

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

In the Matter of the Application of tw telecom)	Case No. CE-2009-0176
of kansas city llc for Waiver of Commission)	Tariff Nos. JC-2009-0349 and
Rules and Statute)	JC-2009-0350

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its recommendation states:

1. On November 12, 2008, tw telecom of kansas city llc (Company) filed an Application for Waiver of Commission Rules and Statute (Application) with the Missouri Public Service Commission (Commission) requesting that the Commission waive certain Commission rules and a statutory provision pursuant to RSMo¹ Sections 392.245.5(8) and 392.420. The Company also submitted revised tariff sheets adding the requested waivers. The tariff sheets bear a proposed effective date of December 11, 2008.

2. The Company's reference to RSMo Sections 392.245(8) and 392.420 refers to the statutes as revised by the passage of House Bill 1779, which became effective August 28, 2008.

3. Section 392.245.5(8), as amended by House Bill 1779, states in relevant part that ". . . all alternative local exchange telecommunications companies shall not be required to comply with customer billing rules, network engineering and maintenance rules, and rules requiring the recording and submitting of service objectives or surveillance levels established by the commission."

4. Section 392.245.5(8) does provide, however, that the Commission shall retain the authority to hear and resolve customer complaints based upon certain federal regulation and standards, the company's tariff, or Commission rules "other than those related to customer

¹ All references to RSMo refer to the Missouri Revised Statutes 2000, as currently supplemented.

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.”

5. Section 392.420 RSMo, as amended by H.B. 1779, states in part that “[i]n the case of an application for certificate of service authority to provide basic local telecommunications service filed by an alternative local exchange telecommunications company, and for all existing alternative local exchange telecommunications companies, the commission shall waive, at a minimum, the application and enforcement of its quality of service and billing standards rules, as well as the provisions of subsection 2 of section 392.210, subsection 1 of section 392.240, and sections 392.270, 392.280, 392.290, 392.300, 392.310, 392.320, 392.330, and 392.340.”

6. The Company is an alternative local exchange telecommunications company as that term is used in Section 392.245.5(8) and 392.420. The specific waivers requested by the Company comply with the type of waivers contemplated by the passage of House Bill 1779. In the attached Memorandum, labeled Appendix A, the Staff recommends the Commission grant the waivers.

7. The Company is currently compliant in obligations relating to Commission assessment, Missouri Universal Service Fund, Relay Missouri, and the submission of an annual report.

WHEREFORE, the Staff recommends that the Commission grant to tw telecom of kansas city llc all of the requested waivers and approve the revised tariff sheets.

Respectfully submitted,

/s/ William K. Haas
William K. Haas
Deputy General Counsel
Missouri Bar No. 28701

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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 1st day of December, 2008.

/s/ William K. Haas

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. CE-2009-0176
Company Name: tw telecom of kansas city llc

From: Lisa Mahaney
Telecommunications Department

William Voight 11/26/08
Utility Operations Division/Date

Subject: Request for Waivers

Date: 11/26/08

tw telecom of kansas city llc (TWTC) filed an Application for Waiver of Commission Rules and Statute pursuant to Section 392.420, RSMo, as amended by House Bill 1779, effective August 28, 2008. The Commission Staff (Staff) has no objections to the requested waivers identified in the application.

TWTC requests the Commission waive the following:

4 CSR 240-3.550(4)
4 CSR 240-3.550(5)(A)
4 CSR 240-32.060
4 CSR 240-32.070
4 CSR 240-32.080
4 CSR 240-33.040(1), (2), (3), (5), (6), (7), (8), (9), and (10)
4 CSR 240-33.045
4 CSR 240-33.080(1)
4 CSR 240-33.130.1
4 CSR 240-33.130(4)
4 CSR 240-33.130(5)
Section 392.300.1 RSMo.

Staff recommends the Commission grant all the waivers listed above. TWTC has filed tariff filing nos. JC-2009-0349 and JC-2009-0350 effective December 11, 2008, in order to add these waivers to their tariffs.

☒ The Company is not delinquent in filing an annual report, paying the PSC assessment, MoUSF, and Relay Missouri.

(☐ No annual report ☐ Unpaid PSC assessment. Amount owed:
☐ Unpaid MoUSF ☐ Unpaid Relay Missouri)

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Commission Rules and Statute

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Case No. CE-2009-0176

AFFIDAVIT OF LISA MAHANEY

STATE OF MISSOURI

)

) ss:

COUNTY OF COLE

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Lisa Mahaney, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in preparing the accompanying memorandum, and that the facts therein are true and correct to the best of her knowledge and belief.



LISA MAHANEY

Subscribed and affirmed before me this 26th day of November 2008.



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086



NOTARY PUBLIC