

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

In the Matter of the Application of AboveNet       )  
Communications, Inc. for Approval to Cancel its    )  
Certificate of Service Authority and Withdrawal    )    **File No. TD-2013-0276**  
of Tariff(s)                                                        )

**STAFF RECOMMENDATION TO APPROVE CANCELLATION  
OF CERTIFICATE AND TARIFF**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), by and through the undersigned counsel, and files its Recommendation with the Missouri Public Service Commission (“Commission”) to cancel the certificate of service authority and associated tariff of AboveNet Communications, Inc. (“Company”). For its Recommendation, Staff respectfully states as follows:

1. On November 15, 2012,<sup>1</sup> the Company filed an *Application For The Cancellation Of Certificate Of Service Authority And Withdrawal Of Tariff(s) (Application)*. The *Application* requests that the Commission cancel the Certificate of Service Authority granted to the Company in Case No. TA-2000-335,<sup>2</sup> to provide intrastate interexchange telecommunications services and basic local exchange telecommunications services limited to providing dedicated, basic local exchange private line services, along with the associated tariff.

2. On November 16, the Commission’s *Order Directing Filing* directed the Staff to file a recommendation regarding the *Application* no later than November 28.

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<sup>1</sup> All dates herein refer to calendar year 2012, unless otherwise noted.

<sup>2</sup> In Case No. TA-2000-335, the Commission approved the Certificate of Service Authority and associated tariff for Metromedia Fiber Network Services, Inc. On February 2, 2004, AboveNet Communications, Inc., filed an initial tariff that reflected the change of Metromedia Fiber Network Services, Inc.’s name to AboveNet Communications, Inc., in Case No. XN-2004-0332. In that case, the Commission acknowledged the change of Metromedia Fiber Network Services, Inc.’s name to AboveNet Communications, Inc., and approved the amended tariff on March 10, 2004.

3. Attached hereto is Staff's *Memorandum*. Because the Company requested cancellation of its certificate and is no longer providing service in Missouri, Staff recommends the Commission cancel the certificate and associated tariff.

4. The Commission has the authority to cancel a telecommunications certificate pursuant to Section 392.410.5 RSMo (2000), which provides "[a]ny 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."

5. 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. W.D. 1989).

6. The Company is not delinquent on the filing of annual reports, remittance of any Commission assessment, or remittance of any Missouri Universal Service Fund or Relay Missouri amount.

**WHEREFORE**, Staff recommends the Commission cancel the certificate of service authority of AboveNet Communications, Inc., to provide intrastate interexchange telecommunications services and basic local exchange telecommunications services limited to providing dedicated, basic local exchange private line services, along with the associated tariff.

Respectfully submitted,

**/s/Jennifer Hernandez**

Jennifer Hernandez  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on this 28<sup>th</sup> day of November, 2012 by electronic mail to: Mark W. Comley, counsel for AboveNet Communications, Inc., at [comleym@ncrpc.com](mailto:comleym@ncrpc.com); and the Office of the Public Counsel at [opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov).

**/s/Jennifer Hernandez**

## MEMORANDUM

To: Missouri Public Service Commission Official Case File  
Case No. TD-2013-0276  
Company Name: AboveNet Communications, Inc.

From: Contessa Poole-King  
Telecommunications Unit

William Voight  
Tariff, Safety, Economic and Engineering Analysis

Subject: Staff Recommendation to Cancel Certificate of Service Authority and Accompanying  
Tariff

Date: November 26, 2012

On November 15, 2012, AboveNet Communications, Inc. filed an application requesting cancellation of its certificate of service authority to provide non-switched local exchange and interexchange telecommunications services. AboveNet also requested withdrawal of any approved tariff(s) on file.

AboveNet has stated that it does not serve any customers or have any active operations in Missouri. Therefore, the Telecommunications Staff believes cancellation of the Company's certificate of service authority and tariff is not detrimental to the public interest. The Staff has no objection to the cancellation and recommends that the Commission issue an order to cancel AboveNet Communications, Inc.'s certificate of service authority to provide non-switched local exchange and interexchange telecommunications services. The Staff further recommends cancellation of AboveNet's Missouri P.S.C. Tariff No. 1. The Staff is unaware of any other filing which affects or which would be affected by this proposal.

Staff has examined AboveNet Communications Inc.'s annual filings with the Commission and Staff notes the Company is not delinquent in filing an annual report, paying the PSC assessment, MoUSF, and Relay Missouri.

Under penalty of perjury, I affirm that the above statement is true and correct.

  
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CONTESSA POOLE-KING