

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application for Wisper ISP)
Inc. For Designation as an Eligible)
Telecommunications Carrier for Purposes of)
Receiving Federal Universal Service Support)
From the FCC Connect America Fund – Phase II.)

Docket No. 19-WIIZ-225-ETC

**MOTION TO RE-OPEN DOCKET TO CORRECT
ERROR IN APPLICATION**

COMES NOW Wisper ISP Inc. (“Wisper” or “the Company”) and requests the Corporation Commission of the State of Kansas (“Commission” or “KCC”) re-open the above referenced docket for purposes of receiving and processing Wisper’s Amended Application filed concurrently with this Motion. In support of this Motion, Wisper states as follows:

1. On December 7, 2018, Wisper filed an application with the Commission under this docket requesting designation as an Eligible Telecommunications Carrier (“ETC”) in Kansas (“Initial Application”).
2. On December 19, 2018, Wisper filed a revised application with revised exhibits (“Revised Application”).
3. In the Revised Application, Wisper incorrectly indicated that in the Connect America Fund (“CAF”) Phase II auction, Wisper committed to the FCC to offer 25 Mbps download and 3 Mbps upload speeds in all its Kansas Census Blocks.¹ Wisper’s commitment to the FCC was actually 100 Mbps download and 20 Mbps upload. This was a clerical mistake.

¹ Initial Application, Section IV. B. The Initial Application did not have page numbers, but this reference can be found on the 13th page of the document.

4. On January 25, 2019, Staff filed its Report and Recommendation (“Staff’s R&R”) stating that Wisper’s request for designation as an ETC was in the public interest and should be granted. Staff’s analysis in its R&R was based upon the 25 Mbps download and 3 Mbps upload speeds.

5. On February 14, 2019, the Commission issued an Order approving Wisper’s Revised Application and designating Wisper as an ETC in Kansas (“Order”). In the Order, the Commission recited that Wisper’s selected bid offering was presented to provide 25 Mbps broadband download and 3 Mbps upload and that Wisper’s CAF Phase II committed to this performance tier.²

6. Although Wisper’s response to one of Staff’s discovery requests issued on the Revised Application correctly identified the 100 and 20 speeds, Wisper did not realize the Revised Application had the incorrect speeds; therefore, Wisper did not amend the Revised Application at that time. As a result of other regulatory proceedings, Wisper became aware of the error in its Revised Application. It notified Staff and determined that the error could best be fixed by the filing of an Amended Application in this docket. Since this docket has already been closed by the Commission, this Motion to Reopen the Docket is appropriate.

7. The higher speeds of 100/20 are more beneficial to Kansans than the 25/3 speeds contained in the Revised Application, but Staff’s R&R is based upon the lower speeds and Staff needs to have the opportunity to conduct its analysis based upon the correct speeds to confirm its recommendation of approval. To allow Staff this opportunity, Wisper needs to file an Amended Application.

8. Therefore, Wisper respectfully requests the Commission grant this Motion and

² Order, pp. 2, 6 and 7.

reopen this docket for purposes of receiving and processing Wisper's Amended Application being filed concurrently with this Motion correcting this one error.

Respectfully submitted,

/s/ Glenda Cafer

Glenda L. Cafer (KS Bar #13342)

Cafer Pemberton LLC

3321 SW 6th Avenue

Topeka, KS 66606

Office: (785)271-9991

Fax: (785)233-3040

Email: glenda@caferlaw.com

COUNSEL FOR WISPER ISP, INC.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above pleading was electronically served this 9th day of September, 2019 to:

Walker Hendrix, Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Ks. 66606

Kristopher E. Twomey, Attorney
Law Office of Kristopher E. Twomey, P.C.
1725 I Street, NW, Suite 300
Washington, DC 20006

Mark Albertyn
Chief Financial Officer
9711 Fuesser Road
Mascoutah, IL 62258

/s/ Glenda Cafer

Glenda Cafer