

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 18th day
of September, 2008.

The Office of the Public Counsel,)	
)	
Complainant,)	
)	
v.)	<u>Case No. TC-2008-0346</u>
)	
Winstar Communications, L.L.C.,)	
)	
Respondent.)	

ORDER CANCELLING CERTIFICATE

Issue Date September 18, 2008

Effective Date: September 28, 2008

On August 21, 2008, the Missouri Public Service Commission issued an order directing Winstar Communications, L.L.C. to file a pleading no later than September 10, 2008 stating why the company's certificate of service authority should not be cancelled. Winstar did not respond. The Commission will therefore cancel the company's certificate.

"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. . . ." ¹ With regard to the hearing requirement in this Section, the requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence.² Winstar did not respond to the

¹ Section 392.410.5, RSMo 2000

² *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

Commission's order of August 21. Winstar thus had the opportunity to first respond to the Commission's order, then to request a hearing. The company failed to take that opportunity. The Commission will therefore cancel the company's certificate.

IT IS ORDERED THAT:

1. The certificate of service authority granted to Winstar Communications, L.L.C. is cancelled.
2. This order shall become effective on September 28, 2008.
3. This case shall be closed on September 29, 2008.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Jarrett,
and Gunn, CC., concur.
Clayton, C., dissents.

Jones, Senior Regulatory Law Judge