

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of)	Application No. NUSF-26
the Nebraska Public Service)	
Commission, on its own motion,)	ORDER GRANTING MOTIONS TO
seeking to establish a long-term)	ACCEPT LATE FILED COMMENTS
universal service funding)	
mechanism.)	Entered: August 13, 2004

BY THE HEARING OFFICER:

On August 11, 2004, Dark Fiber Solutions, L.L.C. (DFS) and NE Colorado Cellular, Inc., d/b/a Viaero Wireless (Viaero) filed with the Nebraska Public Service Commission (the Commission) Motions for Acceptance of Late Filed Comments on Progression Order No. 5 in the above-captioned matter.

Progression Order No. 5 required that interested parties file comments on or before July 28, 2004. On August 11, 2004, DFS and Viaero requested that the Commission accept comments filed by the close of business on Friday, August 13, 2004. DFS and Viaero stated in their Motions that their comments would provide additional information material to the proceedings of this docket. As Hearing Officer in this proceeding, I find it appropriate to grant the Motions filed by DFS and Viaero and will accept the late filed comments.

However, this order approving DFS's and Viaero's request to submit late comments on August 13, 2004, does not waive the other procedural requirements outlined in Progression Order No. 5. Fairness requires that parties possess adequate time to review pre-filed testimony prior to the hearing. DFS and Viaero may not present testimony because they filed no testimony prior to the August 11, 2004, deadline specified by Progression Order No. 5. Furthermore, since DFS and Viaero possess no rights greater than that of informal intervenors in this matter.

O R D E R

IT IS THEREFORE ORDERED by the Hearing Officer that DFS's and Viaero's Motions to Accept Late Filed Comments are hereby granted.

IT IS FURTHER ORDERED that DFS's and Viaero's comments will be accepted if filed by the close of business on Friday, August 13, 2004.

IT IS FURTHER ORDERED that the participation of DFS and Viaero's in this proceeding should be limited as indicated above.

MADE AND ENTERED at Lincoln, Nebraska, this 13th day of August, 2004.

By _____
Frank E. Landis, Jr.
Hearing Officer

