

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

The Staff of the Missouri Public Service Commission,	)	
	)	
	)	
Complainant,	)	
	)	Case No. TC-2009-_____
v.	)	
	)	
Pacific Centrex Service, Inc.	)	
	)	
Respondent.	)	

**COMPLAINT**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff), through the undersigned counsel, and pursuant to Section 386.390 RSMo (2000) and 4 CSR 240-2.070 (1), files this Complaint with the Missouri Public Service Commission (Commission), against Respondent Pacific Centrex Service, Inc. (Respondent or Company) for violation of the Commission’s statutes and rules relating to the filing of annual reports and payment of annual assessments. In support of its Complaint, Staff respectfully states the following:

General Allegations Common To Both Counts

1. Respondent is a “telecommunications company” as defined in Section 386.020 (52) RSMo (Supp. 2008).
2. Respondent is a “public utility” as defined in Section 386.020 (43) RSMo (Supp. 2008).
3. Pursuant to Section 386.250 (2) RSMo (2000), Respondent is subject to the jurisdiction of the Commission.
4. On June 17, 2004, the Commission in Case No. XA-2004-0509 granted the Respondent a certificate of service authority to provide interexchange and nonswitched local exchange telecommunications services, restricted to providing dedicated private line services.

5. On September 28, 2004, the Commission in Case No. CA-2004-0508 granted the Respondent a certificate of service authority to provide competitive basic local telecommunications services in portions of the state of Missouri.
6. In both application cases, Respondent provided the Commission with the following contact information:

Pacific Centrex Services, Inc.  
6855 Tujunga Ave.  
North Hollywood, CA 91605  
818-623-2300

7. Respondent provided the Missouri Secretary of State's office with the following registered agent contact information in its Application for Certificate of Authority For a Foreign For-Profit Corporation:

John L. Hearne  
300-B East High Street  
Jefferson, City MO 65101

8. On September 30, 2005, the Missouri Secretary of State's office administratively dissolved the Respondent for the failure to file a correct and current annual report.
9. Section 386.390.1 RSMo (2000) authorizes the Commission to entertain a complaint "setting forth any act or thing done or omitted to be done by any....public utility....in violation, or claimed to be in violation, of any provision of law, or of any rule, or order or decision of the commission."
10. 4 CSR 240-2.070 authorizes the Staff, through the general counsel, to file a complaint for a violation of any statute, rule, order, or decision of the Commission.
11. Section 386.600 RSMo (2000) provides "[a]n action to recover a penalty....under this chapter or to enforce the powers of the commission under this or any other law may be

brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the general counsel to the commission.”

### **COUNT ONE**

#### **Respondent has failed to file a 2007 Annual Report**

12. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs one (1) through eleven (11) above.
13. Section 392.210.1 RSMo (2000) requires every telecommunications company to “....file with the commission an annual report at a time and covering the yearly period fixed by the commission,” and 4 CSR 240-3.540 (1) requires the report to be filed on or before April 15<sup>th</sup> of each year.
14. On January 15, 2008, pursuant to 392.210.1 RSMo (2000), the Commission’s Budget and Fiscal Services Department sent an electronic notice to the Respondent’s on-file email address, which outlined the annual report process and included the report form.
15. On May 27, 2008, the Commission’s General Counsel sent a demand letter notifying the Respondent that the Commission had not yet received the required 2007 annual report.
16. On October 14, 2008, the General Counsel’s Office, through the undersigned attorney, sent another demand letter, allowing until October 24, 2008, to file the required 2007 annual report.
17. As of the date of this pleading, Respondent has failed, omitted, or neglected to file its 2007 annual report.
18. Section 392.210.1 RSMo (2000) provides that  
[i]f any telecommunications company shall fail to make and file its annual report as and when required or within such extended time as the commission may allow....such company shall forfeit to the state the sum of one hundred dollars for

each and every day it shall continue to be in default with respect to such report or answer.

## **COUNT TWO**

### **Respondent has failed to pay its fiscal year 2009 assessment**

19. Plaintiff hereby adopts by reference and re-alleges the allegations set out in Paragraphs one (1) through eighteen (18) above.

20. On June 24, 2008, the Commission in Case No. AO-2008-0395, issued its Assessment Order for Fiscal Year 2009 (Assessment Order) pursuant to Section 386.370 RSMo (Supp. 2007).

21. The Assessment Order fixed the amount allocated to telephone public utilities at \$3,012,352.

22. Section 386.370.5 RSMo (2000) provides

[i]n order to enable the commission to make the allocations and assessments herein provided for, each public utility subject to the jurisdiction of the commission....shall file....on or before March thirty-first of each year, a statement under oath showing its gross intrastate operating revenues for the preceding calendar year....

23. As of the date of this filing, Respondent has not filed a Statement of Revenue with the Commission for its 2007 calendar year intrastate operations.

24. Section 386.370.5 RSMo (2000) provides “....if any public utility shall fail to file such statement within the time aforesaid the commission shall estimate such revenue which estimate shall be binding on such public utility for the purpose of this section.”

25. The amount assessed to Respondent for the fiscal year beginning July 1, 2008 was \$596.72.

26. On June 25, 2008, the Commission’s Executive Director notified the Respondent by letter that the Company was assessed \$596.72, and the due date for the assessment amount was

July 15, 2008, or payable in quarterly installments on July 15, 2008, October 15, 2008, January 15, 2009, and April 15, 2009.

27. As of the date of this filing, Respondent has failed to forward an assessment payment to the Commission.

28. Section 408.020 RSMo (2000) allows “creditors to receive interest at the rate of nine percent per annum, when no other rate is agreed upon....on accounts after they become due and demand of payment is made[,]” and Complainant is statutorily entitled to prejudgment interest on Respondent’s delinquent assessment amount.

29. On September 8, 2008, the Commission’s Budget and Fiscal Services sent the Respondent notice stating no payment on the \$596.72 assessment amount had been received to date.

30. On November 6, 2008, the Commission’s General Counsel sent a demand letter to the Respondent stating that if payment of the \$596.72 was not received by December 6, 2008, the General Counsel’s office would initiate legal action to collect the assessment and penalties.

31. Section 386.570.1 RSMo (2000) provides that

[a]ny....public utility which violates or fails to comply with any....law, or which fails to comply with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the commission in a case in which a penalty has not herein been provided for such....public utility, is subject to a penalty of not less than one hundred dollars nor more than two thousand dollars for each offense.

32. Section 386.570.2 RSMo (2000) provides that “....in case of a continuing violation each day’s continuance thereof shall be and be deemed to be a separate and distinct offense.”

**WHEREFORE**, the Staff of the Missouri Public Service Commission respectfully requests the Missouri Public Service Commission give notice to the Respondent as required

by law and, after the opportunity for hearing, issue an order for Count I: that finds the Respondent has failed, omitted, or neglected to file an annual report for 2007 and authorizes the General Counsel's Office to bring a penalty action against the Respondent in circuit court as provided in Sections 386.600 and 392.210.1 RSMo (2000); and for Count II: that finds the Respondent has failed to pay the \$596.72 fiscal year 2009 assessment and authorizes the General Counsel's Office to bring a penalty action against the Respondent in circuit court as provided in Sections 386.600 and 386.570 RSMo (2000) for the collection of the assessment, penalties, and interest on the assessment amount.

Respectfully submitted,

**/s/ Jennifer Hernandez**

Jennifer Hernandez

Legal Counsel

Missouri Bar No. 59814

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)

[jennifer.hernandez@psc.mo.gov](mailto:jennifer.hernandez@psc.mo.gov)

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on Joshua Ploude, Pacific Centrex Services, Inc., 6855 Tujunga Ave, North Hollywood, CA 91605; John Klass, Pacific Centrex Services, Inc., 6855 Tujunga Ave, North Hollywood, CA 91605, [johnk@datavo.com](mailto:johnk@datavo.com) ; Rhaphael Tarpley, Pacific Centrex Services, Inc., 6855 Tujunga Ave, North Hollywood, CA 91605, [pcs1regulatory@gmail.com](mailto:pcs1regulatory@gmail.com); John L. Hearne, 300-B East High Street, Jefferson City, MO 65101; and The Office of Public Counsel, 200 Madison Street P.O. Box 2230, Jefferson City, MO 65102, [opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov) this 16<sup>th</sup> day of April, 2009, either by hand delivery, electronic mail or First Class United States Mail, postage prepaid.

**/s/ Jennifer Hernandez**