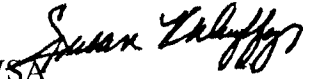


STATE CORPORATION COMMISSION

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

JUL 09 2009

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



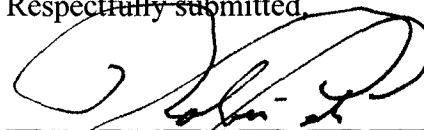
NOTICE OF FILING OF STAFF MEMORANDUM

COMES NOW the Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively), and for its Notice of Filing of Staff Memorandum states as follows:

1. Staff hereby files the attached Staff Memorandum indicating that the Commission should suspend the application of Community Wireless Communications (CWC) for Kansas Video Service Authorization pending investigation of the issued raised in the Petition to Deny filed by The World Company d/b/a Sunflower Broadband (Sunflower). Staff further recommends that CWC review the Petition to Deny and file a point-by-point response to the allegations contained therein within thirty (30) days of the Commission's order and that Sunflower be granted an additional fifteen (15) days in which to rebut CWC's response.

WHEREFORE, Staff requests the Commission consider its memorandum and for such other and further relief as the Commission deems just and proper.

Respectfully submitted,

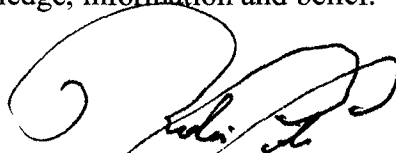


Robert L. Lehr, S. Ct. #9997
Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604
(785) 271-3240 (Telephone)
(785) 271-3167 (Facsimile)
For Commission Staff

VERIFICATION

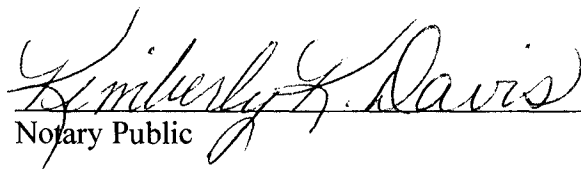
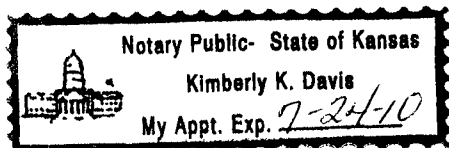
STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

Robert L. Lehr, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Notice of Filing of Staff Memorandum* and believes that the statements therein are true to the best of his knowledge, information and belief.



Robert L. Lehr, S. Ct. #9997
Litigation Counsel
The State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 9th day of July, 2009.



Notary Public

My Appointment Expires: July 24, 2010

**MEMORANDUM
UTILITIES DIVISION**

TO: Thomas E. Wright, Chairman
Michael C. Moffet, Commissioner
Joe F. Harkins, Commissioner

FROM: Guy McDonald, Senior Telecommunications Analyst

DATE: July 9, 2009

DATE SUBMITTED TO LEGAL:

DATE SUBMITTED TO COMMISSIONERS:

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

BACKGROUND:

On June 16, 2009, the Community Wireless Communications Company (CWC) filed an Initial application for statewide Video Service Authorization, as authorized by K.S.A. 12-2006 through 12-2026, a/k/a the Video Competition Act.

On June 19, 2009, the applicant filed minor corrections to their initial application.

In a memo dated June 22, 2009, Staff recommended Commission approval of the application

On July 7, 2009, The World Company, d/b/a Sunflower Broadband, filed a Petition to deny the application.

In accordance with K.S.A. 12-2023(a) and K.A.R. 82-15-1(f)(2), commission action in this matter is required not later than **Monday, July 20, 2009.**

ANALYSIS:

The Petitioner alleges “In short, the Application represents little more than a pie-in-the-sky, speculative venture seeking fast-track, unconstrained access to rights-of-way in the City of Lawrence, and the Commission should reject it.”¹

¹ Page 1, Parg. I, *Petition to Deny Application*, Docket No. 09-CWCZ-976-VSA, filed July 7, 2009.

ANALYSIS: (Continued)

Docket No. 09-CWCZ-976-VSA

The Petitioner alleges four application deficiencies:

- “CWC does not provide video service or video programming, and has submitted no evidence that it ever will.”²
- “CWC does not provide local broadcast signals or emergency alert messages, and has submitted no evidence that it ever will.”³
- “CWC does not comply with a range of federal laws and regulations applicable to video service providers, has submitted no evidence that it will and has admitted in an FCC filing that it will not comply with the “Must Carry” laws.”⁴
- “CWC has submitted no evidence that it can deliver on its promise to build a network throughout the City of Lawrence within five years.”⁵

The Petitioner continues with thirteen (13) pages of numerous supporting allegations of technical deficiencies and misrepresentations.

Staff finds these allegations troublesome, concerning and deserving of investigation.

RECOMMENDATION:

Staff recommends CWC’s application be suspended, pending investigation of the issues raised in the Petition to Deny. Staff also recommends that the applicant review the Petition and respond to the docket, point by point, to the allegations contained therein within thirty (30) days of the Commission’s order and that the Petitioner be granted an additional fifteen (15) days in which to rebut the applicant’s response.

cc: Don Low
Christine Aarnes

Tom Stratton
Bob Lehr

Susan Duffy
Patricia Shurt

² *Id.*, Page 1, Parg. 11.

³ *Id.*, Page 2, Parg. 12.

⁴ *Id.*, Page 2, Parg. 13.

⁵ *Id.*, Page 2, Parg. 14.

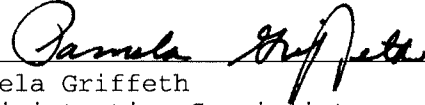
CERTIFICATE OF SERVICE

09-CWCZ-976-VSA

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Notice of Filing of Staff Memorandum was placed in the United States mail, postage prepaid, or hand-delivered this 9th day of July, 2009, to the following:

CHRISTOPHER C. CINNAMON
CINNAMON MUELLER
307 NORTH MICHIGAN AVENUE, SUITE 1020
CHICAGO, IL 60601
Fax: 312-372-3939

JOSHUA MONTGOMERY, PRESIDENT & CEO
COMMUNITY WIRELESS COMMUNICATIONS
4015 WEST 6TH STREET, SUITE A-1
LAWRENCE, KS 66049



Pamela Griffeth
Administrative Specialist