

In The Matter of the Petition for )  
Waivers of Certain Rules and Statutes ) Case No. \_\_\_\_\_  
On Behalf of Zone Telecom, Inc. )

COMES NOW Zone Telecom, Inc. ("Zone"), 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 Zone's behalf by the Commission, pursuant to Sections 392.185, 392.361.5 and 392.420, RSMo. as amended by HB 1779<sup>1</sup>. These rules and statutes are limited to those which are no longer applicable to other telecommunications companies by virtue of their having elected to waive the application and enforcement of these rules and statutes, in each case with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, Zone respectfully states as follows:

1. Zone is a Delaware corporation duly authorized to conduct business in Missouri, with its principal office located at 3 Executive Campus, Suite 520, Cherry Hill, New Jersey 08002. Copies of Zone's Certificate of Authority of a Foreign Corporation from the Missouri Secretary of State were filed in Case No. TA-2001-229, 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 and Order Approving Tariff ("Order") issued November 21, 2000 in Case No.TA-2001-229, Zone was granted

<sup>1</sup> All statutory references to Section 392.420, RSMo, refer to the revised statute pursuant to House Bill 1779 ("HB 1779), effective August 28, 2008.

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.

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

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4. Zone 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 in Case No. TA-2001-229, the Commission granted the standard waiver of statutes and rules that had been traditionally waived for other similarly situated companies prior to the passage of HB 1779. Due to the passage of time, the list of waived rules and statutes is no longer current with Commission practice.

6. Under Section 392.420, RSMo, where there is an alternative local exchange telecommunications company authorized to provide local exchange telecommunications services in an incumbent local exchange telecommunications company's authorized service area, the incumbent local exchange telecommunications company may opt into the statutory and commission rule waivers. As a result, many 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. For competitive companies, the Commission is authorized by Section 392.361.5 RSMo. 2000 to "suspend or modify the application of its rules or the application of any statutory provision contained in sections 392.200 to 392.340 . . ."

8. 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 possessing a 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>2</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>3</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).

9. Similarly, the Commission has granted these waivers to other interexchange carriers such as Global Tel\*Link Corporation in Case No. XE-2010-0247, Global Crossing in Case No. XE-2010-0341, and Windstream Communications, Inc. in Case No. XO-2010-0040.

10. Accordingly, Zone respectfully submits that the Commission should waive application of the following Commission Rules and Statutory Sections to Zone (which includes those previously waived pursuant to Zone's certificates of service authority):

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<sup>2</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, 2009.

<sup>3</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.

### **Commission Rules**

4 CSR 240-3.550 (4) and (5)(A)  
4 CSR 240-10.020  
4 CSR 240-30.040  
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**

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392.310  
392.320  
392.330  
392.340

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

WHEREFORE, Zone Telecom, Inc. respectfully requests that the Commission grant its petition for waiver consistent with other recently granted waivers and approve the tariff sheet that is being filed concurrently with this pleading.

Respectfully submitted,

/s/ Larry W. Dority

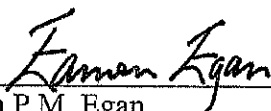
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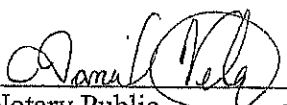
**VERIFICATION**

STATE OF NEW JERSEY    )  
  ) ss  
COUNTY OF                    )

I, Eamon P.M. Egan, having been duly sworn upon my oath, state that I am Chief Financial Officer for Zone Telecom, Inc., that I am authorized to make this affidavit on behalf of Zone Telecom, Inc., that I have read the foregoing Petition, and that the statements contained therein are true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
Eamon P.M. Egan

Subscribed and sworn to before me on this 22<sup>nd</sup> day of November, 2010.

  
\_\_\_\_\_  
Notary Public

My Appointment Expires:

**Daniel Velez  
Notary Public  
Official Seal State of New Jersey  
My Commission Expires  
May 15, 2014**



### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 29<sup>th</sup> day of November, 2010, 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:

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**/s/ Larry W. Dority**

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