

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

In the Matter of the Nullification of the)
Certificates of Service Authority of 3rd)
Wire Inc.)

Case No. TD-2007-

MOTION TO NULLIFY CERTIFICATES OF SERVICE AUTHORITY

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and requests the Commission nullify and cancel the certificates of authority it has granted to 3rd Wire, Inc. In support of its motion, Staff respectfully states as follows:

1. On March 20, 2001, the Missouri Public Service Commission (Commission) issued an order granting a certificate of service authority to 3rd Wire Inc. to provide basic local telecommunications services in Missouri, in Case No. TA-2001-414.

2. The Commission, in its order in Case No. TA-2001-414, stated "6. That the request for waiver of 4 CSR 240-2.060(6)(C), which requires the filing of a tariff with an effective date not fewer than 45 days from the issue date, is granted."

3. On March 15, 2001, the (Commission) issued an order granting a certificate of service authority to 3rd Wire Inc. to provide intrastate, interexchange telecommunications services and non-switched local exchange telecommunications services, limited to providing dedicated private line services in Missouri, in Case No. TA-2001-415.

4. The Commission, in its order in Case No. TA-2001-415, stated "3. That 3rd Wire, Inc., is granted a waiver from the requirement of 4 CSR 240-2.060(6)(C), that it file a proposed tariff along with its application. The certificates of service authority granted by this order shall not become effective until 3rd Wire, Inc.'s tariffs become effective."

5. 3rd Wire Inc. has never filed an interconnection agreement or a proposed tariff to provide any telecommunications service in Missouri. Staff requests that the Commission take

official notice of its records and that the company has not submitted a tariff, under the provisions of Section 536.070(6) RSMo. (2000) and 4 CSR 240-2.130(2).

6. According to the Missouri Secretary of State's website, the registration of 3rd Wire Inc., a Delaware corporation, was revoked August 7, 2002 because the company failed to file its Annual Registration Report.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."

7. Upon inquiry, Staff has been informed by telephone that the company never did business in Missouri and that although the company may have sought a certificate of authority to provide telecommunications services in Missouri, the company had no intention of doing so at this time or in the future.

8. The company was not entered into the Commission's electronic filing and information system, and as a result has not received communications from the Commission since the Commission's records were converted to that system. The Data Center recently discovered the oversight and has returned 3rd Wire, Inc. to active status. As the company has received no correspondence from the Commission, it understandably has not submitted any annual reports or statements of revenue since receiving its certificates of service authority.

9. The Commission has the authority to cancel a telecommunications company certificate pursuant to Section 392.410, 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). Section 392.410.5 also states that

Unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority or a certificate of public convenience and necessity shall be null and void.

As the company never filed a tariff, it was never authorized to offer service and thus never could have exercised its certificate.

10. Service of this pleading is being made upon the company's registered agent via certified mail; and also upon the address of the company provided to the Commission.

WHEREFORE, the Staff recommends the Commission take official notice of its records regarding the lack of tariff submissions by 3rd Wire Inc, and nullify and cancel the certificate of service authority of 3rd Wire Inc. to provide basic local telecommunications service; to provide intrastate, interexchange telecommunications services; and to provide non-switched local exchange telecommunications services, limited to providing dedicated private line services in Missouri.

Respectfully submitted,

/s/ **David A. Meyer**

David A. Meyer
Senior Counsel
Missouri Bar No. 46620

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed return receipt requested or electronically to all counsel of record as shown on the service list below this 16th day of April 2007.

/s/ David A. Meyer

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

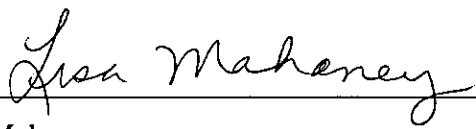
CT Corporation System
Registered Agent for 3rd Wire Inc.
120 South Central Avenue
St. Louis, MO 63105
(via certified mail)

3rd Wire Inc.
Attn: David Schena
400 East King Street
Malvern PA 19355

VERIFICATION

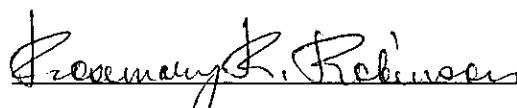
STATE OF MISSOURI)
)
COUNTY OF COLE)

Comes now Lisa Mahaney, employee of the Staff of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that the affiant has read the accompanying pleading, and that the facts therein are true and correct to the best of her knowledge.



Lisa Mahaney
Affiant

Subscribed and affirmed before me this 16th day of April 2007. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 9-23-2008.



NOTARY PUBLIC

