

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

In the Matter of the Cancellation of the)
Certificate of Service Authority and Tariff)
of Orion Telecommunications Corp.)

Case No. XD-2006-_____

MOTION TO OPEN CASE AND CANCEL CERTIFICATE OF SERVICE AUTHORITY

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and moves the Commission to open a case and cancel the Certificate of Service Authority it has granted to Orion Telecommunications Corp., as well as the company's tariff. In support of its Motion, the Staff respectfully states as follows:

1. In August 2003 in Case No. XA-2003-0575, the Missouri Public Service Commission (Commission) granted a certificate of service authority to Orion Telecommunications Corp. to provide interexchange telecommunications services. The Commission approved the company's tariff, M.P.S.C. No. 1, in the same case.

2. On May 1, 2004, Orion Telecommunications Corp. voluntarily sought bankruptcy protection under Chapter 11 of the Federal bankruptcy code in the Southern District of New York in Bankruptcy Petition #04-12203-smb. On March 14, 2005, the case converted to Chapter 7 status (liquidation).

3. The web site of the Office of the Missouri Secretary of State reports that the certificate of authority granted to Orion Telecommunications Corp., a Delaware corporation, was revoked March 17, 2005 because the company failed to file its Annual Registration Report. 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."

4. Staff is not aware that Orion Telecommunications Corp. is still providing telecommunications services to any Missouri customers. No customers have contacted the Commission to make complaints about Orion Telecommunications Corp. since the commencement of the Commission's Electronic Filing and Information System. As discussed in the following paragraph, it appears that Orion Telecommunications Corp. no longer operates in Missouri.

5. On May 20, 2005, bankruptcy counsel for Orion Telecommunications Corp. communicated with counsel for the Commission, indicating that as permitted by an order of the bankruptcy court of February 4, 2005, substantially all the assets of Orion Telecommunications Corp. were sold to CV Tel Corp, as designee of Prestige Capital Corp, the Debtor's unsecured lender. Subsequently, on August 8, 2005, counsel for CV Tel Corp. indicated that its operations should not impede the cancellation of Orion Telecommunications Corp.'s certificate to provide telecommunications service within the state of Missouri; and further, that CV Tel Corp. was not relying on Orion Telecommunications Corp. certificates where it was doing business. Neither CV Tel Corp. nor Prestige Capital Corp. have made filings with this Commission or the Missouri Secretary of State's Office to obtain authority to do business in Missouri.

6. In keeping with indications that the company has ceased operations and is being liquidated, Orion Telecommunications Corp. has not filed a 2003 or 2004 annual report. The company owes no assessments.

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. Copies of this Motion are being served upon the company's registered agent via certified mail, as well as upon the company at the address it has provided to the Commission and upon counsel for the company and its bankruptcy trustee in Case No. 04-12203-smb before the United States Bankruptcy Court, Southern District of New York.

WHEREFORE, the Staff recommends the Commission cancel the Certificate of Service Authority it has granted to Orion Telecommunications Corp. to provide intrastate interexchange telecommunications services in Case No. XA-2003-0575, as well as the company's tariff, M.P.S.C. No. 1.

Respectfully submitted,

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/s/ David A. Meyer

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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 9th day of August 2005.

/s/ David A. Meyer

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