

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

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”) and respectfully states as follows:

2. On September 22, 2008, the Commission issued its Notice Of Applications For Intrastate Certificates Of Service Authority And Opportunity To Intervene (“Notice Of Applications”), which, among other things, set a deadline of October 7, 2008 for applications to intervene in this matter. No requests to intervene have been filed.

3. On October 9, 2008, the Applicant filed substitute tariff sheets for Original Sheets No. 3, 5, 6, and 19 through 26 for the purpose of correcting the issue date and effective date on each sheet to September 17, 2008 and November 1, 2008, respectively. With the substitute tariff sheet filing, all proposed tariff sheets now bear the same issue date and effective date.

4. In the attached Memorandum (Appendix A), the Staff recommends that the Commission grant the Applicant a certificate of service authority to provide both interexchange and dedicated, private line local exchange telecommunications services. Sections 392.430<sup>1</sup> and 392.440 RSMo provide that the Commission shall grant an application for a certificate of telecommunications service authority upon a finding that the grant of authority is in the public interest.

5. The Staff also recommends that the Commission classify the Applicant and the services it proposes to offer as competitive. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. (Section 392.361.4). A majority of the services a competitive company provides must be classified as competitive. (Section 392.361.3<sup>2</sup>).

6. The Staff further recommends that the Commission: a) state in its order that, pursuant to Section 392.410, the authority conferred by the certificate of service authority shall be null and void unless it is exercised within one year of its issuance; and b) grant the interexchange waivers listed in the Notice Of Applications for interexchange and non-switched local exchange carriers. The Commission may waive the application of its rules and certain statutes if the Commission determines that waiver is consistent with the purposes of Chapter 392. (Sections 392.185, 392.361.5<sup>2</sup> and 392.420<sup>2</sup>).

7. The Staff has no objection to the proposed tariff taking effect on November 1, 2008, as requested by the Applicant.

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<sup>1</sup> Unless otherwise noted, all statutory references are to the Revised Statutes of Missouri, 2000.

<sup>2</sup> House Bill 1779, effective August 28, 2008.

**WHEREFORE**, the Staff recommends that the Commission issue an Order: a) granting ATC Outdoor DAS, LLC a certificate of service authority to provide interexchange and non-switched local exchange telecommunications services in Missouri; b) stating that the authority conferred by the certificate shall be null and void unless exercised within a period of one year from the issuance thereof; c) classifying the Applicant and its services as competitive; d) granting the standard interexchange and non-switched local exchange waivers listed in the Commission's Notice of Applications; and e) approving Applicant's tariff, to be effective November, 1, 2008.

Respectfully submitted,

/s/ Dennis L. Frey

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#### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 27th day of October 2008.

/s/ Dennis L. Frey