

**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)
Vyve Broadband A, LLC f/k/a BCI) Docket No. 13-BCAT-666-VSA
Allegiance, LLC Filing for Kansas)
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 January 29, 2015, Vyve Broadband A, LLC, f/k/a BCI Allegiance, LLC ("Vyve" or "Applicant"), filed an Amended Application (Application) seeking to add four Kansas cities, as well as unincorporated areas of Dickinson County to its service area footprint. The Kansas municipalities to be added include the cities of Kismet, Minneola, Ottawa, and Fredonia.

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. Commission action on this matter is required not later than February 28, 2015.

3. Staff reviewed Vyve's Application, and on February 16, 2015 filed its Report and Recommendation dated February 11, 2015, recommending approval of Vyve's Application

requesting that the above-named cities and unincorporated areas of Dickinson County be added to the company's service area footprint. According to Staff, Applicant has previously been granted state-issued video service authorizations in eleven service areas (footprints). Subsequently, in filings made on October 7, 2014 and October 22, 2014, Vyve removed the cities of Stafford, Inman, and Lancaster, Kansas, and added the City of Plains, Kansas. 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*.

4. Staff indicates that Vyve is registered with the Federal Communications Commission (FCC) as a Cable System Operator, as follows:

<u>Community Served</u>	<u>CUID#</u>
The City of Kismet	KS0279
The City of Minneola	KS0358
The City of Ottawa	KS0067
The City of Fredonia	KS0300

Staff further states that Vyve also seeks to add unincorporated areas of Dickinson County, which do not have a Community Unit Identification Number (CUID). According to Staff, the Applicant has provided a legal description of the territories to be served, which is on file with the Commission and which has been provided electronically in a format compatible with the Commission's mapping system. Vyve states that the company will be able to provide service to 100% of the households encompassed in the requested area within five years of the date the Commission grants the company's Application. For ease of future reference, Staff identifies the proposed service area footprints as follows: Kismet, KSMT-13-BACT-01; Minneola, MNLA-14-BACT-01; Ottawa, OTWA-15-BCAT-01; Fredonia, FRDN-16-BCAT-01; and Dickinson County, DKS-17-BCAT-01. By initialing, Applicant has 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.¹ Concluding, Staff recommends the Commission grant Vyve's request adding the above-named cities and the unincorporated areas of Dickinson County to the service area footprint included in the company's state-issued Video Service Authorization.²

4. The Commission concurs with Staff's analysis and recommendation and finds that Vyve's Application should be granted, adding the cities of Kismet, Minneola, Ottawa, and Fredonia, as well as the unincorporated areas of Dickinson County, Kansas to Vyve'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 addition of the cities of Kismet, KSMT-13-BACT-01; Minneola, MNLA-14-BACT-01; Ottawa, OTWA-15-BCAT-01; Fredonia, FRDN-16-BCAT-01; and unincorporated areas of Dickinson County, Kansas, DKSX-17-BCAT-01 is hereby granted and the requested areas are hereby added to 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

¹ Initial Application, Item #5.

² Report and Recommendation, pages 2 and 3.

purpose of entering such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: FEB 19 2015



ORDER MAILED FEB 20 2015

Neysa Thomas
Acting Secretary

oan

**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: February 11, 2015

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 January 29, 2015, Vyve Broadband A, LLC f/k/a BCI Allegiance, LLC (Vyve) 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. On October 22, 2014, the Applicant filed to Amend the Video Service Authorization to remove the service areas of Inman and Lancaster, Kansas. In this filing, the Applicant seeks to add five additional service areas.

Per K.S.A. 12-2023(a), Commission action in this matter is required not later than **February 28, 2015.**

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 is registered with the FCC as a Cable System Operator, as follows:

<u>Community Served</u>	<u>CUID #</u>
The City of Kismet	KS0279
The City of Minneola	KS0358
The City of Ottawa	KS0067
The City of Fredonia	KS0300

The Applicant is also seeking to add unincorporated areas of Dickinson County, which do not have a CUID#.

By initialing, the Applicant has 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. (Application item #5).

The Applicant is seeking to serve the cities of Kismet, Minneola, Ottawa, and Fredonia, Kansas, as well as unincorporated areas of Dickinson County, Kansas, and has provided a legal description of the territories.

That description is on file with the Commission in this Docket and has been provided electronically in a format compatible with the Commission's mapping system. The Company states that it will be able to provide service to 100% of the households encompassed in that area within five years of the date the Commission grants the Application.

For ease of future reference, Staff is identifying¹ the proposed service area footprints, as follows: Kismet, KSMT-13-BACT-01; Minneola, MNLA-14-BACT-01; Ottawa, OTWA-15-BCAT-01; Fredonia, FRDN-16-BCAT-01; and Dickinson County, DKS-17-BCAT-01.

RECOMMENDATION:

Staff recommends Commission approval to add the cities of Kismet; Minneola; Ottawa; and Fredonia, Kansas, as well as areas of Dickinson County, Kansas, identified as: Kismet, KSMT-13-BACT-01; Minneola, MNLA-14-BACT-01; Ottawa, OTWA-15-BCAT-01; Fredonia, FRDN-16-BCAT-01; and Dickinson County, DKS-17-BCAT-01 respectively, to the service area footprint included in its state-issued Video Service Authorization.

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.

IN RE: DOCKET NO. 13-BCAT-666-VSA

DATE FEB 19 2015

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 FEB 20 2015

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.