

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

In the Matter of the Application of	)	
Telrite Corporation and Applewood	)	
Communications Corporation For	)	<b><u>File No. XM-2013-0308</u></b>
Approval of an Asset Purchase	)	Tracking No. YX-2013-0312 (Telrite)
Agreement and Transfer of Customers	)	YX-2009-0332(Applewood)

**ORDER ACKNOWLEDGING TRANSFER OF CUSTOMERS,  
CANCELLATION OF CERTIFICATE AND TARIFF,  
AND APPROVAL OF TARIFF REVISIONS**

Issue Date: January 23, 2013

Effective Date: February 3, 2013

**Background**

On November 21, 2012, Telrite Corporation (“Telrite”) and Applewood Communications Corporation (“Applewood”), filed a joint application and a revised tariff seeking authority for Applewood to sell certain assets to Telrite. The tariff bears an effective date of February 3, 2013. The Applicants also requested that the Commission grant any authority necessary to permit Applewood to discontinue service upon acknowledgment of this application and consummation of the Acquisition, permit Applewood to relinquish its certification in this State simultaneously with the effective date of the Acquisition, and cancel Applewood’s filed tariffs on the effective date of the Commission’s order. Both applicants are certificated to provide long distance telecommunications services in the State of Missouri.

The Commission issued notice and set a deadline for intervention requests. No person or entity intervened, and no party requested an evidentiary hearing.

## **The Staff Recommendation**

On January 11, 2013, the Commission's Staff filed its recommendation. Staff states in its recommendation that the approval of the application would result in the following:

- a. Telrite Corporation will acquire all of the assets, including the customers, of Applewood Communications Corporation.
- b. The current customers of Applewood will continue to be served under the same terms and conditions as they presently enjoy. To these customers, the transaction will appear to be a name change, as nothing else relating to their service will change.
- c. The Applewood tariff provisions relevant to the current customers will be incorporated into the Telrite tariff.
- d. Applewood, as a separate entity, will cease to exist, and its certificate and tariff will be canceled.

In addition, Staff's recommendation noted:

Although this matter has been filed under a "merger" case designation, the Staff is of the opinion that the Commission should no longer approve mergers. Effective August 28, 2008, §392.420 RSMo Supp. 2011 provides that "for all existing alternative local exchange telecommunications companies, the commission shall waive...the application and enforcement of ...section ...392.300..." Approval or denial of the Application would constitute "application and enforcement" of §392.300 RSMo 2000. The Staff has taken the position that, although interexchange carriers are not mentioned, since they have always been subject to a lesser degree of regulation than alternative local exchange telecommunications companies, logic dictates that the waiver of the provisions cited above apply equally to them and that the requirement to obtain Commission approval for the transfer of assets, to the extent it ever applied to them, no longer applies.

Staff indicated that Telrite and Applewood have complied with notification of customer requirements for name changes, the tariff revisions are compliant

with Commission rules, and both Companies are compliant with all annual filings. Also, because the Companies provided notice of transfer of customers to the Commission, Staff noted that the slamming rules in section 392.461, do not apply in this case.

Staff recommended the Commission recognize the transfer of customers, cancel the certificate and tariff of Applewood, and approve tariff revisions filed by Telrite or allow them to take effect by operation of law. No parties opposed Staff's recommendation.

### **Decision**

The Applicants have submitted all information required by Commission rules 4 CSR 240-2.060 and 4 CSR 240-3.520 for an application for authority to transfer Applewood's assets. Because the current customers of Applewood will have a choice whether to continue service with Telrite or switch to a different service provider, and because Telrite will not cause any change to the rates, terms and conditions of service that Applewood's customers presently receive, and because completion of this acquisition is necessary to ensure the uninterrupted service to Applewood's customers, the Commission finds and concludes that the required transfer of assets is not detrimental to the public interest.<sup>1</sup>

In File Number TA-2009-0170, the Commission granted Applewood a certificate of service authority to provide resold long distance telecommunication

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<sup>1</sup> The Commission will only deny the application if approval would be detrimental to the public interest. *State ex rel. City of St. Louis v. Public Service Comm'n of Missouri*, 73 S.W. 2d 393, 400 (Mo. 1934).

service in the State of Missouri. The Company's tariff, P.S.C. Mo No. 1, was also approved. The Commission has the authority to cancel a certificate and tariff pursuant to Section 392.410.5, RSMo, which states, in part, "[a]ny certificate or service authority may be altered or modified by the commission after notice and hearing, upon its own motion or upon application of the person or company affected."

Based on the Commission's independent and impartial review of the verified filings, and taking into consideration current statutory mandates to waive the requirements of Section 392.300 RSMo 2000, the Commission will acknowledge the transfer of assets. The Commission also determines that the customer notice requirements of 4 CSR 240-3.525(2)(G) do not apply in this matter as the companies have notified the Commission of the transfer of customers, pursuant to Section 392.461, RSMo 2000. Lastly, the Commission finds that the certificate of service authority and accompanying tariff granted to Applewood, shall be canceled simultaneously with the effective date of the Acquisition.

**THE COMMISSION ORDERS THAT:**

1. The transfer of assets delineated in the joint application of Telrite Corporation and Applewood Communications Corporation is acknowledged by the Commission.

2. The request of Telrite Corporation and Applewood Communications Corporation for a waiver of Commission rule 4 CSR 240-3.525(2)(G), regarding customer notice of the transaction, is moot.

3. Applewood Communications Corporation's certificate of service authority is cancelled, effective February 3, 2013.

4. Applewood Communications Corporation's tariff, Tracking No. YX-2009-0332, P.S.C. Mo No. 1, is canceled, effective February 3, 2013.

5. Telrite Corporation's tariff sheets, Tariff Tracking No. YX-2013-0312, as issued on January 4, 2013, are approved to become effective on February 3, 2013. The specific tariff sheets approved are:

**P.S.C. MO. No. 1**

- Second Revised Sheet No. 1, Cancelling First Revised Sheet No. 1
- Second Revised Sheet No. 2, Cancelling First Revised Sheet No. 2
- Original Sheet No. 2.1
- Second Revised Sheet No. 3, Cancelling First Revised Sheet No. 3
- Second Revised Sheet No. 4, Cancelling First Revised Sheet No. 4
- Second Revised Sheet No. 5, Cancelling First Revised Sheet No. 5
- Second Revised Sheet No. 6, Cancelling First Revised Sheet No. 6
- Second Revised Sheet No. 7, Cancelling First Revised Sheet No. 7
- Second Revised Sheet No. 8, Cancelling First Revised Sheet No. 8
- Second Revised Sheet No. 9, Cancelling First Revised Sheet No. 9
- Second Revised Sheet No. 10, Cancelling First Revised Sheet No. 10
- Second Revised Sheet No. 11, Cancelling First Revised Sheet No. 11
- Second Revised Sheet No. 12, Cancelling First Revised Sheet No. 12
- Second Revised Sheet No. 13, Cancelling First Revised Sheet No. 13
- Second Revised Sheet No. 14, Cancelling First Revised Sheet No. 14

Second Revised Sheet No. 15, Cancelling First Revised Sheet No. 15  
Second Revised Sheet No. 16, Cancelling First Revised Sheet No. 16  
Second Revised Sheet No. 17, Cancelling First Revised Sheet No. 17  
Second Revised Sheet No. 18, Cancelling First Revised Sheet No. 18  
Second Revised Sheet No. 19, Cancelling First Revised Sheet No. 19  
Second Revised Sheet No. 20, Cancelling First Revised Sheet No. 20  
Second Revised Sheet No. 21, Cancelling First Revised Sheet No. 21  
Second Revised Sheet No. 22, Cancelling First Revised Sheet No. 22  
Second Revised Sheet No. 23, Cancelling First Revised Sheet No. 23  
Second Revised Sheet No. 24, Cancelling First Revised Sheet No. 24

Original Sheet 24.1

Original Sheet 24.2

Original Sheet 24.3

Second Revised Sheet No. 25, Cancelling First Revised Sheet No. 25  
Second Revised Sheet No. 26, Cancelling First Revised Sheet No. 26  
Second Revised Sheet No. 27, Cancelling First Revised Sheet No. 27

Original Sheet 28

Second Revised Sheet No. 29, Cancelling First Revised Sheet No. 29

6. This order shall become effective on February 3, 2013.
7. This case shall be closed on February 4, 2013.

**BY THE COMMISSION**



Shelley Brueggemann  
Acting Secretary

( S E A L )

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

Dated at Jefferson City, Missouri,  
on this 23<sup>rd</sup> day of January, 2013.