

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service) Application No 911-073/PI-232
Commission, on its own motion, to consider)
recommendations of the Service System)
Advisory Committee for creation of a new)
funding system for Next Generation 911)

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

NE Colorado Cellular, Inc. d/b/a/ Viaero Wireless (“Viaero”), by counsel and pursuant to the Order Opening Docket and Seeking Public Comment dated May 5, 2020 (“Comment Order”) in the above-referenced Docket, is pleased to submit the following Comments.

I. INTRODUCTION

Viaero is a Colorado corporation, with its principal place of business at 1224 West Platte Avenue, Fort Morgan, Colorado, 80701, and is authorized to transact business in the State of Nebraska (the "State"). Viaero is a provider of commercial mobile radio services ("CMRS") in the State of Nebraska and was designated as an Eligible Telecommunications Carrier ("ETC") by Nebraska Public Service Commission (the “Commission”) Order on October 18, 2005, and currently owns over 480 telecommunications towers with coverage extending over 90% of the State’s landmass.

II. NEW ALLOCATION AND FUNDING MECHANISM FOR THE 911 SERVICE SYSTEM FUND.

In the Comment Order and Appendix A, the Commission seeks comments on a number of questions regarding the allocation of funds (“911 Funds”) from the 911 Service System Fund (“911 Fund”) for use to pay for 100% of the statewide ESINet program, and remaining funds to PSAPs, and wireless service providers (“WSPs”). While the Commission seeks specific comments on the

(i) specified percentages of funding by category of expenses, (ii) expansion of eligible uses of PSAP funding allocations for radio equipment or broader coverage of local personnel costs, (iii) audit provisions and (iv) regional PSAP distribution options, Viaero's comments submitted herein will be in relation to issues (v) and (vi) as they directly relate to wireless service providers and the need for continued funding.

III. IT IS APPROPRIATE AND NECESSARY FOR THE COMMISSION TO CONTINUE TO ALLOCATE A PORTION OF WIRELESS SURCHARGE REMITTANCES TO WIRELESS SERVICE PROVIDERS.

A. Allocations of Wireless Surcharge Remittances to WSPs Should Continue.

For over a decade, Nebraska law and Commission policy have provided that WSPs are eligible for funding from the 911 Fund.¹ Public policy at both the federal and state level has long focused on the development of a public safety system that would be available to everyone, everywhere, and which would eventually evolve and migrate into a ubiquitous wireless signal coverage network throughout the State and nation to successfully complete a 911 call. This policy has continued to evolve over the years creating a more robust and efficient public safety system, including the requirement for technology to be able to adequately geographically identify the location of the caller so the emergency response can be dispatched accurately and promptly. All of these advances for improving the public safety network in the State of Nebraska require capital investment by wireless service providers for continued construction of new telecommunications towers to fill in gaps, installation of additional equipment capable of receiving and channeling these cellular signals to PSAPs throughout the State, including rural and high-cost areas, and the continuous software upgrades that are necessary to maintain standards as the technology advances.

¹ 2006 Neb. Laws, LB 1222. See also the Comments of Viaero *In the Matter of the Nebraska Public Service Commission, on its own motion, to implement provisions of LB 1222 [2006] and to establish a permanent funding mechanism for wireless enhanced 911 service*, Application No. 911-109/PI-118, Sept. 8, 2009, for brief history of 911 Fund allocations.

Where there is no signal coverage, or inadequate signal coverage, there can be no meaningful and reliable E-911 system.

While the vast majority of all 911 calls are generated from wireless devices, it is relevant to note that wireless E-911 facilities do not provide revenue for WSPs for delivering these calls, but rather constitute mandated expense obligations. E-911 reimbursement payments help to ease the economic burden placed on all WSPs, especially smaller Tier II and Tier III carriers like Viaero, who are actively deploying wireless E-911 infrastructure throughout the State. The ability of WSPs to fund E-911/NG-911 deployment, while progressing with the deployment of towers and other wireless infrastructure, bears critically on the public policy behind the intended use of the 911 Fund.

Over the last decade, the Commission has annually been made aware of the challenges wireless carriers face concerning their funding options for E-911 costs through the submission of applications for grant funding. With the additional layers required for communicating an emergency situation, there are additional costs incurred by the wireless provider. Examples of this already include the costs for deploying Phase I-II for both UMTS and LTE sites, VOLTE, VOIP/Voice over WiFi to 911, 4G Text to 911.

Providing E-911 reimbursement to wireless carriers will not threaten the viability of the 911 Fund and will continue to significantly enhance public safety and trigger dramatic economic benefits. It will also allow wireless carriers to redirect capital investment toward building a more robust network, thereby enhancing the public safety benefits of E-911. This capital redirection will have the added benefit of stimulating economic activity in rural Nebraska. It is also important to note that federal grants for emergency services are conditioned upon the past use of funds for their intended purpose. The grant application process for funding already includes a certification that

these funds will continue to be used for E-911 deployment, and by implementing audit procedures there are checks and balances that the Commission can rely upon to ensure that this funding continues to be utilized to achieve the State's goals.

The record of this Docket, and other related Dockets, clearly demonstrates that access to the 911 Fund by WSPs is essential to achieving the goals of the FCC, the Commission and the State of Nebraska in deploying a robust statewide wireless 911 system. Viaero's prior Comments and testimony in this Docket (along with Comments and testimony in numerous related Commission Dockets and legislative Hearings), clearly articulate and summarize the needs and interests of the WSPs as an industry regarding the right to access E-911 Funds allocated and managed by the Commission.

B. WSPs Should Be Eligible to Receive 911 Funds Even if the WSP is Already Imposing a Regulatory Surcharge.

While a WSP may seek to recoup costs from other sources, including a regulatory charge or similar fee from its customers, a need may still exist for cost recovery for smaller carriers serving rural and less populated areas, as Viaero does. The Commission should provide flexibility necessary to address differences between carriers' costs and resources across the State and the impact they have on WSPs, while ensuring fairness to subscribers across the State. In the event that funding is no longer a viable option for WSPs to assist with offsetting these costs, an increase in regulatory or similar fees will likely need to be passed onto the consumer, many of which are already facing financial hardships with the current state of our economy. Therefore, WSPs should still receive funding, even if they are imposing a regulatory surcharge.

C. Eligible Uses of 911 Funds for WSPs Must Reflect the Evolving Requirements of WSPs to Provide E-911 Services.

Eligible uses of 911 Funds received by WSPs should include capital expenses directly related to the provision of E-911 services, including cost of deploying new equipment, hardware, software and necessary upgrades, maintenance costs for legacy equipment and new equipment for NG-911 capable services, upgrades which permit IP-based network integration, and essential recurring costs used to provide E-911 services.

D. Wireless Service Providers Use of 911 Funds Should Be Audited Annually.

The historic mechanism for funding WSP projects is on a reimbursement basis, which inherently requires certification of the expenditure of eligible costs before 911 Funds are disbursed. This self-auditing process has proven to be effective in verifying the proper utilization of 911 Funds by WSPs. However, the Commission could implement a formal audit procedure or end of project certification by the applicant/recipient to ensure that all funding received by a WSP for such project was expended for the intended purpose.

IV. HISTORIC FUNDING LEVELS, AS A PERCENTAGE OF THE AVAILABLE 911 FUND, SHOULD CONTINUE TO BE THE BASIS OF MINIMUM FUNDING LEVELS TO WPPS AND PSAPS.

In the absence of a comprehensive cost study by the Commission, the historic funding levels allocated to WSPs and PSAPs, as a percentage of the 911 Fund, should continue to be used as the minimum level of WSP and PSAP funding allocations. The SAM Model has historically been merely a mathematical mechanism to allocate and forecast money. The intrinsic limitation of the SAM has always been that it utilizes for its allocation process only numbers derived from the amount of support funding the Commission has historically distributed to WSPs and PSAPs during the development of the current wireless 911 system. Therefore, it has no specific relationship to any specific costs.

Based on this fact, until a Commission-sponsored cost study is completed that includes the cost for implementation of the ESINet program to the PSAPS, this is the only mechanism readily available for use. In the event that the cost analysis determines that additional cost recovery will be necessary for the implementation of the ESINet program, a separate surcharge could be devised to address such needs.

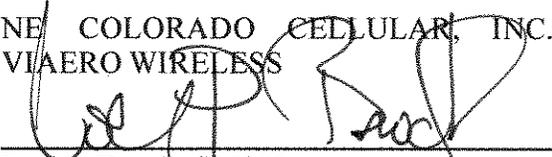
Accordingly, the current funding level should continue to be the minimum level of funding allocated annually to PSAPS and WSPs. Rural WSPs costs continue to increase with the construction of new towers, additional equipment, software upgrades and location accuracy requirements, all necessary for deploying a statewide public safety system.

V. CONCLUSION

Viaero appreciates the opportunity to comment on the questions posed by the Commission in this Docket. Legislative history, Commission Orders and practical financial need support the continued allocation of funding from the 911 Fund for costs incurred by WSPs for deployment of E-911 services, which are essential to achieving the goals of the FCC, the Commission and the State of Nebraska in deploying a robust statewide NG-911 system.

Respectfully submitted this 5th day of June, 2020.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 5th day of June, 2020, one original and one electronic copy of the Comments of NE Colorado Cellular, Inc., d/b/a/ Viaero Wireless in Application No. 911-073/PI-232 were mailed to the Nebraska Public Service Commission, 1200 N Street, Suite 300, Lincoln NE and a copy of the same has been e-mailed to the following:

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