

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of Applewood)
Communications Corporation for a Certificate of)
Public Convenience and Necessity to Operate) **Case No. XA-2007-0295**
as a Reseller of Telecommunication Services)
within the State of Missouri)

ORDER REJECTING APPLICATION AND CLOSING CASE

Issue Date: February 6, 2007

Effective Date: February 16, 2007

On February 2, 2007, the Missouri Public Service Commission received an application from a business entity known as Applewood Communications Corporation (“Applewood”) seeking “the issuance of a Certificate of Public Convenience and Necessity” which would authorize Applewood to “resell inter-exchange telecommunications services within the State of Missouri.” The application appears to have been signed by Courtlandt Miller, who is identified not as an attorney licensed to practice law in Missouri or any other state, but only as Applewood’s President and sole Director.¹ Accompanying the application is an unidentified document which appears to be a summary of Applewood’s Articles of Incorporation, as well as a proposed tariff bearing no issue or effective date.

The application is clearly a pleading as defined in Commission Rule 4 CSR 240-2.010(13), which includes, in its definition of the term, “any application . . . which is not a tariff or correspondence, and which is filed in a case.” All pleadings filed with the

¹ To be precise, Miller’s name has evidently been signed by someone else, whose initials are illegible.

Commission must comply with Commission Rule 4 CSR 240-2.080, which prescribes the content and procedure for filing pleadings before the Commission and for service thereof. In particular, 4 CSR 240-2.080(14) states that all pleadings not in substantial compliance with 4 CSR 240-2.080, applicable statutes, or commission orders “shall not be accepted for filing.”

Applewood’s application is not in substantial compliance with 4 CSR 240-2.080 and applicable statutes. To begin with, it does not comply with the Commission’s rules governing who may file pleadings before the Commission. This is because pleadings filed with the Commission must be signed by at least one attorney of record authorized to practice law in Missouri unless the entity signing the pleading is a natural person acting solely on his or her own behalf and representing only him or herself.² However, Applewood’s application is signed by Courtlandt Miller, who is never expressly identified as an attorney licensed to practice law in Missouri and is obviously acting on behalf of the corporation, not on his or her own behalf as a natural person. Therefore, Applewood’s application is effectively unsigned, and under the Commission’s rules, all “unsigned pleading[s] . . . shall be rejected.”³

The underlying basis for these Commission Rules can be found in Sections 484.010 and 484.020.⁴ Section 484.010 defines the practice of law as “the appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court of record, commissioner, referee or any body, board,

² See 4 CSR 240-2.080(1), (2), & (6); 4 CSR 240-2.040(3) & (5).

³ 4 CSR 240-2.080(5).

⁴ All statutory citations are to RSMo 2000.

committee or commission constituted by law or having authority to settle controversies.”

Section 484.020 restricts the practice of law and engagement in law business to licensed attorneys.

Nor does Applewood’s application meet the requirements of 4 CSR 240-2.080(18), which states that “the party filing a pleading . . . shall serve [on] every other party, including the general counsel and the public counsel, a copy of the pleading[.]” Commission Rule 4 CSR 240-2.080(19) further states that “[e]very pleading . . . shall include a certificate of service,” which “shall be adequate proof of service.” Applewood’s submission does not comply with either of these rules, because it does not include a certificate of service and does not otherwise affirmatively indicate that it was served on the General Counsel of the Commission and the Office of the Public Counsel.

It also appears that Applewood’s application meets some, but not all, of the filing requirements contained in 4 CSR 240-2.060 and 4 CSR 240-3.510.⁵

For all these reasons, the Commission rejects Applewood’s application and closes this case, as it presents nothing for the Commission to decide. If, however, Applewood wishes to engage an attorney authorized to practice law in Missouri and submit a new application in proper form under a new case number, it is entirely free to do so.

⁵ The former regulation governs all applications to the Commission seeking relief under statutory or regulatory authority, while the latter applies to all applications by telecommunications companies for certificates of service authority to provide interexchange, local exchange, or basic local exchange telecommunications services. Applewood’s application does not aver that any of the missing information was unavailable at the time of the submission. Nor does Applewood state that such information will be filed once it becomes available.

IT IS ORDERED THAT:

1. The application filed by Applewood Communications Corporation on February 2, 2007 is rejected for lack of substantial compliance with applicable filing requirements.
2. This order shall become effective on February 16, 2007.
3. This case may be closed on February 17, 2007.

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)

Benjamin H. Lane, Regulatory
Law Judge, by delegation of authority
under section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 6th day of February, 2007.