

**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) **File No. TE-2011-0158**
Communications Systems, Inc. for Waiver)
of Commission Rule 4 CSR 240-33.150(4))

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission, to withdraw its previously filed recommendation and for its revised recommendation states:

1. On November 30, 2010, Craw-Kan Telephone Cooperative, Inc. and Craw-Kan’s wholly owned subsidiary Craw-Kan Communications Systems, Inc. (the Companies) filed an application for waiver of Commission Rule 4 CSR 240-33.150(4). The Companies did not request a waiver of the remainder of 4 CSR 240-33.150, which applies when customers’ interexchange carrier of choice is changed.

2. In addition to the requested waiver, the Companies informed the Commission that they would be merging into a single Company (the long-distance company was to be absorbed into the local exchange company). For this merger, based on current statutory waivers, no Commission approval is required.

3. The Companies also requested that the interexchange certificate be “transferred” to the local exchange company. In support of that request, the Companies filed a tariff adoption notice wherein the local exchange company will adopt the tariff of the long distance company.

4. Having reviewed and extensively discussed the matter extensively, the Staff supports all these requests, as more fully set forth in the attached Staff Memorandum, marked as Appendix A. Although this kind of transaction has not been approved in so streamlined a fashion before, the Staff believes this is the most appropriate way to handle this transaction. As to 4 CSR 240-33.150, the Staff believes that customers will not have any change in their presubscribed interexchange carrier, so it is questionable whether the rule applies at all. Even if paragraph (4) of that rule applied, customers would find any notice confusing rather than informative. It makes more sense to “transfer” the IXC certificate, rather than forcing the ILEC to get one, not the least of which reasons for doing so is that ILECs have always had certain interexchange authority, and no bright line exists to distinguish how far that authority extends.

Finally, as noted in the Memorandum, the certification criteria are much higher for LECs than for IXC's, so we already know that the surviving entity possesses the technical, managerial and financial resources to be both a LEC and an IXC.

5. Finally, although the Staff seeks to regulate as reasonably as it can while protecting consumers, this case is unusual, if not unique. The Commission should in its Order make clear that certificates are not freely transferrable between or among companies, and that all of the objective criteria for certification must be met in every case and that the Companies have done so.

WHEREFORE, the Staff recommends that the Commission grant the Companies the waiver of 4 CSR 240-33.150(4), transfer the IXC certificate to Craw-Kan Telephone Cooperative, Inc., and approve its adoption of the tariff Craw-Kan Communications Systems, Inc.

Respectfully submitted,



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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 13th day of December, 2010.



MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. TE-2011-0158; Tariff File No. JX-2011-0277

From: William Voight
Supervisor, Rates and Tariffs
Telecommunications Department

Subject: Staff's Recommendation to Approve a Tariff Adoption Notice, Waiver of the Commission's Anti-Slamming Rule Notification; and a Transfer of Certificate.

Date: December 13, 2010

On November 30th, Craw-Kan Telephone Cooperative, Inc. and Craw-Kan Communications Systems, Inc. (collectively "Craw-Kan") filed a tariff adoption notice which would transfer long distance telephone customers from Craw-Kan's long distance company to Craw-Kan's local telephone company. As part of the transaction, Craw-Kan is requesting a waiver of Commission rule 4 CSR 240-33.150(4), which is a rule requiring companies to notify subscribers of a change in service providers. As will be discussed, Craw-Kan's proposal also involves transferring a long distance certificate to a previously non-certificated entity.

Waiver of 4 CSR 240-33.150(4); the Anti-Slamming Rule – Craw-Kan's transaction constitutes a merger of long distance customers of an affiliated long distance company into the operations of a local telephone company. Such transfers customarily require customers to be notified in advance. However, in this instance, Craw-Kan has requested a waiver of this Commission requirement. The Telecommunications Department Staff (Staff) recommends the Commission approve Craw-Kan's request for a waiver of this rule. The Staff concurs in Craw-Kan's pronouncements that this transaction is transparent to customers. Customers will continue to receive the same service from the same individuals at the same rates, terms and conditions as previously. Under such circumstances, Staff does not believe customer notification should be necessary.

Transfer of Interexchange Carrier Certificate to a Local Exchange Company – Currently, long distance customers are served by Craw-Kan Communications Systems, Inc., which is a wholly-owned affiliate of Craw-Kan Telephone Cooperative. As part of its plans to merge the local and long distance entities, Craw-Kan has stated that transferring Craw-Kan Communications Systems, Inc.'s interexchange certificate to the local entity does not require Commission approval. The Staff respectfully disagrees with

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Craw-Kan's statement that transfer of operating certificates do not require Commission approval. The Staff notes that the Commission has not previously transferred certificates; rather, a non-certificated entity such as Craw-Kan Telephone Cooperative has always been required to apply for its own certificate. Staff believes such practice assures that non-certificated entities meet the minimum qualifications for obtaining certification. Nevertheless, the Staff recommends the Commission transfer Craw-Kan's long distance certificate in this instance. The Staff bases its recommendation to approve for the following reasons:

- Long distance customers are being merged into the operations of an incumbent local exchange carrier. The standards for incumbent local carriers are already greater than for a long distance company. Therefore, this is an example of the greater subsuming the lesser.
- Impacts to customers will be non-existent. As previously stated, post-merger customers will continue to be serviced by the same individuals at the same rates, terms, and conditions as pre-merger.

Approval of Adoption Notice - Craw-Kan has submitted Tariff File No. JX-2011-0277, which is an adoption notice stating that as of January 1, 2011, the tariff of the long distance entity will be assumed by the local telephone company. Staff recommends the Commission approve the adoption notice.

Summary Recommendation - In conclusion, the Staff recommends the Commission approve Craw-Kan's tariff adoption notice, Craw-Kan's request for waiver of the Commission's anti-slamming rule, and Craw-Kan's proposal to transfer its long distance certificate to Craw-Kan's local operating entity, Craw-Kan Telephone Cooperative.

Craw-Kan is current in all its Commission annual reports and assessment fees. The Staff is unaware of any other matter that affects, or that would be affected by, this matter.

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)
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AFFIDAVIT OF William Voight

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

William Voight, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that he has participated in preparing the accompanying Staff recommendation, and that the facts therein are true and correct to the best of his knowledge and belief.

Bill Voight

WILLIAM VOIGHT

Subscribed and affirmed before me this 13th day of December 2010.

SUSAN L. SUNDERMEYER
Notary Public - Notary Seal
State of Missouri
Commissioned for Callaway County
My Commission Expires: October 03, 2014
Commission Number: 10942086

Susan L. Sundermeyer

NOTARY PUBLIC