

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

In the Matter of the Waiver of)
Certain Rules and Statutes to) **File No. TE-2012-0**
Telecommunications Companies)

STAFF MOTION

COMES NOW the Staff of the Missouri Public Service Commission and for its Motion states:

1. On August 28, 2008, §392.245.5(8) and §392.420 RSMo were amended by H.B. 1779, allowing regulated telecommunications companies to apply for or elect waivers of certain provisions of statutes and regulations. Through a lengthy process involving dozens of cases, the following “standard” list of waivers is granted to all competitive local exchange companies, all interexchange companies (to the extent that the rule or statute applies to them) and all incumbent local exchange companies who have elected to have some or all of them waived:

- 4 CSR 240-3.550 (4) and (5)(A) Quality of service reports
- 4 CSR 240-10.020 Depreciation Records
- 4 CSR 240-30.040 Uniform System of Accounts
- 4 CSR 240-32.050(4)(B) Limited White Pages Waiver
- 4 CSR 240-32.060 Engineering and Maintenance
- 4 CSR 240-32.070 Quality of Service
- 4 CSR 240-32.080 Service objectives and surveillance levels
- 4 CSR 240-33.040(1-3) and (5-10) Billing and payment standards
- 4 CSR 240-33.045 Clear identification and placement of charges on bills
- 4 CSR 240-33.080(1) Identify company name and toll-free number on bills
- 4 CSR 240-33.130(1), (4) and (5) Operator service requirements
- 392.210.2 Accounting requirements (system of accounts)
- 392.240.1 Reasonableness of rates
- 392.270 Accounting requirements (valuation of property)
- 392.280 Accounting requirements (depreciation rates/accounts)
- 392.290 Issuance of stocks, bonds and other indebtedness
- 392.300 Transfer of property and ownership of stock
- 392.310 Approval of issuing stocks, bonds and other indebtedness
- 392.320 Certificate of Commission to be recorded-stock dividends
- 392.330 Accounting requirements (proceeds of sales of stock, bonds, notes, etc.)
- 392.340 Company reorganization

2. This year, on August 28, H.B. 338 added §392.461, which provides as follows:

A telecommunications company may, upon written notice to the commission, elect to be exempt from certain retail rules relating to:

(1) The provision of telecommunications service to retail customers and established by the commission which include provisions already mandated by the Federal Communications Commission, including but not limited to federal rules regarding customer proprietary network information, verification of orders for changing telecommunications service providers (slamming), submission or inclusion of charges on customer bills (cramming); or

(2) The installation, provisioning, or termination of retail service.

Notwithstanding any other provision of this section, a telecommunications company shall not be exempt from any commission rule established under authority delegated to the state commission pursuant to federal statute, rule or order, including but not limited to universal service funds, number pooling and conservation efforts, or any authority delegated to the state commission to facilitate or enforce any interconnection obligation or other intercarrier issue, including but not limited to, intercarrier compensation, network configuration or other such matters.

* * *

Nothing in this section shall affect the rights and obligations of any entity, including the commission, established pursuant to federal law, including 47 U.S.C. Sections 251 and 252, any state law, rule, regulation, or order related to wholesale rights and obligations, or any tariff or schedule that is filed with and maintained by the commission.

3. Section 392.245.5(8) continues to provide that the Commission shall retain the authority to hear and resolve customer complaints based upon certain federal regulations and standards, the company's tariff, or Commission rules "other than those related to customer billing, network engineering and maintenance, and service objectives and surveillance levels or a failure to provide service in a manner that is safe, adequate, usual and customary in the telecommunications industry."

4. In addition to that retention of authority, the Staff notes that these waivers do not relieve the Company of any reporting or other obligations that arise from a source other than the waived rules or statutory provisions, such as undertakings made in a Stipulation or Agreement or as a merger or other condition.

5. The Staff and many representatives of regulated companies met to discuss what waivers should be added to the "standard" waiver list, and how best to apply those waivers to those companies that wanted them, without having to deal with individual company requests. It was determined that the most efficient method was for the Staff to move the Commission to

grant the additional waivers to all regulated telecommunications companies, except those that file a request in this matter asking that the waivers not be applied to them.

6. The Staff recommends that the Commission grant the following waivers, and automatically apply them to all regulated telecommunications companies in addition to the waivers listed above:

- 4 CSR 240-3.520 Applications to sell or transfer assets
- 4 CSR 240-3.525 Applications to merge or consolidate
- 4 CSR 240-3.530 Applications to issue stocks, obtain loans
- 4 CSR 240-3.535 Applications to acquire stock
 - (With respect to the above waivers, the Staff believes that not including them would create confusion with newly promulgated 4 CSR 240-2.062)
- 4 CSR 240-3.545 Tariffs (waived conditionally if a company detariffs)
- 4 CSR 240-3.550 Telco Records and Reports (except (5)(B), (D) and (E))
 - (Portions of this rule is already within the standard waiver list, this would remove the remaining reporting requirements except for tariff filings, outage reports and disaster plans)
- 4 CSR 240-3.555 Residential Customer Inquiries
 - (With respect to this waiver, it is important to note that this does not pertain to addressing customer complaints and inquiries brought to the attention of the Commission's Consumer Services Department, whose interactions with consumers and companies will remain unchanged)
- 4 CSR 240-3.560 Procedure for Ceasing Operations
- 4 CSR 240-30.020 Residential Telephone Underground Systems
- 4 CSR 240-32.010 General Provisions
- 4 CSR 240-32.040 Metering, Inspections and Tests
- 4 CSR 240-32.050 Customer Services
- 4 CSR 240-32.090 Connection of equipment and Inside Wiring
- 4 CSR 240-32.100 Provision of Basic Local and Interexchange Services
- 4 CSR 240-32.130-170 Prepaid calling card service requirements (except 32.140 and 32.150(1))
- 4 CSR 240-32.180-190 Caller ID blocking requirements
- 4 CSR 240-33.010 Service and Billing Practice General Provisions
- 4 CSR 240-33.040 Billing and payment standards (Already partially waived, this would waive the remainder)
- 4 CSR 240-33.050 Deposits
- 4 CSR 240-33.060 Residential Customer Inquiries
- 4 CSR 240-33.070 Discontinuance of service
- 4 CSR 240-33.080 Disputes by Residential Customers (Already partially waived, this would waive the remainder)
- 4 CSR 240-33.090 Settlement agreements with residential customers
- 4 CSR 240-33.130 Operator service requirements (Already partially waived, this would waive the remainder)
- 4 CSR 240-33.140 Payphone requirements (except (2))
- 4 CSR 240-33.150 "Anti-slamming" requirements
- 4 CSR 240-33.160 Customer Proprietary Network Information

7. The Staff moves that the Commission also waive the requirement that companies list these “standard” waivers in their applications (4 CSR 240-3.510(1)(C)) and tariffs (4 CSR 240-3.545(8)(C)), as they will apply to all telecommunications companies except those that notify the Commission within ten days of the Order Directing Notice in this matter.

8. The Staff notes that 4 CSR 240-3.545 Tariffs will be waived conditionally if a company detariffs. As companies will always have tariffs, even if they completely detariff their retail offerings, this rule cannot be included in the listed waivers. Companies will detariff through a tariff filing, which filing should conform to the rule.

9. The Staff moves that the Commission list the standard waivers in any Order it issues granting certification to a telecommunications company. Those waivers are:

- 392.210.2 Accounting requirements (system of accounts)
- 392.240.1 Reasonableness of rates
- 392.270 Accounting requirements (valuation of property)
- 392.280 Accounting requirements (depreciation rates/accounts)
- 392.290 Issuance of stocks, bonds and other indebtedness
- 392.300 Transfer of property and ownership of stock
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- 4 CSR 240-3.520 Applications to sell or transfer assets
- 4 CSR 240-3.525 Applications to merge or consolidate
- 4 CSR 240-3.530 Applications to issue stocks, obtain loans
- 4 CSR 240-3.535 Applications to acquire stock
- 4 CSR 240-3.550 Telco Records and Reports (except (5)(B), (D) and (E))
- 4 CSR 240-3.555 Residential Customer Inquiries
- 4 CSR 240-3.560 Procedure for Ceasing Operations
- 4 CSR 240-10.020 Depreciation Records
- 4 CSR 240-30.020 Residential Telephone Underground Systems
- 4 CSR 240-30.040 Uniform System of Accounts
- 4 CSR 240-32.010 General Provisions
- 4 CSR 240-32.040 Metering, Inspections and Tests
- 4 CSR 240-32.050 Customer Services
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- 4 CSR 240-32.070 Quality of Service
- 4 CSR 240-32.080 Service objectives and surveillance levels
- 4 CSR 240-32.090 Connection of equipment and Inside Wiring
- 4 CSR 240-32.100 Provision of Basic Local and Interexchange Services
- 4 CSR 240-32.130-170 Prepaid Calling Cards (except 32.140 and 32.150(1))
- 4 CSR 240-32.180-190 Caller ID blocking requirements
- 4 CSR 240-33.010 Service and Billing Practice General Provisions
- 4 CSR 240-33.040 Billing and Payment standards
- 4 CSR 240-33.045 Clear identification and placement of charges on bills
- 4 CSR 240-33.050 Deposits

- 4 CSR 240-33.060 Residential Customer Inquiries
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- 4 CSR 240-33.080 Disputes by Residential Customers
- 4 CSR 240-33.090 Settlement agreements with residential customers
- 4 CSR 240-33.130 Operator service requirements
- 4 CSR 240-33.140 Payphone requirements (except (2))
- 4 CSR 240-33.150 "Anti-slamming" requirements
- 4 CSR 240-33.160 Customer Proprietary Network Information

WHEREFORE, the Staff moves that the Commission adopt the waivers listed in Paragraph 9 as the "standard" list of waivers, grant them to all telecommunications companies, except those that file a request in this matter that they not apply, and waive the requirements that these waivers be listed in the application and tariff.

Respectfully submitted,



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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 8th day of September, 2011.

