

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska ) Application No. NUSF-92.56  
Public Service Commission, on its )  
own motion, seeking to administer )  
the Nebraska Universal Service )  
Fund's Broadband Program: ) GRANTED IN PART  
Application to the Nebraska )  
Broadband Program received from )  
N.E. Colorado Cellular, Inc., )  
d/b/a Viaero Wireless. ) Entered: June 2, 2020

BY THE COMMISSION:

By Petition filed on or around January 17, 2020, N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless (Viaero Wireless or Applicant), sought support from the Nebraska Universal Service Fund (NUSF) dedicated wireless program. Notice of the application appeared in the Daily Record, Omaha, Nebraska on January 24, 2020. A formal protest was filed by US Cellular Corporation (USCC) on February 18, 2020 and was granted by the Commission on February 25, 2020.

Viaero Wireless' application requested NUSF support for nine (9) proposed tower sites and sought \$3,897,500.81. Viaero stated it operates an extensive wireless network, including 4G LTE broadband in some areas. In support of its application, Viaero also committed to providing a ten percent match to any project selected for funding. The staff evaluated and analyzed all information filed pursuant to the historic methodology used by the staff and approved by the Commission. Based on that evaluation, the staff recommends that the Commission approve grant support for the following five (5) tower sites submitted by Viaero Wireless: the Cordova, Loma, Lushton, Stockham, and Worms sites. The staff recommended support in the amount of \$2,184,535.01 be awarded to Viaero Wireless for the construction of the aforementioned tower sites. On May 21, 2020 counsel for USCC indicated that USCC and Viaero Wireless consented to having the Commission proceeding with the Applications filed without the necessity of a hearing. While Viaero Wireless has filed a Formal Intervention in this proceeding, an agreement has been reached whereby USCC will pursue collocation agreements with Viaero Wireless for the staff recommended sites of Rulo and Davenport. As such, the amount allocated to fund those towers as set forth in the staff recommendation may be adjusted upon the finalization of the collocation agreements.

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

The Commission allocated \$5.2 million for the 2019 NUSF calendar funding year in which this Petition was filed. Two wireless carriers filed Petitions seeking Wireless Fund Program support. Based on the application and the staff recommendation, the Commission finds Viaero Wireless' application for dedicated wireless universal service funds should be approved for the **Cordova, Loma, Lushton, Stockham, and Worms** tower sites.

### Reimbursement Process:

The Commission approves reimbursement up to **\$2,184,535.01** or the **actual cost** of construction for the sites approved in this order, whichever is lower. The Commission notes that funding may be adjusted upon the finalization of the collocation agreements between USCC and Viaero Wireless.

Viaero Wireless must first make the investment and then may file a request for reimbursement with the NUSF Department. Viaero Wireless does not need to complete the construction process prior to seeking reimbursement; rather, it may work with the NUSF Department to develop intervals at which reimbursement can be sought. The dedicated wireless program will reimburse Viaero Wireless for reasonable expenditures made related to the cell site approved in this Order. Once the investment is made, Viaero Wireless shall file a request for support, provide the NUSF Department with copies of the invoices and shall certify to the Department that it has made the described investment for the provision, maintenance and upgrading of facilities and services in the described rural areas.

As a dedicated wireless program recipient, the Commission finds Viaero Wireless must meet the following conditions:

### Infrastructure Sharing:

Viaero Wireless shall be required to construct tower facilities in a manner that would accommodate collocation and sharing of additional equipment of other wireless carriers, public safety agencies, Internet providers and other providers with technologies that qualify. Such collocation will be required where technically feasible and upon commercially reasonable terms and conditions. While the Commission will not require Viaero Wireless to routinely file collocation agreements, if an issue is raised by a public safety agency or another wireless provider, the Commission

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will make a determination as to whether these ordered conditions are being met.

### Roaming Agreements:

Viaero must agree to permit roaming at commercially reasonable rates. We believe this requirement to be an important policy objective. The Commission will not require Viaero to routinely file its roaming agreements. Entities denied roaming access at commercially reasonable or market-based rates may file a request with the Commission to make a determination as to whether this requirement is being satisfied.

### Broadband Commitments:

To encourage the deployment of wireless broadband services in Nebraska, the Commission gives priority to applicants which commit to providing wireless broadband services. Viaero Wireless must report broadband availability to the Commission upon request.

### Phase II Enhanced 911 Capability:

To advance public safety, the Commission requires that the cell sites funded by this approval must have the equipment and software necessary for Phase II wireless E911 capability. In addition, in a manner consistent with federal regulations, the wireless provider must provide Phase II wireless E911 service after a request has been made by a County or Public Safety Answering Point (PSAP). Viaero must certify to the completion and commitment of these requirements prior to reimbursement from the dedicated wireless program.

### Reporting Requirements:

Viaero shall file, on an annual basis, consistent with federally designated ETCs, the information required by the Commission's Telecommunications Rules pertaining to eligible telecommunications companies and the investment information required by the Commission's Order in Docket NUSF-66. The report should make clear to the Commission that Viaero Wireless will not request reimbursement for equipment or tower construction where grant money was also received from another source. Viaero Wireless shall file its annual report on or before June 1 of each year.

In addition, the Commission expects that construction on these projects will proceed in a prompt business-like fashion.

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Progress reports shall be filed on an annual basis or more frequently if deemed necessary by the Commission, so that the Commission can plan for the timing of distribution for these funds.

## Continuing Nature of Requirements:

The Commission will enforce these requirements for as long as the cell site is in use and providing service to customers. The Commission may take any action it deems necessary and appropriate to enforce the requirements and conditions in this Order.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria the Commission applied in this application for dedicated wireless program support. The Commission may modify the minimum requirements and conditions for future petitions for support from the dedicated wireless program.

## O R D E R

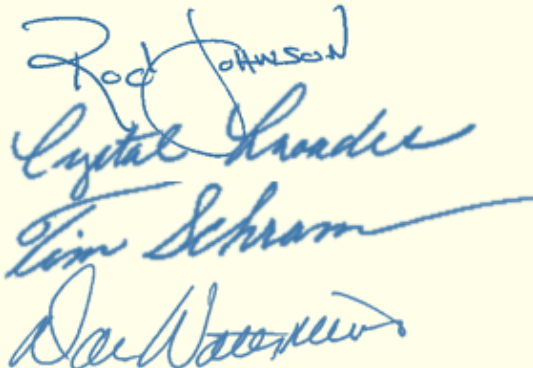
IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the application filed by N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless shall be and it is hereby granted, in part, as provided herein.

IT IS FURTHER ORDERED that N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless shall be subject to all terms and conditions adopted in this Order.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska this 2<sup>nd</sup> day of June, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



  
Chair

ATTEST:

  
Executive Director