

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

In the Matter of the Cancellation of the)
Certificate of Service Authority and)
Accompanying Tariff of Optical)
Telephone Corporation)

Case No. XD-2006-_____

**MOTION TO OPEN CASE AND CANCEL
CERTIFICATE OF SERVICE AUTHORITY AND ACCOMPANYING TARIFF**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and moves that the Commission open a case and cancel Optical Telephone Corporation's certificate of service authority to provide interexchange telecommunications services and its tariff. In support of its Motion, Staff respectfully states as follows:

1. In April 2002, the Commission granted Optical Telephone Corporation a certificate of service authority to provide intrastate interexchange telecommunications services in Missouri in Case No. TA-2002-393. The Commission approved the company's tariff, Missouri P.S.C. Tariff No. 1, in the same case.

2. The web site of the Office of the Missouri Secretary of State reports that the certificate of authority granted to Optical Telephone Corporation, an Alabama corporation, has not yet been revoked because the company failed to file its Annual Registration Report. However, a warning was sent to the company on June 3, 2005 indicating that the company's certificate would be revoked if the company did not respond by August 3, 2005. No response appears on the Secretary of State's website. According to the Secretary of State's Corporations Division, revocation is imminent but has not yet been completed. Section 351.602.3 RSMo.

(2000) states that “[t]he authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.”

3. The telephone numbers provided to the Commission by the company are no longer in service. The company completed the entry for “In-House Attorney” in its 2003 annual report submitted to the Commission with the name of an attorney in Washington, D.C., who, when contacted, indicated that he had not been able to reach his former client since December, 2004 and had the same contact information that the Commission currently has on file. Mail has not been returned when sent to the address provided to the Commission by the company, however.

4. Optical Telephone Corporation owes a minimal assessment for Fiscal Year 2006, derived from an estimate because the company failed to submit its Statement of Revenue. The company has failed to submit its 2004 annual report, but had complied previously.

5. Staff believes that Optical Telephone Corporation has violated the terms of its certificate by its failure to keep the Commission informed of its current telephone number or provide current contact information through the annual report process. The company’s former regulatory representative also has indicated they have no way to contact the company. Section 392.210(2) RSMo. (2000) states, among other things, “The commission shall at all times have access to all accounts, records and memoranda kept by telecommunications companies... .” Because Optical Telephone Corporation has failed to keep the Commission informed of a current address or telephone number, the Commission is unable to contact Optical Telephone Corporation. Therefore, Optical Telephone Corporation has denied the Commission access that is required of the Commission under Section 392.210(2) RSMo. (2000). Certainly, Optical

Telephone Corporation has denied the Commission its ability to supervise telecommunications operations and services as statutorily mandated under Section 386.250 RSMo. (2000).

6. No customers have contacted the Commission with complaints about Optical Telephone Corporation, since the commencement of the Commission's EFIS system.

7. The Commission has the authority to cancel a telecommunications corporation certificate pursuant to Section 392.410.5 RSMo (Supp. 2004), 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).

8. Thus, the Commission has the authority to cancel the certificate of service authority it granted to Optical Telephone Corporation, to provide intrastate interexchange telecommunications services in Missouri in Case No. TA-2002-393, as well as the company's tariff, Missouri P.S.C. Tariff No. 1. Such an action is supported because the company appears to have disappeared and the Commission's Staff is unable to communicate with the company other than by sending letters that do not generate a response.

9. This pleading is being served via certified mail upon the most recent address provided to the Commission by the company. It is also being served by regular mail upon its registered agent.

WHEREFORE, the Staff recommends the Commission cancel the certificate of service authority it granted to Optical Telephone Corporation, to provide intrastate interexchange

telecommunications services in Missouri in Case No. TA-2002-393, as well as the company's tariff, Missouri P.S.C. Tariff No. 1.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or electronically mailed to all parties of record as shown below this 31st day of August 2005.

/s/ David A. Meyer

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