

**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 October 22, 2014, Vyve Broadband A, LLC, f/k/a BCI Allegiance, LLC ("Vyve" or "Applicant"), filed an Amended Application (Application) seeking removal of the cities of Inman, Kansas and Lancaster, Kansas from its service area.

2. The Commission derives its authority to amend a Video Service Authorization (VSA) from K.S.A. 2013 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 November 3, 2014 filed its Report and Recommendation dated October 30, 2014, recommending approval of Vyve's Application requesting that the cities of Inman, Kansas, identified as INMN-05-BCAT-01, and Lancaster, Kansas, identified as LNCR-10-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). In an October 7, 2014 filing, Vyve sought

amendment of its Video Service Authorization removing the City of Stafford, Kansas and adding the City of Plains, Kansas. Vyve's October 7, 2014 request was approved by the Commission's Order issued October 23, 2014. Applicant states that its request for removal of the City of Inman from its VSA results from the company's sale of system assets to IdeaTek Telecom, LLC. Staff indicates that Vyve's decision to shut down operations in the City of Lancaster during the last quarter of 2012 came after Vyttec's determination that continued operations would not be economically feasible. Staff further states that the City of Lancaster was mistakenly included in Applicant's Amended Application filed August 30, 2013, which was approved by the Commission's Order of September 24, 2013. 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. Concluding, Staff recommends the Commission grant Vyve's request and remove the cities of Inman, Kansas and Lancaster, Kansas 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 cities of Inman, Kansas and Lancaster, 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 Inman, Kansas, identified as INMN-05-BCAT-01, and the City of Lancaster Kansas, identified as LNCR-10-BCAT-01, from its service area is hereby granted and the cities if Inman, Kansas and Lancaster, Kansas are hereby removed from Vyve's service area footprint included in the company's state-issued Video Service Authorization.

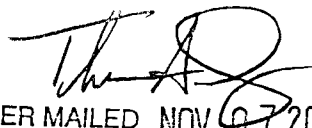
B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2013 Supp. 77-529.

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; Emler, Com.; Apple, Com.

Dated: NOV 06 2014


ORDER MAILED NOV 07 2014
Thomas A. Day
Acting Executive Director

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**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Pat Apple

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

DATE: October 30, 2014

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

EXECUTIVE SUMMARY:

On October 22, 2014, Vvye Broadband A, LLC f/k/a BCI Allegiance, LLC (Vvye) 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). Subsequently, in a filing made to Amend the Video Service Authorization on October 7, 2014, the Applicant removed one service area footprint, the city of Stafford, Kansas and added another, the city of Plains, Kansas. This amended filing seeks to remove the service areas of Inman and Lancaster, Kansas.

Per K.S.A. 12-2023(a), Commission action in this matter is required not later than **Friday, November 21, 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 cities of Inman and Lancaster, Kansas, from the service area footprint included in its state-issued Video Service Authorization.

The Company stated that it wishes to remove the service area for Inman, Kansas, in connection with Company's sale of certain system assets to IdeaTek Telcom, LLC on August 20, 2014. The sold assets primarily consisted of six (6) miles of cable plant, 1 tower and 3 earth stations, as well as amplifiers, power supplies, taps and connectors. At the time of the asset sale, the Company did not service any customers in the City of Inman.

The Company wishes to remove the City of Lancaster, Kansas, from the service area footprint included in its state-issued Video Service Authorization in connection with Company's decision to shut down operations in Lancaster during the last quarter of 2012

after determining that continued operations would not be economically feasible. This was prior to the Commission granting a VSA to the Company on May 29, 2013. Lancaster had been mistakenly included in Applicant's Amended Application, which was filed on August 30, 2013, and approved by the Commission on September 24, 2013.

RECOMMENDATION:

Staff recommends Commission approval to remove the cities of Inman and Lancaster, Kansas, identified as INMN-05-BCAT-01 and LNCR-10-BCAT-01 respectively, 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 **NOV 07 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.