

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

In the Matter of the Notice of Election of)
Waivers of Southwestern Bell Telephone)
Company, d/b/a AT&T Missouri, Pursuant)
To Section 392.420, RSMo., as amended)
by HB 1779.)

Case No. _____

NOTICE OF ELECTION OF WAIVERS

COMES NOW, AT&T Missouri,¹ and hereby notifies the Commission of its election to opt out of the application and enforcement of certain Commission rules and statutes made pursuant to Section 392.420, RSMo, as amended by HB 1779, effective August 28, 2008. The elected statutes are limited to those specifically identified in Section 392.420, and the elected Commission rules are limited to Staff's own baseline set of rules to be waived pursuant to Section 392.420. In connection with this Notice, AT&T Missouri states as follows:

1. AT&T Missouri is a Missouri corporation with its principal Missouri office at One AT&T Center, Room 3520, St. Louis, Missouri 63101. It may be contacted at the regular and electronic mail addresses and telephone and facsimile numbers of its attorneys, as set out under the signature block of this Application. AT&T Missouri is authorized to do business in Missouri² and its fictitious name is duly registered with the Missouri Secretary of State.³ AT&T Missouri is a "local exchange telecommunications company" and a "public utility," and is duly authorized to

¹ Southwestern Bell Telephone Company, d/b/a AT&T Missouri ("AT&T Missouri").

² In accordance with 4 CSR 240-2.060(1)(B) and (G), a certified copy of Southwestern Bell Telephone Company's Certificate of Good Standing from the Missouri Secretary of State was filed with the Commission on August 15, 2007, in Case No. IK-2008-0044.

³ In accordance with 4 CSR 240-2.060(1)(E) and (G), a copy of the registration of the fictitious name "AT&T Missouri" was filed with the Commission on July 17, 2007, in Case No. TO-2002-185.

EXHIBIT

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provide "telecommunications service" within the State of Missouri, as each of those phrases is defined in Section 386.020, RSMo 2000.⁴

2. All correspondence, pleadings, orders, decisions, and communications regarding this proceeding should be sent to:

Timothy P. Leahy
Leo J. Bub
Robert J. Gryzmala
Attorneys for Southwestern Bell Telephone Company,
d/b/a AT&T Missouri
One AT&T Center, Room 3516
St. Louis, Missouri 63101

3. AT&T Missouri has no final unsatisfied judgments or decisions against it from any state or federal agency or court, which involve retail customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of this Application. Moreover, AT&T Missouri has no pending actions which satisfy the listed criteria in Arkansas, Kansas, Missouri or Oklahoma. AT&T Missouri (which operates in Texas under the fictitious name AT&T Texas) has six pending formal complaints or lawsuits from end-user customers in Texas which involve retail customer service or rates.⁵

4. AT&T Missouri does not have any annual reports or assessment fees that are overdue in Missouri.

⁴ Following its June 26, 2007, Order in Case No. TO-2002-185 allowing Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, to alter its status from a Texas limited partnership to a Missouri corporation, the Commission approved tariff revisions to reflect the new corporate name, Southwestern Bell Telephone Company d/b/a AT&T Missouri. See, Order Granting Expedited Treatment and Approving Tariffs, Case No. TO-2002-185, issued June 29, 2007.

⁵ The pending lawsuits in Texas involving customer service or rates are (1) Irving's Holding, Inc. v. SBC Communications, Inc., Docket No. CC-05-07415-C and (2) David Lavine, M.D. and David Lavine, M.D., P.A. d/b/a Center for Cosmetic and Reconstructive Surgery v. AT&T Inc., Cause No. 07-54771-2. The pending formal complaints before the Texas Public Utility Commission involving customer service or rates are as follows: (1) Complaint of Harris County Hospital District Against AT&T Texas, Docket No. 34332; (2) Complaint of Harris County Hospital District Against AT&T Texas, Docket No. 34940; (3) Complaint of Harris County Hospital District Against AT&T Texas, Docket No. 35363; and (4) Complaint of John J. Gitlin, Esq. Against AT&T Texas, Docket No. 34348.

5. Section 392.420, RSMo., newly amended by HB 1779, allows local exchange telecommunications companies to opt out of the application and enforcement of various state statutes and Commission rules. With respect to incumbent local exchange companies, like AT&T Missouri, Section 392.490 provides in pertinent part:

Notwithstanding any other provision of law in this chapter and chapter 386, RSMo, where an alternative local exchange telecommunications company is authorized to provide local exchange telecommunications services in an incumbent local exchange telecommunications company's authorized service area, the incumbent local exchange telecommunications company may opt into all or some of the above-listed statutory and commission rule waivers by filing a notice of election with the commission that specifies which waivers are elected. (emphasis added).

6. Section 392.420 identifies the “above-listed statutory and commission rule waivers” as constituting:

. . . at a minimum, the application and enforcement of [the commission's] 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. (emphasis added).

7. AT&T Missouri is an incumbent local exchange telecommunications company in whose authorized service area numerous alternative local exchange telecommunications companies are authorized to provide local exchange telecommunications services.

8. AT&T Missouri hereby notifies the Commission of its election to opt out of the application and enforcement, as to AT&T Missouri, of the following Commission rules and state statutes:⁶

- Rule 3.550, sections (4) and (5)(A)
- Rule 32.060
- Rule 32.070
- Rule 32.080

⁶ All references to rules are to 4 CSR, Division 240 of the Code of State Regulations (e.g., Rule 32.060, at 4 CSR 240-32.060).

- Rule 33.040, sections (1) through (3) and sections (5) through (10)
- Rule 33.045
- Rule 33.080, section (1)
- Rule 33.130, sections (1), (4) and (5)
- Section 392.210, subsection 2, RSMo.
- Section 392.240, subsection 1 RSMo.
- Section 392.270, RSMo.
- Section 392.280, RSMo.
- Section 392.290, RSMo.
- Section 392.300, RSMo.
- Section 392.310, RSMo.
- Section 392.320, RSMo.
- Section 392.330, RSMo.
- Section 392.340, RSMo.

9. The above-cited statutes are specifically referenced in Section 392.420. The above-cited rules constitute “quality of service and billing standards” as these terms are used in Section 392.420. On August 14, following discussion among members of the Commission’s Staff and members of the telecommunications industry, Staff agreed that the above-cited rules would constitute “Staff’s Proposed Minimum Set of Rules Waived Under HB 1779.”⁷

10. Staff has indicated a preference that carriers file a list of waived rules and statutes in their tariffs, and AT&T Missouri intends to do so. AT&T Missouri, however, appreciates the Commission’s present situation, given its current workload and limited resources, and the number of filings carriers might make on or around August 28, 2008. Therefore, unless otherwise directed by the Commission or requested by Staff, AT&T Missouri will make its administrative tariff filings listing the elected waivers at a later date once HB 1779-related filings have subsided, but no later than October 28, 2008.

⁷ While these rules are co-extensive with Staff’s own baseline set of rules, AT&T Missouri believes that additional rules also constitute “quality of service and billing standards” as these terms are used in Section 392.420. Consequently, AT&T Missouri concurs with Staff’s characterization that the above-cited rules are but a “Minimum Set” of rules, and it reserves the right and opportunity to supplement its notice in the future to include other rules.

WHEREFORE, AT&T Missouri hereby notifies the Commission of its election made pursuant to HB 1779, effective August 28, 2008.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY,
D/B/A AT&T MISSOURI

BY 

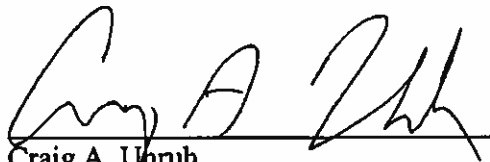
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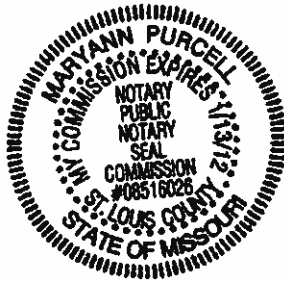
CITY OF ST. LOUIS)
)
STATE OF MISSOURI) SS

VERIFICATION

I, Craig A. Unruh, being duly sworn upon my oath, state that I am over twenty-one, sound of mind, and Executive Director-Regulatory of AT&T Services, Inc. I am authorized to act on behalf of Southwestern Bell Telephone Company, d/b/a AT&T Missouri, regarding the foregoing document. I have read it and verify that the facts contained in it are true and correct according to the best of my knowledge, information and belief.


Craig A. Unruh

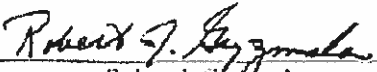
Sworn and subscribed to before me this 28th day of August, 2008.




Notary Public

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on August 28, 2008.


Robert J. Cryan

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