

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

In the Matter of the Cancellation of the )  
Certificate of Service Authority and Tariff )  
of Cable & Wireless USA, Inc. )

Case No. XD-2005-\_\_\_\_\_

**MOTION TO OPEN CASE AND CANCEL CERTIFICATE OF SERVICE AUTHORITY**

**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 Cable & Wireless USA, Inc., as well as the company's tariff. In support of its Motion, the Staff respectfully states as follows:

1. In May 2001 in Case No. TA-2001-505, the Missouri Public Service Commission (Commission) granted a certificate of service authority to Cable & Wireless, Inc. to provide interexchange telecommunications services. In Case No. XN-2003-0106, Cable & Wireless, Inc., changed its name to Cable & Wireless USA, Inc.

2. In November 2002, the Commission approved the transfer of the Missouri assets of Cable & Wireless USA, Inc., including all of its Missouri customers, to Primus Telecommunications, Inc. in Case No. XM-2003-0111. The Commission noted in that case that although all of Cable & Wireless USA, Inc.'s customers in Missouri were being transferred, the company did not wish to surrender its certificate at that time. The transfer was subsequently completed.

3. On December 8, 2003, Cable & Wireless USA, Inc. sought bankruptcy protection under Chapter 11 of the Federal bankruptcy code in the District of Delaware.

4. On March 8, 2004, Cable & Wireless USA, Inc. sent a letter to the Commission. In the letter, attached as Appendix A, the "senior vice president-public policy-USA" of Cable &

Wireless USA, Inc. indicated that Cable & Wireless USA, Inc. was no longer providing services in the State of Missouri and wanted its certificate of service authority and tariff cancelled. Counsel for the bankruptcy estate has indicated this cancellation may occur. See Appendix B.

5. The web site of the Office of the Missouri Secretary of State reports that the certificate of authority granted to Cable & Wireless USA, Inc., a Delaware corporation, was revoked December 2, 2004 because the company failed to file its Annual Registration Report.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.”

6. In keeping with indications that the company has ceased operations and that it transferred all of its Missouri assets in 2002, Cable & Wireless USA, Inc. has not filed a 2003 or 2004 annual report. The company owes no assessments.

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. Copies of this Motion are being served upon addresses provided by the company, the most recent one via certified mail; and also upon counsel for the company’s liquidating trust.

WHEREFORE, the Staff recommends the Commission cancel the cancel the Certificate of Service Authority it has granted to Cable & Wireless USA, Inc. in Case No. TA-2001-505, as well as the company's tariff, Missouri PSC Tariff No. 5.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

/s/ **David A. Meyer**

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### **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 10<sup>th</sup> day of May 2005.

/s/ **David A. Meyer**

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