

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

In The Matter of the Petition for	)	
Waivers of Certain Rules and Statutes	)	
On Behalf of Windstream	)	Case No. _____
Communications, Inc.	)	

**PETITION FOR WAIVERS ON BEHALF OF  
WINDSTREAM COMMUNICATIONS, INC.**

COMES NOW Windstream Communications, Inc. ("WCI"), and hereby petitions the Missouri Public Service Commission ("Commission") for a waiver of the application and enforcement of certain rules and statutes not previously waived on WCI's behalf by the Commission, pursuant to Sections 392.185, 392.361.5 and 392.420, RSMo. as amended by HB 1779. These rules and statutes are limited to those which are no longer applicable to other telecommunications companies by virtue of their having elected to waive the application and enforcement of these rules and statutes, in each case with Staff's support. In support of its Petition, WCI respectfully states as follows:

1. Windstream Communications, Inc. is a Delaware corporation duly authorized to conduct business in Missouri, with its principal office located at 4001 Rodney Parham Road, Little Rock, Arkansas 72212. Copies of WCI's Amended Certificate of Authority of a Foreign Corporation from the Missouri Secretary of State were filed in Case No. TN-2006-0457, and are incorporated herein by reference pursuant to Commission Rule 4 CSR 240-2.060(1)(G).

2. Pursuant to the Commission's Order Approving Interexchange and Nonswitched Local Exchange Certificate of Service Authority issued February 24, 2006 in Case No. XA-2006-0271, WCI's predecessor-in-interest, Alltel Holding Corporate

Services, Inc., was granted certificates of service authority to provide interexchange and nonswitched local exchange telecommunications services, was classified as a competitive company, and was granted waiver of certain statutes and regulatory rules as authorized by Sections 392.361 and 392.420, RSMo. By the Commission's Order Recognizing Corporate Name Change and Approving Tariff Sheets issued July 12, 2006 in Case No. TN-2006-0457, the Commission recognized Alltel Holding Corporate Services, Inc.'s name change to Windstream Communications, Inc. and approved the tariff adoption notice and revised tariff title page filed therein.

3. All correspondence, communications, and orders and decisions of the Commission issued in this matter should be sent to:

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FISCHER & DORITY, P.C.  
101 Madison, Suite 400  
Jefferson City, Missouri 65101  
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4. Windstream Communications, Inc. has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the Application. No Missouri annual reports or assessment fees are overdue.

5. As noted above, in its Order Approving Interexchange and Nonswitched Local Exchange Certificate of Service Authority in Case No. XA-2006-0271, the Commission waived application of the following statutes and regulatory rules for WCI, to-wit:

### Statutes

392.210.2	uniform system of accounts
392.240.1	rates-rentals-service & physical connections
392.270	valuation of property (ratemaking)
392.280	depreciation accounts
392.290	issuance of securities
392.300.2	acquisition of stock
392.310	stock and debt issuance
392.320	stock dividend payment
392.330	issuance of securities, debts and notes
392.340	reorganizations

### Commission Rules

4 CSR 240-10.020	depreciation fund income
4 CSR 240-30.040	uniform system of accounts

6. In accordance with Sections 392.420 and 392.245(8), RSMo. as amended by HB 1779, alternative local exchange carriers, price capped incumbent local exchange carriers and non-competitive incumbent local exchange carriers have received the following waivers:

### Commission Rules

4 CSR 240-3.550 (4) and (5)(A)  
4 CSR 240-32.060  
4 CSR 240-32.070  
4 CSR 240-32.080  
4 CSR 240-33.040 with the exception of subsection (4)  
4 CSR 240-33.045  
4 CSR 240-33.080 (1)  
4 CSR 240-130 (1), (4) and (5)

### Statutes

392.210.2  
392.240.1  
392.270  
392.280  
392.290  
392.300  
392.310

392.320

392.330

392.340

7. In its Order Granting Waivers issued December 11, 2008, in Case No. TE-2009-0169, *In the Matter of the Petition of AT&T Corp. d/b/a AT&T Advanced Solutions for Waiver of Commission Rules and Statutes* (a company also possessing an interexchange and nonswitched local exchange certificate of service authority), the Commission granted the above-listed waivers set forth in Paragraph 6, based upon its Staff's recommendation that "it is clearly within the spirit of HB 1779 to extend the exemptions to the Company." (Order, page 2.)<sup>1</sup> In addition, by its Order Granting Waivers issued on April 1, 2009, in Case No. XE-2009-0308, the Commission granted AT&T Long Distance interexchange carriers<sup>2</sup> said waivers, pursuant to its Staff Recommendation that ". . . the waiver of the requested statutory authority and Commission rule provisions is consistent with the other provisions of Sections 392.361 to 392.520 and the purposes of Chapter 392." (Staff Recommendation, page 2, March 18, 2009).

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<sup>1</sup> "As an alternative, AT&T states that the Commission should grant its request pursuant to Subsection 392.3361.5. Staff notes that this Subsection has historically been relied upon by the Commission as a means to forbear from enforcing its rules and certain statutory requirements for competitive telecommunications companies.

In the Staff's opinion, granting the requested waivers to AT&T is consistent with other provisions and purposes of Chapter 392. Alternative local exchange carriers, price capped incumbent local exchange carriers, and non-competitive incumbent local exchange carriers have received these waivers pursuant to Section 392.245.5(8) and/or 392.240. In essence, the Staff recommends granting the requested waivers because the Commission is required to do so even for non-competitive companies."

Memorandum (Appendix A) accompanying Staff Recommendation, Case No. TE-2009-0329, November 26, 2008.

<sup>2</sup> SBC Long Distance, LLC d/b/a AT&T Long Distance; SNET America, Inc. d/b/a AT&T Long Distance East and BellSouth Long Distance, Inc. d/b/a Long Distance Service.

8. Accordingly, pursuant to Section 392.420<sup>3</sup>, WCI respectfully submits that the Commission should waive application and enforcement of the following Commission Rules and Statutory Sections to WCI, in addition to those previously waived pursuant to WCI's certificates of service authority:

**Commission Rules**

4 CSR 240-3.550 (4) and (5)(A)  
4 CSR 240-32.060  
4 CSR 240-32.070  
4 CSR 240-32.080  
4 CSR 240-33.040 with the exception of subsection (4)  
4 CSR 240-33.045  
4 CSR 240-33.080 (1)  
4 CSR 240-130 (1), (4) and (5)

**Statutes**

Section 392.300 (only §392.300.2 was previously waived)

9. Alternatively, the Commission should issue an order pursuant to Section 392.361.5 holding that WCI, as a competitive telecommunications company, should be granted the same rule and statute waivers as have been obtained by incumbent LECs by virtue of their having elected to waive the application and enforcement of these rules and statutes.

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<sup>3</sup> Section 392.420, RSMo. as amended by HB 1779, provides, in part:

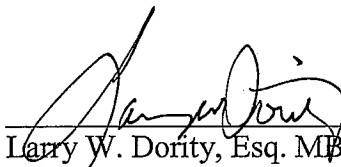
The Commission is authorized, in connection with the issuance or modification of a certificate of interexchange or local exchange service authority or the modification of a certificate of public convenience and necessity for interexchange or local exchange telecommunications service, to entertain a petition 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. In 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. . . .

10. WCI respectfully submits that, as a competitive carrier providing competitive interexchange and local exchange telecommunications services, its modification and waiver request is otherwise consistent with the other provisions of Sections 392.361 to 392.520 and the purposes of Chapter 392.

11. Concurrent with the filing of this Petition, WCI is filing appropriate tariff revisions reflecting a waiver of the rules and statutes which are the subject of this Petition.

WHEREFORE, Windstream Communications, Inc. respectfully petitions the Commission for a waiver of the application and enforcement of certain rules and statutes not previously waived on WCI's behalf by the Commission, as specifically set forth herein.

Respectfully submitted,



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Attorneys for Windstream Communications, Inc.

VERIFICATION

STATE OF ARKANSAS     )  
                                      ) ss  
COUNTY OF PULASKI    )

I, Michael D. Rhoda, Senior Vice President of Governmental Affairs for Windstream Communications, Inc., hereby verify and affirm that I have read the foregoing Petition, and that the statements contained therein are true and correct to the best of my information and belief.

Michael D Rhoda

Subscribed and sworn to before me on this 19<sup>th</sup> day of May, 2009.

Sandra Jean Wood  
Notary Public

My Appointment Expires:

September 1, 2011

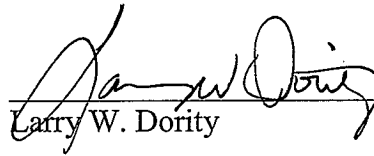


**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 28<sup>th</sup> day of July, 2009, a copy of the above and foregoing document was served via electronic mail, facsimile or U.S. Mail, postage prepaid to each of the following:

General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
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Larry W. Dority