

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

Cancellation of Certificate of Service)	
Authority and Cancellation of Tariff)	File No. XD-2011-0184
of AboveNet Communications, Inc.)	

**ABOVENET COMMUNICATIONS, INC.'S OBJECTION TO
AND SUGGESTIONS OPPOSING STAFF MOTION FOR CANCELLATION
AND REQUEST FOR HEARING**

COMES NOW AboveNet Communications, Inc. ("AboveNet" or "Company") and, by its undersigned counsel, respectfully submits its objection and suggestions in opposition to the Staff Motion for Cancellation ("Staff's Motion") and, insofar as necessary, requests a hearing on the matter. In support, AboveNet states the following to the Commission:

1. AboveNet is an authorized interexchange and local exchange carrier in the state of Missouri. Contrary to the statement in paragraph 1 of Staff's Motion, the Company received its Certificate of Service Authority to provide competitive intrastate telecommunications in Missouri on February 25, 2000 in Case No. TA-2000-335.¹ AboveNet maintains an approved and effective tariff for high-capacity private line services on file with the Commission.

2. On December 29, 2010, the Staff of the Missouri Public Service Commission submitted its motion for cancellation of AboveNet's interexchange Certificate of Service Authority. The asserted basis for Staff's Motion is AboveNet's lack of reported intrastate revenues in its 2008 and 2009 annual reports.

¹ The Company was granted operating authority under the name of Metromedia Fiber Network Services, Inc. but subsequently changed its name to AboveNet Communications, Inc. in 2004. See Case No. XN-2004-0332.

3. On December 30, 2010, the Commission issued an *Order Directing Notice* which set a deadline of January 10, 2011 for the filing of objections to Staff's Motion and/or requests for hearing in the matter.

4. AboveNet acknowledges that it did not generate reportable intrastate Missouri revenues in either 2008 or 2009; however, the Company has an active presence in the Missouri telecommunications market. AboveNet has conduit located in both St. Louis and Kansas City. Moreover, the Company's thriving long-haul network runs through Missouri. In other words, AboveNet is well-positioned to provide both interstate and intrastate services in Missouri. The jurisdictional nature of AboveNet's services (interstate versus intrastate) depends upon customer needs, however, and in the past two years, the Company's Missouri operations have focused upon provision of interstate private line and long haul services. Significantly, however, for an active provider with ready facilities such as AboveNet, customer demands and the resulting allocation of interstate/intrastate services may change very quickly.

5. AboveNet understands the Staff's concern regarding administrative costs associated with inactive certificated providers; however, these certificate cancellation motions surely are directed towards "dead" or operationally inactive companies which have no involvement with Missouri despite their certificated statuses. This understanding is supported by Staff's explanation in a recent filing to withdraw a motion for cancellation, noting that "Staff's motivation for its filing was not to be punitive, but to merely remove those telecommunications companies not actively involved in providing services in Missouri to better maintain the Commission's records."² Notwithstanding its recent lack of customers for Missouri intrastate services, AboveNet is not such a company. AboveNet has acted upon its intrastate Missouri

² *Cancellation of Certificate of Service Authority and Cancellation of Tariff of ATC Outdoor DAS, LLC*, File XD-2011-0187, WITHDRAWAL OF STAFF MOTION, (Jan. 5, 2011).

authority since initial grant by this Commission. As noted, the Company has invested in facilities in two major urban centers within the state. AboveNet has significant operations crossing Missouri, albeit limited by customer demand to interstate services at this time. By any gauge, the Company has taken decisive steps to develop its Missouri operations and revenues. AboveNet believes that, given these factors, grant of the Staff Motion to cancel the Company's certificate is not in the public interest and should be denied.

WHEREFORE, AboveNet submits its objection to Staff's Motion for cancellation of the Company's Certificate of Service Authority and requests a hearing upon the matter, and after hearing, prays that the Commission deny Staff's Motion.

Respectfully submitted,

/s/ Mark W. Comley

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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 7th day of January, 2011, to General Counsel's Office at gencounsel@psc.mo.gov; and Office of Public Counsel at opcservice@ded.mo.gov.

/s/ Mark W. Comley