

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of ATC Outdoor DAS,)
LLC for a Certificate of Service Authority to Provide) **Case No. XA-2009-0103**
Interexchange and Nonswitched Local) **Tariff No. YX-2009-0206**
Telecommunications Service in the State of Missouri)

ORDER APPROVING INTEREXCHANGE AND NONSWITCHED
LOCAL EXCHANGE CERTIFICATES OF SERVICE AUTHORITY
AND ORDER APPROVING TARIFF

Issue Date: October 27, 2008

Effective Date: November 1, 2008

This order grants ATC Outdoor DAS, LLC (ATC) a certificate of service authority to provide interexchange and nonswitched local exchange telecommunications services, restricted to providing dedicated private line services, and approves the company's proposed tariff.

ATC Outdoor DAS, LLC (ATC) applied to the Missouri Public Service Commission on September 17, 2008, for certificates of service authority to provide intrastate interexchange and nonswitched local exchange telecommunications services in Missouri under Sections 392.410, RSMo Supp. 2005, through 392.450, RSMo 2000.¹ ATC asked the Commission to classify it as a competitive company and to waive certain statutes and rules as authorized by Sections 392.361 and 392.420. ATC is a Delaware corporation with its principal office located at 116 Huntington Avenue, Boston, Massachusetts 02116.

¹ All statutory references are to the Revised Statutes of Missouri (RSMo), revision of 2001, unless otherwise indicated.

The Commission issued a Notice of Applications for Intrastate Certificates of Service Authority and Opportunity to Intervene on September 22, 2008, directing parties wishing to intervene to file their requests by October 7, 2008. No requests for intervention were filed.

ATC filed a proposed tariff in conjunction with its application and filed substitute sheets on October 9, 2008. The tariff's effective date is November 1, 2008. ATC's tariff describes the rates, rules, and regulations it intends to use, identifies ATC as a competitive company, and lists the waivers requested. ATC intends to provide interexchange and nonswitched local exchange telecommunications services including radio frequency or optical transport and backhaul services for voice and data service providers.

In its memorandum filed on October 27, 2008, the Staff of the Commission recommended that the Commission grant ATC a certificate of interexchange service authority, and a certificate of service authority for local exchange telecommunications services on condition that this authority be restricted to providing dedicated private line services. Staff recommended that the Commission grant ATC competitive status, and waiver of the statutes and rules listed in the Notice. Staff recommended that the Commission approve the proposed tariff as amended to become effective on November 1, 2008.

The Commission finds that competition in the intrastate interexchange and nonswitched local exchange telecommunications markets is in the public interest and ATC shall be granted certificates of service authority. The Commission finds that the services ATC proposes to offer are competitive and ATC shall be classified as a competitive

company. The Commission finds that waiving the statutes and Commission rules set out in the ordered paragraph below is reasonable and not detrimental to the public interest.

The Commission finds that ATC's proposed tariff details the services, equipment, and pricing it proposes to offer, and is similar to tariffs approved for other Missouri certificated interexchange and nonswitched local exchange carriers. The Commission finds that the proposed tariff filed on September 17, 2008, shall be approved as amended to become effective on November 1, 2008.

The Commission reminds the company that failure to comply with its regulatory obligations may result in the assessment of penalties against it. These regulatory obligations include, but are not limited to, the following:

A) The obligation to file an annual report, as established by Section 392.210, RSMo 2000. Failure to comply with this obligation will make the utility liable to a penalty of \$100 per day for each day that the violation continues. 4 CSR 240-3.540 requires telecommunications utilities to file their annual report on or before April 15 of each year.

B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo 2000.

C) The obligation to comply with all relevant laws and regulations, as well as orders issued by the Commission. If the company fails to comply, it is subject to penalties for noncompliance ranging from \$100 to \$2,000 per day of noncompliance, pursuant to Section 386.570, RSMo 2000.

D) The obligation to keep the Commission informed of its current address and telephone number.

Furthermore, the company is reminded that, if it is a corporation, non-attorneys may not represent the company before the Commission. Instead, the corporation must be represented by an attorney licensed to practice law in Missouri.

In addition, the company is reminded that Section 392.410.5, RSMo Supp. 2005, renders the company's certificate of service authority null and void one year from the date of this order unless it has exercised its authority under that certificate.

THE COMMISSION ORDERS THAT:

1. ATC Outdoor DAS, LLC is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the state of Missouri, subject to the conditions of certification set out above.

2. ATC Outdoor DAS, LLC is granted a certificate of service authority to provide nonswitched local exchange telecommunications services in the state of Missouri limited to providing dedicated private line services, subject to all applicable statutes and Commission rules except as specified in this order.

3. The certification granted herein is conditioned upon the company's compliance with the regulatory obligations in this order.

4. ATC Outdoor DAS, LLC is classified as a competitive telecommunications company. Application of the following statutes and regulatory rules shall be waived:

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 - reorganization(s)

Commission Rules

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

5. The tariff filed by ATC Outdoor DAS, LLC on September 17, 2008, under tariff number YX-2009-0206, is approved as amended to become effective on November 1, 2008. The tariff approved is:

PSC Mo Tariff No. 1 **Original Sheet through Original Sheet 26**

- 6. This order shall become effective on November 1, 2008.
- 7. This case may be closed on November 2, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Kennard L. Jones, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 27th day of October, 2008.