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October 8, 2004

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

FILED²
OCT 0 **8** 2004

Missouri Public Service Commission

Re:

In the Matter of Cable One, Inc. 2002 Annual Report Filing

TC-2004-0311

Dear Mr. Roberts:

Enclosed please find for filing on behalf of Cable One, Inc. the original plus eight (8) copies of their Response to Motion for Clarification in the above-captioned matter.

If you should have any questions concerning the enclosed filing, please do not hesitate to contact me. Thank you.

Very truly yours,

HENDREN AND ANDRAE, L.L.C.

Richard S. Brownlee III

RSB/sa Enclosures

cc:

Emerson Yearwood

Office of Public Counsel

General Counsel

BEFORE THE PUBLIC SERVICE COMMISSION STATE OF MISSOURI

FIL	ED ²
OCT 08	2004

TTI 0, 66 6351 LD 11	and a world
The Staff of Missouri Public Service Commission) Missouri Public Service Commission
Complainant,)
) Case No.TC-2004-0311
v.)
)
CABLE ONE, INC.)
)
Respondent.)

RESPONSE TO MOTION FOR CLARIFICATION

COMES NOW Cable One, Inc., by and through counsel, Hendren and Andrae, L.L.C., Richard S. Brownlee, III and for its Response to Motion for Clarification states:

1. On September 27, 2004, the Commission issued its Order Dismissing Complaint ("Order") stating in relevant part "...Because Cable One never exercised its certificate, the certificate was void pursuant to Section 392.410, RSMo 2000, and Cable One was not obligated to file an annual report for 2002." In its Motion for Clarification, Staff correctly states that Section 392.410.5 in relevant part states:

"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. Unless exercised with a period of one year from the issuance thereof, <u>authority</u> conferred by a certificate of service authority...<u>shall be null and void.</u>" (emphasis added).

- 2. If the authority held by Cable One is null and void, there can be no continuing valid tariff remaining on file, as the tariff itself is dependant on a valid existing authority.
 - 3. While Staff points out a valid problem dealing with the "zero revenue" issue, that

problem does not cancel or otherwise nullify the clear language of Section 392.410.5. Staff may need to reconsider the format for filing annual reports to address the issued raised.

WHEREFORE, Respondent requests that the Commission affirm its Order Dismissing Complaint with an addendum canceling PSC MO No. Tariff.

HENDREN AND ANDRAE, L.L.C.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were mailed, via first-class, U.S. mail, postage prepaid, to all parties of record on this 8th day of October, 2004.

Richard S. Brownlee, III

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

General Counsel
Missouri Public Service Commission
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