

**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI**

In the Matter of the Application of)
BCN Telecom, Inc. and) Case No. _____
EliteView, LLC d/b/a Groveline)
for Approval of a Transfer of Assets)

JOINT APPLICATION

COME NOW BCN Telecom, Inc. (“BCN”) and EliteView, LLC d/b/a Groveline (“EliteView” or “Seller”) (collectively “the Parties” or “Applicants”), pursuant to Section 392.300.1, RSMo, 4 CSR 240-2.060 and 4 CSR 240-3.525, by and through undersigned counsel, and hereby jointly request Commission approval of a transaction whereby, pursuant to an Asset Purchase Agreement (the "Agreement"), BCN will acquire the subscriber base of EliteView.

Applicants respectfully submit that the timely completion of the Acquisition is necessary to ensure uninterrupted service to EliteView’s customers. EliteView will continue to provide service to its customers until such time as the Commission approves the transaction and this Application.

In support of this Application, Applicants submit the following:

I. THE PARTIES

A. BCN Telecom, Inc.

1. BCN is a limited liability company organized under the laws of the State of New Jersey with principal offices located at 550 Route 202-206, Bedminster, New Jersey (NJ) 07921-0760. Its telephone number is: (908) 470-4700. The nature of BCN’s business is the provision of telecommunications services. BCN is authorized to provide intrastate, interexchange service in 22 jurisdictions and is filing nationwide for authority

to provide local exchange and/or interexchange telecommunications services. BCN has been authorized to provide local exchange and interexchange services in Missouri by virtue of the certification of NUI Telecom, Inc. in Case No. TA-2002-292. NUI changed its name to BCN in Case No. XN-2004-0611. NUI was initially granted certificate of service authority by the Commission to provide interexchange and non-switched local exchange telecommunications services in Case No. TA-2002-292, in an *Order Approving Interexchange and Nonswitched Local Exchange Certificate of Service Authority and Order Approving Tariff* dated January 24, 2002 (effective February 2, 2002). A copy of a certificate of good standing for BCN from the Missouri Secretary of State, as required by 4 CSR 240-2.060(1)(C), is attached to this Application as **Exhibit A.**

B. EliteView, LLC d/b/a Groveline

2. EliteView is a corporation organized under the laws of the State of Massachusetts whose principal offices are located at 350 Miles Standish Boulevard, Taunton, Massachusetts (MA) 02780. The nature of EliteView's business is the provision of telecommunications services. EliteView is authorized under Section 214 of the Communications Act of 1934, as amended, to provide domestic interstate and international telecommunications service, and has authority to provide intrastate, interexchange service in 21 states and resold and/or facilities based local exchange authority in 7 states. EliteView was granted certificate of service authority by the Commission to provide interexchange and non-switched local exchange telecommunications services in Case No. XA-2006-0312, in an *Order Approving Interexchange and Nonswitched Local Exchange Certificate of Service Authority and*

Order Approving Tariff dated March 2, 2006 (effective March 16, 2006).¹ A copy of EliteView's certificate of good standing and fictitious name registration from the Missouri Secretary of State, as required by 4 CSR 240-2.060(1)(C), is a matter of record before the Commission in Case No. XA-2006-0312, and is hereby incorporated by reference herein pursuant to 4 CSR 240-2.060(1)(G).

II. DESIGNATED CONTACTS

3. Correspondence or communications pertaining to this Application should be directed to:

William Steinmeier
Mary Ann (Garr) Young
William D. Steinmeier, P.C.
2031 Tower Drive
P.O. Box 104595
Jefferson City, MO 65110-4595
Telephone: (573) 859-8672
Facsimile: (573) 636-2305
Email: wds@wdspc.com
myoung0654@aol.com

with copies to:

Patrick D. Crocker
Crocker & Crocker, P.C.
107 W. Michigan Ave. 4th Fl.
Kalamazoo, MI 49007
Telephone: (269) 381-8893
Facsimile: (269) 381-4588

III. THE TRANSACTION

4. Pursuant to an Asset Purchase Agreement ("Agreement") executed on or about June 27, 2008, EliteView, LLC agrees to sell, convey, assign and transfer to the BCN (Buyer), and BCN agrees to purchase and accept from EliteView (Seller), the "Sale Assets" summarized as follows: (1) all of the existing residential and business

¹ Tracking No. JX-2006-0590.

customers of any type or kind that constitute the Business originating in the top 34 states by revenue as set forth in the Agreement, and all contractual or other rights of the Seller with respect to such customer accounts; (2) all the names, addresses, and other pertinent information for all of the Seller's customer lists, if any; customer agreements, customer billing and collection data and the complete customer billing history of each customer account with the Seller's or any predecessor entities; and (3) all cash and cash equivalents, proceeds of every nature, attributable to the Sold Customers accrued, due or collected after the applicable Closing Date. A copy of the Agreement, designated **Exhibit B**, is being filed herewith as "Highly Confidential" pursuant to 4 CSR 240-2.135.

5. After the Closing, BCN will provide telecommunications services to EliteView's customers pursuant to its own telecommunications certificates and authorizations. After consummation of the transactions, EliteView will retain its telecommunications certificates and authorizations in order to continue to provide telecommunications services apart from the business being acquired by BCN. **Thus, EliteView, LLC does not seek to cancel its Missouri certificate of service authority, or tariff, at this time.** The Parties also are not requesting permission to adopt EliteView's existing tariff. Rather, BCN will amend its existing tariff to establish rates, terms, and conditions identical to those in the Seller's tariff for the purchased customers, thus providing a seamless transition for existing customers of EliteView.

6. The proposed transfer of customers to BCN will have no adverse impact on customers and will not be adverse to the public interest in any way. EliteView customers will continue to receive their existing services at the same rates, terms, and conditions that they have prior to the transfer and any future changes in the rates,

terms, and conditions of service will be made consistent with Commission regulations. To avoid customer confusion and ensure a seamless transition, the Parties will provide advance written notice to the affected customers at least thirty (30) days prior to the transfer, explaining the change in service provider in accordance with applicable Commission and state regulations for changing a customer's presubscribed carrier. A copy of the sample notice of the transfer appears as **Exhibit C**, attached hereto.

IV. PUBLIC INTEREST CONSIDERATIONS

7. The transaction contemplated by the Asset Purchase Agreement will serve the public interest by enabling BCN to achieve increased economies of scale and compete more effectively in the telecommunications marketplace. More effective competition will ultimately lead to lower prices and the availability of more products and services to the public. The acquisition of the EliteView customer base by BCN will enable these subscribers to continue to receive high-quality telecommunications service at affordable rates without interruption. Accordingly, approval of the proposed transaction will not in any way be detrimental to the public interest.

BCN will file tariffs to establish rates, terms, and conditions identical to those in the Seller's tariffs, thus providing a seamless transition for existing customers of EliteView. As a result, the proposed acquisition will be virtually transparent to EliteView's customers. As such, the transaction will not cause inconvenience or confusion to EliteView's customers.

8. BCN certifies that it has the necessary managerial and financial resources to provide the public with quality telecommunications service throughout the state. After the consummation of the transaction, BCN will be lead by a team of well-qualified

managers comprised of its existing personnel. BCN expects that the ample managerial, technical and financial expertise of this managerial team will enable BCN to provide high quality service to EliteView customers as well as to expand its customer base. The proposed acquisition will therefore promote competition in the Missouri services market and serve the public interest.

V. RESPONSES TO 4 CSR 240-3.520

9. Applicants have complied with the requirements of the Commission's rules at 4 CSR 240-3.520 as follows:

(A) Brief Description of the Property Involved: Approximately 5 interexchange service customers of EliteView in Missouri (all of whom are business customers, and no dedicated private line customers). BCN currently has 51 residential interexchange service customers, and nine business interexchange customers, in Missouri (two of which are dedicated private line customers).

(B) Contract or Agreement of Sale: Copy attached as **Exhibit B (HC)**.

(C) Verification of Authority of Person Signing: Requirement not applicable per 4 CSR 240-3.520(1).

(D) Reasons not Detrimental to the Public Interest: Please see Section IV., above.

(E) Balance Sheet and Income Statement: Requirement not applicable per 4 CSR 240-3.525(1).

(F) Tax Impact: None. The proposed transaction will have no impact on the tax revenues of any political subdivision of the state.

(G) Customer Notice: See **Exhibit C** for form of customer notice.

VI. ADDITIONAL INFORMATION REQUIRED BY RULES

10. Pursuant to the requirements of 4 CSR 240-2.060(K), Applicants state that they do not have any pending action or unsatisfied final judgments or decisions against them in any state or federal agency or court which involve customer service or rates, which action, judgment or decision occurred within the last three (3) years.

Pursuant to the requirements of 4 CSR 240-2.060(L), Applicants state that, to the best of their knowledge, they have no annual report or assessment fees that are overdue.

WHEREFORE, BCN and EliteView respectfully request that the Commission authorize the sale of assets from EliteView to BCN.

Respectfully submitted,

/s/ William D. Steinmeier

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Mary Ann (Garr) Young, Mo. Bar #27951
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Myoung0654@aol.com

ATTORNEYS FOR THE PARTIES:
BCN Telecom, Inc. and
EliteView, LLC d/b/a
Groveline

October 17, 2008

Certificate of Service

I hereby certify that a copy of this document has been electronically transmitted to the Office of the General Counsel of the Missouri Public Service Commission, and to the Office of Public Counsel, on this 17th day of October 2008.

/s/ William D. Steinmeier

William D. Steinmeier

EXHIBIT A

**BCN TELECOM, INC.
CERTIFICATE OF GOOD STANDING
FROM MISSOURI SECRETARY OF STATE**

STATE OF MISSOURI



Robin Carnahan
Secretary of State

CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

I, ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

BCN TELECOM, INC.

using in Missouri the name

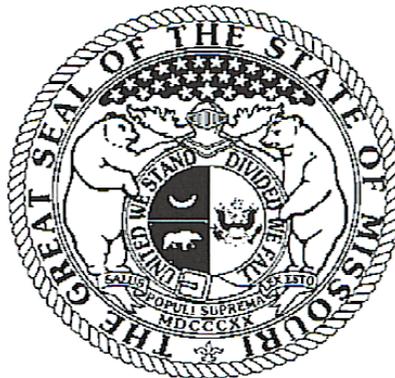
**BCN TELECOM, INC.
F00502872**

a NEW JERSEY entity was created under the laws of this State on the 29th day of November, 2001, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 2nd day of September, 2008

A handwritten signature in cursive script that reads "Robin Carnahan".

Secretary of State



Certification Number: 11063485-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

EXHIBIT B

ASSET PURCHASE AGREEMENT

**FILED AS HIGHLY CONFIDENTIAL
UNDER 4 CSR 240-2.135
IN SEPARATE PDF DOCUMENT**

EXHIBIT C

SAMPLE NOTICE OF TRANSFER

BCN TELECOM, INC.

Date

RE: New Service Provider

Dear Valued Customer:

I am pleased to inform you that BCN TELECOM, INC. is acquiring the business operations of ELITEVIEW. This is a very positive development for you as our customer. This change will allow us to more rapidly expand our operations and bring you the best telecommunications service in the industry. This change will take place on or about **[DATE]** pending receipt of all required regulatory approvals.

There is no cost to move your existing service to BCN TELECOM, INC. You will continue to receive the services you currently have with no change in rates. All necessary steps have been taken to ensure a smooth transition. If you have any questions or concerns, please contact us at: **BCN TELECOM, INC., 550 Route 202-206, Bedminster, NJ 07921, or 1-800-768-2852.**

Very shortly, we expect to introduce new and innovative products and promotions that will bring added value to you. And of course you will continue to benefit from significant savings. You should know that you have an option to change your telecommunications provider. If you would like to change service providers, you should do so before **DATE**, otherwise your service will automatically convert to BCN TELECOM, INC. following approval of the transaction by state and federal regulators, even if you have a "preferred carrier" freeze on your account. If you have a "preferred carrier" freeze on your account and would like to keep that protection after the transfer, you'll need to contact BCN TELECOM, INC. at its toll-free number, 800-852-7023.

BCN TELECOM, INC. has no plans to change the rates, terms, and conditions of services currently provided to you. In addition, no charges or fees will be imposed as a result of this transfer. BCN TELECOM, INC. will provide at least thirty (30) days prior written notice of any changes to these rates, terms, and conditions up to ninety (90) days from the date of the transfer of customers. Any future changes in rates, terms and conditions of service will be done as prescribed by the Federal Communications Commission (FCC) and your state regulatory commission.

The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments within 15 days after receipt of this notification. Address them to the Federal Communications Commission, Washington, DC 20554, referencing the Sec. 63.71 Application of EliteView. Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

Please note that BCN TELECOM, INC. will not be responsible for any outstanding complaints filed against ELITEVIEW before BCN TELECOM, INC. began providing your service. Those complaints remain the responsibility of ELITEVIEW.

On behalf of the entire team of employees, I look forward to continuing to serve you. We realize that you have a choice in selecting a telecommunications provider and we appreciate your business.

Sincerely,

NAME
TITLE

Verifications

VERIFICATION

I, Richard M. Boudria, being duly sworn according to law, depose and say that I am Chairman/CEO of BCN Telecom, Inc.; that I am authorized to and do make this verification for it; and that the facts set forth in the above Application are true and correct to the best of my knowledge, information and belief.

SIGNATURE: Richard M. Boudria

TITLE: PRESIDENT CHAIRMAN & C.E.O.

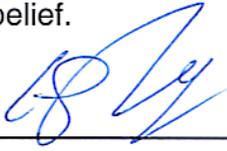
SUBSCRIBED AND SWORN to me this 22 day of September, 2008.

Richard F. Nocchio
Notary Public

Richard F Nocchio
Notary Public
State of New Jersey
My Commission Expires on July 16, 2008 ¹³

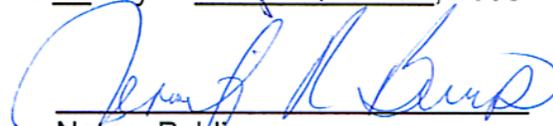
VERIFICATION

I, George S. Pappas, being duly sworn according to law, depose and say that I am President and CEO of EliteView, LLC; that I am authorized to and do make this verification for it; and that the facts set forth in the above Application are true and correct to the best of my knowledge, information and belief.

SIGNATURE: 

TITLE: President

SUBSCRIBED AND SWORN to me this 25 day of September, 2008.


Notary Public

