BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to implement policies and procedures related to providing dedicated universal service support for wireless telecommunications services: Pinpoint Wireless, Inc. d/b/a BLAZE Wireless

Application No. NUSF-69.13

TESTIMONY OF ANDREW R. NEWELL REGARDING THE APPLICATION OF PINPOINT WIRELESS, INC. D/B/A BLAZE WIRELESS ON BEHALF OF N.E. COLORADO CELLULAR, INC., D/B/A VIAERO WIRELESS

Q: PLEASE STATE YOUR NAME.

A: Andrew R. Newell.

Q: WHERE ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A: I am General Counsel for N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless ("Viaero").

Q: PLEASE DESCRIBE YOUR EDUCATIONAL QUALIFICATIONS.

A: I hold a Bachelor of Science degree in political science from the University of California at Los Angeles and was awarded a Juris Doctor degree from the University of Colorado School of Law.

Q: PLEASE SUMMARIZE YOUR PROFESSIONAL EXPERIENCE.

A: I have held the General Counsel position at Viaero since February 2009. Prior to joining Viaero, I maintained a private law practice beginning in 2002. From 1999 to 2001 I held positions on increasing responsibility within the legal department of Jato
Communications Corp., a competitive provider of DSL services, and its successor in
interest, a subsidiary of Lucent Technologies. Prior to joining Jato I worked as a law
clerk, and later in regulatory affairs for Intrado, a provider of enhanced 9-1-1
technologies and services.

Q: ARE YOU AUTHORIZED TO TESTIFY ON BEHALF OF VIAERO?

A: Yes, I am.

Q: DID YOU OVERSEE VIAERO’S REVIEW OF THE “APPLICATION OF
PINPOINT WIRELESS, INC. REQUESTING SUPPORT FROM THE
NEBRASKA UNIVERSAL SERVICE FUND DEDICATED WIRELESS
PROGRAM” FILED WITH THE NEBRASKA PUBLIC SERVICE
COMMISSION (“COMMISSION”) ON JUNE 28, 2013 (THE “APPLICATION”)?

A: Yes, I did.

Q: DO YOU HAVE TESTIMONY TO OFFER THE COMMISSION REGARDING
PINPOINT WIRELESS, INC. D/B/A BLAZE WIRELESS’ (“PINPOINT”)
APPLICATION FOR SUPPORT?

A: Yes.

Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A: The purpose of my testimony is to advise the Commission that Viaero already provides
broadband service in those areas where the Commission Staff has recommended
awarding Pinpoint NUSF-69 Dedicated Wireless Program (“Dedicated Wireless
Program") funding to deploy new wireless service facilities as identified in “Attachment A” to the Testimony of Tyler Frost.¹

Q: DESCRIBE THE LEGAL BASIS FOR YOUR OBJECTION TO PINPOINT’S APPLICATION.

A: While there are numerous elements that factor into the Commission’s methodology for evaluating NUSF 69 applications an important objective of the Dedicated Wireless Program Support is support of the deployment of wireless facilities and infrastructure in high-cost unserved and underserved areas.² While the Commission has not defined “unserved” and “underserved” in its NUSF-69 docket, in its NUSF-77 docket, the Commission has defined these terms. And since the Commission has recently decided to combine the NUSF-69 Dedicated Wireless Fund with the NUSF-77 BEBP Program in 2014,³ Viaero assumes that the Commission has used the basic definition of those terms in evaluating the 2013 NUSF-69 Dedicated Wireless Program applications.

In its NUSF-77 docket, the Commission has defined “unserved” as “any area where no facilities-based provider offers broadband, and where Internet connectivity can only be made through dial-up service.”⁴ The Commission has also defined “underserved” as “any

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¹ Id. at Attachment A.
² Application No. NUSF-69 Progression Order No. 3, In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to implement policies and procedures related to providing dedicated universal service support for wireless telecommunications services, Order at 1 (February 26, 2008).
³ Application No. NUSF-77, Progression Order No. 8, In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund and Application No. NUSF-69, In the Matter of the Nebraska Public Service Commission on its own motion seeking to implement policies and procedures related to providing dedicated universal service support for wireless telecommunications services, Order (September 4, 2013)
⁴ Application No. NUSF-77 Progression Order No. 4, In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures regarding the NUSF, ORDER ISSUING FINDINGS, SEEKING FURTHER COMMENTS AND SETTING HEARING, Order at 10 (September 27, 2011).
area where a facilities-based provider offers Internet access at speeds greater than 56K
down but not greater or equal to those speeds defined as broadband." The Commission's
decision to provide subsidies for projects located in these specific areas satisfies the
Legislative policy for directing NUSF funds so that consumers in these high-cost areas
have access to advanced telecommunications and information services. Thus, the
availability of existing wireless telecommunications and broadband service is a critical
initial factor the Commission Staff must take into consideration when making funding
recommendations to the Commission. However, for a host of reasons, it is extensively
difficult, if not impossible for the Commission Staff to know with certainty where any
specific carrier actually provides wireless services, so it is incumbent on the participating
applicant for Dedicated Wireless Program funding to advise the Commission of areas
where wireless voice and broadband services are actually being provided. That is the
basis upon which Viaero provides this information at this time.

Q: DESCRIBE VIAERO'S NETWORK OPERATIONS AND THE SERVICES IT PROVIDES IN THE AREAS FOR WHICH THE COMMISSION STAFF HAS RECOMMENDED THAT PINPOINT BE AWARDED NUSF-69 FUNDING FOR THE 2013 CALENDAR YEAR.

A: Viaero is a wireless carrier which provides wireless telecommunications services,
including broadband access and voice services, in Nebraska.

Viaero was designated as an ETC by this Commission on October 18, 2005. Since that
designation, Viaero has aggressively expanded its coverage in Nebraska, and currently

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5 Id.
7 See NUS-69, P.O. 7 at 3.
owns more than three hundred (300) telecommunications towers covering roughly nine
hundred fifty-five thousand (955,000) rural Nebraskans, all of which reside outside of
Omaha and Lincoln. Viaero’s wireless coverage extends over 90% of the state’s
landmass.

Headquartered in Fort Morgan, Colorado, Viaero employs over four hundred people, well
over one hundred of those within the State of Nebraska. Viaero maintains thirty-three
(33) retail stores (including kiosks) in Nebraska, most of which were new construction,
and has seven (7) additional dealer locations. In all, Viaero has made over $108 Million
in capital investments to provide wireless voice and data coverage to rural Nebraskans
since 2006.

The Commission Staff has recommended that Pinpoint be awarded funding for the
following projects: Arapahoe South, Harry Strunk Lake, Culbertson, Orafino, Trenton,
Hugh Butler Lake, Perry Grain, Stratton, Max and Enders. Based upon the information
provided in Pinpoint’s Application on the location of these projects, Viaero has created a
coverage map showing the location of each of Pinpoint’s proposed projects, which has
been overlaid with a coverage map showing the 4G coverage already provided by Viaero
in those same areas. That map is attached to this Testimony as “Exhibit 1.” Viaero has
also created a spreadsheet that shows the distance between each of Pinpoint’s proposed
projects and the distance to the closest Viaero site. The spreadsheet is attached to this
Testimony as “Exhibit 2.” Every Viaero tower listed on Exhibit “2” provides voice
services and broadband service which exceeds the defined standards of 4 Mbps download
and 1 Mbps upload, in the specific areas of the Proposed Sites targeted by Pinpoint’s
Application which have been recommended for funding. It should be noted that Pinpoint’s application does not specifically state or warrant that the Proposed Sites are, in fact, located in unserved or underserved areas. Rather, the application simply states that the “... Proposed Sites would bring greatly improved or enhanced wireless services to those areas of its service territory.”

Q. DOES VIAERO HAVE ANY TECHNICAL CONCERNS REGARDING PINPOINT’S PROPOSED PROJECTS?
A. Yes. While we are reluctant to level criticism at fellow applicants, I think it is important to consider that Pinpoint only holds 5 MegaHertz (MHz) of spectrum within which to deploy broadband and voice services.

Q. HOW DOES VIAERO KNOW PINPOINT ONLY HOLDS 5 MHZ OF SPECTRUM IN ITS PROPOSED PROJECT AREAS?
A. Spectrum holdings are often generally known, especially between competitors. All transfers are public record at the FCC, as are auction results. Viaero has particular knowledge of Pinpoint’s holdings because it purchased the remainder of Pinpoint’s spectrum about six years ago.

Q. WHY IS PINPOINT’S HOLDING OF ONLY 5 MHZ OF SPECTRUM IN ITS PROPOSED SERVICE AREAS SIGNIFICANT?

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9 See NUSF-77, P.O. 4 at 11. The definition for “broadband” under the NUSF-69 Dedicated Wireless Fund program did not mirror the 4/1 Mbps standard used in the NUSF-77 NEBP program. Rather, the definition was based upon the Federal Communications Commission’s definition of “3G”. In terms of speed qualifications, this was defined as an outdoor minimum of 200 kbps uplink and 768 kbps downlink to handheld mobile devices at vehicle speeds up to 70 MPH.

10 In the Matter of Pinpoint Wireless, Inc. Requesting Support from the Nebraska Universal Service Fund Dedicated Wireless Program for the Construction of Towers and Infrastructure in Rural Nebraska, Application No. NUSF-69.13 (June 28, 2013) at page 2.
5 MHz is an impractical amount of spectrum to deploy broadband data and voice services in almost every circumstance. Such a small block of spectrum results in significantly degraded throughput for data services.

Q. WOULDN'T THE LEVEL OF DEGRADATION BE DEPENDENT ON THE AMOUNT OF TRAFFIC? AFTER ALL, THESE ARE NOT DENSELY POPULATED AREAS.

A. The level of throughput is a function of the load (traffic) on the network, and that is typically driven ultimately by the number of customers and their usage patterns. A significant input to that traffic number would certainly be population. That being said, Viaero currently serves many of these areas with dual-carrier WCDMA (4G) technology, so we have some insight into the amount of traffic than can be generated.

Q. HOW MUCH TRAFFIC IS TYPICALLY GENERATED?

A. By way of example, Viaero has an existing site in Culbertson, Nebraska which provides 4G service via dual-carrier WCDMA. This site is 3.45 miles from the proposed Pinpoint site Staff has recommended for funding in this docket. Viaero receives a report of daily traffic volumes on each radio for each cell sector, for a total of eight (8) separate volume readings at this site. This site processed a total of 1824.5 minutes of voice usage on Sunday, October 20, 2013. It processed 13,068 Megabytes (MB) of downloaded data over the same time period.

Q. HOW MUCH SPECTRUM DOES VIAERO USE TO SERVE THE CULBERTSON, NE AREA?

A. In this area, Viaero has a total of 35 MHz of licensed spectrum to provide service.
Q. WOULD VIAERO PROVIDE 4G SERVICE IN THIS AREA WITH 5 MHZ OF SPECTRUM?

A. No. It is true that the volumes generated by the Culbertson tower are relatively low. In comparison, Viaero’s tower at its headquarters generated 27,478.5 minutes of voice and 72,003 MB of data on the same Sunday. However, the volumes Viaero experiences at Culbertson are not low enough to operate on 5 MHz of spectrum. Viaero has three sites in South Dakota with 4G deployed using only 5 MHz. They are the extremely rare exception to the rule.

Q. WHY ARE THESE SITES AN EXCEPTION TO THE RULE?

A. Because they generate an extremely low volume of traffic. The three sites I reference, Ardmore, Falls, and Oelrichs, generated a combined total of 230.9 minutes of voice usage and 51 MB of downloaded data on that same Sunday, October 20, 2013. Only at such drastically low volumes is it advisable, in Viaero’s opinion, to deploy WCDMA technology to provide voice and data services.

Q. ARE THERE AREAS WHERE VIAERO HAS NOT DEPLOYED 4G BECAUSE IT ONLY HAS 5 MHZ OF SPECTRUM?

A. Yes. There are areas where Viaero only possesses 5 MHz, or even 10 MHz, and has chosen not to deploy 4G because it is simply an insufficient amount of spectrum to provide a quality service.

Q. DOES VIAERO HAVE ANY OTHER CONCERNS REGARDING PINPOINT’S PROPOSED PROJECT?

A. One economic concern. Today, Pinpoint provides service in these areas using Viaero’s existing infrastructure. Pinpoint’s customers roam on Viaero’s network; the two carriers
have a roaming relationship that allows Pinpoint customers to utilize Viaero’s existing
towers in places like Benkelman, Culburton, Trenton, and Hugh Butler Lake, just to
name a few areas. Viaero’s site in Stratton, Nebraska is just 1.53 miles from Pinpoint’s
Stratton site proposed for funding in this docket. If Pinpoint’s proposed sites are funded
the primary impact will be the conversion of existing Pinpoint customer traffic roaming
on Viaero’s network to Pinpoint on-network traffic. This will reduce the productivity of
Viaero’s existing sites, most of which were built without NUSF funding, but will not
necessarily improve the customer experience.

Q. WHY SHOULD THE COMMISSION BE CONCERNED ABOUT THIS?

A. I don’t believe this Commission intends reduce the economic viability of existing
facilities through the NUSF-69 program. The Commission would essentially be funding
Pinpoint’s effort to avoid roaming charges, with ratepayer dollars, if the recommended
sites are approved.

Q: HOW TO YOU RECOMMEND THAT THE COMMISSION ACT IN LIGHT OF
THE COMMISSION STAFF RECOMMENDATION TO AWARD NUSF-69
FUNDING TO PINPOINT?

A. Viaero recommends that the Commission evaluate Pinpoint’s Application on the basis of
the information presented by Viaero in this proceeding with the goals and objectives of
the Dedicated Wireless Fund in mind.

Q: DOES THIS CONCLUDE YOUR TESTIMONY?

A: Yes. I am pleased to respond to any questions.
EXHIBIT 1
Pinpoint Communications Sites in NUSF-69 Submittal With Viaero 4G Coverage
<table>
<thead>
<tr>
<th>Name</th>
<th>Closest Viaero Site</th>
<th>Distance to Closest Viaero Site</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arapahoe South</td>
<td>Beaver City</td>
<td>5.23</td>
</tr>
<tr>
<td>Harry Strunk Lake</td>
<td>Cambridge</td>
<td>7.73</td>
</tr>
<tr>
<td>Culbertson</td>
<td>Culbertson</td>
<td>3.45</td>
</tr>
<tr>
<td>Orafino AWS</td>
<td>Stockville</td>
<td>10.15</td>
</tr>
<tr>
<td>Trenton</td>
<td>Trenton</td>
<td>4.44</td>
</tr>
<tr>
<td>Hugh Butler Lake</td>
<td>Red Willow</td>
<td>2.29</td>
</tr>
<tr>
<td>Perry Grain</td>
<td>McCook West</td>
<td>4.34</td>
</tr>
<tr>
<td>Stratton</td>
<td>Stratton</td>
<td>1.53</td>
</tr>
<tr>
<td>Max</td>
<td>Benkelman</td>
<td>7.61</td>
</tr>
<tr>
<td>Enders</td>
<td>Imperial</td>
<td>6.96</td>
</tr>
</tbody>
</table>
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 22nd day of October, 2013, an original, five copies and an electronic copy of the Pre-Filed Testimony of Andrew R. Newell in Opposition to the Application of Pinpoint Wireless, Inc. d/b/a Blaze Wireless on Behalf of N.E. Colorado Cellular, Inc., d/b/a/ Viaero Wireless in Docket No. NUSF-69.13 were delivered to:

Shana Knutson
Nebraska Public Service Commission
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[Signature]
Loel P. Brooks
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The undersigned hereby certifies that on this 22nd day of October, 2013, an electronic copy of the Pre-Filed Testimony of Andrew R. Newell in Opposition to the Application of Pinpoint Wireless, Inc. d/b/a Blaze Wireless on Behalf of N.E. Colorado Cellular, Inc., d/b/a/ Viaero Wireless in Docket No. NUSF-69.13 was delivered to:

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