

**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 Fox)
Communications 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 requests that the Commission cancel the certificate of service authority and accompanying tariff of Fox Communications Company. In support of its motion, Staff respectfully states as follows:

1. On July 17, 2003, the Missouri Public Service Commission granted a certificate of service authority to provide interexchange telecommunications service to Fox Communications Corporation (Fox) in Case No. XA-2003-0549. The company's tariff, Missouri P.S.C. Tariff No. 1, was approved in the same case.

2. The web site of the Office of the Missouri Secretary of State reports that the certificate of authority granted to Fox Communications Corporation, a Washington corporation, was revoked October 22, 2004 because the company failed to file its Annual Registration Report. Section 351.602.3 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."

3. In its native state of Washington, Fox Communications Corporation is listed as an inactive corporation as of January 31, 2004, according to the web site of the Washington Secretary of State.

4. Fox's mail has been returned by the post office as undeliverable. The mail had been sent to the address provided by the company and that is reflected in the company's most

recent Annual Registration Report on file with the Missouri Secretary of State. A returned envelope is attached to this Motion as Attachment A.

5. Fox owes a small past-due assessment for Fiscal Year 2005.

6. Staff believes that Fox has violated the terms of its certificate by its failure to keep the Commission informed of its current address and its failure to pay its assessment. Section 392.210(2) RSMo. (2000) states, among other things, “The commission shall at all times have access to all accounts, records and memoranda kept by telecommunications companies...” Because Fox has failed to keep the Commission informed of a current address, the Commission is unable to contact Fox. Therefore, Fox has denied the Commission access that is required of the Commission under Section 392.210(2) RSMo. (2000). Certainly, Fox has denied the Commission its ability to supervise telecommunications operations and services as statutorily mandated under Section 386.250 RSMo. (2000).

7. The Commission has the authority to cancel a telecommunications company 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. Because Staff has no accurate address for Fox, Staff is unable to provide service of this pleading directly to Fox. Therefore, the Staff is serving this pleading on the registered agent of Fox as listed on the website of the Secretary of State. Section 351.594.1 RSMo. (2000) provides that “the registered agent of a foreign corporation authorized to transact business in this

state is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation."

WHEREFORE, the Staff recommends the Commission cancel the certificate of service authority of Fox Communications Corporation to provide interexchange telecommunications service, as well as its tariff, Missouri P.S.C. Tariff No. 1.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ **David A. Meyer**

David A. Meyer
Senior Counsel
Missouri Bar No. 46620

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8706 (Telephone)
(573) 751-9285 (Fax)
david.meyer@psc.mo.gov

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 30th day of March 2005.

/s/ **David A. Meyer**

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

National Registered Agents, Inc.
300-B East High Street
Jefferson City, MO 65101
(Via Certified Mail)