

In the Matter of the Application of BCN Telecom, Inc., and EliteView, LLC d/b/a EliteView for Approval of a Transfer of Assets)
)
) **Case No. XM-2009-0143**
) Tariff No. YX-2009-0305

¹ All calendar date references are to 2008 unless otherwise stated.

On October 30, BCN filed tariff sheets intended to grandfather EliteView's customers' rates into BCN's tariffs for EliteView's customers. These tariff sheets bear an effective date of November 29.

The Transaction

The Joint Applicants ask for authority for BCN to purchase EliteView's residential and business long distance customer accounts in Missouri. They state that BCN will provide interexchange telecommunications services to EliteView's current customers at the same rates, terms and conditions that EliteView's customers currently enjoy.

The Joint Applicants further aver that the transaction will serve the public interest in that the customers will continue to receive uninterrupted service, while BCN will achieve a heightened level of operating efficiency. They included a proposed customer notice with their application. No tax impact to any Missouri political subdivision is expected.

Discussion

On November 17, Staff filed its recommendation. Staff notes that Commission Rule 4 CSR 240-3.520 governs the sale of assets. The Commission may approve an asset sale if it is "not detrimental to the public interest."²

Staff agrees that the Commission's approval of the merger will not be detrimental to the public interest. Staff recommends that the Commission approve the merger.

² See, e.g., *In re WorldCom*, 5 Mo. P.S.C.3d 312, 315 (1996); *In re Computer Network Technology Corporation*, Commission Case No. XM-2005-0283 (Order Approving Merger and Directing Filing, March 29, 2005).

The Commission has reviewed the verified amended application and Staff's verified recommendation, which are hereby admitted into evidence. The Commission finds that the proposed transaction is not detrimental to the public interest and that the Commission should therefore approve it.

The Commission notes that the asset sale involves competitively classified companies, and the Commission will order that customers being switched from EliteView to BCN to receive notice of the transaction at least 30 days prior to the effective date of the transaction.

THE COMMISSION ORDERS THAT:

1. The Joint Application of BCN Telecom, Inc., and EliteView, LLC d/b/a Groveline is approved.
2. The following tariff sheets filed by BCN Telecom, Inc., on October 30, 2008, and assigned Tariff No. YX-2009-0305, are approved to become effective on November 29, 2008:

Missouri P.S.C. Tariff No. 1

First Revised Sheet 39, Cancels Original Sheet 39
First Revised Sheet 40, Cancels Original Sheet 40

3. Customers of EliteView, LLC d/b/a Groveline affected by this transaction shall receive notice the same as, or substantially similar to, the notice the Joint Applicants included as Exhibit C in their Joint Application, at least 30 days prior to the closing of the transaction.

4. This order shall become effective on November 29, 2008.
5. This case shall be closed on November 30, 2008.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Ronald D. Pridgin, Senior Regulatory
Law Judge, by delegation of authority
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 20th day of November, 2008.