

**BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

In the Matter of the Application of i-wireless,       )  
LLC for Designation as an Eligible                        ) Docket No. 12-IWRZ-848-ETC  
Telecommunications Carrier in the State of            )  
Kansas.    )

**STAFF'S RESPONSE TO MOTION TO REOPEN DOCKET**

The Staff of the Kansas Corporation Commission (Staff and Commission, respectively) hereby files its response to the *Motion to Reopen Docket, Petition for Leave to Intervene and Petition for Rescission of Orders Redefining Certain Rural Telephone Company Study Areas* (Motion) filed by Cunningham Telephone Company, LaHarpe Telephone Company, Moundridge Telephone Company, Wamego Telephone Company, and Zenda Telephone Company (together "Movants") on June 4, 2015. Staff states the following:

**BACKGROUND OF ORIGINAL PROCEEDING**

1. The Movants' Motion arises out of a Lifeline-Only Eligible Telecommunications Carrier (ETC) proceeding initiated by I-wireless, LLC (I-wireless) in 2012. On May 29, 2012, I-wireless filed a Petition for Limited Designation as a Lifeline-Only ETC in certain portions of Kansas.<sup>1</sup>

2. Federal statutes state that applicants seeking ETC designation in rural telephone company "service areas" must offer the ETC supported services within the "study area" of the underlying rural telephone company unless the State Commission and Federal Communications Commission (FCC) agree that the service area should be redefined.<sup>2</sup>

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<sup>1</sup>Application of I-Wireless, LLC for Designation as an Eligible Telecommunications Carrier in the State of Kansas.

<sup>2</sup>47 U.S.C. § 214(e)(5).

3. I-wireless requested “service area redefinition” as referenced above. I-wireless requested that the Movants’ “service areas” be redefined to the exchange level. This request was granted by the Commission on September 6, 2012<sup>3</sup> and by the FCC on April 4, 2013.<sup>4</sup> (See Exhibit A).

4. Redefinition had ramifications outside of ETC proceedings. Due to the language of K.S.A. 66-2004(c), competitive local exchange carriers seeking a Certificate of Convenience in Movants’ service territory could attain certification without serving the entire “study area.” The competitive local exchange carrier would only have to serve the areas as redefined by the Commission and the FCC. This is the impetus for the Movants’ Motion.

#### **THE MOVANTS’ ARGUMENT**

5. The Movants argue the Commission’s order granting redefinition was unlawful because it was issued without due notice to the Movants.<sup>5</sup> The Movants state that they had a 14<sup>th</sup> amendment property and/or liberty interest in “the lawful definition of their respective study areas, as that definition directly affects the fairness or unfairness of circumstances under which they may be required to compete with other carriers in the required provision of local telecommunications services throughout their respective service areas.”<sup>6</sup> The Movants argue that because the redefinition proceeding affected their claimed interests, they were entitled to notice of the proceedings which they never received.<sup>7</sup>

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<sup>3</sup>Order Granting Virgin Mobile USA L.P.’s Petition for Limited Designation as an Eligible Telecommunications Carrier and Motion for Waiver of the Lifeline Call Plan Rule, p. 14 (Nov. 2, 2011).

<sup>4</sup>Wireline Competition Bureau Seeks Comment on I-Wireless, LLC’s Petition for Commission Agreement in Redefining the Service Areas of Rural Incumbent Telephone Companies in Kansas, WC Docket No. 09-197 (Released Jan. 4, 2013).

<sup>5</sup>Motion to Reopen Docket, Petition for Leave to Intervene and Petition for Rescission of Orders Redefining Certain Rural Telephone Company Study Areas, p. 2 (June 4, 2015).

<sup>6</sup>Motion to Reopen Docket, Petition for Leave to Intervene and Petition for Rescission of Orders Redefining Certain Rural Telephone Company Study Areas, p. 5-6 (June 4, 2015).

<sup>7</sup>Motion to Reopen Docket, Petition for Leave to Intervene and Petition for Rescission of Orders Redefining Certain Rural Telephone Company Study Areas, p. 2 (June 4, 2015).

## STAFF'S RESPONSE

6. Movants were not entitled to notice of the pendency of the I-Wireless proceeding because no statute required notice of the action to the Movants. Further, Movants did not have a legally protected liberty or property interest at stake to trigger a due process violation absent notice.

## MOVANTS WERE NOT ENTITLED TO NOTICE OF THE I-WIRELESS LIFELINE-ONLY ETC PROCEEDING

7. Movants are not entitled to notice of every proceeding before the Commission that impacts them. In general, notice must only be given where it is required by statute.<sup>8</sup> Additionally, “[t]he fact that an entity may be impacted by an agency decision does not, in and of itself, give rise to a right to notice and participation in the administrative process.”<sup>9</sup> In the absence of a statute requiring notice, Movants would only be entitled to notice if the Constitution demanded it.<sup>10</sup>

8. Movants have cited to no provision of law that would have entitled them to notice of the I-Wireless proceeding. Therefore, only the constitutional due process challenge remains. The Kansas Supreme Court has stated: “To prevail on a due process claim, a party must show it possesses a definite liberty or property interest, which was abridged, under color of state law,

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<sup>8</sup>See *Petition of Martins Ferry Metropolitan Housing Authority*, 2 Ohio App. 2d 237, 242-243 (1965) (stating “In general, where it is not required by statute, an administrative body is not required to give notice to the parties of the disposition of the proceeding, the litigants being under a duty themselves to watch the progress of their case.”). Under the facts of a different case relied upon by in the *Martins Ferry* Court, the Court cited the following language it found persuasive: “Objections to transfers of liquor establishments are often quite numerous. The Legislature has chosen to require each individual objector to keep himself informed of a local board’s decisional process rather than burden the local board with taking names and addresses, and later notifying the potentially large number of interested persons. There is no statutory requirement that a local board notify objectors of its decision to grant a place-to-place transfer. We, therefore, hold that this is no statutory requirement for the State Board of Housing to notify appellant either about the April 10, 1964, meeting or the decision made at that meeting, and that it is not required by the constitutional provisions on due process to do so.” *Id.* at 243.

<sup>9</sup>See *Deborah Heart and Lung Center v. Howard*, 404 N.J. Super. 491, 507 (2009); citing *Elizabeth Fed. Sav. & Loan Ass’n v. Howell*, 24 N.J. 488, 505 (1957).

<sup>10</sup>See *Petition of Martins Ferry Metropolitan Housing Authority*, 2 Ohio App. 2d 237, 242-243 (1965)

without appropriate process.”<sup>11</sup> As explained below, the Movants do not hold a definite liberty and/or property interest that was abridged as a result of the proceeding.

**MOVANTS HAD NO LEGALLY PROTECTED PROPERTY OR LIBERTY INTEREST AT STAKE  
IN THE PROCEEDING**

9. Due process violations do not exist in a vacuum. A due process violation only occurs when a party had a definite liberty or property interest at stake in the proceeding of which it could be deprived.<sup>12</sup> The Kansas Supreme Court has stated:

To prevail on a due process claim, *a party must show it possesses a definite liberty or property interest*, which was abridged, under color of state law, without appropriate process. (Emphasis added).<sup>13</sup>

10. The Kansas Supreme Court has also stated that the alleged property interest cannot be vague and must have some ascertainable monetary value:

The Due Process clause does not protect entitlements where the identity of the alleged entitlement is vague. *Castle Rock v. Gonzales*, 545 U.S. 748, 763, 125 S.Ct. 2796, 162 L.Ed.2d 658 (2005). A protected property right must have some ascertainable monetary value. 545 U.S. at 766, 125 S. Ct. 2796. Indirect monetary benefits do not establish protection under the Fourteenth Amendment. 545 U.S. at 767, 125 S. Ct. 2796. An entitlement to a procedure does not constitute a protected property interest. 545 U.S. at 764, 125 S. Ct. 2796.<sup>14</sup>

11. The U.S. Supreme Court has further stated in similar language: “To generate a due process claim, [petitioner] must first demonstrate that it holds an interest arising out of some

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<sup>11</sup> *Kansas Racing Management Inc. v. Kansas Racing Comm’n*, 244 Kan. 343,354 (1989).

<sup>12</sup> *Kansas Racing Management Inc. v. Kansas Racing Comm’n*, 244 Kan. 343,354 (1989).

<sup>13</sup> *Kansas Racing Management Inc. v. Kansas Racing Comm’n*, 244 Kan. 343,354 (1989).

<sup>14</sup> *Landmark Nat’l Bank v. Kesler*, 289 Kan. 528, 545 (2009).

understanding with the [State] that transcends ‘an abstract need or desire’ or ‘a unilateral expectation’ and qualifies as ‘a legitimate claim of entitlement.’”<sup>15</sup>

12. Movants possess no such protectable due process liberty or property interest in the way service areas are defined by the State and the FCC, or in being free from competition. These are vague, abstract needs or desires, with no basis for being considered a property and/or liberty interest under statutory or constitutional law.

13. With respect to the Movants’ claim that they have a protectable liberty and/or property interest in the “lawful definition of their respective study areas,” Movants are incorrect. Movants have cited to no legal authority to support their contention. Movants do not own a protectable due process property or liberty interest in a “lawful definition” because it is an abstract need or desire and holds no ascertainable monetary value.<sup>16</sup> One cannot go to Movants’ place of business and steal its “lawful definition” from the stock room. 47 U.S.C. § 214(e)(5) is the statutory provision that granted the Commission the ability to determine service areas for the purpose of determining universal service support obligations and support mechanisms.<sup>17</sup> The “lawful definition” of service areas is under the purview of the Commission and the FCC, and is not property owned by the Movants such that they may be deprived of it.<sup>18</sup> Thus, it does not meet the requirements of a due process property interest.

14. With respect to the Movants’ insinuation that they have a protectable liberty and/or property interest in governing “the circumstances in which they may be required to

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<sup>15</sup>*Wells Fargo Armored Service Corp. v. Georgia Public Service Comm’n*, 547 F. 2d 938, 940 (5th Cir.1977); citing *Board of Regents v. Roth*, 408 U.S. at 577 (1972).

<sup>16</sup>*See Landmark Nat’l Bank v. Kesler*, 289 Kan. 528, 545 (2009); *Wells Fargo Armored Service Corp. v. Georgia Public Service Comm’n*, 547 F. 2d 938, 940 (5th Cir. 1977); citing *Board of Regents v. Roth*, 408 U.S. at 577 (1972).

<sup>17</sup>*See* 47 U.S.C. § 214(e)(5).

<sup>18</sup>*See Wells Fargo Armored Service Corp. v. Georgia Public Service Comm’n*, 547 F. 2d 938, 941 (5th Cir. 1977) (stating “Privileges, licenses, certificates, and franchises now do qualify as property interests for purposes of procedural due process. But due process only becomes relevant where such property is ‘deprived’ e.g., where welfare benefits are terminated, where public employees are discharged, or where licenses are revoked.”).

compete with other carriers,” Movants are incorrect because Movants hold no protectable due process liberty and/or property interest in being free from competition, nor do they hold an interest in governing the circumstances in which they may be required to compete.<sup>19</sup> The legislature has already determined that incumbent local exchange carriers in Kansas shall be subject to competition.<sup>20</sup> The Commission is authorized to allow competitors to serve in Movants’ service areas.<sup>21</sup> The Fifth Circuit Court of Appeals has explained that “entertaining the hope of being free from competition” is not enough to qualify as a legitimate claim of entitlement under the due process clause.<sup>22</sup> Further, the First Circuit Court of Appeals has held that absent a statutory right, being free of competition is not a protected property interest.<sup>23</sup> Movants have cited no such statutory right and have cited no legal authority. Movants may be correct that the service area redefinition could have an “impact” on their business in the form of additional competition. However, Movants’ hopes of being free from competition, in whatever lawful form, are merely abstract needs or desires with no ascertainable monetary value and do not rise to the level of protected due process property and/or liberty interests.<sup>24</sup>

15. Liberty interests have been explained by the U.S. Supreme Court as “not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, to establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized... as essential to the orderly pursuit of happiness by

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<sup>19</sup>See *Wells Fargo Armored Service Corp. v. Georgia Public Service Comm’n*, 547 F. 2d 938, 940-941 (5th Cir. 1977).

<sup>20</sup>See K.S.A. 66-2005(w); K.S.A. 66-2004(d).

<sup>21</sup>See K.S.A. 66-2005(w); K.S.A. 66-2004(d).

<sup>22</sup>See *Wells Fargo Armored Service Corp. v. Georgia Public Service Comm’n*, 547 F. 2d 938, 940 (5th Cir. 1977).

<sup>23</sup>See *Fireside Nissan, Inc. v. Fanning*, 30 F.3d 206, 218-219 (1st Cir. 1994).

<sup>24</sup>See *Wells Fargo Armored Service Corp. v. Georgia Public Service Comm’n*, 547 F. 2d 938, 940-941 (5th Cir. 1977).

free men.”<sup>25</sup> Further, the Kansas Court of Appeals has said “Personal or individual liberty is generally defined as ‘[o]ne’s freedom to do as one pleases, limited only by the government’s right to regulate the public health, safety, and welfare.’”<sup>26</sup> Movants’ liberty interests have not been taken away in this proceeding. Movants are as free as they always have been to conduct their business. Their Certificates of Convenience remain intact, and the fact that it may now be easier for some future unknown party to compete against the Movants at some future unknown date does not hinder Movants’ freedom to react to those competitive forces. Additionally, the State may regulate certain freedoms in the interest of the public welfare.<sup>27</sup> The State of Kansas has chosen to allow competition in the provision of telecommunications services.<sup>28</sup> Therefore, Movants could not have an expectation that they would be at liberty to be free from competition.

**MOVANTS’ CITED LEGAL AUTHORITIES RELATING TO NOTICE ONLY APPLY ONCE A LEGAL RIGHT TO NOTICE HAS BEEN ESTABLISHED**

16. Movants cite to numerous authorities addressing notice in the context of administrative proceedings.<sup>29</sup> However, these cases operate under the assumption that the litigant was entitled to notice in the first place due to statutory provisions or constitutional principles. The cases do not address whether Movants held a definite liberty and/or property interest in “lawful definitions” and governance of competition.<sup>30</sup>

17. For example, Movants cite *Mullane v. Central Hanover Bank & Trust Co.* for the proposition that “[t]he adequacy of notice must be evaluated with ‘due regard for the practicalities and peculiarities of the case’” and “[t]he notice must be of such nature as

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<sup>25</sup>*Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 572 (1972).

<sup>26</sup>*Chubb v. Sullivan*, 50 Kan. App. 2d 419, 427, 330 P.3d 423, 429 (2014), review denied (Oct. 31, 2014).

<sup>27</sup>*See Id.*

<sup>28</sup>*See* K.S.A. 66-2005(w); K.S.A. 66-2004(d).

<sup>29</sup>*See* Motion to Reopen Docket, Petition for Leave to Intervene and Petition for Rescission of Orders Redefining Certain Rural Telephone Company Study Areas, p. 3-5 (June 4, 2015).

<sup>30</sup>*See Kansas Racing Management Inc. v. Kansas Racing Comm’n*, 244 Kan. 343,354 (1989).

reasonably to convey the required information” and that “[t]he operative test is that ‘the Notice must reasonably apprise *any interested person* of the issues involved in the proceeding.’”<sup>31</sup> These statements presuppose that Movants are *interested persons* in the I-Wireless proceeding, which they are not. Movants did not intervene nor were they necessary parties to the proceeding.

18. The cases cited by Movants involving notice would apply once the first hurdle of proving a statute requiring notice or a legally cognizant property and/or liberty interest has been cleared. These cases do not prove that Movants had such interest, and Movants have cited no other applicable authority that would show such interest.

#### OTHER ARGUMENTS

19. Movants advance several other arguments that are without merit.

20. Movants assert that because the Commission granted intervention to Wamego Telecommunications Company, Inc. in the 15-COXT-396-ETC docket, Movants therefore possess a defined legal interest in anything that affects competition.<sup>32</sup> This does not follow. The fact that intervention was granted to Wamego in the COXT proceeding does not prove that Movants possess a definite property and/or liberty interest in this proceeding. The Commission has authority to grant permissive intervention under K.S.A. 77-521(a) when the petitioner’s “legal rights, duties, privileges, immunities or other legal interests may be substantially affected by the proceeding...” and “the presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention”<sup>33</sup> Wamego’s intervention could have been approved based upon something other

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<sup>31</sup>Motion to Reopen Docket, Petition for Leave to Intervene and Petition for Rescission of Orders Redefining Certain Rural Telephone Company Study Areas, p. 4 (June 4, 2015).

<sup>32</sup>Motion to Reopen Docket, Petition for Leave to Intervene and Petition for Rescission of Orders Redefining Certain Rural Telephone Company Study Areas, p. 5-6 (June 4, 2015).

<sup>33</sup>K.S.A. 77-521(a)(2). Movants cited to 15-CXKC-396-ETC in their Motion, however, the docket code was later changed to 15-COXT-396-ETC.



than a protected due process property or liberty interest. Other types of interests certainly exist which is why the Courts have distinguished between property and liberty interests and other interests that do not meet those definitions.<sup>34</sup> Granting intervention does not prove a protected due process liberty and/or property interest is involved.

21. Movants also assert that the order redefining service areas is an order “whereby any rates, joint rates, tolls, charges, rules, regulations, classifications, schedules, practice or acts relating to any service performed or to be performed by any telecommunications public utility for the public are altered, changed, modified, fixed or established” under K.S.A. 66-1,193(b).<sup>35</sup> Thus, say the Movants, it requires service of the order upon them because they are “the telecommunications public utility affected thereby” as referenced under the statute. This proceeding was not initiated under K.S.A. 66-1,193(b). It was initiated pursuant to 47 U.S.C. § 214(e). Furthermore, the Movants’ rates, tolls, charges, rules, regulations, classifications, schedules, practices or acts have not been altered or modified by the proceeding. Movants still possess their Certificates of Convenience, and their rates have not been altered. Movants experienced no change as referenced under K.S.A. 66-1,193(b) as a result of the proceeding, and therefore, their appeal to this statute is inapt.

22. Finally, Movants argue that the I-Wireless redefinition order was unlawful because there was a change in Commission policy as between the Virgin Mobile redefinition order in 10-VMBZ-657-ETC and the I-Wireless order, and the Commission did not explain the change.<sup>36</sup> Movants are asking that the Commission overturn its I-Wireless redefinition order as

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<sup>34</sup>See *Board of Regents of State Colleges v. Roth*, 408 U.S. 564 (1972) (stating “[b]ut the range of interests protected by procedural due process is not infinite.”).

<sup>35</sup>Motion to Reopen Docket, Petition for Leave to Intervene and Petition for Rescission of Orders Redefining Certain Rural Telephone Company Study Areas, p. 7-8 (June 4, 2015).

<sup>36</sup>Motion to Reopen Docket, Petition for Leave to Intervene and Petition for Rescission of Orders Redefining Certain Rural Telephone Company Study Areas, p. 3 (June 4, 2015).

unlawful on this basis. Movants argument should be ignored, as Movants did not exhaust its administrative remedies in seeking to have the order overturned.<sup>37</sup> Movants did not intervene in the proceeding, nor were they parties. Movants cannot simply look for orders it believes are unlawful and ask for them to be overturned - they must follow administrative procedure regarding challenging of orders. Movants would likely claim that they could not challenge an order to which they did not receive notice. However, as explained above, they were not entitled to notice.

### **Concluding Remarks**

23. Movants have provided no statutory authority proving that they should have been provided notice in this proceeding.

24. In order for Movants to be entitled to notice pursuant to the due process clause, they must have a life, liberty, or property interest at stake, of which they could be deprived.

25. Because no legally cognizable due process property or liberty interest is at stake and no statutes have been cited requiring notice, Movants' Motion to reopen the proceeding and rescind the order granting redefinition should be denied.

WHEREFORE, Staff respectfully requests that the Commission deny Movants' Motion.

Respectfully Submitted,



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Michael Duenes, S. Ct. #26431  
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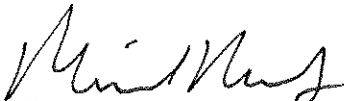
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<sup>37</sup>See K.A.R. 82-1-235; K.S.A. 77-529.

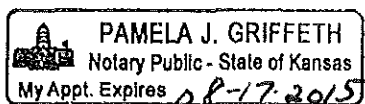
STATE OF KANSAS            )  
  ) ss.  
COUNTY OF SHAWNEE    )

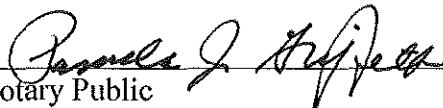
**VERIFICATION**

Michael Neeley, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas, that he has read and is familiar with the foregoing *Staff's Response to Motion to Reopen Docket* and that the statements contained therein are true and correct to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
Michael Neeley # 25027  
Kansas Corporation Commission of the  
State of Kansas

Subscribed and sworn to before me this 11th day of June, 2015.



  
\_\_\_\_\_  
Notary Public

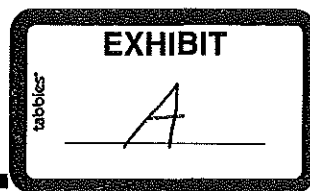
My Appointment Expires: August 17, 2015



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

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DA 13-10  
Release Date: January 4, 2013

**WIRELINE COMPETITION BUREAU SEEKS COMMENT ON  
I-WIRELESS, LLC's PETITION FOR COMMISSION AGREEMENT IN REDEFINING THE  
SERVICE AREAS OF RURAL INCUMBENT TELEPHONE COMPANIES IN KANSAS**

**WC Docket No. 09-197**

**Comment Date: February 4, 2013**  
**Reply Comment Date: February 19, 2013**

The Wireline Competition Bureau seeks comment on a petition filed on December 21, 2012 by i-wireless, LLC (i-wireless), a Lifeline-only eligible telecommunications carrier (ETC), pursuant to section 54.207 of the Commission's rules.<sup>1</sup> In its petition, i-wireless requests the Commission's agreement with the Kansas State Corporation Commission's conclusion to redefine the service areas of certain rural incumbent telephone companies: Cunningham Telephone, Co., LaHarpe Telephone Company, Mo-Kan Dial, Moundridge Telephone Company, People Telecommunications, Rainbow Telecommunications Association, S&A Telephone Company, Wamego Telecommunications Company, and Zenda Telephone Company.<sup>2</sup>

Section 54.207 of the Commission's rules, which implements section 214(e)(5) of the Communications Act of 1934, as amended (the Act), provides that a rural telephone company's service area will be its study area "unless and until the Commission and the states, after taking into account the recommendations of a Federal-State Joint Board instituted under section 410(c) of the Act, establish a different definition of service area for such company."<sup>3</sup>

This public notice is required by section 54.207(c)(2) of the Commission's rules.<sup>4</sup> If the Commission initiates a proceeding to consider the Petition, it must do so within 90 days of the release date of this public notice, pursuant to the Commission's rules.<sup>5</sup> If the Commission does not act on the

<sup>1</sup> Petition for Commission Agreement in Redefining Certain Service Areas of Rural Incumbent Telephone Companies in the State of Kansas, WC Docket No. 09-197 (filed Dec. 21, 2012) (i-wireless Petition); 47 C.F.R. § 54.207. Pursuant to section 54.207(e), the Commission delegated authority to the Wireline Competition Bureau to consider redefinitions of rural telephone companies' service areas. 47 C.F.R. § 54.207(c).

<sup>2</sup> i-wireless Petition at 1-2, Ex. A.

<sup>3</sup> 47 C.F.R. § 54.207(b); 47 U.S.C. (c). § 214(e)(5).

<sup>4</sup> 47 C.F.R. § 54.207(c)(2).

<sup>5</sup> 47 C.F.R. § 54.207(c)(3).

Petition by **April 4, 2013**, the definition proposed by the State Corporation Commission of Kansas will be deemed approved by the Commission and shall take effect in accordance with state procedures.<sup>6</sup>

Interested parties may file **comments on or before February 4, 2013**, and **reply comments on or before February 19, 2013**. All pleadings are to reference **WC Docket No. 09-197**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.<sup>7</sup>

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., S.W., Room TW-A325, Washington, D.C. 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, S.W., Washington D.C. 20554.

**People with Disabilities:** To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

**In addition, we request that one copy of each pleading be sent to each of the following:**

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, [www.bcpweb.com](http://www.bcpweb.com); phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Michelle R. Schaefer, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B442, Washington, D.C. 20554; e-mail: [michelle.schaefer@fcc.gov](mailto:michelle.schaefer@fcc.gov); and
- (3) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A452, Washington, D.C. 20554; e-mail: [charles.tyler@fcc.gov](mailto:charles.tyler@fcc.gov).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail [www.bcpweb.com](http://www.bcpweb.com).

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>8</sup> Persons making oral *ex parte* presentations are reminded that memoranda

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<sup>6</sup> See 47 C.F.R. § 54.207(c)(ii).

<sup>7</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

summarizing the presentations must contain summaries of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.<sup>9</sup> Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.<sup>10</sup>

For further information, please contact Divya S. Shenoy, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-0484.

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<sup>8</sup> 47 C.F.R. §§ 1.1200 *et seq.*

<sup>9</sup> *See* 47 C.F.R. § 1.1206(b)(2).

<sup>10</sup> 47 C.F.R. § 1.1206(b).

## CERTIFICATE OF SERVICE

12-IWRZ-848-ETC

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Staff's Response to Motion to Reopen Docket was served by electronic service on this 11th day of June, 2015, to the following:

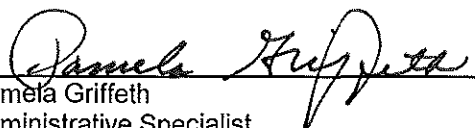
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