

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service) Application No. NUSF-92
Commission, on its Own Motion, to Administer) Progression Order No. 5
the Nebraska Universal Service Fund Broadband)
Program.)

COMMENTS OF NE COLORADO CELLULAR, INC. D/B/A VIAERO WIRELESS

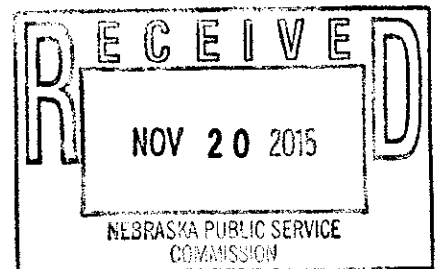
N.E. Colorado Cellular, Inc. (“**Viaero**”) by and through counsel and pursuant to the Order Seeking Comments entered on October 27, 2015 (the “**Order**”) in the above-captioned proceeding by the Nebraska Public Service Commission (the “**Commission**”) hereby respectfully submits the following Comments.

I.

INTRODUCTION

Viaero is pleased to have the opportunity to provide comments in this important Docket. Viaero has previously submitted Comments and Testimony in this Docket and in the numerous proceedings giving rise to this Docket, including NUSF-77 and NUSF-69, in support of the Commission’s development and implementation of a program for distribution of Nebraska Universal Service Fund support (“**NUSF Support**”) to wireless carriers serving high-cost areas of the State. Viaero agrees with the Commission’s findings in the Order that the continued delineation between wireless and wireline (or, rather, between mobile and fixed providers¹) will make NUSF Support (i) more targeted for consumers lacking wireless broadband service in Nebraska and (ii) more predictable for mobile carriers seeking NUSF Support. With the development of an appropriate methodology for determining the allocation of NUSF Support for

¹ See Progression Order No. 5 (October 27, 2015), p. 1.



mobile wireless broadband services, the Commission will be better equipped to target the deployment of wireless broadband services in unserved and underserved areas of the State.

The Commission has requested Comments regarding the terms and standards which should be considered in the development of a new methodology for determining the allocation of NUSF Support for the deployment of mobile wireless broadband support in the State which will best advance the Commission's policy objectives for wireless broadband NUSF Support. Viaero respectfully offers the following responses to the Commission requests.

II.

COMMENTS

1. SHOULD THE COMMISSION CONTINUE TO UTILIZE BROADBAND MAPPING DATA?

The Commission, Commission Staff and wireless providers have recognized through the evolution of the Commission's Dockets in NUSF-69, NUSF-77 and NUSF-92 that the broadband mapping data available to the Commission is neither a reliable nor accurate source for determining the existence of "broadband" services in any area of the State. In fact, the Commission's Economist has repeatedly stated in Commission proceedings that the broadband mapping data available to the Commission, and to program Applicants, was not utilized by the Commission in ascertaining whether any particular area in the state was unserved or underserved by a provider of wireless broadband services. The Commission has regularly utilized data provided by wireless providers who received NUSF Support to verify that subsequent projects presented to the Commission for NUSF Support were not designed to provide duplicative service in the same serve areas, however, the final determination of whether any proposed service area was unserved or underserved was made through the negotiation and hearing process on the basis of information provided by "competing" wireless broadband service providers. In essence, the

applicant for NUSF Support bore the burden of demonstrating to the Commission that any proposed service area was unserved or underserved, subject to any evidence to the contrary by a competing carrier.

Given the extreme complexity of measuring wireless coverage from a technical standpoint, due to the significant number of variables that have not been standardized for reporting purposes, coupled with the many geographic and geologic variables which materially impact the actual operation of wireless devices and the scope of wireless service coverage, the Commission's reliance on the evidence presented by applicants and affected competing carriers seems to be the best methodology to adopt going forward.

2. SHOULD THE COMMISSION RELY ON THE INFORMATION CONTAINED IN FCC FORM 477 TO DETERMINE WHETHER THE PROPOSED SERVICE AREA IS UNSERVED OR UNDERSERVED?

Viaero does not believe that the data set forth in FCC Form 477 is sufficiently detailed to determine whether a proposed service area is unserved or underserved. Further, Form 477 identifies areas that are "served" by **any** service that is provided in a census block. This measurement could disqualify an area within that census block containing a host of residents who are entirely unserved from future project funding. Form 477 is therefore a source of useful information, but should not be used as a criterion for evaluating or ranking proposed projects for NUSF Funding.

3. SHOULD THE COMMISSION USE CELL TOWER LOCATION RECORDS FOR RANKING PROJECTS?

Viaero does not believe that cell tower proximity is a compelling factor in ranking proposed projects. The location of a cell tower may or may not be relevant at all in determining whether an area is unserved or underserved. The propagation of cellular signals from a given cell tower is a complex RF engineering determination based on terrain, signal strength and

numerous other factors. The mere existence of a cell tower does not determine if that tower and related equipment propagates any signal capable of delivering broadband services, nor does it define any particular propagation area for any such service. While cell tower location has been historically used as a “proxy” for the proximity of competing/duplicative services, the use and evaluation of actual service testing data in any proposed service area is the critical information that must be evaluated by the Commission.

4. SHOULD THE COMMISSION USE POPULATION DENSITY FOR RANKING PROJECTS?

The historic methodology used by the Commission has used out-of-town household density per square mile as a proxy for determining which proposed projects are eligible for funding in “high-cost areas” and as a ranking criterion for towers which serve the greatest number of households in an eligible high-cost area. Population density has also played an important part of various scoring criteria utilized by the Commission such as Scale, Cost, Rural, and Scope (See NUSF- 92 Staff Recommendation Order May 12, 2015). Certainly the Commission desires to make investments in broadband projects which are the most cost efficient per household served, that reach the greatest number of households, and that reach those in the greatest need for services. The Commission has never changed its primary objective of prioritizing unserved areas first. The Commission may wish to continue to prioritize areas with lower population densities until it is satisfied that areas in or near higher density areas warrant funding. The Commission made such a determination in NUSF-77 when it abandoned its original household density eligibility criteria, established in NUSF-69, of 4.5 households per square mile. The Commission will need to evaluate this policy going forward. However, given the number of eligible but unfunded projects presented to the Commission over the years

utilizing the Commission's low density eligibility criteria, the need for wireless broadband services in lower density areas of the state seems to be plentiful.

5. SHOULD THE COMMISSION USE ROAD TRAFFIC DATA IN DETERMINING WIRELESS BROADBAND SUPPORT?

Notwithstanding the usefulness of household density as a criterion in selecting and ranking proposed projects, the heavily weighted use of household density as a precondition for funding projects does not provide a mechanism for evaluating and funding areas with extremely low household density but with high traffic or visitor use, such as state parks and recreation areas. These areas have a high volume of users and visitors who need broadband connectivity for access to emergency services and access to at least basic voice services but typically have extremely low household density. For example, the Commission's current methodology, utilizing household density in a variety of ways, would give an application for a tower site at Chadron State Park a very low funding priority even though access to voice and emergency services in the entire area is critically important to the entire population of State who actively use and visit that area but do not reside there. In fact, Viaero has submitted a number of proposed projects for funding in such areas and none have been funded. Due to the seasonal utilization of such areas, coupled with their extremely low household density, a typical business model for construction and operation of towers in those areas is not feasible. It is important to note that utilization of the State's remarkable recreational facilities in remote parts of the state is a central theme of Nebraska's important tourism industry and cornerstone of the quality of life benefits of all citizens in the State. Some accommodation for funding projects in such areas should be provided in the Commission's new methodology.

A similar case can be made for other high traffic but low density areas of the State. Clearly, it is very important for public safety as well as business and commercial purposes to have access to broadband services on roads and highways connecting our local communities and higher density areas. Roads and highways in high density areas provide their own economic justification for the deployment of broadband services without the need for NUSF Support. However, heavily traveled roads and highways which connect communities in very low density areas frequently lack a viable economic model for constructing and operating one or more towers in the absence of NUSF Support. The consequence of this funding gap is a significant service gap for both public safety purposes and the overall benefits of mobile telecommunications services to which our citizens in higher density areas have unfettered access.

The Commission's historic methodology for determining the allocation of NUSF Support has not included funding for projects focused on these vibrant and important areas which are located in very low density areas. However, the need for broadband service in these remote but busy areas is compelling and Viaero urges the Commission to incorporate in its new methodology projects which address areas with high traffic and high seasonal utilization. Further, the eventual modernization of the State's 911 system to NextGen 911 service will also require a robust wireless broadband system throughout the state, including the many low density but equally vital and important areas of the State. Traffic data and visitor utilization data for the State parks and recreation areas is available through various public sources, including the State's website at <http://www.transportation.nebraska.gov/maps/#traffvol>.

6. SHOULD THE COMMISSION CONSIDER SPEED OF SERVICE IN RANKING PROPOSED PROJECTS?

Viaero believes that speed of service is a valid criterion in ranking and scoring competing projects. While maintaining the current standard for broadband at 4/1 mbps as a base speed

requirement, carriers which can provide higher service speeds provide a value to consumers that warrants consideration in ranking competing projects.

7. SHOULD THE COMMISSION CONTINUE TO CONSIDER THE RETAIL END USER COST OF SERVICE PER HOUSEHOLD?

Viaero believes that for projects designed primarily to expand broadband services to households in high-cost unserved and underserved areas that cost of service per household is a vitally important criterion. The Commission's recent development of a Cost/HH Threshold reflected the Commission's recognition that projects should be rewarded which can demonstrate a low Cost/HH, thereby maximizing the cost efficiency of the Project. While the Threshold was particularly revealing when comparing wireless with wireline projects, useful comparative data regarding Cost/HH for comparing wireless projects can also be developed for purposes of ranking projects and ensuring cost efficiency.

8. SHOULD THE COMMISSION CONTINUE TO UTILIZE THE 25% MATCH REQUIREMENT?

The Commission stated in the Order that it intends to retain the twenty-five percent match requirement because it continues to leverage more support and provider commitment to the deployment of broadband in unserved and underserved areas of the state. While it is clear that the match serves to leverage available NUSF Support, perhaps the most important result of the match is that it ensures that only applicants who have sufficient economic viability and strength can afford to construct and maintain Projects requiring such a significant financial commitment. This is certainly a valid public policy consideration. However, the match may, in some circumstances, serve as a formidable economic barrier to the construction of certain projects in areas where there is no viable economic model to construct and operate wireless

facilities. This issue will need further evaluation as evidence of untenable economic barriers to deployment is presented and analyzed.

9. SHOULD NUSF SUPPORT BE ALLOCATED TO PROJECTS IF THE CARRIER HAS ALSO RECEIVED CAF FUNDING FOR THAT PROJECT?

Viaero supports the Commission's position to prohibit allocation of NUSF Support to projects which have received CAF funding.

III.

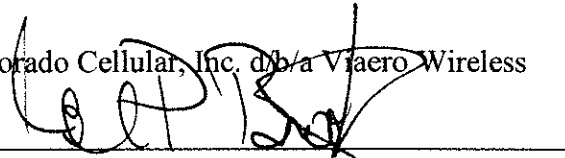
CONCLUSION

Viaero appreciates the opportunity to provide Comments on this important issue and looks forward to continuing to participate in this Docket.

Respectfully submitted this 20th day of November, 2015.

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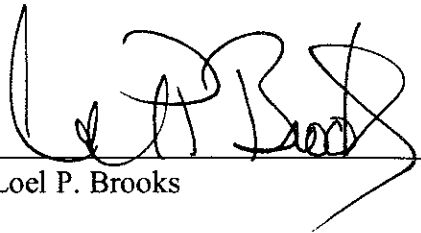
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 20th day of November, 2015, an original, one copy and an electronic copy of the Comments of Viaero in NUSF-92, Progression Order No. 5 were delivered to:

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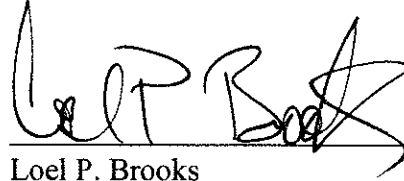
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