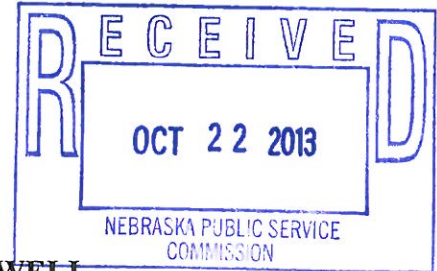


1 **BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**
2
3

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

Application No. NUSF-69.13



10
11 **TESTIMONY OF ANDREW R. NEWELL**
12 **REGARDING THE APPLICATION OF**
13 **PINPOINT WIRELESS, INC. D/B/A BLAZE WIRELESS**
14 **ON BEHALF OF**
15 **N.E. COLORADO CELLULAR, INC., D/B/A VIAERO WIRELESS**
16
17

18
19 **Q: PLEASE STATE YOUR NAME.**

20 A: Andrew R. Newell.

21 **Q: WHERE ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

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

23 **Q: PLEASE DESCRIBE YOUR EDUCATIONAL QUALIFICATIONS.**

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

27 **Q: PLEASE SUMMARIZE YOUR PROFESSIONAL EXPERIENCE.**

28 A: I have held the General Counsel position at Viaero since February 2009. Prior to joining
29 Viaero, I maintained a private law practice beginning in 2002. From 1999 to 2001 I held
30 positions on increasing responsibility within the legal department of Jato

1 Communications Corp., a competitive provider of DSL services, and its successor in
2 interest, a subsidiary of Lucent Technologies. Prior to joining Jato I worked as a law
3 clerk, and later in regulatory affairs for Intrado, a provider of enhanced 9-1-1
4 technologies and services.

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

6 **A:** Yes, I am.

7 **Q: DID YOU OVERSEE VIAERO'S REVIEW OF THE "APPLICATION OF**
8 **PINPOINT WIRELESS, INC. REQUESTING SUPPORT FROM THE**
9 **NEBRASKA UNIVERSAL SERVICE FUND DEDICATED WIRELESS**
10 **PROGRAM" FILED WITH THE NEBRASKA PUBLIC SERVICE**
11 **COMMISSION ("COMMISSION") ON JUNE 28, 2013 (THE "APPLICATION")?**

12 **A:** Yes, I did.

13 **Q: DO YOU HAVE TESTIMONY TO OFFER THE COMMISSION REGARDING**
14 **PINPOINT WIRELESS, INC. D/B/A BLAZE WIRELESS' ("PINPOINT")**
15 **APPLICATION FOR SUPPORT?**

16 **A:** Yes.

17 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

18 **A:** The purpose of my testimony is to advise the Commission that Viaero already provides
19 broadband service in those areas where the Commission Staff has recommended
20 awarding Pinpoint NUSF-69 Dedicated Wireless Program (**"Dedicated Wireless**

1 **Program**”) funding to deploy new wireless service facilities as identified in “Attachment
2 A” to the Testimony of Tyler Frost.¹

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

5 A: While there are numerous elements that factor into the Commission’s methodology for
6 evaluating NUSF 69 applications an important objective of the Dedicated Wireless
7 Program Support is support of the deployment of wireless facilities and infrastructure in
8 high-cost unserved and underserved areas.² While the Commission has not defined
9 “unserved” and “underserved” in its NUSF-69 docket, in its NUSF-77 docket, the
10 Commission has defined these terms. And since the Commission has recently decided to
11 combine the NUSF-69 Dedicated Wireless Fund with the NUSF-77 BEBP Program in
12 2014,³ Viaero assumes that the Commission has used the basic definition of those terms
13 in evaluating the 2013 NUSF-69 Dedicated Wireless Program applications.

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

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).

1 area where a facilities-based provider offers Internet access at speeds greater than 56K
2 down but not greater or equal to those speeds defined as broadband.”⁵ The Commission’s
3 decision to provide subsidies for projects located in these specific areas satisfies the
4 Legislative policy for directing NUSF funds so that consumers in these high-cost areas
5 have access to advanced telecommunications and information services.⁶ Thus, the
6 availability of existing wireless telecommunications and broadband service is a critical
7 initial factor the Commission Staff must take into consideration when making funding
8 recommendations to the Commission.⁷ However, for a host of reasons, it is extensively
9 difficult, if not impossible for the Commission Staff to know with certainty where any
10 specific carrier actually provides wireless services, so it is incumbent on the participating
11 applicant for Dedicated Wireless Program funding to advise the Commission of areas
12 where wireless voice and broadband services are actually being provided. That is the
13 basis upon which Viaero provides this information at this time.

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

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

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

⁵ *Id.*

⁶ Neb. Rev. Stat. § 86-323(3).

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.⁸ 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

⁸ *Id.*

1 Application which have been recommended for funding.⁹ It should be noted that
2 Pinpoint's application does not specifically state or warrant that the Proposed Sites are, in
3 fact, located in unserved or underserved areas. Rather, the application simply states that
4 the ". . . Proposed Sites would bring greatly improved or enhanced wireless services to
5 those areas of its service territory."¹⁰

6 **Q. DOES VIAERO HAVE ANY TECHNICAL CONCERNS REGARDING**
7 **PINPOINT'S PROPOSED PROJECTS?**

8 A. Yes. While we are reluctant to level criticism at fellow applicants, I think it is important
9 to consider that Pinpoint only holds 5 MegaHertz (MHz) of spectrum within which to
10 deploy broadband and voice services.

11 **Q. HOW DOES VIAERO KNOW PINPOINT ONLY HOLDS 5 MHZ OF**
12 **SPECTRUM IN ITS PROPOSED PROJECT AREAS?**

13 A. Spectrum holdings are often generally known, especially between competitors. All
14 transfers are public record at the FCC, as are auction results. Viaero has particular
15 knowledge of Pinpoint's holdings because it purchased the remainder of Pinpoint's
16 spectrum about six years ago.

17 **Q. WHY IS PINPOINT'S HOLDING OF ONLY 5 MHZ OF SPECTRUM IN ITS**
18 **PROPOSED SERVICE AREAS SIGNIFICANT?**

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.

1 A. 5 MHz is an impractical amount of spectrum to deploy broadband data and voice services
2 in almost every circumstance. Such a small block of spectrum results in significantly
3 degraded throughput for data services.

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

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

12 **Q. HOW MUCH TRAFFIC IS TYPICALLY GENERATED?**

13 A. By way of example, Viaero has an existing site in Culbertson, Nebraska which provides
14 4G service via dual-carrier WCDMA. This site is 3.45 miles from the proposed Pinpoint
15 site Staff has recommended for funding in this docket. Viaero receives a report of daily
16 traffic volumes on each radio for each cell sector, for a total of eight (8) separate volume
17 readings at this site. This site processed a total of 1824.5 minutes of voice usage on
18 Sunday, October 20, 2013. It processed 13,068 Megabytes (MB) of downloaded data
19 over the same time period.

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

22 A. In this area, Viaero has a total of 35 MHz of licensed spectrum to provide service.

1 Q. WOULD VIAERO PROVIDE 4G SERVICE IN THIS AREA WITH 5 MHZ OF
2 SPECTRUM?

3 A. No. It is true that the volumes generated by the Culbertson tower are relatively low. In
4 comparison, Viaero's tower at its headquarters generated 27,478.5 minutes of voice and
5 72,003 MB of data on the same Sunday. However, the volumes Viaero experiences at
6 Culbertson are not low enough to operate on 5 MHz of spectrum.

7 Viaero has three sites in South Dakota with 4G deployed using only 5 MHz. They are the
8 extremely rare exception to the rule.

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

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

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

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

20 Q. DOES VIAERO HAVE ANY OTHER CONCERNS REGARDING PINPOINT'S
21 PROPOSED PROJECT?

22 A. One economic concern. Today, Pinpoint provides service in these areas using Viaero's
23 *existing* infrastructure. Pinpoint's customers roam on Viaero's network; the two carriers

1 have a roaming relationship that allows Pinpoint customers to utilize Viaero's existing
2 towers in places like Benkelman, Culburtson, Trenton, and Hugh Butler Lake, just to
3 name a few areas. Viaero's site in Stratton, Nebraska is just 1.53 miles from Pinpoint's
4 Stratton site proposed for funding in this docket. If Pinpoint's proposed sites are funded
5 the primary impact will be the conversion of existing Pinpoint customer traffic roaming
6 on Viaero's network to Pinpoint on-network traffic. This will reduce the productivity of
7 Viaero's existing sites, most of which were built *without* NUSF funding, but will not
8 necessarily improve the customer experience.

9 **Q. WHY SHOULD THE COMMISSION BE CONCERNED ABOUT THIS?**

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

14
15 **Q: HOW TO YOU RECOMMEND THAT THE COMMISSION ACT IN LIGHT OF**
16 **THE COMMISSION STAFF RECOMMENDATION TO AWARD NUSF-69**
17 **FUNDING TO PINPOINT?**

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

21 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

22 A: Yes. I am pleased to respond to any questions.

EXHIBIT 1

Pinpoint Communications Sites in NUSF-69 Submittal With Viaero 4G Coverage

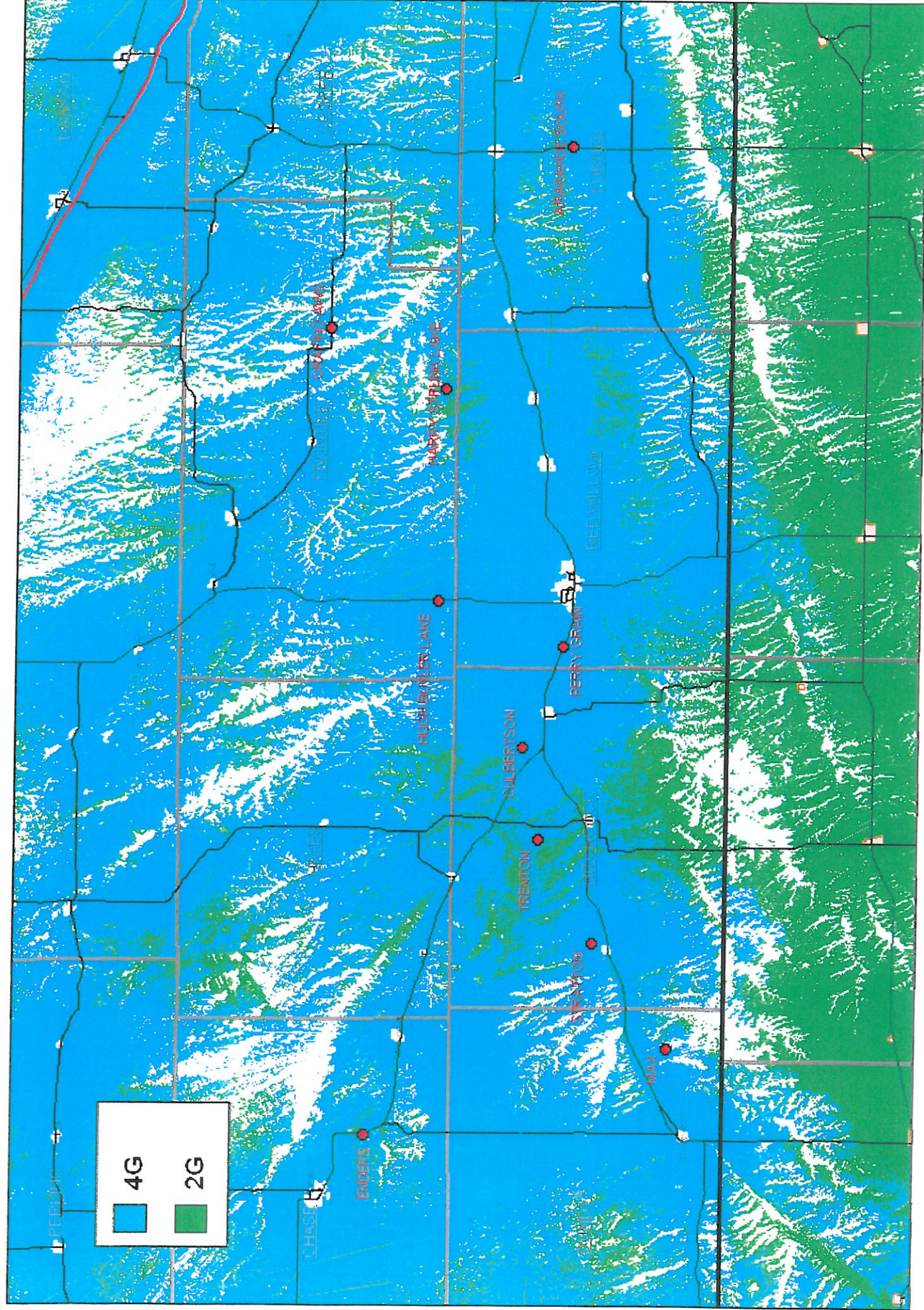


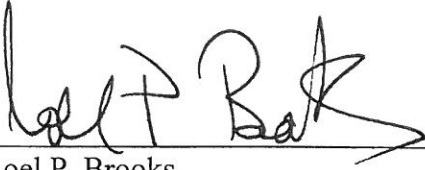
EXHIBIT 2

Name	Closest Viaero Site	Distance to Closest Viaero Site
Arapahoe South	Beaver City	5.23
Harry Strunk Lake	Cambridge	7.73
Culbertson	Culbertson	3.45
Orafino AWS	Stockville	10.15
Trenton	Trenton	4.44
Hugh Butler Lake	Red Willow	2.29
Perry Grain	McCook West	4.34
Stratton	Stratton	1.53
Max	Benkelman	7.61
Enders	Imperial	6.96

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
1200 N Street, Suite 300
Lincoln, NE 68508
shana.knutson@nebraska.gov



Loel P. Brooks

CERTIFICATE OF SERVICE

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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