

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Craw-Kan)	
Telephone Cooperative, Inc. and Craw-Kan)	<u>Case No. TE-2011-0158</u>
Communications Systems, Inc. for Waiver of)	<u>File No. JX-2011-0277</u>
Commission Rule 4 CSR 240-33.150(4))	

ORDER GRANTING WAIVER, TRANSFER OF CERTIFICATE AND ADOPTION OF TARIFF

Issue Date: December 17, 2010

Effective Date: December 21, 2010

On November 30, 2010, Craw-Kan Telephone Cooperative, Inc. and Craw-Kan Telephone's wholly owned subsidiary Craw-Kan Communications Systems, Inc. filed an application with the Missouri Public Service Commission (Commission) for waiver of Commission Rule 4 CSR 240-33.150(4) pursuant to Section 392.420, RSMo Supp. 2009. In addition to the application for waiver, Craw-Kan Telephone filed a tariff adoption notice and proposed the transfer of Craw-Kan Communication's interexchange certificate to Craw-Kan Telephone.

On December 13, 2010, the Commission Staff submitted its recommendation concerning the application. It noted that Craw-Kan Telephone and Craw-Kan Communications plan to merge into a single company, transferring the interexchange certificate and the long distance customers currently served by Craw-Kan Communications, to the local telephone company, Craw-Kan Telephone.

The rule provision that the companies ask the Commission to waive is 4 CSR 240-33.150(4) which is the anti-slamming rule that requires notice be given to customers when the company serving them changes. The Staff notes the companies did not request a waiver of the remainder of 4 CSR 240.33-150, which applies when

customer' interexchange carrier of choice is changed. Staff further indicates that because customers will not have any changes to their interexchange carrier name, notification to the consumers of the change would most likely be more confusing than beneficial.

In addition, Staff notes that transferring the interexchange certificate rather than requiring the Craw-Kan Telephone to apply for a certificate seems logical because local exchange companies hold some interexchange authority. Lastly, Staff points out that while it is not the norm for the Commission to transfer certificates between companies, in this instance Craw-Kan Telephone has met the certification criteria to provide interexchange services and by transferring the certificate, Craw-Kan Telephone would be allowed to provide both local exchange and interexchange telecommunication services.

Findings of Fact

1. Both companies are telecommunications corporations in Kansas and are authorized to do business in Missouri. Craw-Kan Telephone is authorized to provide local exchange telecommunications services and Craw-Kan Communications is authorized to provide interexchange telecommunications services.

2. The Commission has previously waived statute 392.300, RSMo for both companies. Thus there is no requirement for the Commission to approve the transfer of property and ownership of stock.

3. Craw-Kan Communications will merge into Craw-Kan Telephone, which will serve Craw-Kan Communication's customers.

4. The transfer will have no effect on Craw-Kan Telephone's operations in Missouri.

5. The transfer will not be detrimental to the public interest.

Conclusions of Law

1. Section 392.420, RSMo (Supp. 2009) provides, in pertinent part:

The commission is authorized, in connection with...a certificate of interexchange...service authority...to entertain a petition to suspend or modify the application of its rules or the application of any statutory provision contained in sections 392.200 to 392.340 if such waiver or modification is otherwise consistent with the other provisions of sections 392.361 to 392.520 and the purposes of this chapter.

2. The Commission has jurisdiction over mergers and transfers of certain assets under Section 392.300, RSMo. However the Commission has waived Section 392.300.1, RSMo for both companies. (See File Nos. IE-2011-0080 and XE-2011-0089.) Thus the Commission does not need to approve the merger.

Decision

Based on the requirements of Section 392.420, RSMo (Supp. 2009), the verified application, and Staff's recommendation, the Commission finds that the requested waiver is consistent with the provisions and purposes of Chapter 392, RSMo. Therefore, the Commission shall grant the requested waiver.

The Commission wishes to clearly state that certificates of service authority are not freely transferable between or among companies. However, the application and recommendation show that the transfer will have no impact on Craw-Kan Telephone's Missouri jurisdictional operations. Based on Craw-Kan Telephone's ability to meet the objective criteria for certification, the Commission finds that the proposed transfer of the interexchange certificate is appropriate.

The Commission also finds that in order for Craw-Kan Telephone to provide services to Craw-Kan Communication's customers under the same terms as did Craw-

Kan Communications, Craw-Kan Telephone's adoption of Craw-Kan Communication's tariff is reasonable and should be approved. The Commission will therefore approve the tariff sheet filed by Craw-Kan Telephone.

THE COMMISSION ORDERS THAT:

1. Craw-Kan Telephone Cooperative, Inc.'s Application for Waiver of 4 CSR 240-33.150(4) is granted.
2. Craw-Kan Communications Systems, Inc.'s certificate of service authority to provide interexchange services is transferred to Craw-Kan Telephone Cooperative, Inc.
3. The following tariff sheet filed by Craw-Kan Telephone Cooperative, Inc., and assigned Tariff No. JX-2011-0277, is approved to become effective on January 1, 2011:

PSC Mo. No. 4
1st Revised Tariff Sheet 1

4. This order shall become effective on December 21, 2010.
5. This case shall be closed on January 2, 2011.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Nancy Dippell, Deputy Chief Regulatory Law Judge, by delegation of authority pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
On this 17th day of December, 2010.