

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

Before Commissioners:                      Shari Feist Albrecht, Chair  
   Thomas E. Wright  
   Jay Scott Emler

In the Matter of the Application of    )  
BCI Allegiance, LLC Filing for        )       Docket No. 13-BCAT-666-VSA  
Video Service Authorization.         )

**ORDER AMENDING VIDEO SERVICE AUTHORIZATION**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1.       On March 21, 2014, Vyve Broadband A, LLC, f/k/a BCI Allegiance, LLC ("Vyve" or "Applicant"), filed an Amended Application (Application) seeking removal of the City of Buhler, Kansas from its service area.

2.       The Commission derives its authority to amend a Video Service Authorization (VSA) from K.S.A. 2012 Supp. 12-2023. The Commission must review applications regarding VSA filings ensuring that the applicant has made the proper showings, which the Commission Staff (Staff) has provided in detail on page 2 of its Report and Recommendation attached to this Order, and which are adopted herein by reference.

3.       Staff reviewed Vyve's Application, and on April 7, 2014 filed its Report and Recommendation dated April 2, 2014, recommending approval of Vyve's Application requesting that the City of Buhler, Kansas, CUID# KS0317, identified as BUHL-02-BCAT-01, be removed from the company's service area footprint. According to Staff, Applicant has previously been granted state-issued video service authorizations in eleven service areas (footprints), which includes the City of Buhler, Kansas, added pursuant to the Commission's May 29, 2013 Order

issued in the above-captioned docket. Staff confirms that Vyve is properly registered with the Kansas Secretary of State's office as a foreign limited Liability Company and that the company's status with the Secretary's office is *active and in good standing*. Staff indicates that Vyve's principal place of business is Four International Drive, Suite 330, Rye Brook, New York, and that the company has provided in its Application its key personnel contacts for application and regulatory matters. Upon inquiry to Vyve, Staff was informed that fifteen customers of the company are affected by Vyve's decision to cease offering service in the Buhler footprint. Vyve further indicated that it decided not to replace equipment damaged by a fire in the headend related to the system that served Buhler. No other wireline providers offer video service in Buhler; however, customers can receive service from satellite providers. Concluding, Staff recommends the Commission grant Vyve's request and remove the City of Buhler from the service area footprint included in the company's state-issued Video Service Authorization. Report and Recommendation at pages 2 and 3.

4. The Commission concurs with Staff's analysis and recommendation and finds that Vyve's Application should be granted, removing the City of Buhler, Kansas, from Applicant's service area footprint.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. The Application of Vyve Broadband A, LLC, f/k/a BCI Allegiance, LLC, seeking removal of the City of Buhler, Kansas, CUID# KS0317, identified as BUHL-02-BCAT-01, from its service area is hereby granted and the City of Buhler is hereby removed from Vyve's service area footprint included in the company's state-issued Video Service Authorization.

B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for

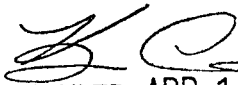
reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2012 Supp. 77-529.

C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order, or orders, as it may deem necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Wright, Com.; Emler, Com.

Dated: APR 10 2014

  
ORDER MAILED APR 11 2014  
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Kim Christiansen  
Executive Director

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Utilities Division  
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Shari Feist Albrecht, Chair  
Thomas E. Wright, Commissioner  
Jay Scott Emler, Commissioner

Sam Brownback, Governor

## REPORT AND RECOMMENDATION UTILITIES DIVISION

**TO:** Chair Shari Feist Albrecht  
Commissioner Thomas E. Wright  
Commissioner Jay Scott Emler

**FROM:** Kelly Mabon, Telecommunications Analyst  
Christine Aarnes, Chief of Telecommunications  
Jeff McClanahan, Utilities Director

**DATE:** April 2, 2014

**DATE SUBMITTED TO LEGAL:** 4/3/14

**DATE SUBMITTED TO COMMISSIONERS:** 4/7/14

**SUBJECT:** In the Matter of the Application of Vyve Broadband A, LLC f/k/a BCI Allegiance, LLC Filing for Kansas Video Service Authorization.  
Docket No. 13-BCAT-666-VSA

### **EXECUTIVE SUMMARY:**

On March 21, 2014, Vyve Broadband A, LLC f/k/a BCI Allegiance, LLC filed an Amended Application for state-issued Video Service Authorization, as authorized by K.S.A. 12-2023 and K.A.R. 82-15-1. Staff recommends approval of this Application.

### **BACKGROUND:**

The Applicant has previously been granted state-issued video service authorizations in eleven service areas (footprints). This amended filing seeks to remove the city of Buhler from its service area.

Per K.S.A. 12-2023(a), Commission action in this matter is required not later than **Sunday, April 20, 2014.**

K.S.A. 12-2023 gives the Commission the authority to review applications for those entities who desire to provide cable service or video service in the state of Kansas.

The Commission must review an application for a video service authorization (VSA) to determine whether:

- 1) The applicant identified the location of its principal place of business and the names of its principal executive officers;
- 2) The applicant has filed or will file all forms required by the Federal Communications Commission (FCC) before offering video service in Kansas;
- 3) The applicant has agreed to comply with all applicable federal and state statutes and regulations;
- 4) The applicant has agreed 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; and
- 5) The applicant has described the service area footprint to be served within Kansas and provided the period of time, not to exceed five years, in which the applicant will be capable of providing video service to all households in the service area footprint, and a general description of the type or types of technologies the applicant will use to provide the video programming.

These showings by the applicant are to be made in the form of an affidavit signed by an officer or general partner of the applicant. Upon proper showing, the Commission shall approve the VSA.

#### **ANALYSIS:**

The Applicant has identified its principal place of business as Four International Drive, Ste. 330, Rye Brook, NY 10573.

The Applicant is properly registered with the Kansas Secretary of State's office as a Foreign Limited Liability Company. Its current status with the Secretary's office is Active and in Good Standing.

The Applicant wishes to remove the City of Buhler, Kansas, (CUID# KS0317) identified as BUHL-02-BCAT-01 from the service area footprint included in its state-issued Video Service Authorization.

In response to Staff's inquiry, the Company said that 15 customers are affected by the Company's decision to cease offering service in the Buhler footprint. The Company decided not to replace equipment damaged by a fire in the headend related to the system that served Buhler. No other wireline providers offer video service in Buhler, however, customers can receive service from satellite providers.

**RECOMMENDATION:**

Staff recommends Commission approval to remove the City of Buhler, Kansas, (CUID# KS0317) identified as BUHL-02-BCAT-01 from the service area footprint included in its state-issued Video Service Authorization.

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
OTTO NEWTON, LITIGATION COUNSEL 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
MARIE CENSOPLANO, SENIOR VICE PRESIDENT AND GENERAL COUNSEL VYVE BROADBAND A, LLC FOUR INTERNATIONAL DRIVE STE 330 RYE BROOK, NY 10573		

ORDER MAILED APR 11 2014

The Docket Room hereby certified that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.