

The Staff of the Missouri Public Service Commission,  
Complainant,  
v.  
American Fiber Network, Inc.,  
Respondent.

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff) and for its Motion for Leave to Dismiss with Prejudice respectfully states:

1. Staff filed its Complaint against Respondent on March 22, 2007, alleging that Respondent was delinquent in filing quarterly Quality of Service Reports as required by Commission Rule 4 CSR 240-3.550(5).
2. As of this date, Respondent has not filed an answer.
3. On April 2, 2007 American Fiber Network, Inc. (AFN) filed reports for the First, Second, Third, and Fourth quarters for the year 2006.
4. Staff represents that these reports contain usable data and, excepting the delinquency, are otherwise in compliance with 4 CSR 240-3.550(5).
5. Staff submits that, because AFN has submitted its 2006 reports in compliance with 4 CSR 240-3.550(5), a penalty action in this case is inappropriate. Staff recommends that its Complaint be dismissed with prejudice. Staff reserves the right to file a complaint based on any future delinquency.

**WHEREFORE,** Staff hereby moves for leave to dismiss with prejudice the Complaint filed in Case No. TC-2007-0345.

Respectfully submitted,

/s/ Jennifer Heintz\_\_\_\_\_

Jennifer Heintz  
Assistant General Counsel  
Missouri Bar No. 57128

/s/Sarah Kliethermes\_\_\_\_\_

Sarah Kliethermes  
Rule 13 supervised by Kevin Thompson  
Missouri Bar No. 36288

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-8701 (Telephone)  
(573) 751-9285 (Fax)  
[jennifer.heintz@psc.mo.gov](mailto:jennifer.heintz@psc.mo.gov)  
[sarah.kliethermes@psc.mo.gov](mailto:sarah.kliethermes@psc.mo.gov)

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel and parties of record this 18th day of April 2007.

/s/ Jennifer Heintz\_\_\_\_\_