

**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 Axius, Inc. d/b/a)
Axius Communications)

Case No. XD-2006-_____

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

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its Motion to Open Case and Cancel Certificate of Service Authority and Tariff, respectfully states as follows:

1. In December 2002, the Missouri Public Service Commission (Commission) issued its order in Case No. TA-2002-0155, granting Axius, Inc. d/b/a Axius Communications a certificate of service authority to provide intrastate interexchange telecommunications services. The Commission also approved its tariff, Missouri P.S.C Tariff No. 1, in the same case.

2. Axius, Inc. d/b/a Axius Communications has now requested the cancellation of its certificate of service authority in a Section 63.71 application filed with the Federal Communications Commission and provided to this Commission as required by 47 CSR §63.71(a). See Appendix A. Staff has obtained an indication from the company's representative that as part of this filing, the company also intended to seek cancellation of its certificate by the Missouri Commission because it has also ceased providing intrastate interexchange telecommunications services.

3. In the Section 63.71 application, the company indicated that it proposed to discontinue its interexchange services upon receiving regulatory approval after June 10, 2005. The filing took place in DA 05-1935, WC Docket No. 05-222, and in that docket the Federal

Communications Commission directed responses to the company's application be filed by July 15, 2005 and directed that the company not cease providing service until August 1, 2005.¹ Both dates have now passed and the company's representative has indicated that it has ceased providing interexchange services.

4. The company owes no annual reports to the Commission. It is reflected as in "good standing" at the Missouri Secretary of State's office. The company filed its cancellation request before the Commission mailed its Fiscal Year 2006 assessment notices, and the company has not paid its very minimal assessment.

5. Because Axius, Inc. d/b/a Axius Communications has requested cancellation of its certificate, and because it is no longer providing telecommunications service in Missouri, the Staff recommends that the Commission issue an order canceling Axius, Inc. d/b/a Axius Communications's certificate and tariff.

6. 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).

¹ The FCC stated: "In accordance with section 63.71(c) of the Commission's rules, AXIUS's application will be deemed to be automatically granted on the thirty-first (31st) day after the release date of this public notice, unless the Commission notifies AXIUS that the grant will not be automatically effective. Accordingly, pursuant to section 63.71(c), absent further Commission action, AXIUS may not terminate service until **August 1, 2005**." No subsequent notification took place.

7. This pleading is being served both on the address provided by the company to the Commission via certified mail, as well as upon its Missouri registered agent and its counsel before the Federal Exchange Communications who prepared the Section 63.71 filing.

WHEREFORE, the Staff recommends the Commission cancel the certificate of service authority granted Axius, Inc. d/b/a Axius Communications to provide interexchange telecommunications services, as well as its accompanying tariff, Missouri P.S.C.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
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(573) 751-9285 (Fax)
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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 4th day of August 2005.

/s/ David A. Meyer

Office of the Public Counsel
Governor Office Building, Suite 650
200 Madison Street
P. O. Box 7800
Jefferson City, MO 65102

John L. Hearne
Registered Agent for Axius, Inc. d/b/a Axius
Communications
300-B East High Street
Jefferson City, MO 65101

Axius, Inc. d/b/a Axius Communications
2300 N 10th St
Enid, OK 73701
(via certified mail)

Axius, Inc. d/b/a Axius Communications
Patrick D. Crocker, Attorney
900 Comerica Bldg.
Kalamazoo, MI 49007

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)	
Section 63.71 Application of)	
AXIUS, Inc.)	WCB Docket No. 05-_____
d/b/a AXIUS Communications)	
For Authority to Discontinue)	
Long Distance Services)	

SECTION 63.71 APPLICATION

AXIUS, Inc. d/b/a AXIUS Communications ("AXIUS") hereby files this Application requesting authority under Section 214 of the Communications Act of 1934, as amended and pursuant to Section 63.71 of the code of Federal Regulations to discontinue its domestic and international long distance service. These services are carried over underlying networks owned and operated by Qwest and Global Crossing. AXIUS is a nondominant reseller of long distance services.

I. Pursuant to Section 63.71 (b)(1) through (5) (47 C.F.R. § 63.71(b)(1) through (5)), AXIUS submits the following information:

1. Name and address of carrier:

AXIUS Inc
d/b/a AXIUS Communications
2300 N 10th St
Enid OK 73701

2. Date of planned service discontinuance:

The anticipated date for the discontinuance of the service described in paragraphs 3 and 4 below is June 10, 2005, or as soon thereafter as the necessary governmental approval can be obtained.

3. Points of geographic areas of service affected:

The proposed discontinuance will affect the provision of long distance services in the states of Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Missouri, New Hampshire, New Jersey, North Carolina, Ohio, Oklahoma, Texas, Virginia, West Virginia and Wisconsin.

4. Brief description of the type of service affected:

Long distance services.

5. Brief description of the dates and methods of notice to all affected customers:

AXIUS provided written notice to its affected customers by regular mail on May 11, 2005.

6. Nondominance of the carrier with respect to the service being discontinued:

AXIUS is nondominant with respect to the services it proposes to discontinue.

7. Service:

In accordance with Section 63.71(a) of the Commission's rules, AXIUS has mailed a copy of this application to the Governors of the affected states, to all affected State public utility commissions and the Special Assistant for Telecommunications for the Secretary of the Defense.

8. Additional questions regarding this application may be addressed to:

AXIUS Inc
d/b/a AXIUS Communications
Patrick D Crocker, Attorney
900 Comerica Bldg
Kalamazoo MI 49007
Telephone: 269-381-8844
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II. Circumstances of Discontinuance

AXIUS has determined the recent regulatory rulings have negatively impacted its ability to provide service to end-users and that it is not economically feasible to continue current service offerings.

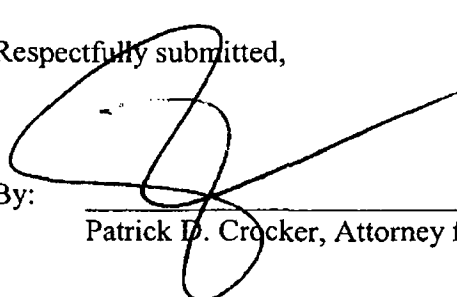
III. Conclusion

AXIUS believes that the proposed discontinuance of services is reasonable and necessary. For the foregoing reasons, AXIUS respectfully requests, pursuant to Section 241(a) of the

Communications Act of 1934, as amended 47 U.S.C. § 214(a) and Section 63.71 of the Commission's Rules that the Commission approve its Section 63.71 application to discontinue the provision of above-described services.

Respectfully submitted,

By:



Patrick D. Crocker, Attorney for

AXIUS, Inc.
d/b/a AXIUS Communications

Dated: June 8, 2005