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August 3, 2011

Gary Shorman
President/CEO
Eagle Communications, Inc.
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Kansas Corporation Commission
Received
on 7/31/2011 Patrice Petersen-Klein

AUG 03 2011

by
State Corporation Commission
of Kansas

Via electronic mail and U.S. Postal service

RE: Eagle Communications, Inc.'s application for amended video service authorization
Docket No. 11-EAGC-154-VSA

Dear Mr. Shorman:

On July 25, 2011, you filed two amended applications for state-issued video service authorization. The applications requested expansion of Eagle's state-issued video authority to the communities of Abilene, Kansas, and Oberlin, Kansas.

After a review of the applications, I have determined that they are not in conformance with the Kansas Video Service Authorization Act, K.S.A. 2010 Supp. 12-2021, *et seq.* As required by the regulations promulgated by the Commission to administer the act, within 14 calendar days of the date the application is filed, I am by this letter notifying you that the application is incomplete. Pursuant to K.A.R. 82-15-1(f)(1) you have seven calendar days from the date of this letter in which to provide a complete application in conformance with state law. Failure to provide that complete application will result in the Commission dismissing the application without prejudice, which means that a completed application may be filed again.

Specifically, K.S.A. 2010 Supp 12-2023(a) requires that an application consists of:

a completed affidavit submitted by the video service applicant and signed by an officer or general partner of the applicant affirming:

- (1) The location of the applicant's principal place of business and the names of the applicant's principal executive officers;
- (2) that the applicant has filed or will timely file with the federal communications commission all forms required by that agency in advance of offering video service in this state;
- (3) that the applicant agrees to comply with all applicable federal and state statutes and regulations;
- (4) that the applicant agrees 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;

(5) the description of the service area footprint to be served within the state of Kansas, including any municipalities or parts thereof, and which may include certain designations of unincorporated areas, which description shall be updated by the applicant prior to the expansion of video service to a previously undesignated service area and, upon such expansion, notice to the state corporation commission of the service area to be served by the applicant; including:

(A) The period of time it shall take applicant to become capable of providing video programming to all households in the applicant's service area footprint, which may not exceed five years from the date the authorization, or amended authorization, is issued; and

(B) *a general description of the type or types of technologies the applicant will use to provide video programming to all households in its service area footprint, which may include wireline, wireless, satellite or any other alternative technology.*

A review of your application reflects that neither application contains an affidavit which affirms the items listed, above. Further, my technical staff's review found that neither application, as submitted, included the last requirement (in italics, above) of "a general description of the type or types of technologies the applicant will use to provide video programming to all households in its service area footprint" This particular item is required by law to be in the application.

Staff's review also noted that neither application contains an initialization of the provision that "[b]y submitting this application, the applicant agrees that it may not deny access to service to any group of potential residential subscribers because of the income of the residents in the local area in which such group resides." Although this omission does not make Eagle's application statutorily deficient, it might be to Eagle's benefit to also complete this portion of the application to reflect that it recognizes this provision of the state law.

If you have any question, please do not hesitate to contact me either by telephone at 785-271-3138, or by electronic mail at c.harrell@kcc.ks.gov.

Cordially yours,



Colleen R. Harrell
Litigation Counsel

Cc: Docket No. 11-EAGC-154-VSA
Guy McDonald