

XC: SK/SV/FL/JP/LC/CR  
All Commissioners

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

In the Matter of the Nebraska Public Service ) Application No. NUSF-92.48  
Commission, on its own motion, seeking to )  
administer the Nebraska Universal Service )  
Fund's Broadband Program: Application to the )  
Nebraska Broadband Program Received from )  
N.E. Colorado Cellular, Inc., d/b/a Viaero )  
Wireless. )



**TESTIMONY OF  
LOEL P. BROOKS  
ON BEHALF OF  
N.E. COLORADO CELLULAR, INC., D/B/A VIAERO WIRELESS**

**Q: PLEASE STATE YOUR NAME.**

**A:** My name is Loel Brooks, L-O-E-L B-R-O-O-K-S

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

**A:** I am State Regulatory Counsel for Viaero Wireless. My office is at Suite 984, Wells Fargo Center, 1248 O Street in Lincoln, Nebraska.

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

**A:** Yes, I am.

**Q: HAVE YOU REVIEWED VIAERO'S "APPLICATION FOR FUNDING FROM THE NEBRASKA UNIVERSAL SERVICE FUND BROADBAND PROGRAM" FILED WITH THE NEBRASKA PUBLIC SERVICE COMMISSION ("COMMISSION") ON MARCH 31, 2016 (THE "APPLICATION").**

**A:** Yes, I have.

**Q: DO YOU HAVE TESTIMONY TO OFFER THE COMMISSION REGARDING VIAERO'S APPLICATION FOR FUNDING?**

1 A: Yes. I will provide testimony in support of the Application, filed March 31, 2016 (the  
2 "**Application**"), and how it meets the requirements of this Commission's Order opening  
3 this docket, entered January 26, 2016 ("**Opening Order**"), adopting certain  
4 recommendations for the Wireless Broadband Infrastructure grants and establishing the  
5 application window for filing requests for support from the 2016 Nebraska Broadband  
6 Program (the "**Program**") and identifying certain information required to be submitted in  
7 all petitions for support from the Program (collectively "**Program Information**").

8 **Q: PLEASE BRIEFLY DESCRIBE VIAERO'S BACKGROUND, ITS OPERATIONS**  
9 **AS A WIRELESS CARIER AND ETC IN NEBRASKA AND ITS SERVICE**  
10 **OFFERINGS.**

11 A: Viaero was designated as an ETC by this Commission on October 18, 2005. Since that  
12 designation, Viaero has aggressively expanded its coverage in Nebraska, and currently  
13 owns over 379 telecommunications towers covering roughly 700,000 rural Nebraskans,  
14 all of which reside outside of Omaha and Lincoln. Viaero's wireless coverage extends  
15 over 90% of the state's landmass.  
16 Headquartered in Fort Morgan, Colorado, Viaero employs over four hundred people, well  
17 over one hundred of those within the State of Nebraska. Viaero maintains approximately  
18 35 retail stores (including kiosks) in Nebraska, most of which were new construction, and  
19 has seven additional dealer locations. In all, Viaero has made over \$70 million in capital  
20 investments in Nebraska to provide wireless voice and broadband coverage to rural  
21 Nebraskans since 2006. Viaero continues to be in the unique position to provide high  
22 speed broadband internet access to the largest number of Nebraskans, in the most remote  
23 areas of the state, in the shortest period of time.

1 **Q: PLEASE EXPLAIN VIAERO'S PROPOSAL FOR USE OF SUPPORT FROM**  
2 **THE NEBP PROGRAM.**

3 On March 31, 2016, Viaero filed its Application for Funding from the Program and on  
4 May 16, 2016, and July 20, 2016, after engaging in negotiations and discussions with  
5 other carriers, Viaero filed Notices of Withdrawal of Projects for Funding from the  
6 Program ("**Withdrawal Notices**"). As a result of the Withdrawal Notices, in which five  
7 (5) projects were withdrawn, Viaero requested funding for seven (7) discrete and separate  
8 projects (singularly "**Project**" or collectively, "**Projects**"). Each Project involves the  
9 construction of a new cellular tower with 4G equipment that will provide mobile voice  
10 and broadband service in rural and high-cost areas of Nebraska. Each Project contained  
11 in the Application is a separate Project and the Commission is not required to fund any  
12 Project in any particular order. The Projects and the proposed costs to the Program for  
13 each Project are as follows:

14 Deshler Project - \$394,218.24

15 Falls City Project - \$389,323.37

16 Hebron Project - \$385,422.64

17 Humbolt Project - \$417,861.60

18 Lake Waconda Project - \$419,588.88

19 Ruskin Project - \$409,179.83

20 Tecumseh Project - \$418,327.56

21 **Q: DOES VIAERO'S APPLICATION COMPLY WITH THE COMMISSION'S**  
22 **ORDERS CONCERNING THE PROGRAM?**

1 A: Yes, Viaero believes that each Project described in the Application meets each and every  
2 criterion for funding established in this Docket, as well as docket NUSF-69, as provided  
3 in the Opening Order. Viaero offers wireless service at a low cost per rural subscriber.  
4 Each Project will also provide mobile broadband service, maximizing its utility for all  
5 consumers, including enhancing public safety. At a price that was not commercially  
6 viable just a few years ago, Viaero can provide competitive broadband speeds to a  
7 significant number of unserved and underserved Nebraskans.

8 **Q: WILL OTHER COMPANIES BE ASSOCIATED WITH THE**  
9 **IMPLEMENTATION OF VIAERO'S PROPOSED PROJECT?**

10 A: No. The only company associated with the Project is Viaero.

11 **Q: PLEASE DESCRIBE THE PROPOSED BROADBAND PROJECT PLAN.**

12 A: In brief, each of the Projects consists of the construction of a new wireless tower and  
13 related infrastructure, and will be designed to deliver mobile wireless telecommunication  
14 service and broadband service to high-cost, rural areas in Nebraska that are either  
15 unserved or underserved. Support from the Program for these Projects would enable  
16 consumers in these areas to obtain wireless services which exceed the Commission's  
17 specified minimum of at least 4 Mbps downstream and 1 Mbps upstream.

18 In its Application, Viaero submitted for consideration seven (7) discrete Projects for  
19 funding and each Project may be funded at the Commission's option, in no particular  
20 order. Details of the specific Projects are contained in the Application.

21 **Q: HOW DID VIAERO IDENTIFY WHICH AREAS WERE "UNSERVED" OR**  
22 **"UNDERSERVED", AS DEFINED BY THE COMMISSION?**

1 A: Since 2003, Viaero's business model has focused on the deployment of an extensive  
2 wireless network in the State of Nebraska in unserved and underserved areas. Drawing on  
3 its experience as a successful wireless telecommunications operator in areas surrounding  
4 the proposed "unserved" and "underserved" service areas, Viaero accessed, through a  
5 third-party provider, data from the National Broadband Map to assist in evaluating areas  
6 of the state that are served, underserved and unserved. Viaero used the National  
7 Broadband Map to identify "served" areas based upon the Commission's criterion of 4  
8 Mbps downstream and 1 Mbps upstream, and removed those areas for consideration for  
9 potential sites. Viaero then used the National Broadband Map to identify "unserved" and  
10 "underserved" areas, and correlated that information with its own internal data from  
11 previously conducted independent drive testing along with published information from  
12 other wireless carriers. Viaero used all that information to create a map showing the  
13 various levels of coverage in the proposed service areas and based the statements in its  
14 Application regarding a proposed site's "unserved" and "underserved" make-up on that  
15 map.

16 **Q: DID VIAERO SUPPLY CENSUS BLOCK DATA FOR ALL LOCATIONS**  
17 **WHERE BROADBAND FACILITIES WOULD BE DEPLOYED UNDER EACH**  
18 **INDIVIDUAL PROPOSED PROJECT?**

19 A: Yes. Viaero attached census block data to its Application identifying those census blocks  
20 which would receive broadband coverage under each proposed Project. This data was  
21 compiled using 2010 Census Block boundaries as required by the Commission, which  
22 also yielded the population coverage information provided.

1 **Q: DID VIAERO PROVIDE AN ESTIMATE OF THE NUMBER OF POTENTIAL**  
2 **NEW BROADBAND SUBSCRIBERS WHICH WOULD BE REALIZED IF THE**  
3 **PROJECT IS IMPLEMENTED?**

4 A: Drawing on its experience as a successful wireless telecommunications operator in the  
5 areas surrounding the proposed “unserved” and “underserved” service areas, Viaero has  
6 generated an estimate of the number of broadband subscribers it expects to obtain within  
7 the “unserved” and “underserved” service areas when the Project is operational. These  
8 estimates were contained within the Application in attached Confidential Exhibits 1-C, 1-  
9 D, 1-E, 1-G, 1-I, 1-J and 1-L.

10 **Q: HAS VIAERO DEVELOPED A BROADBAND DEPLOYMENT SCHEDULE FOR**  
11 **THE PROJECT?**

12 A: Yes, Viaero estimates that it can deploy the Project on the schedule set forth below. This  
13 schedule is well within the 24-month timeframe established by the Commission. The  
14 estimate is based on its experience in the Nebraska market.

15 **Q: PLEASE DESCRIBE VIAERO’S ESTIMATED DEPLOYMENT SCHEDULE.**

16 A: Overall time for completion of a Project is estimated to be approximately 9 months,  
17 excluding unforeseen delays associated with obtaining equipment, licenses, or zoning  
18 permits. Estimated completion milestones and time frames for each milestone are as  
19 follows:

<u>Completion Percentage</u>	<u>Description of Milestone</u>	<u>Time Frame</u>
25%	Completion of all equipment ordering, submission of applications and	8 weeks

	commencement of update installation	
50%	Delivery of all equipment and completion of all construction and implementation plans	16 weeks
75%	Receipt of all approvals and commitments of construction; implementation and deployment	25weeks
100%	Completion of all installations, tuning, testing and turn-up	36 weeks

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2 **Q: WHAT IS THE PROPOSED BUDGET FOR THE PROJECT?**

3 A: The proposed budgets for each Project are attached to the Application as Confidential  
4 Exhibits 1-C, 1-D, 1-E, 1-G, 1-I, 1-J and 1-L, and have been generally described earlier  
5 in my testimony.

6 **Q: PLEASE DESCRIBE VIAERO'S PROPOSED RETAIL PRICING FOR ITS**  
7 **PROPOSED BROADBAND PROJECTS.**

8 A: Viaero's proposed retail pricing for its broadband products was attached to the  
9 Application as Exhibit 3.

10 **Q: PLEASE DESCRIBE VIAERO'S COMMITMENT TO OFFER BROADBAND**  
11 **SERVICES.**

1 A: Viaero hereby commits to offering broadband service to all households within any  
2 approved service area for at least five (5) years.

3 **Q: PLEASE DESCRIBE VIAERO'S COMMITMENT TO PARTICIPATE IN THE**  
4 **COMMISSION'S MAPPING EFFORTS.**

5 A: While the State Broadband Data and Development ("SBDD") Program has been  
6 completed, Viaero hereby commits to participate and provide broadband data to the  
7 Commission and its vendors in the future if requested to do so.

8 **Q: PLEASE PROVIDE A DESCRIPTION OF VIAERO'S FINANCIAL**  
9 **QUALIFICATIONS.**

10 A: Copies of Viaero's audited financial statements as of December 31, 2014 (the latest  
11 audited financials available) were filed with Viaero's Application as Confidential Exhibit  
12 4.

13 **Q: PLEASE DESCRIBE VIAERO'S FINANCIAL, TECHNICAL AND**  
14 **MANAGERIAL COMPETANCE.**

15 A: Viaero is managed by a team of experienced telecommunications professionals with  
16 extensive experience providing wireless service, including wireless data service, within  
17 the proposed service territory. A description of the background of the senior management  
18 team is attached to the Application as Exhibit 5.

19 Viaero currently operates an extensive wireless network in the State of Nebraska and has  
20 a proven track record of financial and technical competence in the design and operation  
21 of wireless telecommunications networks. Viaero monitors the performance of its voice  
22 and data network on a site-by-site basis from its Network Operations Center in Fort  
23 Morgan, Colorado on a 24 hours per day, 7 days a week, 365 days a year basis.



1 **Q: HAS VIAERO PROVIDED AN AFFIDAVIT ATTESTING TO THE TRUTH AND**  
2 **ACCURACY OF ALL INFORMATION INCLUDED IN THE APPLICATION?**

3 A: Yes, the Affidavit attesting to the truth and accuracy of the information contained in the  
4 Application was attached to the Application as Exhibit 6.

5 **Q. IN ADDITION TO SATISFYING THE TECHNICAL CRITERIA FOR FUNDING**  
6 **ESTABLISHED BY THE COMMISSION IN ITS PRIOR ORDERS IN THIS**  
7 **DOCKET AND IN NUSF-69, ARE THERE ANY OTHER REASONS THAT THE**  
8 **COMMISSION SHOULD GRANT VIAERO'S PETITION AND GIVE ITS**  
9 **PROPOSED PROJECTS PRIORITY FUNDING STATUS?**

10 A: Yes, Viaero has demonstrated a commitment since 2003 to the deployment of an  
11 extensive wireless network in the State of Nebraska focusing on unserved and  
12 underserved areas. While Viaero has sought and successfully received funding from the  
13 Commission for expansion of its network and the deployment of its 911 capabilities over  
14 the years, Viaero has also constructed and deployed over 300 towers in its Nebraska  
15 service territory without subsidies from Commission programs, while 79 towers have  
16 been constructed with NUSF funding subsidies. Viaero's historic track record of private  
17 investment in the unserved and underserved areas of the State is unique among wireless  
18 carriers currently providing services in the State and underscores Viaero's dedication,  
19 knowledge, expertise and financial commitment to the deployment of a high quality  
20 telecommunications network, which now covers over 90% of the State's geographic area.  
21 The granting of Viaero's Application will serve to enhance its already robust network and  
22 bring high speed mobile and broadband service to rural Nebraska.

1 Viaero focuses not only on the provision of services in rural areas, where it is difficult for  
2 most carriers to deploy cost effective broadband services, but on providing low cost per-  
3 subscriber service, which emphasizes and promotes the Commission's Nebraska  
4 Universal Service Fund Broadband Program public policies.

5 **Q: IS VIAERO PREPARED TO CONTINUE TO PROVIDE THE FINANCIAL**  
6 **MATCH TO MEET PROJECT COMMITMENTS AS HISTORICALLY**  
7 **REQUIRED BY THE COMMISSION IN NUSF-77 PROGRESSION NO. 5, AND**  
8 **NUSF-92 PROGRESSION ORDER NO. 3?**

9 A: Yes. While the Commission determined in its Broadband Order that the historic twenty-  
10 five percent (25%) match provision is no longer a "bright line requirement", Viaero has  
11 elected to continue its historic commitment to fund twenty-five percent (25%) of the cost  
12 of each Project, with the remaining cost of each Project to be funded from the Program.  
13 A description of Viaero's financial match was included in the Proposed Budget for each  
14 Project and attached to the Application in Confidential Exhibits 1-C, 1-D, 1-E, 1-G, 1-I,  
15 1-J and 1-L as previously described in my testimony.

16 **Q: HAVE YOU REVIEWED THE RECOMMENDATIONS FROM THE**  
17 **COMMISSION STAFF FILED ON AUGUST 22, 2016, REGARDING FUNDING**  
18 **AWARDED UNDER THE NEBP PROGRAM AND DO YOU HAVE ANY**  
19 **COMMENTS ON THE COMMISSION STAFF'S RECOMMENDATION?**

20 A: Yes, I have carefully reviewed the Recommendation of the Commission Staff <sup>1</sup> (the  
21 "Recommendation") and the Staff's explanation of the methodology it used in making its  
22 Recommendation. While Viaero is very grateful for the Commission Staff's

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<sup>1</sup> See *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to administer the Nebraska Universal Service Fund's Broadband Program*, Application No. NUSF-92, Recommendation of the Commission Staff (August 22, 2016) ("**Recommendation**").

1 Recommendation of funding for three (3) of Viaero's remaining seven (7) Projects,  
2 Viaero believes that the Recommendation lacks internal consistency and overlooks  
3 several important funding principles and policies established by the Commission in prior  
4 Dockets under NUSF-69, NUSF 77, and NUSF- 92. I would like to provide a summary  
5 of those inconsistencies, principles and policies as a foundation for a request for further  
6 evaluation and consideration of the Recommendation by the Commission. The Staff  
7 specifically provided that its Recommendation was "subject to the evidence presented at  
8 the Hearing",<sup>2</sup> so it seems appropriate to provide Testimony which might provide  
9 guidance to the Staff and the Commission concerning the methodology used by the Staff  
10 in arriving at its Recommendation.

#### 11 **Commission Objectives for Evaluating Projects**

12 The Commission decided in NUSF-92 Progressing Order No. 5<sup>3</sup> issued on October 27,  
13 2015 (the "Allocation Order"), to alter its approach to allocating NUSF support to NUSF-  
14 92 Broadband Grants. Rather than utilizing the complex algorithmic weighting  
15 methodology developed under prior NUSF-92 Dockets, the Commission decided to  
16 allocate NUSF-92 broadband support on projects "similar to the projects supported  
17 through the Commission's Docket in NUSF-69".<sup>4</sup> However, the Commission also  
18 decided to utilize certain components of the historic NUSF-92 funding policies as well as  
19 some new features to provide more "targeted and predictable support" to consumers  
20 lacking wireless broadband.<sup>5</sup> The Commission also announced a new Project support

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<sup>2</sup> *Id.*, at 2.

<sup>3</sup> *In the Matter of the Nebraska Public Service Commission, on its Own Motion, to Administer the Nebraska Universal Service Fund Broadband Program*, Application No. NUSF-92, Progression Order No. 5, Order Seeking Comments (October 27, 2015), p. 1.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

1 allocation methodology for the first time in the Recommendation issued on August 22,  
2 2016.<sup>6</sup>

3 **Factors in the Staff's Methodology**

4 It is important to note at the outset that the Staff evaluated and analyzed each Application  
5 to determine compliance with all application requirements, and found each Application to  
6 be in conformance with the Commission's application requirements and "eligible for  
7 consideration of support" subject to the Methodology described in the Recommendation.<sup>7</sup>

8 The Staff then articulated four (4) factors comprising its Methodology in this Docket:

9 (1) Household density - areas with less than 4.5 households/sq. mile were deemed the  
10 "highest cost" and areas that are "least likely to provide sufficient operating revenues to  
11 support tower construction or the placement of a cell site without support."<sup>8</sup>

12 (2) Households served – This factor weighted projects by assigning higher weight to  
13 tower projects located in high-cost areas which served the greatest number of households  
14 over those serving the least number of households.

15 (3) Tower proximity rankings – This factor gave greater weight to towers furthest from  
16 existing tower locations, but restricted that factor to distance between towers with the  
17 "same technology" (CDMA/GSM).

18 (4) Average daily traffic - This factor was applied to **all** tower projects and measured  
19 "average daily traffic counts of all measured roadways with the tower footprint" with

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<sup>6</sup> See *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to administer the Nebraska Universal Service Fund's Broadband Program*, Application No. NUSF-92, Recommendation of the Commission Staff (August 22, 2016).

<sup>7</sup> *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to administer the Nebraska Universal Service Fund's Broadband Program*, Application No. NUSF-92, Recommendation of the Commission Staff (August 22, 2016), p.3.

<sup>8</sup> *Id.*

1 “towers with higher daily traffic counts” being given higher priority than those with lower  
2 daily traffic.<sup>9</sup>

3 Viaero acknowledges that Methodology Factors 1 and 2 above are similar to factors used  
4 by the Commission in the early NUSF-69 Dockets. Those factors (1) targeted support to  
5 the highest cost areas, where a business case would not otherwise exist to provide  
6 infrastructure for broadband service without support, and (2) encouraged Projects which  
7 reached the greatest number of households in those areas. However, Methodology Factor  
8 3 is not stated in the manner articulated in NUSF-69 and Methodology Factor 4 is both  
9 brand new and not used in a fashion which is consistent with the Commission’s Opening  
10 Order.

11 While Methodology Factor 3 incorporates the “tower proximity” concept that was used in  
12 NUSF-69, the Recommendation restricts the measurement of proximity to “towers  
13 utilizing the same technology (CDMA or GSM) as the proposed tower.”<sup>10</sup> This  
14 restriction was not stated in the Commission’s historic NUSF-69 Docket Orders,<sup>11</sup> and  
15 references technology labels that are no longer relevant in the industry. Given the  
16 advances in cellular technology since the NUSF-69 time period, there is no longer a way  
17 to meaningfully delineate or identify cellular services or towers utilizing these labels.

18 Further, the Commission’s policies regarding the allocation of NUSF Funds for  
19 broadband services have evolved significantly since the initial NUSF-69 process was

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<sup>9</sup> *Id.*, at 5.

<sup>10</sup> *Id.*

<sup>11</sup> For example, see *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*, Application No. NUSF-69.03, Order Granting Application (October 20, 2009), p. 3 and *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*, Application No. NUSF-69.06, Order Granting Application in Part (November 3, 2010), p. 3.

1 utilized. Two specific policies embraced by the Commission in NUSF-77 and NUSF-92  
2 clearly articulate the Commission's commitment to limit support in certain situations:

- 3 a. The Commission has declined to authorize NUSF Support to Projects in areas  
4 where unsupported broadband service is already being provided<sup>12</sup>; and
- 5 b. The Commission has limited Project support to "one fixed and one mobile  
6 broadband provider" in a service area under its "comparable access" policy.<sup>13</sup>

7 These policies provide salient direction concerning the Commission's evolving allocation  
8 strategy and should not be ignored simply by virtue of the fact that the Commission is  
9 seeking to resort to a less complicated allocation methodology. The important principles  
10 established in recent Dockets provide the foundation for the Commission's NUSF  
11 support policies and should drive the allocation process, rather than being ignored.  
12 Therefore, the use of Methodology Factor 3 as stated in the Recommendation does not  
13 advance the interests of the Commission in ranking tower projects.

14 **Methodology Factor 4** is entirely new to the Commission's policy consideration and is  
15 an entirely new Methodology Factor. Viaero has for years advocated for a factor which  
16 recognizes the need for NUSF support in areas where there is evidence of high traffic but  
17 very low household density. These areas are typically in or around recreation areas like  
18 lakes and parks, which would not meet the Commission's historic ranking criteria favoring  
19 projects serving the greatest number of households, as reflected in Methodology Factor 2  
20 in the Recommendation. These projects simply never received funding priority. In

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<sup>12</sup> See, *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*, Application No. NUSF-77.10, Order Denying Application (November 25, 2013), p. 7.

<sup>13</sup> See, *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*, Application No. NUSF-77, Progression Order No. 7 (January 15, 2013), p. 11.

1 adopting traffic data for a project as a separate Methodology Factor, the Commission  
2 specifically stated that this Factor would be relevant to the “need for service near  
3 recreational areas.”<sup>14</sup>

4 However, in spite of this Commission’s specific targeted limitation for this Factor, the  
5 Recommendation has applied this Factor to **all tower projects**, granting higher priority to  
6 tower projects with higher daily traffic counts. In preparing its Application, Viaero  
7 concluded that providing traffic data for all Projects was not required and that it did not  
8 have an accurate way to gather traffic data over the service areas of most of its Project  
9 sites because in most cases, the road boundaries measured on public road maps did not  
10 meaningfully correspond with coverage areas of the Projects sought for funding support.  
11 Indeed, no Applicant provided traffic data in their Original Applications. Further, the  
12 Commission had not announced that traffic data would be a factor for prioritizing  
13 projects other than those near recreation facilities. Based on the foregoing, the use of  
14 Methodology Factor 4 (Traffic Data) for all Projects is not appropriate.

15 A final issue is the failure of the Recommendation to evaluate or even consider the  
16 historic 25% Match Requirement. Based on recommendations by other service providers  
17 that requiring the Match would make most proposed projects in high cost areas  
18 uneconomical, and projects “would not exist absent support,”<sup>15</sup> the Commission  
19 determined that the Match should not be a “bright line requirement” and that it would  
20 consider evidence showing that expected revenues would not be sufficient to cover the  
21 costs of the tower project.<sup>16</sup> This was a distinct change in the Commission’s historic

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<sup>14</sup> See, *In the Matter of the Nebraska Public Service Commission, on its Own Motion, to Administer the Nebraska Universal Service Fund Broadband Program*, Application No.NUSF-92, Order (January 26, 2016), p. 2.

<sup>15</sup> *Id.*, at 2-3.

<sup>16</sup> *Id.*, at 3.

1 Policy requiring a Match in order to leverage scarce NUSF resources and require an  
2 economic stake in the Project by the Applicant.<sup>17</sup>

3 The Recommendation did not speak to this issue at all. Nor did it recognize that each of  
4 Viaero's Projects contained a 25% Match, or that US Cellular requested a waiver of the  
5 Match in all of its Projects except the Wallace Project, or that Pinpoint neither offered a  
6 match nor requested a waiver of the match. The Commission would have been advised  
7 to have considered and commented on the fact that certain projects represented to be  
8 "uneconomical" by a carrier, thereby warranting a waiver for the Match, were awarded  
9 funding in areas where existing service was already being provided by one of more  
10 unsubsidized carriers, thus raising significant doubt about the characterization that the  
11 area was "uneconomical" to serve and potentially violating the Commission's policy  
12 regarding comparable access funding. Further, no credit or priority was assigned to  
13 Viaero by providing a Match for each of its Projects thereby **reducing** its total Funding  
14 requests by over \$1.2 million.

## 15 **CONCLUSION**

16 In conclusion, Viaero is always grateful for the Commission's Support Recommendation.  
17 However, in this case, Viaero believes that the Recommendation and new Methodology  
18 do not accurately reflect the Commission's stated objectives in the Opening Order and do  
19 not consider other important funding policies adopted and utilized by the Commission in  
20 prior Dockets. Viaero has undertaken enormous efforts, in good faith reliance on the  
21 Commission's evolving NUSF funding policies, to present a wide array of proposed  
22 projects for consideration. Its commitment to the historic Matching requirement for **all** of

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<sup>17</sup> See, *In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures Regarding the NUSF*, Application No. NUSF-77, Progression Order No. 4, Order Seeking Findings, Seeking Further Comments and Setting Hearing (September 27, 2011), p. 11.



1           its Projects demonstrates the importance of the principle of leveraging scarce public  
2           funds and putting its own resources at risk to make a project financially feasible.

3           Viaero respectfully requests that the Commission and Staff further consider and evaluate  
4           the Recommendation and Staff's Methodology so that the Commission's stated NUSF  
5           funding policies can be carried out in a more consistent and equitable manner.

6   **Q.    DOES THIS CONCLUDE YOUR TESTIONY?**

7   **A.    Yes.**

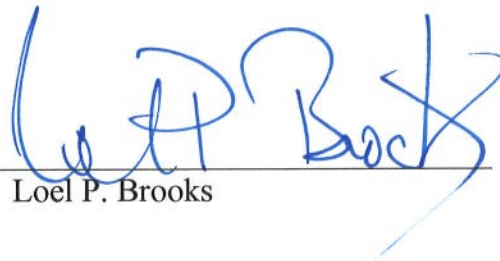
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 4<sup>th</sup> day of November, 2016, an original, five copies and an electronic copy of the Pre-filed Testimony of Loel P. Brooks in Docket No. NUSF-92.48 were delivered to:

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Loel P. Brooks

**CERTIFICATE OF SERVICE**

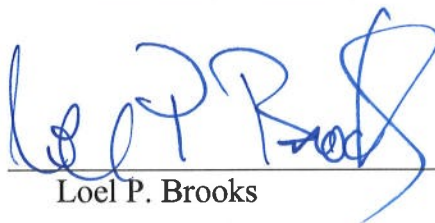
The undersigned hereby certifies that on this 4<sup>th</sup> day of November, 2016, an electronic copy of the Pre-filed Testimony of Loel P. Brooks in Docket No. NUSF-92.48 was delivered to:

**Deonne Bruning**

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**Russ Westerhold**

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Loel P. Brooks