

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

In the Matter of a Proposed Amendment)
to 4 CSR 240-3.545)

Case No. TX-2006-0429

COMMENTS OF THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and, pursuant to the Notice to Submit Comments published in the *Missouri Register* on June 15, 2006, submits the following comments:

In the June 15, 2006, edition of the *Missouri Register*, the Missouri Public Service Commission (Commission) published its proposed amendment, 4 CSR 240-3.545 – Filing Requirements for Telecommunications Company Tariffs. The proposed amendment modifies the existing rule consistent with Senate Bill 237, which became effective August 28, 2005. SB 237 revised Section 392.500(1) RSMo such that any proposed decrease in rates for any competitive telecommunications service shall be permitted after “one” days notice to the commission, as opposed to the previous “seven” days notice to the commission. Staff supports this modification to the existing rule.

The proposed amendment makes two other revisions to the rule. The proposed amendment deletes the word “only” and adds the following language: “...or charges, or proposed change in any classification or tariff resulting in a decrease or increase in rates or charges, for competitive telecommunications service”. Although the addition incorporates language contained in Section 392.500, the intent and interpretation of the statutory language is unclear.

When Staff sought informal feedback from the industry on the interpretation of SB 237 with respect to what would be allowed via a tariff filing with a one-day effective date, responses included:

- Price decreases are not the only tariff changes that can be made on one day's notice. In many instances, price decreases are associated with conditions reflected in other tariff language.
- A carrier may wish to provide a lower rate for ABC service if the customer also purchases XYZ service. The lower rate for ABC service constitutes a rate decrease allowed on one day's notice to the Commission.
- Promotions are a rate reduction or a waiver of a tariffed rate.
- A promotion is a temporary offering and may also require purchase of additional services/equipment to qualify. A promotion should not be considered a permanent rate reduction allowed on one day's notice to the Commission.
- Bundles [which are not subject to rate regulation under Section 392.200.12] should be allowed on a one-day tariff effective date.

One commenter has suggested that the Commission should allow additional one day tariff filings beyond those allowed by Section 392.500.1.

As can be seen by the responses, there are varying interpretations of what types of tariff filings should be allowed under Section 392.500.1. For years, the current rule has provided interpretation of the statutory language by clearly specifying what is allowed and what is not allowed. For instance the current rule states that only rate decreases and increases are allowed through accelerated effective dates. In addition, the current rule also describes other types of tariff filings that would not be allowed on an accelerated basis. Given the varying interpretations of Section 392.500.1, attempting to incorporate the statutory language into the rule may produce an unclear result as to what type of tariff filings are allowed or not allowed on one- or ten-days notice.

Maintaining clarity of the rule is important since the electronic filing of tariffs makes it possible for a company to make a one-day tariff filing on weekends or at 11:59 p.m. with the filing becoming effective one minute later at 12:00 a.m. In such instances, the tariff filing

automatically goes into effect. If an issue or concern is later discovered with the filing, the recourse to address concerns is for a complaint to be filed against the company with the burden of proof shifted to the complainant to show the filing is improper.

In summary, there is no question the rule needs to replace the references of “seven days” to “one day”; however, Staff is unsure if adding Section 392.500 text to the rule clarifies or confuses the rule. Regardless of the interpretation of Section 392.500, the Commission’s rule should ultimately provide clear guidance as to the type of filings that are acceptable on a one-day or ten-day basis.

Respectfully submitted,

/s/ William K. Haas

William K. Haas

Deputy General Counsel

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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 14th day of July 2006.

/s/ William K. Haas

William K. Haas

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AFFIDAVIT OF Natelle Dietrich

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

Natelle Dietrich, employee of the Staff of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in the preparation of the accompanying Comments and that the facts therein are true and correct to the best of her knowledge and belief.

Natelle Dietrich

NATELLE DIETRICH

Subscribed and affirmed before me this 14th day of July 2006

I am commissioned as a notary public within the County of Cole, State of Missouri
and my commission expires on June 7, 2008



Carla K. Schnieders
NOTARY PUBLIC

