

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Name Change of Opex       )  
Communications, Inc. d/b/a TCI Long Distance )

**File No. XN-2011-0074**  
Tracking No. YX-2011-0125

## ORDER OF DISMISSAL WITHOUT PREJUDICE

Issue Date: November 17, 2010

Effective Date: November 17, 2010

The Commission is dismissing this case without prejudice for failure to comply with an order and deeming the tariff withdrawn.

### Procedure

Opex Communications, Inc. d/b/a TCI Long Distance (“applicant”) sought to do business under a fictitious name, in addition to its corporate name, by filing tariff sheets including a tariff adoption notice (“the tariff”).<sup>1</sup> The Commission suspended the tariff,<sup>2</sup> which initiated a contested case.<sup>3</sup> The Commission also extended the suspension.<sup>4</sup>

### Findings of Fact

1. On November 5, 2010, Staff filed a recommendation that the Commission reject the tariff.
2. By order dated November 8, 2010, the Commission ordered the applicant to file a reply to the recommendation no later than November 15, 2010.
3. As of the date of this order, the applicant has filed no reply.

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<sup>1</sup> On September 14, 2010.

<sup>2</sup> By order issued on October 6, 2010.

<sup>3</sup> As described in the *Notice of Contested Case* issued on October 8, 2010.

<sup>4</sup> Section 392.230.3, RSMo Supp. 2009.

## **Conclusions of Law**

The Commission may dismiss a case for failure to comply with an order of the Commission:

A party may be dismissed from a case for failure to comply with any order issued by the commission [<sup>5</sup>]

That regulation applies to the applicant because the applicant did not comply with the Commission's order of November 8, 2010. For those reasons, the Commission will dismiss this action without prejudice and deem the tariff withdrawn.<sup>6</sup>

### **THE COMMISSION ORDERS THAT:**

1. This case is dismissed without prejudice and the tariff assigned Tracking No. YX-2011-0125 is withdrawn.
2. This order shall become effective immediately upon issuance.
3. This file shall close the day after this order becomes effective.

### **BY THE COMMISSION**

( S E A L )



Steven C. Reed  
Secretary

Daniel Jordan, Senior Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 17<sup>th</sup> day of November, 2010.

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<sup>5</sup> 4 CSR 240-2.116(3).

<sup>6</sup> Staff filed a *Notice of Withdrawal* ("notice") on November 10, 2010. The notice suggests that the case is moot. This order makes it unnecessary to address the notice.