

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

In the Matter of the Cancellation of the )  
Certificate of Service Authority and )  
Tariffs of US LEC Communications, Inc. )

Case No. XD-2008-

**MOTION TO CANCEL CERTIFICATE OF SERVICE AUTHORITY**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff) and moves that the Commission cancel US LEC Communications, Inc.'s (US LEC) certificate of service authority to provide intrastate interexchange telecommunications services in Missouri and applicable tariffs. In support of its Motion, Staff respectfully states as follows:

1. On April 11, 2003, the Missouri Public Service Commission (Commission) issued an order granting a certificate of service authority to provide interexchange telecommunications services, to US LEC, in Case No. XA-2003-0321. The Commission approved P.S.C. MO Tariff No. 1 in the initial case.

2. On October 29, 2007, counsel for US LEC sent a letter (the letter and supporting affidavit is attached hereto as Attachment A) to the General Counsel's Office of the Commission, notifying the Commission of US LEC's surrender of its certificate of service authority to provide intrastate interexchange telecommunications in Missouri. The letter indicated that the certificate of service authority is being surrendered because US LEC no longer serves any customers in the state of Missouri and no longer desires authority to operate as a provider of intrastate interexchange telecommunications services in Missouri. The letter asked for a effective date of cancellation on December 1, 2007. The letter also indicated that there are no areas that would be affected by a cancellation of its certificate, and that US LEC no longer serves any customers in Missouri.

3. In its Annual Report submitted most recently to the Commission, the company reported no access lines.

4. US LEC has no past due annual reports or assessments to the Commission. No formal complaints have been filed against the company since the commencement of the Electronic Filing and Information System.

5. US LEC is a North Carolina corporation reflected as being in good standing by the Missouri Secretary of State's website.

6. Because US LEC has requested cancellation of its certificate and because it is not providing telecommunications service in Missouri, the Staff recommends that the Commission issue an order canceling the company's certificate.

7. The Commission has the authority to cancel a telecommunications corporation certificate pursuant to Section 392.410.5 RSMo (Supp. 2006), 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).

10. This pleading is being served on the address provided by the company to the Commission via certified mail, as well as upon its Missouri registered agent.

WHEREFORE, the Staff recommends the Commission cancel the certificate of service authority of US LEC Communications, Inc. to provide intrastate interexchange telecommunications services in Missouri, as well as its tariff, P.S.C. MO Tariff No. 1.

Respectfully submitted,

/s/ Blane Baker

Blane Baker  
Legal Counsel  
Missouri Bar No. 58454

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-5472 (Telephone)  
(573) 751-9285 (Fax)  
email: blane.baker@psc.mo.gov

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed return receipt requested or electronically to all counsel of record as shown on the attached service list this 1<sup>st</sup> day of November 2007.

/s/ Blane Baker

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

CT Corporation System  
Registered Agent for US LEC Communications, Inc.  
120 South Central Ave.  
Clayton, MO 63105

Grace R. Chiu  
Counsel to US LEC Communications, Inc.  
575 7<sup>th</sup> Street, NW  
Washington, DC 20004-1601  
*(Via Certified Mail)*

US LEC Communications, Inc.  
6801 Morrison Blvd.  
Charlotte, NC 28211  
*(Via Certified Mail)*

October 29, 2007

**BY OVERNIGHT DELIVERY**

David Meyer  
Office of the General Counsel  
Missouri Public Service Commission  
Governor Office Building  
200 Madison Street  
Jefferson City, Missouri 65102-0360

Re: **EXPEDITED CONSIDERATION REQUESTED**  
US LEC Communications Inc. – Request for Commission Approval to  
Relinquish Its Certificate of Service Authority and Cancel Tariff

Dear Mr. Meyer:

US LEC Communications Inc. ("US LEC"), by its undersigned counsel, hereby notifies the Commission that it wishes to surrender its certificate of service authority to provide intrastate interexchange telecommunications services in the State of Missouri and cancel its Missouri tariff currently on file with the Commission. US LEC has no Missouri customers and, therefore, seeks approval of this request by December 1, 2007.

An original and one extra copy of this filing are enclosed. Kindly date-stamp and return the extra copy in the attached self-addressed, postage-paid envelope.

**A. Information Regarding US LEC**

US LEC is a North Carolina corporation and an indirect, wholly owned subsidiary of PAETEC Holding Corp., a publicly traded holding company headquartered in Fairport, New York. US LEC is authorized to provide resold intrastate interexchange telecommunications services in Missouri pursuant to the certificate of service authority granted by the Commission in Case No. XA-2003-0321 ("Certificate") and its tariff, P.S.C. MO. Tariff No. 1, approved in the same case.

**Attachment A**

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**B. Request for Approval to Relinquish Certificate and Withdraw Tariff**

Pursuant to 4 CSR 240-3-560, US LEC states as follows:

1. Reason for Request. US LEC seeks cancellation of its Certificate and tariff because it no longer serves any customers in the State of Missouri and no longer desires authority to operate as a provider of intrastate interexchange telecommunications services in Missouri.
2. Requested Effective Date of Cancellation of Certificate: December 1, 2007.
3. Areas Affected by the Cancellation: None.
4. Description of the Services to be Ceased: US LEC no longer serves any customers in Missouri and, therefore, the proposed surrender of its Certificate will not involve the discontinuance of service to any Missouri consumers. US LEC has ceased offering intrastate interexchange telecommunications services in Missouri.
5. Tariff and Certificate. US LEC seeks cancellation of both its Certificate and tariff.
6. Customer Notice. Because US LEC no longer serves any customers in Missouri, the requirement to give prior written notice to affected customers does not apply in this case.
7. Alternative Service Provider. Because US LEC no longer serves any customers in Missouri, the requirement to inform customers as to how they can select a new service provider does not apply in this case.

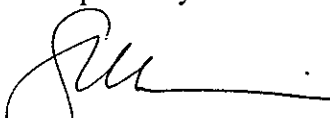
**C. Conclusion**

For the foregoing reasons, US LEC submits that grant of this request is reasonable and necessary and will not harm the present or future public convenience and necessity of the State of Missouri. US LEC therefore respectfully requests that the Commission authorize US LEC to relinquish its Certificate and cancel its tariff, and grant such further relief as is necessary and proper to effect US LEC's cessation of business in Missouri.

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Should you have any questions regarding this matter, please do not hesitate to contact me.

Respectfully submitted,



Grace R. Chiu


Counsel to US LEC Communications Inc.

cc: Judith Messenger (US LEC)

**VERIFICATION**

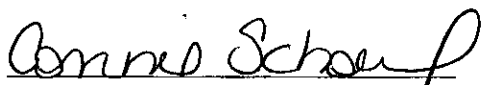
STATE OF NEW YORK           §  
   §  
COUNTY OF MONROE       §

I, JT Ambrosi, hereby verify under penalty of perjury that I am an authorized representative of US LEC Communications Inc.; that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.



JT Ambrosi  
Vice President, Carrier and Government Relations  
PAETEC Communications, Inc.

Subscribed and sworn to before me on this 18 th day of October, 2007.



My commission expires: Sept. 26, 2009

Connie Schoenl  
Notary Public, State of New York  
No. 01SC6134301  
Qualified in Monroe County  
Commission Expires Sept. 26, 2009