

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

In the Matter of the Cancellation of the )  
Certificate of Service Authority and )  
Accompanying Tariff of IP )  
Communications Corporation d/b/a IP )  
Communications of the Southwest )  
Corporation )

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

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

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff) and moves that the Commission open a case and cancel IP Communications Corporation d/b/a IP Communications of the Southwest Corporation's certificate of service authority to provide interexchange telecommunications services and its tariff. In support of its Motion, Staff respectfully states as follows:

1. In January 2000, the Commission granted IP Communications Corporation d/b/a IP Communications of the Southwest Corporation a certificate of service authority to provide intrastate interexchange telecommunications services in Missouri in Case No. TA-2000-390. The Commission approved the use of the fictitious name "IP Communications of the Southwest Corporation" and also approved the company's tariff, PSC MO Tariff No. 1, in the same case. The company subsequently filed a second tariff that the Commission approved, PSC MO Tariff No. 2.

2. The web site of the Office of the Missouri Secretary of State reports that the certificate of authority granted to IP Communications Corporation, a Texas corporation,<sup>1</sup> was

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<sup>1</sup> The Office of the Secretary of State of Texas charges for research regarding corporate status of Texas corporations.

revoked February 19, 2004 because the company failed to file its Annual Registration Report. On February 9, 2005 the company's Missouri registered agent, CT Corporation System, resigned.

3. "IP Communications of the Southwest Corporation" is a fictitious name registered to IP Communications Corporation according to the records of the Missouri Secretary of State, but the fictitious registration requires no ongoing filing requirements.

4. Mail sent to the address provided to the Commission in Dallas, Texas has been returned to the Commission as undeliverable. A piece of the returned mail to the Commission is attached to this Motion as Attachment A. Also, the telephone number provided to the Commission by the company is no longer in service.

5. The company does not owe the Commission any assessments. It has not submitted an annual report in recent years. It is unclear whether the Commission's mailings containing the annual report forms reached the company because mail has been returned from the company's address for at least the past two years.

6. No customers have contacted the Commission with complaints about IP Communications Corporation d/b/a IP Communications of the Southwest Corporation since the commencement of the Commission's EFIS system.

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. Thus, the Commission has the authority to cancel the certificate of service authority it granted to IP Communications of the Southwest Corporation to provide intrastate interexchange telecommunications services in Missouri in Case No. TA-2000-390, as well as the company's tariffs, PSC MO Tariff No. 1 and PSC MO Tariff No. 2. Such an action is supported because the company's authority to do business in Missouri has been revoked by the Missouri Secretary of State; because the Commission's staff has been unable to contact the company directly; and because the company has failed to submit its most recent Annual Report.

9. As the company has no Missouri registered agent, this pleading is being served via regular United States mail upon the most recent address provided to the Commission by the company. Service upon the company's address in Texas will be via certified mail. The Secretary of State of Missouri serves as the company's registered agent for service of process "in any proceeding based on a cause of action which arose during the time the foreign corporation was authorized to transact business in this state." Section 351.602.4 RSMo. As the cancellation of the company's certificate relates to a cause arising after the company was no longer authorized to transact business in this state, service under the provisions of Section 351.594.2 is permitted ("A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent annual report, if the foreign corporation: (1) Has no registered agent or its registered agent cannot with reasonable diligence be served; ...").

WHEREFORE, the Staff recommends the Commission cancel the certificate of service authority it granted to IP Communications of the Southwest Corporation to provide intrastate interexchange telecommunications services in Missouri in Case No. TA-2000-390, as well as the company's tariffs, PSC MO Tariff No. 1 and PSC MO Tariff No. 2.

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 24<sup>th</sup> day of March 2005.

**/s/ David A. Meyer**

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