

Viaero Wireless Testimony in Opposition to HB 2201 – March 13, 2013

Chairman Apple and members of the Committee. I am Andrew Newell, General Counsel for Viaero Wireless. I appear here today in opposition to House bill 2201.

At Viaero Wireless we focus exclusively on small communities and rural areas in Colorado, Nebraska, Kansas and Wyoming. Our licensed territory covers roughly 2/3 of rural Kansas. We build, maintain, and operate PCS network that is a critical resource not only for our customers, but for AT&T and T-Mobile customers roaming in rural areas providing coverage for 1.1M people, all outside major metropolitan areas.

While Viaero draws state high cost support, these dollars are leveraged roughly 6 to 1 with internally generated cash to build infrastructure. Viaero has converted a substantial portion of its network to 4G, including some very rural areas of Nebraska and Colorado with assistance from those states' high cost funds. Our 42Mbps downstream speed is extremely cost effective.

Our voice matters because we are actually investing in rural infrastructure, and real telecom reform legislation would provide us further incentive to invest, not discriminate against those investments, which exceed \$10 Million. Viaero currently accounts for less than 0.5% of the KUSF.

I would like to point out to you what HB 2201 is NOT. SB 2201 is not:

- a. "Industry Consensus" legislation. Viaero was not included in any discussions of this bill, despite covering more of rural Kansas than any other single carrier.
- b. KUSF Reform. Not a single provision of this bill actually reforms the way the KUSF works, it just discriminates against rural wireless carriers and discourages investment.
- c. KUSF Reduction. The bill will actually perpetuate the KUSF and lead to its growth, raising customer surcharges.
- d. A recognition of modern networks or technology. Nothing in the bill promotes investment in broadband infrastructure or holds carriers accountable for making investments in new, modern technology

What HB 2201 IS:

Rate deregulation at carriers' discretion.

- a. Carriers maintain subsidies after deregulation.
- b. Even in exchanges where they have been granted rate deregulation!

Abandonment of customers at carriers' discretion

- a. Elimination of COLR obligation can have no other purpose

- b. State could be subsidizing the same companies that abandon customers

Guarantee of a growing KUSF with endless and ever-increasing subsidies:

- a. Rural ILECs will be entitled to increased draws as customers leave their network (embedded cost model of support) Page 26, line 9
- b. RLECs also entitled to be made whole for access reductions Page 25, line 37.
- c. RLECs will be entitled to embedded costs for serving exchanges abandoned by AT&T or Centurylink.
- d. Competitive ETCs (wireless carriers) have their funding eliminated. CETCs are not eligible to receive their embedded costs, meaning we must make investments then win customers before receiving support from the KUSF. Viaero has invested over \$10M in Kansas, and is only at the very beginning of realizing any return on that investment.
- e. How does it advance any legitimate public policy to subsidize old technology and discourage investment in newer technology consumers want?

There is a path to real reform:

FIRST: Re-task, reduce and eliminate the KUSF:

- a. Re-task the fund to broadband projects ó build broadband infrastructure in rural communities that need it and when this task is finished, eliminate the KUSF altogether.
- b. Phase out rate of return regulation and embedded cost subsidies for old copper networks.
- c. The only networks worth investing in are broadband and mobile networks. Preferably both. The state should not be spending tens of millions each year without demanding construction of broadband infrastructure in return.

SECOND: Develop a contingency plan before granting COLR relief

- a. Buyer/successor with fixed amount of KUSF support, not a blank check

THIRD: Deregulation should mean eliminating price controls and subsidies, and should be done on the state's terms, not carriers' terms.

FOURTH: Telecommunications policy should exist to benefit consumers and communities, not protect carriers.