

**OF THE STATE OF MISSOURI**

**Case No. IE-2009-0082**

## **ORDER CONCERNING ELECTION OF WAIVERS**

Issue Date: November 6, 2008

Effective Date: November 6, 2008

On August 28, 2008, House Bill 1779 became effective, modifying §392.420 RSMo 2000, so that it now 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.

On August 28, 2008, Southwestern Bell Telephone Company d/b/a AT&T Missouri (“the Company”) filed notification with the Missouri Public Service Commission (“Commission”) that it elects to waive certain Commission rules and statutory provisions pursuant to RSMo Section 392.420. AT&T Missouri has not yet submitted a tariff filing to identify these waivers in their tariff.

On September 26, 2008, the Commission Staff submitted its memorandum concerning the notice. It noted that:

1. AT&T Missouri is an incumbent local exchange telecommunications company as that term is used in Section 392.420.
2. Prior Commission cases and annual reports confirm that one alternative local exchange telecommunications carrier is providing service in some part of the Company's territory.
3. AT&T Missouri is currently compliant in obligations relating to Commission assessment, Missouri Universal Service Fund, Relay Missouri, and the submission of an annual report.

The Staff recommends that the Commission take notice of the Company's election to opt into the waivers listed in its Notice of Election for Waivers. In addition, Staff recommends the Commission direct AT&T to file tariff pages in compliance with the waivers that designate the rules and statutes waived.

Section 392.420 further provides:

The commission may reimpose its quality of service and billing standards rules, as applicable, on an incumbent local exchange telecommunications company but not on a company granted competitive status under subdivision (7) of subsection 5 of section 392.245 in an exchange where there is no alternative local exchange telecommunications company or interconnected voice over Internet protocol service provider that is certificated or registered to provide local voice service only upon a finding, following formal notice and hearing, that the incumbent local exchange telecommunications company has engaged in a pattern or

practice of inadequate service. Prior to formal notice and hearing, the commission shall notify the incumbent local exchange telecommunications company of any deficiencies and provide such company an opportunity to remedy such deficiencies in a reasonable amount of time, but not less than sixty days. Should the incumbent local exchange telecommunications company remedy such deficiencies within a reasonable amount of time, the commission shall not reimpose its quality of service or billing standards on such company.

**THE COMMISSION ORDERS THAT:**

1. The Company's Notice of Election is acknowledged as received.
2. The Company shall file tariff pages in compliance with the waivers that designate the rules and statutes waived on or before December 6, 2008.
3. The Commission's Customer Service Staff shall receive and track any positive and negative inquiries or complaints about service quality and billing issues and if Staff determines that the Company has engaged in a pattern or practice of inadequate service in service quality or increase in billing issues, it shall notify the Commission by filing a written report.

4. This order is effective upon issuance.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', with a stylized, cursive script.

Colleen M. Dale  
Secretary

( S E A L )

Colleen M. Dale, Chief Regulatory Law  
Judge, by delegation of authority pursuant  
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
On this 6th day of November, 2008.