

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Thomas E. Wright, Chairman
 Michael C. Moffet
 Joseph F. Harkins

In the Matter of the Application of Community)
Wireless Communications Filing for Kansas) Docket No. 09-CWCZ-976-VSA
Video Service Authorization.)

**ORDER APPROVING APPLICATION
FOR VIDEO SERVICE AUTHORIZATION**

The above-captioned matter comes on before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having reviewed its files and records, and being duly advised in the premises, the Commission grants the Application of Community Wireless Communications (Community) for Video Service Authorization (Application).

1. Community filed its application on June 16, 2009, and made several minor corrections three days later. Community's completed application was submitted June 19, 2009. See K.S.A. 2008 Supp. 1223(a). The Commission has jurisdiction in this proceeding pursuant to K.S.A. 2008 Supp. 12-2023.

2. Commission staff (Staff) provided its Memorandum on June 22, 2009, analyzing and explaining the Application. The Memorandum was posted the same day on the Commission's web site to provide interested persons the opportunity to comment on the Application. To date, no comments have been received.

3. Staff reported that Community had identified its principal place of business as 4105 W. 6th Street, Suite A-1, Lawrence, Kansas 66049 along with a list of the principal officers and designated management contacts for video matters. Staff also reported that

Community was registered with the Kansas Secretary of State's office and is currently "active and in good standing" with that office.

4. Staff explained that Community is seeking state wide video service authorization in the city of Lawrence, Kansas and had provided the CUID number of Lawrence, KS0766. Staff verified the registration with the FCC's Media Bureau's web site. Staff reported that Community had provided a metes and bounds legal description of its proposed service area of Lawrence. Staff assigned a footprint identifier of LW-01-CWZ-01 to the proposed service area. Staff advised that Community had stated that it would pass 100% of the encompassed residences by June 14, 2014.

5. Staff indicated that Community agreed to comply with all applicable federal and state statutes and regulations and also agreed to comply with all lawful and applicable municipal regulations regarding the use and occupation of public-rights-of-way in the delivery of video services, including the police powers of the municipalities in which the service is delivered. Community also agreed that it would not deny service to any group of potential residential subscribers because of the income of residents in the local areas in which they reside.

6. Staff further reported that Community had provided a block diagram and vendor literature describing its intended service architecture. The service will be provided using Internet Protocol with transport provided via a Metropolitan Area Network utilizing a combination of wireless and fiber technologies.

7. Staff found Community's application to be complete and in conformity with K.S.A. 2008 Supp. 12-2023 and K.A.R. 2008 Supp. 82-15-1. Staff recommended approval of Community's application.

8. On July 7, 2009, World Company d/b/a Sunflower Broadband (Sunflower) filed a petition to deny the application. Sunflower subsequently filed an amended petition on July 14, 2009. Sunflower also filed a petition to intervene on July 14.

9. On July 9, 2009, in response to Sunflower's first petition to deny, Staff filed a second Memorandum recommending the application be suspended, the issues raised in Sunflower's petition be investigated, and that the applicant respond to the issues raised by Sunflower with allowance for a rebuttal. Staff Memorandum filed July 9.

10. On July 15, 2009, Community filed its Response to the World Company's Petition to Deny Application. Community addressed the issues raised by Sunflower.

11. The Commission granted Sunflower's petition to intervene and considered Sunflower's petition to deny the application and Community's response in the Commission's Order Granting Petition to Intervene and Denying Petition to Deny Application. The Commission denied Sunflower's petition to deny Community's application. The Commission incorporates herein the analysis at paragraphs 9 to 16 set forth in that order.

12. The Commission observes that the statutory scheme provided by K.S.A. 2008 Supp. 12-2023(a) indicates the Commission is to grant an application based on an applicant's fulfillment of the statutory requirements in the application. This is to be done within 30 days. In light of the provisions of the governing statute, and its analysis in its order denying Sunflower's petition to deny the application, the Commission does not believe additional filings by the parties would aid the Commission in addressing this application. The Commission also finds no further investigation is necessary.

13. The Commission has reviewed Staff's Memorandum filed June 23, 2009 and finds it thorough and reasonable, and adopts same as if set out fully herein.

14. Section 12-2023 of the Video Competition Act requires an entity or person seeking to provide cable service or video service in this state on or after July 1, 2006, to file an application with the Commission containing the following information:

a. The location of applicants' principal place of business and the names of applicant's principal executive officers. Community did so in Attachments 1 and 2 to its Initial Application form. See Staff Memorandum filed June 23.

b. That applicant has filed with the FCC all forms required by that agency in advance of offering video service in Kansas. Community did so on June 8, 2009, and obtained the Community Unit Identification Number (CUID) KSO766.

Staff verified the number with FCC's Media Bureau's web site. Staff Memorandum filed June 23.

c. Applicant must agree to comply with all applicable federal and state statutes and regulations and (d) must agree to comply with all lawful and applicable municipal regulations regarding the use and occupation of public rights-of-way in the delivery of the video service, including the police powers of the municipalities in which the service is delivered. Community did so by initialing item #5 in the Initial Application, which contains both (c) and (d) of the Video Competition Act. Staff Memorandum filed June 23.

(e) Applicant must provide description of the service area foot-print to be served within the State of Kansas, including any municipalities. Community provided the boundaries of the City of Lawrence as Attachment A to the Initial

Application. See Staff Memorandum filed June 23.

(f) Applicant must provide the period of time it shall take applicant to become capable of providing video programming to households in the applicant's footprint, which may not exceed five years. Staff's Memorandum advised the Commission that Community had stated that it would pass 100% of the encompassed residences by June 14, 2014.

(g) Applicant must provide a general description of the type or types of technologies to be used by applicant in the provision of video programming to all households in footprint. Community described in detail the equipment and technology to be used in Attachment 7 to the Initial Application. See Staff Memorandum filed June 23.

(h) K.S.A. 2008 Supp. 12-2023(i) requires applicant to offer concurrent rebroadcast of local television broadcast channels to alert customers to any public safety emergencies. By initialing item #5 in the Initial Application, Community agreed to comply with all applicable federal and state laws and regulations, including K.S.A. 2008 Supp. 12-2023(i). See Staff Memorandum filed June 23.

15. The Commission finds Community has met the filing requirements of K.S.A. 2008 Supp. 12-2023. The Commission grants the Application of Community Wireless Communications for Kansas Video Service Authorization.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The application of Community Wireless Communications for Kansas Video Service Authorization is granted. The Commission grants authority to Community

Wireless Communications for Kansas to provide video service as requested. This grant of authority is subject to lawful operation of the video service by Community Wireless Communications for Kansas or its successor in interest.

B. Parties have fifteen days, plus three days if service of this Order is by mail, from the date of service of this Order in which to petition the Commission for reconsideration. All petitions for reconsideration must be served upon the Commission's executive director.

C. The Commission retains jurisdiction over the parties and the subject matter of this docket for the purpose of issuing such additional orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Wright, Chmn.; Moffet, Com.; Harkins, Com.

Dated: JUL 17 2009

ORDERED MAILED

JUL 17 2009

 EXECUTIVE
DIRECTOR

Susan K. Duffy, Executive Director