

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

| | | |
|---------------------------------|---|----------------------------|
| In the Matter of the Second |) | Application No. 911-050.01 |
| Petition of N.E. Colorado |) | |
| Cellular, Inc., d/b/a Viaero |) | |
| Wireless for Support from the |) | ORDER GRANTING SECOND |
| E-911 Wireless Service Provider |) | EXTENSION WITH CONDITIONS |
| (WSP) Grant Program. |) | |
| |) | Entered: June 17, 2014 |

BY THE COMMISSION:

On October 14, 2011, N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless (Viaero) filed a Second Application for Support from the E-911 Wireless Service Provider Grant Program (Application). Notice of the Application was published in the Daily Record, Omaha, Nebraska, on October 27, 2011. No petitions for intervention were filed.

After hearing on February 14, 2012, the Commission entered an order on March 27, 2012 granting Viaero's application and ordering that the project be completed within eighteen (18) months from the date of that order.

On October 15, 2012, Viaero filed a motion requesting an extension of time to implement the proposed project previously approved for funding. Due to unexpected delays in accessing, installing, and testing certain equipment, Viaero requested a six (6) month extension of time, resulting in an ultimate completion date of March 27, 2014. The Commission granted the request on October 30, 2012.

On March 27, 2014, Viaero filed a Second Motion for Extension of Time to Implement [the] Proposed Project (Second Motion).

Hearing on Viaero's Second Motion was held on May 20, 2014. Loel Brooks appeared on behalf of Viaero. Joselyn Luedtke and Angela Melton appeared on behalf of Commission staff.

E V I D E N C E

In its Second Motion, Viaero states that it has neither requested nor received any reimbursement from the WSP Grant Program for the 2011-2012 funding year due to the status of the Proposed Project. Viaero further asserts that granting an extension will preserve public policy, as there has been no loss to the Fund due to the delay. The circumstances surrounding the

delay and recited by Viaero include equipment shortages from the manufacturer, customs delays, inclement weather in Nebraska, technical issues, PSAP staffing shortages, and training on the new equipment and operations for Viaero's internal equipment installation and testing team.

Ms. Kara Thielen, 911 Director, testified on behalf of Viaero. Ms. Thielen acknowledged a failure to file quarterly reports required under Commission Order Approving Funding, March 27th, 2012, in Docket No. 911-050.01. Ms. Thielen testified on the status of the project migrating its network from the Nokia platform to a Huawei switch with 4G capabilities, that in Nebraska, the installation of the 911 project is completed for 85% of its Nebraska towers, with 122 towers remaining. Ms. Thielen stated that the project will be complete, making Viaero eligible to seek reimbursement from the WSP grant fund, when all towers are migrated, turned on, and successfully pass accuracy testing. Ms. Thielen further testified that delays beyond Viaero's control have occurred, but Viaero is moving as fast as they can and updating the Commission with initial testing results.

As to accuracy, Ms. Thielen testified that the 2G network was not as accurate as it should have been, but the new 3G-4G network is showing tremendous improvement in initial testing. In response to Commissioner's request for a filing to reflect a baseline of location accuracy, Ms. Thielen testified that was not possible.

O P I N I O N A N D F I N D I N G S

Based upon the circumstances described by Viaero and the purported improvements to 911 service resulting from the project, the Commission finds that its request for a second extension of time should be granted under the following conditions:

The Commission expects to see prompt completion of the project to provide improved wireless 911 service to Western and rural Nebraska. The Commission expects Viaero to provide timely updates regarding the progress of the project and notification of any further delays. The Commission expects Viaero to submit baseline data on improved location accuracy by **December 31st, 2014**, to compare with location accuracy data after the project is complete.

The Commission is concerned by Viaero's failure to file six of the eight quarterly reports required by Commission Order Approving Funding on March 27th, 2012. Distribution of grant funds is conditioned on filing these reports. Viaero shall provide to the Commission Status reports on **July 15th, 2014** and **October 15th, 2014**, detailing the upgrades completed and the upgrades remaining, including an explanation as to any further delays. The Commission expects Viaero to pay strict attention to these filing dates.

Viaero shall meet all prerequisites for funding in Commission Rule 15-006.01B1¹, including but not limited to certifying compliance with federally established testing and accuracy standards, specifying which Nebraska counties or PSAPs were used to meet the standards, and timely filing quarterly reports.

The Commission expects the project to be completed by **December 31st, 2014**, and all invoices shall be submitted for reimbursement no later than ninety (90) days after completion of the project, unless good cause is shown. All invoices shall be accompanied by all cell site testing results completed for the upgraded cell sites for which grant funding is sought including a description of the improvements in location accuracy resulting from the upgrades at issue.

Viaero shall comply with all other obligations set forth in the Order Approving Funding entered on March 27, 2012.

Should the project not be completed by the assigned date or the required testing results, invoices, and other reports not be filed, the grant funds previously approved may be adjusted by the Commission.

O R D E R

IT IS THEREFORE ORDERED that the Second Motion for Extension of Time to Implement Proposed Project shall be, and it is hereby, approved subject to the conditions and filing requirements set forth herein.

IT IS FURTHER ORDERED that the project shall be completed by **December 31st, 2014**, and all invoices shall be submitted for reimbursement no later than ninety (90) days after completion of the project, unless good cause is shown.

¹ 291 Neb. Admin. Code § 15-006.01B1 (2011).

IT IS FINALLY ORDERED that failure to satisfy the conditions set forth herein may result in an adjustment of the previously approved grant funds.

MADE AND ENTERED at Lincoln, Nebraska, this 17th day of June, 2014.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman:

ATTEST:

Executive Director

Application No. 911-050.01

Page 4

IT IS FINALLY ORDERED that failure to satisfy the conditions set forth herein may result in a forfeiture of the previously approved grant funds.

MADE AND ENTERED at Lincoln, Nebraska, this 17th day of June, 2014.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Aune Boefje

Tim Schram

Bob Johnson

Yusuf Lipp

Frank E. Landis
Chairman:

ATTEST:

Steve Meredith

Executive Director

//s//Frank E. Landis