

**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)
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 7, 2014, Vyve Broadband A, LLC, f/k/a BCI Allegiance, LLC (Vyve) filed an Amended Application (Application) seeking removal of the City of Stafford, Kansas from its service area and adding an additional service area for the City of Plains, Kansas.

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 October 20, 2014 filed its Report and Recommendation dated October 15, 2014, recommending approval of Vyve's Application requesting that the City of Stafford, Kansas (CUID# KS0255), identified as STFD-09-BCAT-01, be removed from the company's service area footprint included in its state-issued Video Service Authorization. In addition, Vyve requests that the City of Plains, Kansas be added to the

company's service area footprint in its state-issued Video Service Authorization, with such addition to become effective November 1, 2014.

4. According to Staff, Vyve's removal of the service area for Stafford, Kansas is due to the Vyve's sale of this service territory to GBT Communications, Inc. (GBT). Staff adds that pursuant to the Commission's Order of July 31, 2014, issued in Docket No. 15-GBCT-010-VSA, GBT was granted a Video Service Authorization for the City of Stafford. Vyve's assets purchased by GBT included 11.7 miles of cable plant surrounding Stafford's city limits, and equipment related thereto (amplifiers, power supplies, taps, connectors, and traps); one tower, six earth stations; and one hub building. GBT has leased from Vyve the real estate that includes the headend for a period of six months, allowing GBT time to transfer the network over its existing plant. Staff indicates that this transfer affected 60 subscribers in the Stafford footprint. Report and Recommendation at pages 2 and 3.

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

Community Served
City of Plains, Kansas

CUID#
KS0251

Staff indicates that it has verified the foregoing Community Unit Identification Number (CUID) via the FCCMedia Bureau's website: <http://www.fcc.gov/mb/engineering/liststate.html>. By initialing (Application item #5), Vyve 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. Plains is properly registered with the Kansas Secretary of State's office as a foreign limited

liability company, whose status with that office is *active and in good* standing. The service area for the City of Plains is described as follows:

Meade County, Kansas

Section 16, Township 32 South, Range 30 West

For ease of future reference, Staff identifies Plains' proposed service area footprint as: Plains, PLAN-12-BCAT-01. Concluding, Staff recommends the Commission grant Vyve's Application removing the City of Stafford, Kansas from Vyve's service area footprint and adding the City of Plains, Kansas, identified as PLAN-12-BCAT-01, to Vyve's service area footprint included in the company's state-issued Video Service Authorization.

6. The Commission concurs with Staff's analysis and recommendations of October 15, 2014 and finds that Vyve's Application should be granted, removing the City of Stafford, Kansas, from Applicant's service area footprint and adding the City of Plains, Kansas to the company's state-issued Video Service Authorization.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Application of Vyve Broadband A, LLC, f/k/a BCI Allegiance, LLC, is hereby granted. The City of Stafford, Kansas, CUID# KS0255, STFD-09-BCAT-01, is hereby removed from Vyve's service area footprint of the company's state-issued Video Service Authorization. The City of Plains, Kansas, CUID# KS0251, PLAN-12-BCAT-01, is hereby added to Vyve's service area footprint of the company's state-issued Video Service Authorization, effective November 1, 2014, as requested by the company.

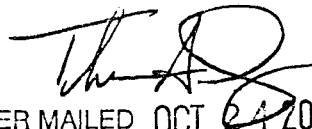
B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2013 Supp. 77-529.

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: OCT 23 2014


ORDER MAILED OCT 24 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 15, 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 7, 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). This amended filing seeks to remove the service area of the city of Stafford and add an additional service area for the city of Plains, Kansas.

Per K.S.A. 12-2023(a), Commission action in this matter is required not later than **Thursday, November 6, 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 Stafford, Kansas, (CUID# KS0255) identified as STFD-09-BCAT-01 from the service area footprint included in its state-issued Video Service Authorization.

In response to Staff's inquiry, the Company stated that removal of the service area for Stafford, Kansas, is due to the sale of this service territory to GBT Communications, Inc. (GBT) GBT was granted a Video Service Authorization for the City of Stafford, Kansas in Docket No. 15-GBCT-010-VSA on July 31, 2014. The assets purchased by GBT included (1) 11.7 miles of cable plant surrounding the city limits of the City of Stafford, as well as equipment relating thereto (amplifiers, power supplies, taps, connectors and traps); (2) one tower; (3) 6 earth stations; and (4) one hub building.

GBT did not purchase the real estate that includes the headend, but rather is leasing it from Vvye for a period of 6 months until they can transfer the network over to their existing plant. This transfer affected 60 subscribers in the Stafford footprint.

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

Community Served
Plains

CUID #
KS0251

Staff has verified the above Community Unit Identification Number (CUID) via the FCC's Media Bureau's web site: <http://www.fcc.gov/mb/engineering/liststate.html>.

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).

Attachment 1 to the Application did not include a legal description of the service area. Staff advised the Company to file a revised Attachment 1 which included the legal description. The legal description of the service area for the City of Plains is Township 32S, Range 30W, Section 16.

For ease of future reference, Staff is identifying¹ the proposed service area footprint, as follows: Plains, PLAN-12-BCAT-01.

RECOMMENDATION:

Staff recommends Commission approval to remove the City of Stafford and add the City of Plains, Kansas identified as PLAN-12-BCAT-01 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.

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 OCT 24 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.