationwide implementation of NextGen 911, and what role it should have in ensuring deployment. Many states have already taken steps to evaluate how they can develop a statewide NextGen system. According to the National Emergency Numbers

[12] Laws 2001, L.B. 585, Floor Debate - Testimony of Mark Conrey, p. 18.
[13] § 86-428.

Association (NENA), 22 states have started NextGen 911 preparation activity at either the state level or the sub-state level.

One area of NextGen 911 in which the Commission can immediately take action to implement is "text-to-911", the ability to send a text message to 911 from a mobile phone or handheld device. The legacy 911 system, however, does not support text messaging as a means of reaching emergency responders, leading to potential consumer confusion and possible endangerment. Because text-to-911 is a wireless feature, the Commission's regulatory authority over wireless 911 permits the Commission to develop this one aspect of NextGen 911, even if it the Commission lacks authority to implement a comprehensive NextGen 911 policy for the state. As consumer use of carrier-based and third party-provided texting applications expands and evolves, the FCC has noted the importance of the 911 system evolving to enable wireless consumers to reach 911 in those emergency situations where a voice call is not feasible or appropriate. The FCC has recently provided notice of proposed rulemaking relating to text-to-911,[14] and the nation's four largest wireless carriers – AT&T, Verizon, Sprint, T-Mobile – have agreed to accelerate the availability of text-to-911, with major deployments expected in 2013 and a commitment to nationwide availability by May 15, 2014.[15]

c. Identify any impediments to their participation.

As outlined above, in Nebraska a question remains whether any one government agency has the authority to oversee implementation of NextGen 911.

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[14] See *In the Matter of Facilitating the Deployment of Text-to-911 and other Next Generation 911 Applications,* and *Framework for Next Generation 911 Deployment*, PS Docket Nos. 11-153, 10-225.

[15] See *FCC Chairman Julius Genachowski Announces Commitment by Major U.S. Wireless Carriers & Public Safety Leaders to Accelerate Nationwide Text-To-911 Services; Calls for Continued Engagement With FCC on Next-Generation 9-1-1 Initiatives*, FCC NEWS, Dec. 6, 2012, available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db1207/DOC-317786A1.pdf.

2. **The cooperation and participation of wireless service providers, local exchange carriers and other interested parties will be necessary for the implementation of NextGen 911 with respect to the receiving and processing of 911 calls. In commenting please provide the following specifics:**
    a. **The nature of their participation including what elements of a robust NextGen 911 for which they would be responsible;**
    b. **Any efforts, projects or initiatives currently in progress or being planned related to any portion of the implementation of NextGen 911 including any state or federal deadlines or requirements currently in place; and**
    c. **Identify any impediments to their participation.**

Although extremely reliable, the current E-911 network cannot keep up with the quickly evolving pace of technology, and therefore will be unable to provide comparable service for emerging communications devices such as Voice Over Internet Protocol (VoIP) phones and is not capable of processing widely used data, such as text messaging, pictures, video or telematics from vehicles. However, the E-911 network must be able to accommodate the data demands of wireless and VoIP E-911, as well as public safety technologies of the future. The current E-911 system will continue to degrade, and will be unable to meet the needs of 911 callers and requests for emergency assistance using the advanced capabilities of modern devices. Traditional communications companies are transforming their circuit switched networks into packet switched networks to accommodate the transport of voice, data, and video over Internet Protocol (IP) networks.

Both the technology and standards exist to begin the replacement of the current E-911 network with a solution that will route 911 calls through an IP-based network (ESInet). An

ESInet is a managed IP network that is used for emergency services communication. It can be a single IP network or it can be multiple IP networks connected together at local, regional, state and federal, national and international levels. This network can be shared by all PSAPs and provides the IP transport infrastructure that is required for providing NextGen 911. An ESInet will allow for the delivery of additional data necessary for an effective public safety response. This network will improve call set up time and increase the speed at which voice and data arrive at the PSAP, thereby saving lives.

NextGen 911 was first identified and defined by NENA in 2000. According to NENA, NG9-1-1 is defined as follows:

> ". . .NG9-1-1 is. . .an IP based replacement for E9-1-1 features and functions that supports all sources of emergency access to the appropriate PSAPs, operates on reliable, secure, managed multi-purpose IP networks, and provides expanded multimedia data capabilities for PSAPs and other emergency responders. . ."

NENA issued a comprehensive report entitled A Policy Maker Blueprint for Transitioning to the Next Generation 9-1-1 System in September 2008[16], which set forth a vision for the national implementation of NextGen 911. NENA predicted that NextGen 911 would be implemented in phases over a period of time and would require extensive and expensive changes. This phased implementation will require the temporary co-existence with the existing legacy network. Before a PSAP can take advantage of additional data, all PSAP equipment, including E-911 call taking equipment, Computer-Aided Dispatch (CAD), mapping, and other support equipment, must be upgraded or replaced. That is, all equipment currently associated with a 911 call must

[16] *A Policy Maker Blueprint for Transitioning to the Next Generation 9-1-1 System*, "Issues and Recommendations for State and Federal Policy Makers to Enable NG9-1-1", September, 2008, National Emergency Number Association, Next Generation Partner Program.

be capable of receiving, displaying, and storing the data. In addition, call-receivers will need extensive training to process and manage all the additional data.

Nebraska must build out NextGen 911 in a uniform, guided approach by regional or state 911 authorities. PSAPs must be able to upgrade and meet a consistent set of nationally accepted NextGen 911 requirements and standards to permit coordinated functions and interconnection. To reach large-scale deployment, 911 authorities could employ several different transition paths, including upgrading individual PSAPs, upgrading PSAPs within a region or state, providing functionally specialized PSAPs, consolidating PSAPs, and/or phased approaches based on size or resource availability—but all would involve guidance and coordination through appropriate regional, state, and national mechanisms.

CONCLUSION

The development of a comprehensive NextGen 911 plan should be immediately considered by the Commission so that all information relevant to the structure of the State's future NextGen 911 system, and the Commission's existing policies and procedures, can be thoughtfully considered, including, particularly, the costs associated with deploying NextGen wireless capability to all essential players, LECs, WSPs and PSAPs. Central coordination the Commission will be crucial to this process.

Respectfully submitted this 14th day of December, 2012.

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By _____

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 14th day of December, 2012, an original, five copies and an electronic copy of Viaero's Comments in Docket No. 911-045/PI-166 were delivered to:

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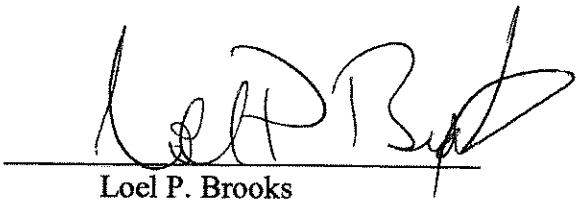

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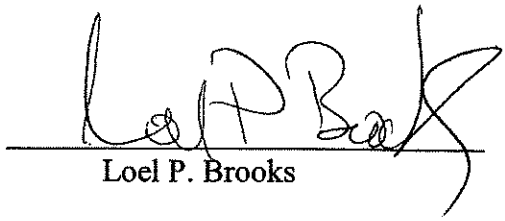

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