

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**  
At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 21<sup>st</sup> day of  
October, 2009.

**In the Matter of the Petition for Waivers of )  
Certain Rules and Statutes on behalf )  
of MCC Telephony of Missouri, LLC. )**

**File No. LO-2010-0083**

**ORDER GRANTING WAIVER OF STATUTE AND REGULATIONS**

Issue Date: October 21, 2009

Effective Date: October 30, 2009

The Missouri Public Service Commission is granting the petition for waiver of regulations and a statute by MCC Telephony of Missouri, LLC ("the company").

The company is a Delaware limited liability company authorized to do business in Missouri. The company filed its petition on September 8, 2009.<sup>1</sup> On September 24, 2007, the Commission's staff ("Staff") filed its recommendation in favor of the petition. Affidavits support both the petition and recommendation. Because no party disputes the petition, no law requires a hearing before granting the petition, so the Commission convened no hearing, and bases its findings on the verified filings.<sup>2</sup>

The company holds certificates of service authority to provide basic local, local exchange, exchange access, and interexchange telecommunications services in Missouri under competitive classification. The company seeks waivers as follows:

**Statutes**

Section 392.300.1, RSMo 2000

- Acquisition of stock

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<sup>1</sup> The application also included a revised tariff sheet, but the company withdrew the revised tariff sheet on September 23, 2009.

<sup>2</sup> *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Com'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

## **Regulations**

4 CSR 240-3.550(4) and (5)(A)	-	Records and Reports
4 CSR 240-32.060	-	Engineering and Maintenance
4 CSR 240-32.070	-	Quality of Service
4 CSR 240-32.080	-	Service Levels
4 CSR 240-33.040(1)-(3) and (5)-(10)	-	Billing and Payment
4 CSR 240-33.045	-	Charge on Bills
4 CSR 240-33.080(1)	-	Billing
4 CSR 240-33.130(1), (4) and (5)	-	Operator Service

Such a petition is within the Commission's jurisdiction, and subject to a standard, as follows:

The commission is authorized, in connection with the . . . modification of a certificate of interexchange or local exchange service authority . . . to entertain a petition to suspend or modify the application of its rules or the application of any statutory provision contained in sections 392.200 to 392.340 if such waiver or modification is otherwise consistent with the other provisions of sections 392.361 to 392.520 and the purposes of this chapter. [<sup>3</sup>]

To show that the requested waivers meet that standard, the company cites statutory entitlements to waivers for an alternative local exchange telecommunications company.

The company the following statutes:

[F]or 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[;<sup>4</sup>]

and:

[A]ll alternative local exchange telecommunications companies shall not be required to comply with customer billing rules, network engineering and maintenance rules, and rules

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<sup>3</sup> Section 392.420, RSMo Supp. 2008.

<sup>4</sup> *Id.*

requiring the recording and submitting of service objectives or surveillance levels established by the commission[.<sup>5</sup>]

Staff cites those same statutes in support of its recommendation favoring the requested waivers. Further, the company is not delinquent in filing an annual report, remitting its annual assessment to the Commission, and payments to the Universal Service Fund and Relay Missouri. Therefore, the Commission concludes that the waivers sought are consistent with the provisions of sections 392.361 to 392.520 and the purposes of chapter 392, RSMo.

The Commission will grant the waivers.

#### **THE COMMISSION ORDERS THAT:**

1. The petition for waiver of statutes and regulations filed by MCC Telephony of Missouri, LLC, is granted, and application of the following statutes and regulations shall be waived:

##### **Statutes**

Section 392.300.1, RSMo 2000	- Acquisition of stock
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##### **Regulations**

4 CSR 240-3.550(4) and (5)(A)	- Records and Reports
4 CSR 240-32.060	- Engineering and Maintenance
4 CSR 240-32.070	- Quality of Service
4 CSR 240-32.080	- Service Levels
4 CSR 240-33.040(1)-(3) and (5)-(10)	- Billing and Payment
4 CSR 240-33.045	- Charge on Bills
4 CSR 240-33.080(1)	- Billing
4 CSR 240-33.130(1), (4) and (5)	- Operator Service

2. This order shall become effective on October 30, 2009.

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<sup>5</sup> Section 392.245.5(8), RSMo Supp. 2008.

3. This file shall close on October 31, 2009.

( S E A L )

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'S. Reed', written over a horizontal line.

Steven C. Reed  
Secretary

Clayton, Chm., Davis, Jarrett, Gunn,  
and Kenney, CC., concur.

Jordan, Regulatory Law Judge