

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

In the Matter of the Application of)
Se-Ma-No Technologies, LLC, to)
Withdraw and Have Canceled All)
Certificates of Service Authority) **Case No. XD-2005-0440, et al.**

**STAFF RECOMMENDATION AND MOTION TO FILE RECOMMENDATION
IN LIEU OF STIPULATION**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), and for its recommendation and motion, states as follows:

1. On October 10, 2005, the Commission issued its *Order Granting Motion For Extension Of Time To File Either A Stipulation Of Facts Or Further Procedural Schedule* no later than October 25, 2005. On October 19, 2005, Applicants filed the *Affidavit of John Richards*. Mr. Richards is the Chief Financial Officer of Sho-Me Technologies, L.L.C. which is certificated by the Commission to provide non-switched local and interexchange telecommunications services. Sho-Me Technologies, L.L.C. is an affiliate of Sho-Me Power Electric Cooperative which includes as its member-owners all the applicant companies in this case.

2. The Staff has investigated and reviewed the Application and it accepts the facts contained in the *Affidavit of John Richards*. As a result of its review, the Staff recommends for the reasons stated in Staff’s Memorandum that is attached as Exhibit A and incorporated by reference herein, that the Commission issue an order granting the cancellation of the certificates and tariffs that are the subject of this Application from applicants:

Se-Ma-No Technologies, L.L.C,
Laclede Technologies, L.L.C.,
Webster Technologies, L.L.C.,
Crawford Technologies, L.L.C.,
Howell-Oregon Technologies, L.L.C.,
Gascosage Technologies, L.L.C.,
White River Technologies, L.L.C., and
Southwest Fiber Communications, L.L.C.

3. Because the Staff has accepted the facts that are provided in the *Affidavit of John Richards* and because the Staff has recommended that the Commission approve this Application, the Staff moves for leave to file its Recommendation for the cancellation of Applicants' certificates and tariffs in lieu of filing a stipulation of facts. Staff believes that its acceptance of the facts contained in the *Affidavit of John Richards* is sufficient for it to make its recommendation for cancellation to the Commission and, therefore, such acceptance obviates the need for the filing of a stipulation.

4. Because no customers are affected by Applicants' Application, the cancellation of their certificates is not detrimental to public interest. Therefore, Applicants' certificates and tariffs should be canceled by the Commission.

5. The Commission has the authority to cancel a telecommunications corporation certificate pursuant to Section 392.410, RSMo 2000 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 Request 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).

WHEREFORE, for the reasons stated above, the Staff moves for leave to file its Recommendation that the Commission issue an order granting the cancellation of Applicants' certificates and tariffs in lieu of filing a stipulation of facts.

Respectfully submitted,

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/s/ Robert S. Berlin

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 24th day of October 2005.

/s/ Robert S. Berlin

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ATTORNEY FOR APPLICANTS

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. XD-2005-0440 Se-Ma-No Technologies serving as Lead Case
Case No. XD-2005-0439 Laclede Technologies
Case No. XD-2005-0442 Webster Technologies
Case No. XD-2005-0443 Crawford Technologies
Case No. XD-2005-0444 Howell-Oregon Technologies
Case No. XD-2005-0475 Gascosage Technologies
Case No. XD-2005-0476 White River Technologies
Case No. XD-2005-0477 Southwest Fiber Communications

From: William Voight
Telecommunications Department

Subject: Staff's Recommendation to Cancel Certificates of Service Authority and Applicable Tariffs

Date: October 21, 2005

On May 25, 2005 Se-Ma-No Technologies, L.L.C. (Se-Ma-No) filed an application to withdraw and have cancelled its certificates of telecommunications service authority issued by the Commission in Case No. TA-97-508. On June 21st, the Commission issued an order in which it consolidated Se-Ma-No's case with the cases of the above named subsidiary companies of various distribution rural electric cooperatives. As with Se-Ma-No, the above named companies have requested the Commission cancel all telecommunications certificates of operating authority and accompanying tariffs.

In making its requests, the Applicants have stated that business models for deployment of broadband fiber optic facilities in Missouri have changed since the original certificates of authority were granted, and Applicants no longer have a need or desire to be certificated by the Missouri Public Service Commission.

In support of the requests, the Applicants maintain that they do not, and have not, provided telecommunications services "to the public" in Missouri. Further, the Applicants state that the services provided are limited to the provision of unlit fiber facilities to other certificated carriers in Missouri. The Applicants also state that they do not foresee any future need to maintain certificates of operating authority designed to provide telecommunications services "to end user members of the public." Because they do not provide telecommunications to members of the public, the Applicants express that they no longer have any desires to file annual reports and Missouri Universal Service Fund assessment reports. Lastly, the Applicants state that cancellation of certificates will have no adverse impact on the public interest, as Applicants do not provide service to any member of the public. Accordingly, no customer notice notifications are necessary.

On June 6th, counsel for the Telecommunications Department Staff (Staff) filed a recommendation requesting the Commission set Se-Ma-No's case for hearing. Staff pointed to the substantial company revenues and Commission assessments associated with Se-Ma-No. Staff also raised factual questions pertaining to Se-Ma-No's activities and services. In particular, Staff was concerned that Se-Ma-No's activities constituted more than the provision of "dark fiber." Counsel also raised a question of law with Se-Ma-No's apparent contention that wholesale telecommunications services are not subject to the Commission's jurisdiction.

Subsequent discussions with representatives of the above named Applicants have satisfactorily addressed the Staff's concerns. Resolutions between the Staff and the Applicants are addressed in the October 17th affidavit of John Richards, Chief Financial Officer of Sho-Me Technologies L.L.C. (Sho-Me). Mr. Richards discusses the affiliation of the Applicants and Sho-Me to Sho-Me Power Electric Cooperative. In particular, Mr. Richards points to the use of the fiber optic facilities used to reach customers by Sho-Me and the member distribution electric cooperatives. The affidavit describes how broadband facilities are used to provide services to a variety of customers including schools, libraries, medical facilities, state government, MORENET, and private commercial enterprises in rural areas of Missouri. In particular, Mr. Richards names Sho-Me as the entity providing telecommunications services to all end users served by the fiber optic transmission and distribution system. Mr. Richards also names Sho-Me as the entity rendering all bills, receiving all customer payments which are all made payable to Sho-Me, and providing all of the optronic equipment used to light all of the fiber facilities in question.

Staff accepts the analysis and conclusions in Mr. Richard's affidavit. Mr. Richards indicates that Sho-Me is not requesting cancellation of its certificates. Mr. Richards indicates that for all of the services in question, Sho-Me will continue to file annual reports, pay Commission assessments, and report net Missouri end-user revenues to the Missouri Universal Service Fund.

The Staff recommends the Commission cancel the certificates of operating authority and applicable tariffs for the Applicants. The specific tariffs recommended for cancellation are:

Laclede Technologies, LLC	PSC Mo. No. 1
Webster Technologies, LLC	PSC Mo. No. 1
Crawford Technologies, LLC	PSC Mo. No. 1
Se-Ma-No Technologies, LLC	PSC Mo. No. 1
Howell-Oregon Technologies, LLC	PSC Mo. No. 1
Southwest Fiber Communications, LLC	PSC Mo. No. 1
Gascosage Technologies, LLC	PSC Mo. No. 1
White River Technologies, LLC	PSC Mo. No. 1

The Staff is unaware of any other matter that affects, or that would be affected by this Application.

