

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

In the Matter of the Cancellation and)
Nullification of the Certificates of Service)
Authority and Accompanying Tariffs of)
Convergent Communications Services,)
Inc.)

Case No. TD-2005-_____

**MOTION TO OPEN CASE, CANCEL
CERTIFICATE OF SERVICE AUTHORITY AND ACCOMPANYING TARIFF,
AND
DETERMINE CERTIFICATE OF SERVICE AUTHORITY IS NULL AND VOID**

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 Convergent Communications Services, Inc. to provide interexchange telecommunications services, as well as the company's tariff. Staff further moves that the Commission declare the certificate it granted to Convergent Communications Services to provide basic local telecommunications services null and void. In support of its Motion, the Staff respectfully states as follows:

1. In September 1998 in Case No. TA-99-42, the Missouri Public Service Commission (Commission) granted a certificate of service authority to Convergent Communications Services, Inc. to provide interexchange telecommunications services. As part of that same case, the Commission approved the company's tariff to provide services under this certificate of service authority, P.S.C. Mo. Tariff No. 1.

2. In December 1999 in Case No. TA-2000-245, the Commission granted a certificate of service authority to Convergent Communications Services, Inc. to provide local exchange telecommunications services. However, the company has never filed a tariff. Section

392.410.5 states: “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.” Without a tariff filed with the Commission, a telecommunications company may not exercise its certificate of service authority.

3. On April 19, 2001, Convergent Communications Services, Inc. sought bankruptcy protection under Chapter 11 of the Federal bankruptcy code in Petition 01-15488-EEB in the District of Colorado (Denver). The company was subsequently liquidated.

4. The web site of the Office of the Missouri Secretary of State reports that the certificate of authority granted to Convergent Communications Services, Inc., a Colorado corporation, was revoked September 4, 2002 because the company failed to file its Annual Registration Report.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.”

5. The trustee of the company’s liquidating trust has informed the Commission that the company is no longer operating and that it no longer is providing service to Missouri customers. Letters from the trustee indicating that the company has ceased its business are attached as Attachment A.

6. Since entering into bankruptcy protection in 2001, the company has not submitted Annual Reports or paid assessments to the Commission. All of the unpaid assessments were based on estimates made by the Commission because the company did not return the Commission’s Statement of Revenue forms, either. This is in keeping with the trustee’s representation that the company ceased all business operations on July 26, 2001.

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. Section 392.410.5 RSMo. (2000) 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.

Accordingly, the Commission has the authority and the support to determine the certificate of service authority to provide local exchange telecommunications services it granted to Convergent Communications Services, Inc. is null and void at this time.

9. A copy of this pleading is being sent via certified mail to the address provided by the company to the Commission, which is also the same address as the liquidating trust.

WHEREFORE, the Staff recommends the Commission determine the certificate of service authority granted to Convergent Communications Services, Inc. to provide local telecommunications services in Case No. TA-2000-245 is null and void; and cancel the certificate of service authority granted to Convergent Communications Services, Inc. to provide interexchange telecommunications services in Case No. TA-99-42, as well as the associated tariff, P.S.C. Mo. Tariff No. 1.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ David A. Meyer

David A. Meyer
Senior Counsel
Missouri Bar No. 46620

Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8706 (Telephone)
(573) 751-9285 (Fax)
david.meyer@psc.mo.gov

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 10th day of May 2005.

/s/ David A. Meyer

Office of the Public Counsel
Governor Office Building, Suite 650
200 Madison Street
P. O. Box 7800
Jefferson City, MO 65102

CSC Lawyers Incorporating Service Company
Registered Agent for Convergent
Communications Services, Inc.
221 Bolivar Street
Jefferson City, MO 65101

Craig A. Dais
Trustee of CCSI Liquidating Trust
Convergent Communications Services, Inc.
P. O. Box 746237
Arvada, CO 80006
(via certified mail)