THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

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In the Matter of the Application of AT&T Corp. For a Certificate of Service Authority to Provide Intrastate Interexchange and Non-Switched Local Exchange Telecommunications Services Within the State of Missouri

Case No. _____

APPLICATION OF AT&T CORP. FOR AN INTEREXCHANGE AND NON-SWITCHED LOCAL EXCHANGE CERTIFICATE OF SERVICE AUTHORITY, REQUEST FOR CERTAIN WAIVERS, AND MOTION FOR EXPEDITED TREATMENT

AT&T Corp. respectfully files this verified Application to request that the Missouri Public Service Commission ("Commission") issue an order, by not later than forty-five (45) to sixty (60) days: (1) granting AT&T Corp. a Certificate of Service Authority to provide intraLATA interexchange and non-switched local exchange telecommunications service within the State of Missouri, (2) granting AT&T Corp. and all of its services competitive classification, and (3) waiving the application and enforcement of the statutes and rules referenced herein.¹

In support of its Application, AT&T Corp. states as follows:

INTRODUCTION

1. This Application of AT&T Corp., and a related concurrent joint application submitted by SBC Advanced Solutions, Inc., d/b/a AT&T Advanced Solutions ("AT&T Advanced Solutions" unless otherwise noted) and AT&T Corp., are part of an initiative to merge the operations of the various AT&T "advanced services" subsidiaries now operating in several

¹ AT&T Corp. submits this Application pursuant to the Federal Telecommunications Act of 1996 ("the Act"), Sections 392.361, 392.410, 392.420, 392.430, 392.440, 392.450 and 392.455 RSMo, and 4 CSR 240-2.060, 4 CSR 240-2.080(16), and 4 CSR 240-3.510.

states into a single business entity.² It is entirely <u>pro forma</u>, that is, it involves only an internal realigning of operations among AT&T Inc. subsidiaries. The intention is to better serve the sophisticated and demanding customers of highly competitive, advanced business services, and to enable a more integrated and efficient delivery of advanced telecommunications services to customers in Missouri, and elsewhere. Ultimately, the advanced services provided today by multiple AT&T Inc. subsidiaries in several states (such as AT&T Advanced Solutions in Missouri) will be provided in the future in all of these states by AT&T Corp., into which AT&T Advanced Solutions is planned to be merged.

2. The advanced telecommunications services AT&T Corp. proposes to offer are highly competitive services. In November, 1999, when the Commission approved AT&T Advanced Solutions' application to provide them, the Commission rightly observed that the services were competitive and that the company should be classified as a competitive company.³ Now, almost nine years later, competition is even more intense and intervening mergers have spawned additional AT&T advanced services subsidiaries in several states. The consolidation of these subsidiaries into a single business entity likewise deemed a competitive company will, among other things, allow AT&T Corp. to realize administrative efficiencies, to reduce the costs of maintaining multiple entities, and to enable a greater ability to compete in the highly competitive advanced services market.

3. In light of the foregoing considerations, AT&T Advanced Solutions and AT&T Corp. have submitted to the Commission a joint application for approval of AT&T Advanced Solutions' merger into AT&T Corp. With the Commission's approval of that application and the

² These affiliates span the traditional "Southwestern Bell" states of Arkansas, Kansas, Missouri, Oklahoma and Texas, as well as the "Ameritech" states of Illinois, Indiana, Michigan, Ohio and Wisconsin, the "Pacific Bell" states of California and Nevada, and the Southern New England state of Connecticut.

³ See, Order Approving Interexchange and Non-Switched Local Exchange Certificate of Service Authority, Case No. TA-2000-260, issued November 8, 1999.

instant Application, AT&T Corp. will henceforth make the services presently provided by AT&T Advanced Solutions its own, and will do business as "AT&T Advanced Solutions."⁴

4. AT&T Corp. intends to provide the same services as AT&T Advanced Solutions currently provides in Missouri, and it will do so under the same rates, terms and conditions shown in AT&T Advanced Solutions' currently effective tariffs on file with the Commission, which AT&T Corp. will adopt upon the Commission's issuance of an order granting the relief requested herein, by means of appropriate, later-filed adoption notices.

<u>APPLICATION FOR SERVICE AUTHORITY,</u> COMPETITIVE CLASSIFICATION AND WAIVERS

A. <u>Description of the Applicant</u>

5. AT&T Corp., formed in 1885, is a foreign corporation (incorporated in New York) with its principal office at One AT&T Way, Bedminster, New Jersey, 07921. It may be contacted at the electronic mail address, facsimile and telephone numbers of its attorneys, as set out under the signature block of this Application.⁵ AT&T Corp. is authorized to do business in Missouri.⁶ All correspondence, pleadings, orders, decisions, and communications regarding this proceeding should be sent to:

Timothy P. Leahy Leo J. Bub Robert J. Gryzmala Attorneys for AT&T Corp. One AT&T Center, Suite 3516 St. Louis, Missouri 63101

6. AT&T Corp. is a wholly-owned subsidiary of AT&T Inc. AT&T Corp. provides

an array of interstate and international telecommunications-related products and services,

⁴ SBC Advanced Solutions, Inc., which currently does business under the fictitious name of "AT&T Advanced Solutions," will relinquish that fictitious name to AT&T Corp., as explained later herein.

⁵ See, Commission Rule 2.060(1)(A) (4 CSR 240-2.060(1)(Å)).

⁶ Pursuant to Commission Rule 2.060(1)(C) (4 CSR 240-2.060(1)(C)), AT&T Corp. submits as Attachment 1 hereto a copy of a certificate from the Secretary of State that it is authorized to do business in Missouri.

including calling plans, toll-free service, teleconferencing, videoconferencing and private lines. AT&T Corp. also provides intrastate local exchange and interexchange products and services in several Northeastern states.

7. Presently, SBC Advanced Solutions, Inc. does business in Missouri as "AT&T Advanced Solutions." Following the merger of SBC Advanced Solutions, Inc. into AT&T Corp, AT&T Corp. will conduct business under the fictitious name "AT&T Advanced Solutions." Once AT&T Corp.'s fictitious name is registered with the Missouri Secretary of State, a copy of the registration will be filed with the Commission.⁷

8. Given AT&T Corp.'s diverse operations and the significant number of customers of its many services, it is involved in many legal issues and proceedings. Only a small percentage of the actions pending against AT&T Corp. within the last three (3) years involve retail customer service or rates, and there are currently no actions pending against AT&T Corp. in Missouri state or federal court that involve retail customer service or rates. AT&T Corp. is not aware of any final unsatisfied judgments or decisions against it within the last three (3) years.⁸

9. AT&T Corp. does not have any overdue annual reports or regulatory assessment fees, as it is not presently certificated by the Commission to provide telecommunications service in Missouri.⁹

⁷ A similar commitment was made, and met, in Case No. TO-2002-185, when the Commission approved AT&T Missouri's Notice of Reversion to Missouri Corporate Form, and AT&T Missouri later submitted its newly acquired fictitious name registration.

⁸ See, Commission Rule 2.060(1)(K) (4 CSR 240-2.060(1)(K)).

⁹ See, Commission Rule 2.060(1)(L) (4 CSR 240-2.060(1)(L)).

B Description of Services and Request for Competitive Classification

10. AT&T Corp. intends to provide the same advanced services that AT&T Advanced Solutions currently provides under tariffs filed with the Commission.¹⁰ These services are high-speed, high-volume, packet switching-based services that large customers use primarily to transmit large volumes of data among multiple locations. Chief among them are Frame Relay Service, which allows local area network connectivity carrying customized data applications.¹¹ Another is Asynchronous Transfer Mode ("ATM") service, which allows high-speed and flexible bandwidth interconnectivity among multiple locations.¹² AT&T Corp. intends to provide these advanced services under the same "ICB basis" rates, terms and conditions as are stated in the AT&T Advanced Solutions' tariffs filed with the Commission.¹³

11. Upon the Commission's issuance of an order granting the relief requested herein, AT&T Corp. commits to file appropriate adoption notices reflecting that AT&T Corp. concurs in and adopts the tariffs of AT&T Advanced Solutions presently filed with the Commission. Such notices will reflect that AT&T Corp. concurs in and adopts the tariffs of AT&T Advanced Solutions presently filed with the Commission, in the form attached hereto as Attachment 2. Should the timing of the issuance of the order permit, AT&T Corp. will file adoption notices by September 16, 2008 which bear an October 31, 2008, effective date, in accordance with the Commission rule requiring tariffs be filed with an effective date no fewer than 45 days from their issue date, AT&T Corp. will timely file the notices.¹⁴ Otherwise, AT&T Corp. is prepared to file such notices within any time frame as the Commission may direct, or in the absence of direction,

¹⁰ See, Commission Rule 3.510(1)(A) (4 CSR 240-3.510(1)(A)).

¹¹ See, AT&T Advanced Solutions "Advanced Services Tariff," Missouri P.S.C. No. 3, Section 5.1.

¹² See, AT&T Advanced Solutions "Advanced Services Tariff," Missouri P.S.C. No. 3, Section 4.1.

¹³ See, AT&T Advanced Solutions "Advanced Services Tariff," Missouri P.S.C. No. 3, Section 5.3 (Frame Relay Service); AT&T Advanced Solutions "Advanced Services Tariff," Missouri P.S.C. No. 3, Section 4.3 (ATM Service).

¹⁴ See, Commission Rule 3.510(1)(C) (4 CSR 240-3.510(1)(C)).

AT&T Corp. may later file them together with a request that they be approved on an expedited basis. Additionally, AT&T Corp. will assume all rights and obligations of AT&T Advanced Solutions in connection with its Commission-approved interconnection agreement with Southwestern Bell Telephone Company, d/b/a AT&T Missouri, which agreement was approved by the Commission in Case No. TK-2005-0459 on July 8, 2005.

12. AT&T Corp. seeks classification as a competitive telecommunications company, including classification of its telecommunications services as competitive, pursuant to Section 392.361 RSMo. and 4 CSR 240-3.510(1)(A).¹⁵ In the Commission's November, 1999 order granting AT&T Advanced Solutions a certificate of service authority, the Commission classified AT&T Advanced Solutions as a competitive telecommunications company.¹⁶

13. Additionally, competitive classification of AT&T Corp. and its proposed telecommunications services is warranted because the company's proposed services (the same offered currently by AT&T Advanced Solutions) have been and will continue to be subject to competition from other carriers already certified within Missouri. As the FCC has noted, "there are a myriad of providers prepared to make competitive offers to enterprise customers demanding packet-switched data services located both within and outside any given [ILEC's] service territory. These competitors include the many competitive LECs, cable companies, systems integrators, equipment vendors, and value-added resellers providing services that compete against AT&T."¹⁷ Moreover, the FCC has also acknowledged that enterprise customers

¹⁵ See, Commission Rule 3.510(1)(A) (4 CSR 240-3.510(1)(A)).

¹⁶ See, Order Approving Interexchange and Non-Switched Local Exchange Certificate of Service Authority, Case No. TA-2000-260, issued November 8, 1999, at p. 3.

¹⁷ Petition of AT&T, Inc. for Forbearance Under 47 U.S.C. § 160(c) from Title II and *Computer Inquiry* Rules with Respect to Its Broadband Services, Memorandum Opinion and Order, WC Docket No. 06-125, FCC 07-180, October 11, 2007, ¶ 22.

of these kinds of services "deal at the most sophisticated level with the providers of these services."¹⁸

C. <u>Compliance with Rules/Request for Waiver of Certain Statutes/Rules</u>

14. Pursuant to §386.570, RSMo, AT&T Corp. will comply with all applicable Commission rules and minimum standards, to the extent same may be applicable to AT&T Corp., except such rules and standards that would otherwise be applicable to AT&T Corp. but must or may be waived by the Commission.

15. Consistent with both the Commission's treatment of other certificated competitive interexchange and non-switched local exchange telecommunications companies and its November, 1999 order granting AT&T Advanced Solutions a certificate of service authority,¹⁹ AT&T Corp. requests that the Commission waive the application and enforcement of the following statutes and regulations, all of which are among those previously waived by the Commission and are listed on the Commission's website: ²⁰

Statutes 392.210.2 Uniform system of accounts 392.240.1 Ratemaking 392.270 Property valuation 392.280 Depreciation accounts 392.290 Issuance of securities 392.300.2 Acquisition of Stock 392.310 Issuance of stock and debt 392.320 Stock dividend payment

¹⁸ *Id.*, ¶ 24.

¹⁹ See, Order Approving Interexchange and Non-Switched Local Exchange Certificate of Service Authority, Case No. TA-2000-260, issued November 8, 1999, at pp. 3-4.

²⁰ See, Commission Procedures applicable to IXC and Non-Switched Local Exchange Applications and Tariffs, Section 2.3, as posted on the Commission's website, at <u>http://www.psc.mo.gov</u>; see also, HB 1779 (effective August 28, 2008), wherein amended §392.420, RSMo provides, in part: "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 company, 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, 392.300, 392.310, 392.320, 392.330, and 392.340."

392.330 Issuance of securities, debts & notes 392.340 Reorganizations

<u>Rules</u> 4 CSR 240-10.020 Depreciation fund income 4 CSR 240-30.040 Uniform system of accounts

16. Notwithstanding the provisions of Section 392.500 and 392.510 RSMo, as a condition of the requested certification and competitive classification, AT&T Corp. agrees that, unless otherwise ordered by the Commission, AT&T Corp.'s originating and terminating switched exchange access rates in the new service area will be no greater than the lowest Commission-approved corresponding access rate in effect for the incumbent local exchange carrier ("ILEC") ILEC within that service area in which AT&T Corp. provides local exchange telecommunications service.²¹ Additionally, pursuant to the Commission's Report and Order in Case No. TO-99-596, AT&T Corp. agrees that if the ILEC decreases its current originating and/or terminating switched access service rates, AT&T Corp. shall file an appropriate tariff amendment to reduce its corresponding originating and/or terminating switched access rates within thirty (30) days of the ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap on switched exchange access rates. AT&T Corp. agrees that, absent contrary legal authority, any increase in switched access rates above this maximum level shall be subject to Section 392.200 RSMo and cost justified pursuant to Sections 392.220 and 392.230 RSMo.

²¹ Notwithstanding the commitments made in the above paragraph, AT&T Advanced Solutions does not currently provide switched access services and AT&T Corp. does not intend to provide such services.

D. <u>Request for Waiver/Variance of Subscriber Carrier Notice</u> <u>Requirements</u>

17. Pursuant to Sections 4 CSR 240-2.060(4)(A) and 4 CSR 240-33.100, AT&T Corp. requests that the Commission waive or issue a variance as to subsections (4)(B) and (C) of the Commission's "slamming" rule, 4 CSR 240-33.150 (Verification of Orders for Changing Telecommunications Service Providers).²² While subsection (A) of the rule allows for a change in provider without first obtaining authorization and verification in the case of a merger, subsections (4)(B) and (C) nevertheless require notification of such change to all customers and notifications to them of their "right to switch to another service provider."

18. Good cause exists for the Commission to grant AT&T Corp.'s request for a waiver or variance. The purpose of Rule 4 CSR 240-33.150 is to prevent "slamming," the unauthorized change of a customer's telecommunications carrier without the customer's knowledge. Here, the customers' provider is not changing in any practical way. This strictly <u>pro</u> forma change will be transparent to AT&T Advanced Solutions' customers, and no public utility will be affected by the Commission's granting of the requested waivers.

19. Moreover, the foregoing rules, however beneficial in other contexts (e.g., residential/small business customers), have no application to the enterprise markets (e.g., municipalities, large business customers) now served by AT&T Advanced Solutions and to be served by AT&T Corp. The customers in these markets are highly knowledgeable consumers of telecommunications services, especially advanced telecommunications services. Indeed, they "deal at the most sophisticated level with the providers of these services."²³ Such customers are

²² AT&T Advanced Solutions joins in AT&T Corp's request for a waiver or variance as to application of 4 CSR 240-33.150, to the extent the Commission deems it appropriate that it do so. ²³ *Id.*, \P 24.

well equipped to exercise any and all options when they go about selecting, changing or terminating their carrier relationships.

20. In addition, all of AT&T Advanced Solutions' telecommunications services are offered solely under minimum term contracts. Its tariff specifically provides that "[t]he minimum period for which all Services are provided and for which rates and charges apply is twelve (12) months."²⁴ This is in keeping with authority conferred by the Legislature, under which "every telecommunications company is authorized to offer term agreements of up to five years on any of its telecommunications services."²⁵ To the extent that the Commission's rules would purport to limit that legislative grant of authority, they should give way.

21. Finally, the fact that this matter involves solely an internal realigning of operations is but another reason to refrain from applying the rule as written.²⁶ To do otherwise would offer no discernible customer benefit and could instead cause unnecessary confusion and frustration over a matter intended to be as seamless and transparent to customers as possible.

22. In sum, ample good cause exists in support of the relief requested. Given the vigor of competition and the level of sophistication of customers in the advanced services telecommunications market, as well as the purely <u>pro forma</u> nature of this matter, the Commission should waive the application and enforcement of its slamming rule. Alternatively, the Commission should find that such application and enforcement is foreclosed by § 392.200.11, RSMo, as well as by AT&T Advanced Solutions' tariffs (which likewise have the force and effect of law).²⁷ Should the Commission decline to do either, AT&T Advanced

²⁴See, AT&T Advanced Solutions "Advanced Services Tariff," Missouri P.S.C. No. 3, Section 3.4.

²⁵ See, § 392.200.11, RSMo.

²⁶ No other public utility will be affected by the granting of the requested waiver/variance. 4 CSR 240-2.060(4)(C).

 ²⁷ See, e.g., <u>State ex rel. St. Louis County Gas Company v. Public Service Commission of the State of Missouri</u>, 286
S.W. 84, 86 (Mo. 1926).

Solutions and AT&T Corp. respectfully request that the Commission approve the notice submitted herewith as Attachment 3.

E. <u>Public Interest Considerations</u>

23. For the reasons stated herein,²⁸ AT&T Corp. submits that the public interest will be served by Commission approval of its Application, consistent with §392.420, RSMo. AT&T Corp. emphasizes in particular that approval of the Application will preserve and enhance the availability of innovative, high quality, and reliable telecommunication services in Missouri, by allowing AT&T Corp. to continue (and ultimately enhance) the competitive offerings that will no longer be provided by AT&T Advanced Solutions, and to do so in a more integrated and efficient manner Further, as noted earlier, AT&T Corp. will provide the same services as AT&T Advanced Solutions currently provides, under the same rates, terms and conditions.

MOTION FOR EXPEDITED TREATMENT

24. AT&T Corp. respectfully requests expedited treatment of this Application and, in particular, request that the Commission grant the relief requested herein by not later than forty-five (45) to sixty (60) days. As noted earlier, this Application and AT&T Advanced Solutions' and AT&T Corp.'s concurrently filed joint application are part of a multi-state initiative to merge the operations of the various AT&T advanced services affiliates into a single business entity. Once it was determined that a single entity would be the most beneficial and efficient way by which to serve advanced services customers in all of these states, it was also determined that the transaction should go forward at the earliest practicable opportunity. AT&T Corp. filed this request for expedited treatment as soon as it could have after it and AT&T Advanced Solutions identified October 31, 2008 as the specific target date for the merger transaction to occur. This

²⁸ See, infra., at paras. 1-4.

was regarded as the earliest practicable date, given that time had to be allotted to obtain the necessary regulatory approvals (either for the merger and/or the certification) of the several states in which such approvals must be obtained, and to next go about assembling the materials and information needed in order to seek such approvals. There will be no negative effect on consumers if the Commission acts within the time requested. To the contrary, timely issuance of the Commission's order granting the relief requested herein, and the companies' proceeding thereafter to effectuate their merger, will benefit both customers and the companies alike.

CONCLUSION

WHEREFORE, AT&T Corp. respectfully requests that the Commission, by not later than forty-five (45) to sixty (60) days:

(1) grant AT&T Corp. a Certificate of Service Authority to provide intraLATA interexchange and non-switched exchange (i.e., point-to-point) telecommunications service within the State of Missouri,

(2) grant AT&T Corp. and all of its services competitive classification, and

(3) waive application and enforcement of the statutes and rules referenced herein.

Respectfully submitted,

AT&T CORP.

BY Kobert J. Fry zonela

TIMOTHY P. LEAHY #36197 LEO J. BUB #34326 ROBERT J. GRYZMALA #32454 Attorneys for AT&T Corp. One AT&T Center, Room 3516 St. Louis, Missouri 63101 314-235-6060 (Telephone)/314-247-0014(Facsimile) robert.gryzmala@att.com

STATE OF MISSOURI



Robin Carnahan Secretary of State

CORPORATION DIVISION CERTIFICATE OF GOOD STANDING

I. ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

AT&T CORP.

using in Missouri the name

AT&T CORP. 1/00000487

a NEW YORK entity was created under the laws of this State on the 13th day of September, 1898, and is in good standing, having fully complied with all requirements of this office.

IN TESTEMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 10th day of lune, 2008

In Camal

Socretary of State



Cerl fraction Number (106) 2.744 f — Reférence Verify this cerlificate online al latinoù wol wis met goodo sinessen i ywentikation.

AT&T Corp., d/b/a AT&T Advanced Solutions Adoption Notice

AT&T Corp., d/b/a AT&T Advanced Solutions, hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed by it, all schedules, rules, notices, concurrences, schedule agreements, divisions, authorities, or other instruments whatsoever filed with the Public Service Commission, State of Missouri, by SBC Advanced Solutions, Inc., d/b/a/ AT&T Advanced Solutions, and its predecessors prior to October 31, 2008. By this notice, AT&T Corp., d/b/a AT&T Advanced Solutions, also adopts and ratifies all supplements or amendments to any of the above schedules, etc., which SBC Advanced Solutions, Inc., d/b/a/ AT&T Advanced Solutions, and its predecessors have heretofore filed with said Commission.

AT&T Corp., d/b/a AT&T Advanced Solutions, hereby adopts this tariff.

Notice to Customers

IMPORTANT NOTICE TO ALL SBC ADVANCED SOLUTIONS, INC. CUSTOMERS:

On or about October 31, 2008, SBC Advanced Solutions, Inc. d/b/a AT&T Advanced Solutions ("AT&T Advanced Solutions") will merge with its affiliate AT&T Corp., which will thereafter continue to provide you service under the name AT&T Advanced Solutions. The final date of this change is subject to regulatory approvals. This change will have no impact on your service. You will continue to receive the same service you receive today, at the same rates, terms and conditions. You have a right to select a different carrier, subject to the terms of your service agreement. Unless you choose a different carrier, your account will automatically move to AT&T Corp. AT&T Advanced Solutions will be responsible for handling any complaints prior to or during the merger into AT&T Corp. If you have any questions, please contact AT&T Advanced Solutions at 1-800-695-3679.

COUNTY OF SOMERSET) SS) STATE OF NEW JERSEY)

VERIFICATION

I, James F. Dionne, being duly sworn upon my oath, state that I am over twentyone, sound of mind, and am Executive Director - Accounting of AT&T Corp. I am authorized to act on behalf of AT&T Corp. regarding the foregoing document. I have read it and verify that the facts contained in it are true and correct according to the best of my knowledge, information and belief.

James F. Dionne

Sworn and subscribed to before me this \underline{k} day of August, 2008.

(Mifria L. Hard Notary Public

Cynthia L. Hardy My Commission Expires Nov. 18, 2009

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on this 13th day of August, 2008.

Robert J. Lyzmala Robert J. Grymala

General Counsel Kevin Thompson Missouri Public Service Commission P.O. Box 360 Jefferson City, MO 65102 gencounsel@psc.mo.gov kevin.thompson@psc.mo.gov Public Counsel Michael F. Dandino Office Of The Public Counsel P.O. Box 7800 Jefferson City, MO 65102 opcservice@ded.mo.gov mike.dandino@ded.mo.gov