

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

In the Matter of the Application of)	
Paetec Communications, Inc. for)	<u>File No. CE-2012-0397</u>
Waiver of Certain Commission Rules)	
and Statutes)	

STAFF REQUEST FOR CLARIFICATION

COMES NOW the Staff of the Missouri Public Service Commission and for its Recommendation states:

1. On August 28, 2008, §392.245.5(8) and §392.420 RSMo were amended by H.B. 1779, allowing regulated telecommunications companies to apply for or elect waivers of certain provisions of statutes and regulations.

2. On August 28, 2011, H.B. 338 added §392.461, which provides as follows:

A telecommunications company may, upon written notice to the commission, elect to be exempt from certain retail rules relating to:

(1) The provision of telecommunications service to retail customers and established by the commission which include provisions already mandated by the Federal Communications Commission, including but not limited to federal rules regarding customer proprietary network information, verification of orders for changing telecommunications service providers (slamming), submission or inclusion of charges on customer bills (cramming); or

(2) The installation, provisioning, or termination of retail service.

3. On May 25, 2012, Paetec Communications, Inc. ("the Company") filed a Notice of Election that comported with the Staff's recommended procedure, elected waivers consistent with §§392.245.5(8), 392.420 and 392.461, elected waivers to which the Company is lawfully entitled and established an election date of May 25, 2012. The Staff noted in its June 12, 2012 Recommendation that some of the waivers were

previously granted or are inapplicable, but preferred that companies, whenever possible, be granted the Staff's recommended waiver list in its entirety. The Company advised Staff that it was amenable to that procedure.

4. The Staff recommended that the Commission recognize that the Company has elected the following waivers:

- 392.210.2 Accounting requirements (system of accounts)
- 392.240.1 Reasonableness of rates
- 392.270 Accounting requirements (valuation of property)
- 392.280 Accounting requirements (depreciation rates/accounts)
- 392.290 Issuance of stocks, bonds and other indebtedness
- 392.300 Transfer of property and ownership of stock
- 392.310 Approval of issuing stocks, bonds and other indebtedness
- 392.320 Certificate of Commission to be recorded-stock dividends
- 392.330 Accounting requirements (proceeds of sales of stock, bonds, notes, etc.)
- 392.340 Company reorganization
- 4 CSR 240-3.520 Applications to sell or transfer assets
- 4 CSR 240-3.525 Applications to merge or consolidate
- 4 CSR 240-3.530 Applications to issue stocks, obtain loans
- 4 CSR 240-3.535 Applications to acquire stock
- 4 CSR 240-3.545(8)(C) Listing of Waivers in Tariff
- 4 CSR 240-3.550 Telco Records and Reports (except (5)(B), (D) and (E))
- 4 CSR 240-3.555 Residential Customer Inquiries
- 4 CSR 240-3.560 Procedure for Ceasing Operations
- 4 CSR 240-10.020 Depreciation Records
- 4 CSR 240-30.020 Residential Telephone Underground Systems
- 4 CSR 240-30.040 Uniform System of Accounts
- 4 CSR 240-32.010 General Provisions
- 4 CSR 240-32.040 Metering, Inspections and Tests
- 4 CSR 240-32.050 Customer Services
- 4 CSR 240-32.060 Engineering and Maintenance
- 4 CSR 240-32.070 Quality of Service
- 4 CSR 240-32.080 Service objectives and surveillance levels
- 4 CSR 240-32.090 Connection of equipment and Inside Wiring
- 4 CSR 240-32.100 Provision of Basic Local and Interexchange Services
- 4 CSR 240-32.130-170 Prepaid Calling Cards (except 32.140 and 32.150(1))
- 4 CSR 240-32.180-190 Caller ID blocking requirements
- 4 CSR 240-33.010 Service and Billing Practice General Provisions
- 4 CSR 240-33.040 Billing and Payment standards
- 4 CSR 240-33.045 Clear identification and placement of charges on bills
- 4 CSR 240-33.050 Deposits
- 4 CSR 240-33.060 Residential Customer Inquiries
- 4 CSR 240-33.070 Discontinuance of service
- 4 CSR 240-33.080 Disputes by Residential Customers
- 4 CSR 240-33.090 Settlement agreements with residential customers
- 4 CSR 240-33.130 Operator service requirements

4 CSR 240-33.140 Payphone requirements (except (2))
4 CSR 240-33.150 "Anti-slamming" requirements
4 CSR 240-33.160 Customer Proprietary Network Information

5. The Staff recommends that the Commission note in its Notice Recognizing Waiver that the Company need not immediately remove any listed waivers from its tariffs, but should do so for each tariff when it is amended in the future.

6. On June 14, 2012, the Commission issued its Notice Acknowledging Waivers and Granting Exemptions. Within that Notice, the Commission ordered the Company to list its current waivers in its tariff.

7. The Staff requests that the Commission issue a clarified Notice in which it acknowledges the waivers, without differentiating between waivers and exemptions, because the Staff has not researched nor agreed that the Company is truly exempt from certain regulations (although Staff agrees that there are some). Neither the Staff Recommendation nor the Notice identify which sections are waived and from which sections the Company is exempt. For administrative simplicity, the Staff requests that all the waivers be denominated as such and not as exemptions. In addition, the Recommendation included waiver of 4 CSR 240-3.545(8)(C) Listing of Waivers in Tariff, which the Staff believes is an important waiver, relieving both the Company and the Staff of a multitude of busy work. The Staff asked, and renews its request, that the Notice clarify that the listed waivers currently in the tariff need not be removed until the Company makes other tariff filings.

WHEREFORE, the Staff requests that the Commission issue a Clarified Notice wherein it recognizes the Election of Waivers by the Company as of May 25, 2012 and advises the Company that it need not remove the waivers currently in its tariff until such time as it revises its tariff for other reasons.

Respectfully submitted,



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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 3rd day of July, 2012.

