

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

In the Matter of the Nullification and)
Cancellation of the Certificate of Service)
Authority of C.C.O. Telecom, Inc.)

Case No. CD-2005-

**MOTION TO OPEN CASE AND NULLIFY AND CANCEL CERTIFICATE OF SERVICE
AUTHORITY**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its Motion to Open Case and Cancel Certificate of Service Authority, respectfully states as follows:

1. On July 9, 1999, the Missouri Public Service Commission (Commission) granted a certificate of service authority to provide basic local telecommunications service to C.C.O. Telecom, Inc. (CCO) in Case No. TA-99-473. CCO requested a waiver of 4 CSR 240-2.060(4)(H), which requires the filing of a 45-day tariff. The Commission granted the waiver and ordered CCO's certificate to become effective when CCO's tariff became effective. CCO never filed a proposed tariff.

2. On November 8, 2000, CCO filed a motion to withdraw its certificate of service authority. The Commission granted the motion in an order issued on November 17, 2000 with an effective date of November 27, 2000. On November 22, 2000, CCO filed a Motion to Withdraw its request for cancellation of CCO's certificate. On December 21, 2000, the Commission issued an Order Granting Motion to Withdraw Request for Cancellation of Certificate of Authority which made the Commission's November 17, 2000 Order void. Thus, CCO's certificate was not cancelled at that time.

3. According to the Missouri Secretary of State's website, CCO, a Missouri corporation, was administratively dissolved on September 4, 2002. Section 351.486.3 states that "[a] corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under Section 351.476 and notify claimants under Sections 351.478 and 351.482... ."

4. CCO's 2004 annual report form was returned by the post office as undeliverable. See Appendix A. CCO also failed to submit its FY 2003 annual report. Telecommunications companies are required to submit a Missouri-specific annual report pursuant to Sections 392.210.1 and 392.390.1, but the former statute also requires that the company receive the forms to complete the report from the Commission. CCO's telephone number has been disconnected. The company is also required to keep the Commission informed of its current address and telephone number.

5. The inability of Staff to contact CCO through a valid mailing address and CCO's failure to submit 2003 annual report and CCO's "dissolved status" since September 4, 2002, form the basis for Staff's motion to open case. Staff believes that CCO has violated the terms of its certificate by its failure to keep the Commission informed of its current address and telephone number and its failure to file annual reports. Section 392.210(2) states, among other things, "The commission shall at all times have access to all accounts, records and memoranda kept by telecommunications companies..."

6. The Commission has the authority to cancel a telecommunications company certificate pursuant to Section 392.410, which provides:

Any certificate of 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.

However, the Commission need not hold a hearing, if, after proper notice and opportunity to intervene, no party requests such a hearing. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo.App. 1989). Section 392.410.5 also states that

Unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority or a certificate of public convenience and necessity shall be null and void.

As the company never filed a tariff, it was never authorized to offer service and thus never could have exercised its certificate.

7. Because CCO has not informed Staff of its current address and phone number, and, because CCO's 2003 annual report was returned to the Commission by the United States Postal Service as undeliverable, Staff is unable to provide service of this pleading directly upon CCO. Therefore, the Staff is serving this pleading on the registered agent of CCO as listed on the website of the Secretary of State. Section 351.380(1) provides:

The registered agent so appointed by a corporation upon whom any process, notice or demand required or permitted by law to be served upon a corporation may be served.

Service of this pleading will also take place upon the address of the president of the company listed in the 2001 annual registration report filed with the Secretary of State (the most recent one available).

WHEREFORE, the Staff recommends the Commission nullify and cancel the certificate of service authority of CCO to provide basic local telecommunications service.

Respectfully submitted,

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/s/ David A. Meyer

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed return receipt requested or electronically to all counsel of record as shown on the attached service list this 22nd day of June, 2005.

/s/ David A. Meyer

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