

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

In the Matter of the Application of)	
)	
tw telecom of kansas city llc)	
)	Case No. <u>CE-2009-0176</u>
for Waiver of Commission Rules and)	
Statute)	
)	

**APPLICATION FOR WAIVER OF COMMISSION RULES
AND STATUTE**

COMES NOW **tw telecom of kansas city llc** ("Applicant" or "TWTC"), by and through counsel, pursuant to Sections 392.245.5(8), and 392.420 as amended in House Bill 1779 and pursuant to 4 CSR 240-2.060, 4 CSR 240-2.080 and 4 CSR 240-3.015, files this verified Application requesting that the Missouri Public Service Commission (hereinafter, "the Commission") issue an order that waives the following Commission rules and statutory provisions pursuant to Sections 392.245.5(8) and 392.420 RSMo.:

- 4 CSR 240-3.550(4)
- 4 CSR 240-3.550(5)(A)
- 4 CSR 240-32.060
- 4 CSR 240-32.070
- 4 CSR 240-32.080
- 4 CSR 240-33.040(1), (2), (3), (5), (6), (7), (8), (9), and (10)
- 4 CSR 240-33.045
- 4 CSR 240-33.080(1)
- 4 CSR 240-33.130.1
- 4 CSR 240-33.130(4)
- 4 CSR 240-33.130(5)

Section 392.300.1 RSMo.

Applicant also requests the Commission approve TWTC's separately filed tariff revisions to reflect the waiver of these rules and statute in Applicant's local exchange service tariff (MO PSC No. 11) and Applicant's grandfathered local exchange service tariff (MO PSC No. 8). The proposed revised tariff pages have been filed in EFIS in Tariff Files No. JC-2009-0350 and JC-2009-0349, respectively, and bear a 30-day effective date of December 11, 2008.

In support of this Application, Applicant states as follows:

1. **tw telecom of kansas city llc** is a limited liability corporation organized under the laws of the State of Delaware. TWTC has principal offices at 10475 Park Meadows Drive, 4th Floor, Littleton, CO 80124 with local offices at 10975 Grandview, Suite 300, Overland Park, KS 66210

. The character of business performed by Applicant is telecommunications services. A copy of Applicant's Certificate of Authority from the Missouri Secretary of State, as required by 4 CSR 240-2.060(1)(C), is attached to this Application as **Exhibit A**. Applicant is a certificated provider of basic local exchange telecommunications service in Missouri. Xspedius Management Co. Switched Services LLC was granted Certificates of Service Authority in Case Nos.LA-2003-0001 and CA-2002-1153. TWTC acquired Xspedius on October 31, 2006 and in Case No. TN-2007-0472, the merger and name change to Time Warner Telecom of Kansas City, LLC was approved. In Case No. CN-2008-0363, the Commission approved the further name change from Time Warner Telecom of Kansas City, LLC to **tw telecom of kansas city llc**. TWTC is an "alternative local exchange telecommunications company" as defined in Section 386.020(1).

2. All communications, notices, orders and decisions respecting this Application and proceeding should be addressed to:

Mary Ann (Garr) Young
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William D. Steinmeier, P.C.
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and

Pamela Sherwood
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4625 W. 86th Street, Ste 500
Indianapolis, IN 46268
Office: 317-713-8977
Mobile: 317-213-6509
Fax: 317-713-8937
Email: pamela.sherwood@twtelecom.com

3. Applicant's contact person for regulatory matters is:

Pamela Sherwood
Vice President of Regulatory
tw telecom inc.
4625 W. 86th Street, Ste 500
Indianapolis, IN 46268
Office: 317-713-8977
Office 2: 317-253-3065
Mobile: 317-213-6509
Fax: 317-713-8937
Email: pamela.sherwood@twtelecom.com

4. Applicant states that there are no pending actions or final unsatisfied judgments or decisions against it in any state, federal agency, or court, which involve

customer service or rates for which action, judgment, or decision has occurred within three (3) years of the date of this Application.

5. Applicant does not have any overdue annual reports or fees owed to the Missouri Public Service Commission.

6. The Missouri General Assembly passed HB 1779 on May 5, 2008; it was signed into law by the Governor on July 10, 2008 and its relevant provisions (applicable to telecommunications regulation) took effect on August 28, 2008. Section 392.245.5(8) was revised to provide that “. . . all alternative local exchange telecommunications companies shall not be required to comply with customer billing rules, network engineering and maintenance rules, and rules requiring the recording and submitting of service objectives or surveillance levels established by the commission . . .” Section 392.420 was revised to provide that “. . . 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. . .” Pursuant to those provisions of HB 1779, Applicant seeks a Commission Order waiving the applicability of the following rules to **tw telecom of kansas city llc**:

4 CSR 240-3.550(4) **Telecommunications Company Records and Reports**

4 CSR 240-3.550(5)(A) **Telecommunications Company Records and Reports**

4 CSR 240-32.060 **Engineering and Maintenance Standards**

4 CSR 240-32.070 **Quality of Service.**

4 CSR 240-32.080 **Service Objectives and Surveillance Levels**

4 CSR 240-33.040 (except (4)) **Billing and Payment Standards for Residential Customers** – (1), (2), (3), (5), (6), (7), (8), (9), and (10)

4 CSR 240-33.045 **Requiring Clear Identification and Placement of Separately Identified Charges on Customer Bills**

4 CSR 240-33.080(1) **Disputes by Residential Customers**

4 CSR 240-33.130.1 **Operator Service**

4 CSR 240-33.130(4) **Operator Service**

4 CSR 240-33.130(5) **Operator Service**

TWTC also seeks waiver of Section 392.300.1 RSMo., the only statutory section authorized to be waived in HB 1779 that has not previously been waived by the Commission as to TWTC.

7. Per 4 CSR 240-2.061(5), good cause for granting these waivers is provided by the finding of the Missouri General Assembly that alternative local exchange companies should be relieved of certain regulatory requirements. Applicant will be able to reduce its administrative costs, while continuing to provide high-quality service to telecommunications customers, if these rules and statute are waived by the Commission as specified by Missouri law. Applicant, as an “alternative local exchange telecommunications company” is entitled to waiver of the requested Commission rules and statute per the provisions of HB 1779. Other public utilities should not be directly affected by the grant of these waivers.

8. Applicant also requests the Commission approve the separately filed revised tariff to reflect the waivers granted herein. Specimen copies of the proposed tariff revisions, without issued and effective dates, are attached hereto as **Exhibit B**.

WHEREFORE, Applicant respectfully requests that the Commission issue its order waiving the applicability of the following rules and statute to Applicant's basic local telecommunications services in Missouri:

- 4 CSR 240-3.550(4)
- 4 CSR 240-3.550(5)(A)
- 4 CSR 240-32.060
- 4 CSR 240-32.070
- 4 CSR 240-32.080
- 4 CSR 240-33.040(1), (2), (3), (5), (6), (7), (8), (9), and (10)
- 4 CSR 240-33.045
- 4 CSR 240-33.080(1)
- 4 CSR 240-33.130(1)
- 4 CSR 240-33.130(4)
- 4 CSR 240-33.130(5)
- Section 392.300.1 RSMo.

and approve the separately filed tariff revisions in Tariff File Nos. JC-2009-0349 and JC-2009-0350 to reflect these rule waivers in Applicant's local exchange service tariffs.

Respectfully submitted,

/s/Mary Ann Young

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ATTORNEYS FOR
tw telecom of kansas city llc

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Verified Application has been served electronically on the General Counsel's Office and the Office of the Public Counsel this 11th day of November 2008.

/s/Mary Ann Young
Mary Ann (Garr) Young

Officers Verification

(To be filed separately)

EXHIBIT A

Secretary of State Certificate

STATE OF MISSOURI



Robin Carnahan
Secretary of State

CERTIFICATE OF AMENDMENT

I, Robin Carnahan, Secretary of State of the State of Missouri, of do hereby certify that

TW TELECOM OF KANSAS CITY LLC
FL0067192

Formerly

TIME WARNER TELECOM OF KANSAS CITY, LLC

an entity organized under the laws of the State of Delaware, has delivered to me and that I have filed its Certificate of Amendment of its Articles of Organization; that said entity has in all respects complied with the requirements of law governing the Amendment of Articles of Organization and the said Articles are amended in accordance therewith.

IN TESTIMONY WHEREOF, I hereunto
set my hand and cause to be affixed the
GREAT SEAL of the State of Missouri.
Done at the City of Jefferson, this
31st day of March, 2008.


Secretary of State



EXHIBIT B

**Proposed Revised Local Exchange Tariffs
(specimen tariff only—no issued and effective dates)**

GRANDFATHERED LOCAL EXCHANGE SERVICES

WAIVER OF STATUTES AND RULES

tw telecom of kansas city llc is classified as a competitive telecommunications company in Missouri for which the following statutory and regulatory requirements are waived:

(T)
|
(T)

STATUTES

Section 392.210.2	Uniform system of accounts used for annual reports	(T)
Section 392.240(1)	Ratemaking	(N)
Section 392.270	Property valuation (ratemaking)	(T)
Section 392.280	Depreciation accounts	(N)
Section 392.290	Issuance of securities	(T)
Section 393.300.1	Sale, assignment, lease, transfer, mortgage, disposition, encumbrance, merger or consolidation	(N)
Section 392.300.2	Acquisition of stock	(N)
Section 392.310	Stock and debt issuance	(T)
Section 392.320	Stock dividend payments	(T)
Section 392.330	Issuance of securities, debt and notes	
Section 392.340	Reorganization(s)	(T)

COMMISSION RULES

4 CSR 240-3.550(4)	Telecommunications Company Records and Reports	(N)
4 CSR 240-3.550(5)(A)	Telecommunications Company Records and Reports	(N)
4 CSR 240-10.020	Income on depreciation fund investments	
4 CSR 240-30.010(2)(C)	Posting of exchange rates at central operating offices	(N)
4 CSR 240-30.040	Uniform system of accounts	
4 CSR 240-32.060	Engineering and Maintenance Standards	(N)
4 CSR 240-32.070	Quality of Service	
4 CSR 240-32.080	Service Objectives and Surveillance Levels	
4 CSR 240-33.030	Informing Customers of Lowest Priced Services	
4 CSR 240-33.040 (1), (2), (3), (5), (6), (7), (8), (9), and (10)	Billing and Payment Standards for Residential Customers	
4 CSR 240-33.045	Requiring Clear Identification and Placement of Separately Identified	
4 CSR 240-33.080(1)	Disputes by Residential Customers Charges on Customer Bills	
4 CSR 240-33.130.1	Operator Service	
4 CSR 240-33.130(4)	Operator Service	
4 CSR 240-33.130(5)	Operator Service	(N)
4 CSR 240-35	Reporting of bypass and Customer-specific arrangements	

Issued:

Effective:

LOCAL EXCHANGE SERVICES

WAIVER OF STATUTES AND RULES

tw telecom of kansas city llc is classified as a competitive telecommunications company in Missouri for which the following statutory and regulatory requirements are waived:

STATUTES

Section 392.210.2	Uniform system of accounts used for annual reports	(T)
Section 392.240(1)	Ratemaking	(N)
Section 392-270	Property valuation (ratemaking)	(T)
Section 392.280	Depreciation accounts	(N)
Section 392.290	Issuance of securities	(T)
Section 393.300.1	Sale, assignment, lease, transfer, mortgage, disposition, encumbrance, merger or consolidation	(N)
Section 392.300.2	Acquisition of stock	(N)
Section 392.310	Stock and debt issuance	(T)
Section 392.320	Stock dividend payments	(T)
Section 392.330	Issuance of securities, debt and notes	(T)
Section 392.340	Reorganization(s)	(T)

COMMISSION RULES

4 CSR 240-3.550(4)	Telecommunications Company Records and Reports	(N)
4 CSR 240-3.550(5)(A)	Telecommunications Company Records and Reports	(N)
4 CSR 240-10.020	Income on depreciation fund investments	
4 CSR 240-30.010(2)(C)	Posting of exchange rates at central operating offices	(N)
4 CSR 240-30.040	Uniform system of accounts	
4 CSR 240-32.060	Engineering and Maintenance Standards	(N)
4 CSR 240-32.070	Quality of Service	
4 CSR 240-32.080	Service Objectives and Surveillance Levels	
4 CSR 240-33.030	Informing Customers of Lowest Priced Services	
4 CSR 240-33.040 (1), (2), (3), (5), (6), (7), (8), (9), and (10)	Billing and Payment Standards for Residential Customers	
4 CSR 240-33.045	Requiring Clear Identification and Placement of Separately Identified	
4 CSR 240-33.080(1)	Disputes by Residential Customers Charges on Customer Bills	
4 CSR 240-33.130.1	Operator Service	
4 CSR 240-33.130(4)	Operator Service	
4 CSR 240-33.130(5)	Operator Service	(N)
4 CSR 240-35	Reporting of bypass and Customer-specific arrangements	

Issued:

Effective:

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