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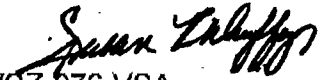
Kansas State Corporation Commission
/s/ Susan K. DUTTS

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

JUL 15 2009

In the Matter of the Application of Community)
Wireless Communications Filing for Kansas)
Video Service Authorization.)

Docket No. 09-CWCZ-976-VSA



**COMMUNITY WIRELESS COMMUNICATIONS CO.'S RESPONSE TO
THE WORLD COMPANY'S PETITION TO DENY APPLICATION**

Community Wireless Communications Co. ("CWC") offers the following Response to The World Company's Petition To Deny Application. CWC applied for a video service authorization ("VSA") pursuant to the Video Competition Act. As the KCC staff has already stated, CWC's application is "complete and in conformity with K.S.A. 12-2023 and K.A.R. 82-15-1." The World Company's Petition attempts to demand that the KCC inject additional requirements for CWC to meet that are not contained in the Video Competition Act, are not part of KCC regulations, and have not been required of other VSA applicants. Despite The World Company's *ad hominem* attacks against CWC, the fact remains that CWC complied with all of the statutory and regulatory requirements to obtain a VSA. Therefore, CWC's application should be granted.

In support of its Response, CWC states the following:

1. It is the public policy of Kansas to:

ensure that consumers throughout the state realize the **benefits of competition** through increased services and improved telecommunications facilities and infrastructure at reduced rates ... [and] promote **consumer access to a full range of telecommunications services**, including advanced telecommunications services that are comparable in urban and rural areas through the state.

K.S.A. § 66-2001 (Emphasis added).

2. To that end, the Legislature passed the Video Competition Act, K.S.A. § 12-2021 *et seq.*
3. The Video Competition Act is designed to allow consumers throughout the state – even in Lawrence – to realize the benefits of competition.
4. The Video Competition Act does not limit who may apply for a VSA; any entity or person may seek to provide video service in Kansas. K.S.A. § 12-2023(a).
5. An entity seeking to provide video service must file an application “as required by this section.” K.S.A. § 12-2023(a).
6. The applicant is required to submit an affidavit affirming the following:
 - a. the location of the applicant’s business and names of the applicant’s officers;
 - b. that the applicant has filed or will timely file with the FCC all FCC-required forms prior to offering video service;
 - c. that the applicant will comply with all applicable federal and state statutes and regulations;
 - d. that the applicant will comply with all applicable municipal regulations regarding public rights-of-way;
 - e. a description of the proposed service area footprint;
 - f. the time it will take applicant to provide video services in the service area footprint; and
 - g. a general description of the technologies the applicant will use to provide video services.
7. In addition, the KCC “shall promulgate regulations to govern the state-issued video service authorization application process.”
8. The KCC did, in fact, promulgate regulations governing the VSA application process with K.A.R. 82-15-1.

9. In addition to the application requirements contained in K.S.A. § 12-2023, K.A.R. 82-15-1 also requires an applicant to do the following:
- a. file an original and seven copies of its initial application;
 - b. submit an electronic copy of the map of the proposed service area footprint; and
 - c. pay a filing fee of \$1,000.
10. There are no other requirements to apply for a VSA.
11. Once an applicant submits a completed affidavit, "[t]he state, through the state corporation commission, shall issue a video service authorization permitting a video service provider to provide video service in the state ... within 30 calendar days after receipt ..." K.S.A. § 12-2023(a) (Emphasis added).
12. CWC has met all of the requirements contained in K.S.A. § 12-2023 and K.A.R. 82-15-1.
13. K.A.R. 82-15-1(f)(1) also provides that if an incomplete application is submitted, the KCC will notify the applicant that its application is incomplete within 14 days after filing.
14. On June 16, 2009, CWC submitted its initial application. (KCC Docket)
15. After CWC submitted minor corrections to its initial application on June 19, 2009, CWC has not been notified that its application is incomplete.
16. In fact, KCC staff agreed that CWC's application is "complete and in conformity with K.S.A. 12-2023 and K.A.R. 82-15-1." (June 22, 2009 Memorandum Utilities Division, KCC Docket)
17. KCC staff recommended approval of CWC's application on June 22, 2009.

18. A random sampling of the KCC's recently approved applications for VSA reveal that VSAs were granted to: Home Communications, Inc., on November 4, 2008 (Docket No. 09-HOMC-284-VSA); Comcast of Missouri, Inc., on November 4, 2008 (Docket No. 09-CMST-359-VSA), Galva Cable Company on November 26, 2008 (Docket No. 09-GALT-293-VSA), and Cox Communications Kansas L.L.C. on July 9, 2009 (Docket No. 07-CXKC-621-VSA).

19. None of the applicants listed in the above paragraph were required to provide any additional information that is not required by the Video Competition Act.

20. The World Company does not appear to dispute that CWC filed an affidavit affirming the requirements stated in K.S.A. § 12-2023(a)(1)-(5).

21. The World Company does not appear to dispute that CWC submitted the proper copies and the filing fee as required by K.A.R. 82-15-1.

22. Instead, The World Company is demanding that the KCC include additional requirements for CWC that are not contained in the Video Competition Act.

23. The World Company alleges that CWC is required to offer evidence that CWC will provide video service, and has the resources to build a network.

24. However, there is nothing in the Video Competition Act requiring an applicant to offer such evidence.

25. In fact, K.S.A. § 12-2023(f) states:

The holder of a state-issued video service authorization shall not be required to comply with any mandatory facility build-out provisions nor provide video service to any customer using any specific technology.

26. The Video Competition Act only requires that an applicant provide “a general description of the type or types of technologies the applicant will use to provide video programming,” which CWC did.

27. At several points in its Petition, The World Company argues against CWC’s video service application because CWC “does not provide video service,” or “currently provides video service to zero households in the City of Lawrence.”

(Emphasis in original)

28. Under The World Company’s logic, a company must already provide video service in order to apply to provide video service.

29. Even assuming an applicant is required to submit evidence of its capabilities of providing video services, attached as “Exhibit A” is a “Company Overview” of CWC.

30. Further, a demonstration of CWC’s current video service capabilities can be viewed on-line at <http://www.civicwifi.com/video.php>.

31. The World Company also alleges that CWC has offered no evidence that CWC provides or will ever provide local broadcast signals or emergency alert messages.

32. As required by K.S.A. § 12-2023(a)(3), Joshua Montgomery, the president and chief executive officer of CWC, affirmed that CWC agrees to comply with all applicable federal and state statutes and regulations.

33. Further, K.S.A. § 12-2023(i) requires a video service provider to offer local broadcast signals or emergency alert messages.

34. As of today's date, CWC is not a video service provider.

35. Pursuant to the Video Competition Act, CWC has affirmed that once it becomes approved as a video service provider, it will offer local broadcast signals or emergency alert messages.

36. The World Company also alleges that CWC's FCC Cable Community Registration form indicates CWC will not comply with federal and state statutes and regulations because the form does not specify the local television broadcast signals to be carried on CWC's system.

37. CWC could not specify which local broadcasters it plans to carry signals for because it has not negotiated any local broadcast agreements without its VSA.

38. In addition, K.S.A. § 12-2023(i) requires a video service provider to offer local broadcast signals or emergency alert messages "through another economically and technically feasible process."

39. A video service provider is not required to carry local broadcast signals; it may offer emergency alert messages "through another economically and technically feasible process."

40. If CWC obtains an agreement to carry local broadcast signals, it will comply with K.S.A. § 12-2023(a)(2) and "will timely file with the [FCC] all forms required by that agency."

41. The World Company's concern for the safety and well-being of CWC's potential customers should also be assuaged by the KCC's oversight of video service operations. See K.S.A. § 12-2023(b)(2) ("the grant of authority is subject to lawful operation of the video service by the applicant.")

CONCLUSION

42. It is our understanding that The World Company is currently the only video services provider in Lawrence.

43. It is a bit disingenuous for the sole provider of video services in Lawrence to attempt to "cry foul" under the Video Competition Act in order to prevent actual competition.

44. CWC agrees with The World Company that the KCC must carry out the legislature's intent of the Video Competition Act.

45. The whole point of the Video Competition Act is to allow companies, both old and newer, to provide video services to Kansans.

46. Granting CWC's application for video service authorization ensures that "consumers throughout the state realize the benefits of competition" and promotes "consumer access to a full range of telecommunications services."

For these reasons, CWC requests the Commission to grant its application for Kansas Video Service Authorization.

THOMPSON RAMSDELL & QUALSETH, P.A.



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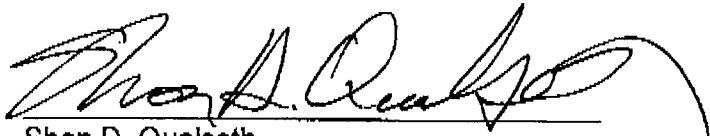
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VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF DOUGLAS)

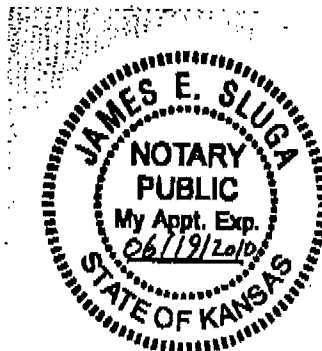
I, Shon D. Qualseth, being first duly sworn, state that I am the attorney for Community Wireless Communications Co. in the above-referenced matter, that I have read and am familiar with the foregoing Response To The World Company's Petition To Deny Application, and that all statements therein contained are true to the best of my information, knowledge, and belief.


Shon D. Qualseth

Subscribed and sworn to before me this 15TH day of July, 2009.


Notary Public

My appointment expires: 06/19/2010



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was deposited in the United States mail, proper postage prepaid, on the 15th day of July, 2009, addressed to: Robert Lehr, Litigation Counsel, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas, 66604; and Christopher C. Cinnamon, Cinnamon Mueller, 307 N. Michigan Avenue, Suite 1020, Chicago, IL 60601.



Shon D. Qualseth

*Community Wireless Communications Co.'s
Response To The World Company's Petition To Deny
Application
Docket No. 09-CWCZ-976-VSA*

Exhibit A

COMMUNITY WIRELESS COMMUNICATIONS

Company Overview

Community Wireless Communications Co, is a Kansas Corporation with the mission of providing information and video services to Kansas communities.

Founded in January of 2006, the company is the primary service provider for the Lawrence Freenet Project in Lawrence, KS. As the primary provider for Lawrence Freenet, it has been CWC's job to build and maintain one of the largest operational mesh networks in the world.

Encompassing 550 high power outdoor wireless mesh nodes, CWC's network is capable of delivering high speed data and video services to thousands of households in Lawrence. The company currently serves 100% of the areas of the community that are serviceable using wireless technologies. In this wireless service area the company serves over 3,000 members of the Lawrence community with broadband services. To further expand its services and achieve universal coverage, the company needs to expand capacity through the installation of fiber-optic cable.

The company's network currently serves over 2,500 unique devices each day and moves more than 10 Terrabytes of IP traffic from private residents to the Internet every month. This is in addition to the hundreds of channels that are available to its video subscribers through Dish Network.

In its first 3 years of operations, CWC raised \$2.5 Million in private equity, including a \$100,000 investment by the State of Kansas through the Kansas Enterprise Technology Corporation. These funds were used to design and build the company's network and to market its customer's service to the general public.

Together with its non-profit partner CWC was awarded the "Foundation Award" by the City of Lawrence and the Lawrence Chamber of Commerce for its role in creating local jobs and fostering technological innovation.

In addition to its internet service, the company's customer relations management software (originally developed to support Freenet members) is currently in use by several major universities in the Midwest. Between Q1 2008 and Q1 2009, the company's software service revenue grew by 584% and now makes up a significant portion of its monthly gross.

In 2007 CWC became a retailer for Dish Network, giving the company the ability to bundle satellite television services with its broadband service. This widely popular combination allowed the company to grow broadband revenue 28% from Q1 2008 to Q1 2009.

Over the past 3 years the company has grown in both revenue and subscribers. Its current network build out is able to provide high speed data services in all of the areas of Lawrence Kansas that are serviceable using wireless technologies. This service growth allowed the

COMMUNITY CIVIC WIRELESS COMMUNICATIONS

company to grow recurring revenue from Internet service by 28% quarter to quarter. Gross profits for this same period rose 58% due to both sales growth and aggressive cost control by management.

To further expand its operations and provide adequate capacity to the community CWC needs to begin installing fiber-optic cable. This will allow the company to expand its video service offering from satellite to terrestrial delivery, while at the same time increasing broadband revenue.

Currently the company has 3 major fiber-optic projects underway and, pending regulatory approval, is planning to break ground on its first project August 6th, 2009. The contractor for this project has already been selected and the schedule set and there are 280 subscribers who have signed up for service on August 15th.

The company is currently half way through a 1 year funding round that is fully subscribed. The next two tranches close August 31st and November 30th respectively and provide funding adequate to continue expanding its network at a rapid rate. The company plans to use these funds to expand its network core and begin delivering terrestrial video services within 6 mo of core construction.