

2-11-04

7C-04-374

COMPLETE THIS SECTION ON DELIVERY

- | | |
|---------------------------------|--|
| A. Signature | <input type="checkbox"/> Agent
<input type="checkbox"/> Addressee |
| X | |
| B. Received by (Printed Name) | C. Date of Delivery |

U. Is delivery address different from item 1? ☐ Yes ☐ No

If YES, enter delivery address below:

3. Service Type
☒ Certified Mail
☐ Registered
☐ Express Mail
☐ Return Receipt for Merchandise

3. Service Type

<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
2022-01
2022-02
2022-03
2022-04
2022-05
2022-06
2022-07
2022-08
2022-09
2022-10
2022-11
2022-12

(Transfer from service label)

Domestic Return Receipt

102595-02-M-1540

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

The Staff of the Missouri Public Service
Commission,

Complainant,

v.

St. Andrews Telecommunications, L.L.C.,

Respondent.

Case No. TC-2004-0374

NOTICE OF COMPLAINT

St. Andrews Telecommunications, L.L.C.
1000 Walnut Street, Suite 1400
Kansas City, Missouri 64106

CERTIFIED MAIL

St. Andrews Telecommunications, L.L.C.
1915 West 24th Street
Post Office Box 3250
Lawrence, Kansas 66046

CERTIFIED MAIL

St. Andrews Telecommunications, L.L.C.
c/o CT Corporation System, Registered Agent
120 South Central Avenue
Clayton, Missouri 63105

CERTIFIED MAIL

On February 6, 2004, the Staff of the Missouri Public Service Commission filed a complaint with the Commission against St. Andrews Telecommunications, L.L.C. A copy of the complaint is enclosed. Under Commission Rule 4 CSR 240-2.070, St. Andrews Telecommunications, L.L.C., has 30 days from the date of this notice to file an answer or to file notification that the complaint has been satisfied. St. Andrews Telecommunications, L.L.C., is reminded that, as a corporation, it cannot appear before the Commission unless it is represented by an attorney licensed to practice law in Missouri. Therefore, its answer must be signed by a Missouri attorney.

All pleadings must be mailed to:

Secretary of the Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102-0360

A copy must be served upon the Staff of the Commission at the address listed within the enclosed complaint.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts". The signature is written in a cursive, flowing style.

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

(S E A L)

Dated at Jefferson City, Missouri,
on this 11th day of February, 2004.

Dippell, Senior Regulatory Law Judge

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

The Staff of the Missouri Public Service)
Commission,)

Complainant,)

v.)

St. Andrews Telecommunications, L.L.C.,)

Respondent.)

Case No. TC-2004-

COMPLAINT

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and initiates its complaint pursuant to Section 386.390 and 4 CSR 240-2.070, against St. Andrews Telecommunications, L.L.C. (the "Company") for violation of the Commission's statutes and rules relating to annual report filings. In support of its complaint, Staff respectfully states as follows:

GENERAL ALLEGATIONS

1. Respondent St. Andrews Telecommunications, L.L.C. is a "telecommunications company" and "public utility" as defined in Section 386.020 RSMo (2000) and is subject to the jurisdiction of the Missouri Public Service Commission pursuant to Section 386.250. The Commission granted the Company a certificate of service authority to provide switched intrastate interexchange telecommunications services in Case No. TA-99-600 on July 28, 1999. St. Andrews Telecommunications, L.L.C. has provided the following contact information to the Commission:

St. Andrews Telecommunications, L.L.C.
1000 Walnut St., Suite 1400
Kansas City, MO 64106

However, the website of the Office of the Missouri Secretary of State provides the following address, as does its filed tariff:

1915 W. 24th St.
P.O. Box 3250
Lawrence, KS 66046

St. Andrews Telecommunications, L.L.C.'s registered agent according to the records of the Missouri Secretary of State's

Office is:

CT Corporation System
120 S. Central Ave.
Clayton, MO 63105

2. Section 386.390.1 authorizes the Commission to entertain a complaint "setting forth any act or thing done or omitted to be done by a public utility in violation of any law, or of any rule, order or decision" of the Commission.

3. Commission practice Rule 4 CSR 240-2.070(1) provides that the Commission's Staff, through the General Counsel, may file a complaint.

4. The Missouri courts have imposed a duty upon the Public Service Commission to first determine matters within its jurisdiction before proceeding to those courts. As a result, "[t]he courts have ruled that the Division cannot act only on the information of its staff to authorize the filing of a penalty action in circuit court; it can authorize a penalty action only after a contested hearing." *State ex rel. Sure-Way Transp., Inc. v. Division of Transp., Dept. of Economic Development, State of Mo.*, 836 S.W.2d 23, 27 (Mo.App. W.D. 1992) (relying on *State v. Carroll*, 620 S.W.2d 22 (Mo. App. 1981)); see also *State ex rel. Cirese v. Ridge*, 138 S.W.2d 1012 (Mo.banc 1940). If the Commission determines after a contested hearing that the Company failed, omitted, or neglected to file its annual report and/or pay its annual assessment, the Commission may then authorize its General Counsel to bring a penalty action in the circuit court as provided in Section 386.600.

COUNT ONE

5. Section 392.210.1 states that telecommunications companies must “file an annual report with the Commission at a time and covering the yearly period fixed by the commission.”

6. Commission Rule 4 CSR 240-3.540(1) requires all telecommunications companies to file their annual reports on or before April 15 of each year.

7. On February 3, 2003, the Executive Director of the Commission sent all regulated utilities, including St. Andrews Telecommunications, L.L.C., a letter notifying them of the requirement to file an annual report covering the calendar year 2002, together with the appropriate form for the Company to complete and return to the Commission and instructions on how the Company may complete its filing electronically. The letter was sent to the address that was current in the Commission’s Electronic Filing and Information System (“EFIS”) at that time, and the letter was not returned.

8. The Company never returned a completed form, nor did it file its annual report electronically; and as of the date of this pleading, has not filed its 2002 Annual Report. See Affidavit of Janis Fischer, attached to this Complaint as Exhibit A.

9. Section 392.210.1 provides that “[i]f any telecommunications company shall fail to make and file its annual report as and when required or within such extended time as the commission may allow, such company shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report....”

COUNT TWO

10. The Commission has the authority to cancel a certificate of service authority if not against the wishes of the certificate holder. *State ex rel. City of Sikeston v. Public Serv. Comm’n*, 82 S.W. 2d 105, 109 (Mo. 1935). Thus, the Commission has the authority to cancel a telecommunications company certificate pursuant to Section 392.410.5, which provides that “[a]ny 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 Serv. Comm’n*, 776 S.W.2d 494 (Mo.App.W.D. 1989).

11. If the Company fails to respond to this Complaint in a timely manner as required by 4 CSR 240-2.070(8), Staff requests that the Commission find that the Company’s default constitutes its consent for the Commission to cancel its certificate and tariff, and therefore cancel the certificates of service authority of St. Andrews Telecommunications, L.L.C. to provide switched intrastate interexchange telecommunications services and the accompanying tariff, Missouri No. 1.

PRAYER FOR RELIEF

WHEREFORE, Staff now requests that the Commission open a complaint case pursuant to Section 386.390; and, after hearing, find that St. Andrews Telecommunications, L.L.C. failed, omitted, or neglected to file its 2002 Annual Report with the Commission as required by Missouri statute and Commission orders; and authorize its General Counsel to bring a penalty action against the Company in the circuit court as provided in Section 386.600, based on the statutory penalties set forth in Section 392.210.1 (for failing to file annual reports).

Moreover, if the Company fails to respond to this Complaint in a timely manner as required by 4 CSR 240-2.070(8), in addition to a finding in default under 4 CSR 240-2.070(9), Staff requests that the Commission find that the Company’s default constitutes its consent for the Commission to cancel its certificate and tariff, and therefore cancel the certificate of service authority of St. Andrews Telecommunications, L.L.C. to provide switched intrastate interexchange telecommunications services and the accompanying tariff, Missouri No. 1.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ Bruce H. Bates

Bruce H. Bates
Associate General Counsel
Missouri Bar No. 35442

Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-7434 (Telephone)
(573) 751-9285 (Fax)
bruce.bates@psc.mo.gov (E-Mail)

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 10th day of February 2004.

/s/ Bruce H. Bates

St. Andrews Telecommunications, L.L.C.
1000 Walnut St., Suite 1400
Kansas City, MO 64106

St. Andrews Telecommunications, L.L.C.
1915 W. 24th St.
P.O. Box 3250
Lawrence, KS 66046

CT Corporation System (Registered Agent)
120 S. Central Ave.
Clayton, MO 63105

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

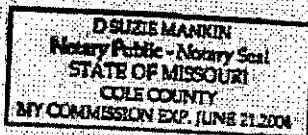
AFFIDAVIT

STATE OF MISSOURI)
COUNTY OF COLE)

I, Janis E. Fischer, Utility Regulatory Auditor IV, of the Commission's Auditing Department, first being duly sworn on my oath state that the Public Service Commission's records do not reflect the receipt of the 2002 Annual Report from St. Andrews Telecommunications, L.L.C.

Janis E. Fischer
Janis E. Fischer

Subscribed and sworn to before me this 10th day of February, 2004.



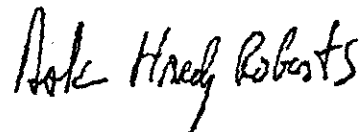
D. Suzie Mankin
NOTARY PUBLIC

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 11th day of Feb. 2004 .



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

MISSOURI PUBLIC SERVICE COMMISSION

February 11, 2004

Case No. TC-2004-0374

Dana K Joyce
P.O. Box 360
200 Madison Street, Suite 800
Jefferson City, MO 65102

John B Coffman
P.O. Box 7800
200 Madison Street, Suite 640
Jefferson City, MO 65102

St. Andrews Telecommunications,
Legal Department
c/o CT Corporation System,
Registered Agent
120 S. Central Ave.
Clayton, MO 63105

St. Andrews Telecommunications,
Legal Department
1915 West 24th Street
P.O. Box 3250
Lawrence, KS 66046

St. Andrews Telecommunications,
Legal Department
1000 Walnut St., Ste. 1400
Kansas City, MO 64106

Enclosed find a certified copy of a NOTICE in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge