

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Application of Google)
Fiber Kansas, LLC Filing for Kansas Video) Docket No. 12-GFKC-643-VSA
Service Authorization.)

ORDER APPROVING AMENDED VIDEO SERVICE AUTHORIZATION

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and decision. Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1. On April 22, 2014, Google Fiber Kansas, LLC (“Google Fiber”) filed an Application to amend its Video Service Authorization pursuant to K.S.A. 12-2023 and K.A.R. 82-15-1.
2. In its Application, Google Fiber requests authority to provide video service to five new service areas in addition to the four already approved under Google Fiber’s current Video Service Authorization. Google Fiber specifically seeks authority to serve the following areas: The City of Lenexa; The City of Merriam; The City of Mission Hills; The City of Olathe; and The City of Shawnee, Kansas.
3. K.S.A. 12-2023 states that the Commission shall issue a video service authorization permitting a video service provider to provide video service in the state, or amend a video service authorization previously issued, within 30 days after receipt 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.

4. Commission Staff ("Staff") submitted a Report and Recommendation regarding the Application on May 8, 2014, attached hereto and made a part hereof by reference. Staff found that Google Fiber is properly registered with the Kansas Secretary of State's Office. Staff found that the Application provided a list of Google Fiber's key personnel contacts for regulatory matters, and affirmed that Google Fiber's principal place of business is located at 1600 Amphitheatre Parkway, Mountain View, CA, 94043. (*See* K.S.A. 12-2023(a)(1)). Staff found that Google Fiber is not registered as a Cable System Operator with the Federal Communications Commission (FCC) as a cable operator due to the nature of its service offerings, and Staff agrees

that registration is not required in this instance. (*See* K.S.A. 12-2023(a)(2)). Staff found that Google Fiber agreed to follow all applicable federal, state, and municipal rules and regulations. (*See* K.S.A. 12-2023(a)(3)-(4)). Finally, Staff found that Google Fiber agreed to provide access to service requested by any residential subscriber group regardless of their income. For ease of future reference, Staff is identifying the proposed service areas as follows: Lenexa, LNXA-05-GFKC-01; Merriam, MERM-06-GFKC-01; Mission Hills, MSHL-07-GFKC-01; Olathe, OLHE-08-GFKC-01; and Shawnee, SHAW-09-GFKC-01.

5. Staff recommended approval of the amended Video Service Authorization.

6. The Commission finds Staff's findings to be reasonable and hereby adopts Staff's recommendation of approving the amended Video Service Authorization.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Application filed by Google Fiber on April 22, 2014 to amend its Video Service Authorization is approved.

B. Google Fiber is granted authority to provide video service as requested in the Application. The grant of authority is subject to lawful operation of the video service by the applicant or its successor in interest.

C. 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. 77-529(a)(1).

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Com.; Apple, Com.

Dated: MAY 15 2014


ORDER MAILED MAY 16 2014

Kim Christiansen
Executive Director

MRN

Utilities Division
1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3220
Fax: 785-271-3357
<http://kcc.ks.gov/>

Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Pat Apple, Commissioner

Sam Brownback, Governor

**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: May 8, 2014

DATE SUBMITTED TO LEGAL: 5/12/14

DATE SUBMITTED TO COMMISSIONERS: _____

SUBJECT: In the Matter of the Application of Google Fiber Kansas, LLC Filing for
Kansas Video Service Authorization.
Docket No. 12-GFKC-643-VSA

EXECUTIVE SUMMARY

On April 22, 2014, Google Fiber Kansas, LLC (Google Fiber) filed an Amended Application for a 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.

In accordance with K.S.A. 12-2023(a), Commission action in this matter is required not later than **Thursday, May 22, 2014**.

BACKGROUND:

The Applicant has previously been granted video service authorization in four footprint areas in Kansas. This Application seeks to add the cities of Lenexa, Merriam, Mission Hills, Olathe, and Shawnee, Kansas.

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 1600 Amphitheatre Parkway, Mountain View, CA, 94043, and has previously provided its officers and contact personnel.

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

The Applicant is not registered with the FCC as a Cable System Operator. They have previously stated that "Video programming transmission on the Google Fiber network would be based on a client-server architecture similar to that used by end users to access the Internet. Google Fiber's IP-enabled video offering thus would fall outside of the definition of 'cable service' because it would be transmitted via a *two-way, interactive* network that would involve regular communication with customer premises equipment to deliver content. The degree of interactivity inherent in Google Fiber's network, as well as interactive features that Google Fiber would provide, would make the offering fundamentally different from cable service." Staff agrees.

By initialing, the Applicant has previously agreed to comply with all applicable federal and state statutes and regulations and agrees to comply with all lawful and applicable municipal regulations regarding the use and occupation of public rights-of-way in the delivery of video services, including the police powers of the municipalities in which the service is delivered. (Initial Application item #5.)

The Applicant is proposing to add the cities of Lenexa, Merriam, Mission Hills, Olathe, and Shawnee, Kansas, areas which has been described through metes and bounds in an attachment to the Application. An electronic version of this description is included with the Application in a format compatible with the Commission's mapping system.

The Applicant has previously provided drawings and a general description of the technologies to be used in providing their video service. By initialing, the Applicant has previously agreed that it will not deny access to service to any group of potential residential subscribers because of the income of residents in the local area in which such group resides. (Initial Application last item.)

Staff has reviewed the Applicant's Amended Application and has found it to be complete and in conformity with K.S.A. 12-2023 and K.A.R. 82-15-1.

RECOMMENDATION:

Staff recommends Commission approval of Google Fiber's Application with its additional service area footprints to be identified¹ and known as Lenexa, LNXA-05-GFKC-01; Merriam, MERM-06-GFKC-01; Mission Hills, MSHL-07-GFKC-01; Olathe, OLHE-08-GFKC-01; and Shawnee, SHAW-09-GFKC-01.¹

¹ For ease of future referencing, staff assigns a four field footprint number using the following convention: ABCD-xx-EFGH-yy, where ABCD is the four character abbreviation of the major city encompassed by the service area, xx is a two digit sequentially assigned number of the provider's service areas, EFGH is the four alpha character company code and yy indicating the version of the company's footprint where 01 is the initial version, 02 the first revision, etc.

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
MILO MEDIN, MANAGER GOOGLE FIBER KANSAS, LLC 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW, CA 94043		
ROBERT A. FOX, SENIOR LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
MICHAEL NEELEY, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
FRANK A. CARO, JR., ATTORNEY POLSINELLI PC 900 W 48TH PL STE 900 KANSAS CITY, MO 64112		

ORDER MAILED MAY 15 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.