

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

In the Matter of the Application of)	
)	
tw telecom of kansas city llc)	
)	Case No. CE-2010-0077
for Partial Waiver of Commission Rule)	
)	
4 CSR 240-32.050(4)(B))	

APPLICATION FOR PARTIAL WAIVER OF COMMISSION RULE

COMES NOW **tw telecom of kansas city llc** ("Applicant" or "TWTC"), by and through counsel, pursuant to Sections 392.245.5(8) and 392.420 RSMo. Supp. 2008, 4 CSR 240-2.060, 4 CSR 240-2.080 and 4 CSR 240-3.015, and requests the Commission to issue an order granting TWTC the same partial waiver of Commission rule 4 CSR 240-32.050(4)(B) that was granted to AT&T Missouri and Charter Fiberlink in Case No. IE-2009-0357 and Socket Telecom in TA-2010-0006, with a change in the conditions of the waiver. In addition, TWTC urges the Commission to grant a blanket waiver for all CLECs operating in AT&T's St. Louis, Kansas City and/or Springfield service territories, or establish an expedited, less formal procedure for such waivers to be granted individually.

On July 24, 2009, the Commission granted Southwestern Bell Telephone Company, d/b/a AT&T Missouri LLC's request for a limited waiver of Commission Rule 4 CSR 240-32.050(4)(B), which requires each company providing basic local telecommunications service to publish and distribute a copy of its phone directory to its customers. The *Order Approving Unanimous Stipulation and Agreement* in Case No. IE-2009-0357 (effective date August 1, 2009) also granted the same limited waiver of 4

CSR 240-32.050(4)(B) to Charter Fiberlink – Missouri, LLC, a competitive local exchange carrier intervenor in the case. In a subsequent order, the Commission granted the same limited waiver to Socket Telecom in TA-2010-0006 In support of this Application for a partial waiver of 4 CSR 240-32.050(4)(B), TWTC states as follows:

1. Applicant, **tw telecom of kansas city llc**, is a limited liability corporation organized under the laws of the State of Delaware. The character of business performed by Applicant is telecommunications services. A copy of Applicant's Certificate of Authority from the Missouri Secretary of State, as required by 4 CSR 240-2.060(1)(C), was previously filed with the Commission in Case No. CE-2009-0176 and is incorporated herein by reference per 4 CSR 240-2.060(1)(G). Applicant is a certificated provider of basic local exchange telecommunications service in Missouri, as a result of a merger with Xspedius Management Co. Switched Services LLC approved by the Commission in Case No. TM-2007-0472, and name changes approved in Case Nos. TM-2007-0472 and CN-2008-0363. Xspedius was granted Certificates of Service Authority in Case Nos. LA-2003-0001 and CA-2002-1153.

2. All communications, notices, orders and decisions regarding this Application and proceeding should be addressed to:

Mary Ann (Garr) Young
William D. Steinmeier
William D. Steinmeier, P.C.
2031 Tower Drive
Jefferson City, Missouri 65109
Tel: (573) 353-8109
Fax: (573) 634-8224
Email: myoung0654@aol.com
wds@wdspc.com

and

Pamela Sherwood
Vice President of Regulatory
tw telecom inc.
4625 W. 86th Street, Ste 500
Indianapolis, IN 46268
Office: 317-713-8977
Fax: 317-713-8937
Email: pamela.sherwood@twtelecom.com

3. Applicant's principal place of business address is: 10475 Park Meadows Drive, 4th Floor, Littleton CO 80124, with local offices at 10975 Grandview, Suite 300, Overland Park KS 66210.

4. On April 2, 2009, Southwestern Bell Telephone Company, d/b/a AT&T Missouri, filed an application in Case No. IE-2009-0357 requesting a partial waiver of Commission rule 4 CSR 240-32.050(4)(B). For its St. Louis, Kansas City, and Springfield service areas, AT&T Missouri proposed to continue to publish its white pages directory, but to distribute the white pages only to customers who request copies. Details of the proposal included:

a) placement of Commission-required information in AT&T Missouri's yellow pages business directory (including business white pages, government listings, customer guide information, etc.),

b) prominent placement inside the yellow pages advising customers that they will receive a white page residential customer directory only upon request by calling a dedicated toll-free 800 number, with a copy to be mailed to them at no charge to the customer,

c) delivery of a separate information sheet along with the yellow pages including the same information as to how customers can request a copy of the white pages to be mailed to them at no charge,

d) AT&T Missouri would make residential listing information available to its customers through its directory website, www.RealPagesLive.com, as well as www.yellowpages.com.

e) AT&T Missouri also agreed “to provide a white page directory to CLEC customers residing in AT&T Missouri’s service territory in the same manner it provides directories to its own customers.”

5. TWTC is authorized to provide local exchange telecommunication services in AT&T Missouri’s territory, including St. Louis, Kansas City and Springfield MCAs. TWTC relies exclusively on AT&T Missouri for delivery of the white pages directories to its customers within the AT&T Missouri service territory. TWTC’s interconnection agreement¹ with AT&T Missouri governs the terms and conditions of the directory services that AT&T provides to TWTC. TWTC cannot comply with 4 CSR 240-32.050(4)(B) without the delivery of AT&T Missouri’s residential white pages directory. In order to remain in compliance with 4 CSR 240-32.050(4)(B), and as a direct consequence of the Commission’s grant of AT&T Missouri’s requested waiver, TWTC now seeks a similar waiver.

¹ The agreement between TWTC (f/k/a Time Warner Telecom of Missouri, LP and f/k/a Xspedius Management Co. Switched Services, L.L.C., and Xspedius Management Co. of Kansas City, L.L.C.s) and AT&T Missouri was approved in TK-2006-0043.

6. TWTC is similarly situated to Charter Fiberlink and Socket, who were both granted a partial waiver of 4 CSR 240-32.050(4)(B), and seeks similar treatment, with one exception related to customer notice and collection of information from customers who wish to receive a printed copy of the white pages directory

7. TWTC prefers to notify its customers that white pages directories will no longer be automatically delivered, and instruct customers who want a white pages directory to call the toll-free number that appears in the yellow pages and on the information sheet delivered with the yellow pages to request a copy of the directory. This request differs from the conditions placed on the Charter Fiberlink and Socket waivers, which provided for the CLEC to notify customers and direct them to call the CLEC's toll-free number, with the CLEC obtaining the customer information and passing that information to AT&T Missouri. TWTC understands that Charter Fiberlink preferred to have their customers call a Charter Fiberlink toll-free number, and that Socket requested the Commission grant it a waiver "to the extent it granted such waiver to AT&T Missouri", whereupon the Commission imposed the same conditions on Socket as Charter Fiberlink had requested.

TWTC prefers to take advantage of a simpler, less costly and burdensome, and more direct method of handling customer requests through use of AT&T's dedicated toll-free number and white pages 'fulfillment center' as provide for in the Stipulation and Agreement (Paragraphs 9-10) approved by the Commission in Case No. IE-2009-0357. In Paragraph 9, "AT&T Missouri agrees to use the same process to provide printed residential white page directories for CLEC customers residing within AT&T Missouri's service territory as it will use for its own customers..." Paragraph 10 provides "AT&T

Missouri agrees that customers (regardless of their service provider) who contact it, or its agent, for copies of its printed residential white pages directories at telephone numbers established by AT&T to furnish printed copies of the residential white pages, including the toll-free number referenced in paragraph 3 herein, will not be subjected to marketing or sales information or efforts of any kind, other than those for AT&T branded directories.”

TWTC prefers this process, which will result in customer requests being handled by the ‘fulfillment center’ from which the directories will be shipped, which TWTC understands will be an outside vendor to AT&T. This option is in the public interest, as it should result in fewer errors collecting and transferring information, should provide faster service in obtaining white pages, and will avoid additional cost and burden of processing these requests being placed on the CLEC.

Sample language for TWTC’s customer notice, which has been used in other jurisdictions where AT&T affiliates have discontinued general white pages distributions, would read:

Residential White Page Directories - You will no longer automatically receive the residential white pages, unless specifically requested. You may view the residential listings online at either www.RealPagesLive.com or www.Yellowpages.com, or you may request a free printed copy of the residential white pages by calling the toll-free number provided in the printed Yellow Pages, business white pages and customer guides, which you will continue to receive.

8. TWTC also requests the Commission establish a procedure by which all CLECs operating in AT&T Missouri’s St. Louis, Kansas City and Springfield MCAs could be granted partial waiver of 4 CSR 240-32.050(4)(B). TWTC recommends this procedure include a provision allowing each CLEC to choose to opt into either the “Charter approach” or the “TWTC approach” to notification and identification of the toll-

free number (either CLEC's or AT&T's) for collection of customer requests. Because all CLECs who have end user customers in the service areas affected by AT&T's waiver will in turn be obligated to seek waiver of the directory rule, and because the CLECs did not instigate the original waiver and do not control printing and distribution of the white pages directory, it would be appropriate and more equitable to allow a less formal, less costly approach to address this issue.

9. Applicant states that there are no pending actions or final unsatisfied judgments or decisions against it in any state, federal agency, or court, which involve customer service or rates, which action, judgment, or decision has occurred within three (3) years of the date of this Application.

10. Applicant does not have any overdue annual reports or fees owed to the Missouri Public Service Commission.

WHEREFORE, Applicant, tw **telecom of kansas city llc**, requests that the Commission grant it a waiver of 4 CSR 240-32.050(4)(B), consistent with the waiver granted to AT&T Missouri and Charter Fiberlink in Case No. IE-2009-0357 and Socket in Case No. TA-2010-0006, with the changes related to customer notice and collection of customer request information as described above. Also, Applicant requests that the Commission grant blanket waivers to similarly situated CLECs or establish a less formal procedure than the full application process whereby other CLECS may be granted waivers of this rule on similar conditions.

Respectfully submitted,

/s/Mary Ann Young

Mary Ann (Garr) Young MoBar #27951

William D. Steinmeier MoBar #25689

WILLIAM D. STEINMEIER, P.C.

2031 Tower Drive

P.O. Box 104595

Jefferson City MO 65110-4595

Phone: (573) 353-8109

Fax: (573) 634-8224

Email: myyoung0654@aol.com

wds@wdspc.com

ATTORNEYS FOR
tw telecom of kansas city llc

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Verified Application has been served electronically on the General Counsel's Office and the Office of the Public Counsel this 1st day of September 2009.

/s/Mary Ann Young


Mary Ann (Garr) Young

OFFICER'S VERIFICATION

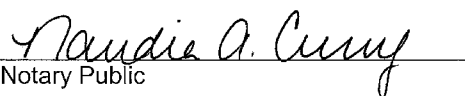
STATE OF INDIANA)

COUNTY OF MARION)

I, Pamela H. Sherwood, state that I am Vice President of Regulatory of **tw telecom**, that I am authorized to make this Verification on behalf of **tw telecom of kansas city llc**, that I have read the foregoing Application and verify that the statements are true and correct to the best of my knowledge, information and belief.

By: 
Name: Pamela H. Sherwood
Title: Vice President of Regulatory
tw telecom of kansas city llc

The foregoing instrument was acknowledged before me this 1st day of September 2009.


Notary Public

My commission expires: 12/10/09

NAUDIE A. CURRY
NOTARY PUBLIC STATE OF INDIANA
INDIANAPOLIS COUNTY
MY COMMISSION EXP. DEC. 10, 2009