

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
NE Colorado Cellular, Inc.)	
dba Viaero Wireless)	
)	File No.: EB-FIELDWR-18-00026229
Kersey, CO)	
)	

NOTICE OF VIOLATION

Released: April 4, 2018

By the Regional Director, Region Three, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to NE Colorado Cellular, Inc., dba Viaero Wireless (Viaero), licensee of FCC radio station WQUP435, Ft. Morgan, Colorado. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Federal Communications Commission's (Commission's) Enforcement Bureau (Bureau) from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.²

2. On February 13, 2018, Agents of the Bureau's Denver Office investigated a complaint of radio frequency interference in the band 3650 to 3700 MHz, to Anadarko Petroleum Corp. (Anadarko), Washington D.C., Call Sign WQNR528, affecting Anadarko's operations in the Wattenburg Gas Field. The Denver Office Agents identified the source of the interference to Viaero's radio transmissions emanating from a tower, FCC Antenna Structure Registration #1278898, near Kersey, Colorado, and observed the following violations of the rules:

- a. 47 CFR § 1.903(a): "*General rule.* Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part, except as specified in paragraph (b) of this section."
- b. 47 CFR § 90.1307(a): "The 3650-3700 MHz band is licensed on the basis of non-exclusive nationwide licenses. Non-exclusive nationwide licenses will serve as a prerequisite for registering individual fixed and base stations. A licensee cannot operate a fixed

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

or base station before registering it under its license and licensees must delete registrations for unused fixed and base stations.”

At the time of the investigation, Agents identified transmissions on the frequencies 3650 to 3690 MHz. Viaero was determined to be the operator of the radio transmitters. Viaero holds a nationwide license, WQUP435, that provides for operation in the band 3650 to 3700 MHz. However, it was determined that Viaero had not registered operation with the Commission from this site pursuant to the rules. Additionally, the transmissions were causing interference to Anadarko’s operations.

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Viaero must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Rules, we direct Viaero to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Viaero with personal knowledge of the representations provided in Viaero’s response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

³ 47 U.S.C. § 403.

⁴ 47 CFR § 1.89(c).

⁵ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 CFR § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 CFR § 1.17.

5. All replies and documentation sent in response to this Notice should be marked with the File No. specified above, and mailed to the following address:

Federal Communications Commission
Los Angeles Regional Office
11331 183rd Street, PMB #365
Cerritos, CA 90703
Email: FIELD@FCC.GOV

6. This Notice shall be sent to NE Colorado Cellular, Inc., at 1224 West Platte Avenue, Fort Morgan, CO 80701 its address of record.

7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Lark Hadley
Regional Director
Region Three
Enforcement Bureau

⁷ See 5 U.S.C. § 552a(e)(3).