

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

In the Matter of the Nullification of the)
Certificate of Service Authority of Ozarks) Case No. CD-2007-
Telecom, LLC)

MOTION TO NULLIFY CERTIFICATE OF SERVICE AUTHORITY

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and requests the Commission nullify the certificate of authority it has granted to Ozarks Telecom, LLC. In support of its motion, Staff respectfully states as follows:

1. On October 30, 2005, the Missouri Public Service Commission (Commission) issued an order granting a certificate of service authority to Ozarks Telecom, LLC to provide basic local telecommunications services in Missouri, in Case No. CA-2006-0083.

2. The Commission, in its order in Case No. CA-2006-0083, stated “7. That Ozarks Telecom, LLC, may not operate until its tariffs have been submitted to the Commission and approved.”

3. Ozarks Telecom, LLC has never filed an interconnection agreement or a proposed tariff to provide any telecommunications service in Missouri. Staff requests that the Commission take official notice of its records and that the company has not submitted a tariff, under the provisions of Section 536.070(6) RSMo. (2000) and 4 CSR 240-2.130(2).

4. The company is a Missouri limited liability company. As such, it does not submit routine reports to the Missouri Secretary of State and has perpetual status. However, the records of the Missouri Secretary of State reflect that on October 26, 2006, along with Ozarks Media Network and Internet, LLC (which is not regulated by this Commission), the company appears to have merged with Ozarks Broadband, LLC. Ozarks Broadband, LLC (which is also not regulated by this Commission) was the sole survivor. See Appendix A.

5. The telephone number provided by the company to the Commission is no longer in service. Accordingly, Staff has been unable to contact the company. Mail sent to the company's address has not been returned to the Commission as undeliverable, however.

6. The company owes no assessments to the Commission. In keeping with the premise that the company is no longer operational, it has failed to submit its calendar year 2006 annual report.

7. 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.

10. Service of this pleading is being made upon the company's registered agent via certified mail; and also upon the address of the company provided to the Commission; and also to the registered agent of Ozarks Broadband, LLC, the entity that is reflected in the records of the Missouri Secretary of State as the survivor of the merger between Ozarks Telecom, LLC and Ozark Broadband, LLC.

WHEREFORE, the Staff recommends the Commission take official notice of its records regarding the lack of tariff submissions by Ozarks Telecom, LLC, and nullify the certificate of service authority of Ozarks Telecom, LLC to provide basic local telecommunications service.

Respectfully submitted,

/s/ David A. Meyer

David A. Meyer
Senior Counsel
Missouri Bar No. 46620

Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8706 (Telephone)
(573) 751-9285 (Fax)
david.meyer@psc.mo.gov

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 service list below this 8th day of June 2007.

/s/ David A. Meyer

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

John Noakes
Registered Agent for Ozarks Telecom, LLC
1843 CR 4740
Pomona, MO 65789
(via certified mail)

Douglas Kennedy
Registered Agent for Ozarks Broadband, LLC
1165 Cherry Street
Poplar Bluff, MO 63901

NOTICE OF MERGER
Filed in accordance with §347.129 RsMO

COMES NOW the surviving or new Limited Liability Company, Ozark Broadband and files the following Notice of Merger with the Secretary of State's office of the State of Missouri:

1. The name of each party to the merger:
 - a. Ozarks Telecom, LLC
 - b. Ozarks Media Network and Internet, LLC
 - c. Ozark Broadband, LLC
2. The effective date of the merger is September 27, 2006.
3. The name of the surviving or new limited liability company in the merger is Ozark Broadband, LLC and it is formed in the state of Missouri.
4. The merger was authorized and approved by a majority of the members of each party to the merger in accordance with the laws of the jurisdiction where it was organized or the operating agreements of each party to the merger.
5. The address of the registered office and the name of registered agent at such office for the surviving or new limited liability company is Douglas R. Kennedy, P.O. Box 696, 1165 Cherry Street, Poplar Bluff, Missouri.
6. The Articles of Organization of the surviving limited liability companies shall not be amended as a result of the merger.
7. A copy of the Articles of Organization of Ozark Broadband, LLC are marked Exhibit "A" and attached hereto.
8. The executed Agreement of Merger is on file both at the principal place of business of Ozark Broadband, LLC at Highway 63 in West Plains, Missouri and at the registered agent's office as set forth hereinabove.



9. A copy of the Agreement of Merger will be furnished by Ozark Broadband, LLC on request and without cost to any member of any entity that is a party to the merger.

10. Notice is hereby given by the following authorized persons.

Christy Hoover
Christy Hoover, Ozarks Telecom, LLC

Christy Hoover
Christy Hoover, Ozarks Media Network and Internet, LLC

Christy Hoover
Christy Hoover, Ozark Broadband, LLC



State of Missouri
Robin Carnahan, Secretary of State

File Number: 200626890322
LC0766838
Date Filed: 09/25/2006
Robin Carnahan
Secretary of State

Articles of Organization

1. The name of the limited liability company is:

Ozark Broadband, LLC

2. The purpose(s) for which the limited liability company is organized:

To provide broadband internet services in portions of south central Missouri and

The transaction of any lawful business for which a limited liability company may be organized under the Missouri Limited Liability Company Act, Chapter 347 RSMo.

3. The name and address of the limited liability company's registered agent in Missouri is:

Kennedy, Douglas R.

1165 Cherry Street, Poplar Bluff MO 63901

Name

Address

4. The management of the limited liability company is:

Manager

Member

5. The duration (period of existence) for this limited liability company is:

Perpetual

5. The name(s) and street address(es) of each organizer:

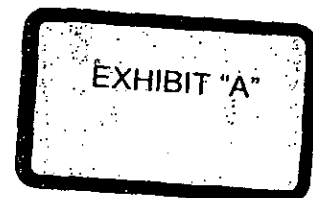
Christy Hoover, 6169 County Road 1750, West Plains MO 65775

In Affirmation thereof, the facts stated above are true and correct:

(The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo)

Christy Hoover

(Organizer Name)



Appendix A

State of Missouri



Robin Carnahan
Secretary of State

CERTIFICATE OF MERGER MISSOURI ENTITY SURVIVING

WHEREAS, Articles of Merger of the following entities:

Ozarks Media Network and Internet LLC -- LC0612863

Ozarks Telecom LLC -- LC0612864

INTO:

Ozark Broadband, LLC -- LC0766838

Organized and existing under laws of Missouri have been received, found to conform to law, and filed.

NOW, THEREOF, I, ROBIN CARNAHAN, Secretary of State of the State of Missouri, issue this Certificate of Merger, certifying that the merger of the aforementioned entities is effected, with

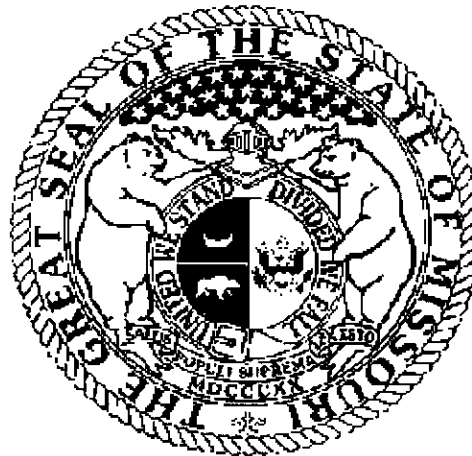
Ozark Broadband, LLC -- LC0766838

as the surviving entity.

IN TESTIMONY WHEREOF, I hereunto
set my hand and cause to be affixed the
GREAT SEAL of the State of Missouri.
Done at the City of Jefferson, this
26th day of October, 2006.

A handwritten signature in cursive script that reads "Robin Carnahan".

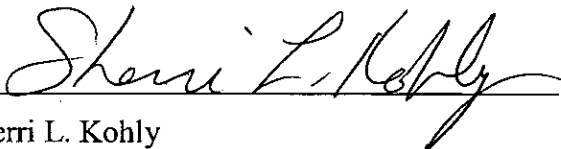
Secretary of State



VERIFICATION

STATE OF MISSOURI)
)
COUNTY OF COLE)

Comes now Sherri L. Kohly, employee of the Staff of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that the affiant has read the accompanying pleading, and that the facts therein are true and correct to the best of her knowledge.



Sherri L. Kohly
Affiant

Subscribed and affirmed before me this 8th day of June 2007. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on June 7, 2008.



NOTARY PUBLIC

