

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Cancellation and Nullification of the)
Certificates of Service Authority and Accompanying) **Case No. TD-2005-0403**
Tariffs of Convergent Communications Services, Inc.)

ORDER CANCELING CERTIFICATE AND TARIFF

Issue Date: June 9, 2005

Effective Date: June 19, 2005

This order cancels the certificate of service authority to provide interexchange telecommunications services granted to Convergent Communications Services, Inc., along with its accompanying tariff. The order also determines that the company's certificate of service authority to provide local telecommunications services is null and void.

On May 10, 2005, the Staff of the Missouri Public Service Commission filed its motion to open a case and cancel Convergent Communications' certificate of service authority to provide interexchange telecommunications services, along with the accompanying tariff. Staff stated that the Commission granted Convergent Communications a certificate of service authority to provide intrastate interexchange telecommunications services in Case No. TA-99-42. The Commission also approved the company's tariff, P.S.C. Mo. Tariff No. 1, in that same case.

Staff also asked the Commission to cancel the company's certificate of service authority to provide local exchange telecommunications services. The Commission granted the company a certificate of service authority to provide local exchange telecommunications services in Case No. TA-2000-245. However, Staff indicates that the company has never filed

a related tariff. Section 392.410, RSMo 2000,¹ states: “Unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority or a certificate of public convenience and necessity shall be null and void.” Staff notes that without a tariff filed with the Commission, a telecommunications company may not exercise its certificate of service authority.

Staff indicates that on April 19, 2001, Convergent Communications sought bankruptcy protection under Chapter 11 of the Federal bankruptcy code in Petition 01-15488-EEB in the District of Colorado. Staff states that the company was subsequently liquidated.

Furthermore, Staff notes that the website of the Missouri Secretary of State’s Office indicates that the certificate of authority granted to Convergent Communications, a Colorado corporation, was revoked on September 4, 2002, because the company failed to file its Annual Registration Report. Section 351.602.3 provides 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.” Staff also states that the company’s liquidating trustee has informed Staff that the company is no longer operating and that it is no longer providing service to Missouri customers.

The Commission has the authority to cancel a telecommunications corporation certificate under Section 392.410.5, which states, “Any certificate of service authority may be altered or modified by the commission after notice and hearing, upon its own motion or upon

¹ All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri, revision of 2000.

application of the person or company affected.” Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the application.²

The Commission has reviewed the motion and finds that it is reasonable to cancel certificate of service authority to provide interexchange telecommunications services granted to Convergent Communications. In addition, the Commission finds that it is in the public interest to cancel the company’s accompanying tariff. Therefore, the certificate of service authority granted to Convergent Communications in Case No. TA-99-42, along with the accompanying tariff, will be canceled. The Commission also determines that pursuant to Section 392.410.5, the company’s certificate of service authority to provide local exchange telecommunications service has never become valid because it was not exercised within a period of one year from its issuance. As the certificate has never become valid, it is null and void. Therefore, the Commission will also cancel this certificate.

IT IS THEREFORE ORDERED:

1. That the certificate of service authority to provide interexchange telecommunications, granted in Case No. TA-99-42 to Convergent Communications Services, Inc., is canceled.
2. That the accompanying tariff, P.S.C. Mo. Tariff No. 1, of Convergent Communications Services, Inc., is canceled.
3. That the certificate of service authority to provide local exchange telecommunications service, granted to Convergent Communications Services, Inc., in Case No. TA-2000-245, is null and void, and is canceled.
4. That this order will become effective on June 19, 2005.

² *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

5. That this case may be closed on June 20, 2005.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written in a cursive style.

Colleen M. Dale
Secretary

(S E A L)

Vicky Ruth, Senior Regulatory Law
Judge, by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 9th day of June, 2005.