

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

In the Matter of the Application of Level 3)
Communications, LLC For Waiver of) **Case No. CE-2009-0113**
Commission Rules and Statute.)

Staff Recommendation

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its recommendation in Case No. CE-2009-0113 states as follows:

1. On September 25, 2008, Level 3 Communications, LLC (Level 3 or the Company) filed an Application For Waiver Of Commission Rules And Statute (Application) with the Missouri Public Service Commission (Commission) requesting that the Commission waive certain Commission Rules and a statutory provision pursuant to RSMo¹ Sections 392.245.5(8) and 392.420.

2. Level 3's reference to RSMo Sections 392.245(8) and 392.420 refers to the statutes as revised by the passage of House Bill 1779, which became effective August 28, 2008.

3. Section 392.245.5(8), as amended by House Bill 1779, states in relevant part that “. . . all alternative local exchange telecommunications companies shall not be required to comply with customer billing rules, network engineering and maintenance rules, and rules requiring the recording and submitting of service objectives or surveillance levels established by the commission.”

4. Section 392.245.5(8) does provide however that the Commission shall retain the authority to hear and resolve customer complaints based upon certain federal regulation and

¹ All references to RSMo refer to the Missouri Revised Statutes 2000, as currently supplemented.

standards, the company's tariff, or Commission Rules "other than those related to customer billing, network engineering and maintenance, and service objectives and surveillance levels or a failure to provide service in a manner that is safe, adequate, usual and customary in the telecommunications industry."

5. Section 392.420, as amended by House Bill 1779, states in relevant part that "[i]n 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 companies, the commission shall waive, at a minimum, 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, 392.290, 392.300, 392.310, 392.320, 392.330, and 392.340."

6. Level 3 is an alternative local exchange telecommunications company as that term is used in Sections 392.245.5(8) and 392.420. Furthermore, in the attached Memorandum, labeled as Appendix A, Staff states its position that the specific waivers requested by Level 3 comply with the type of waivers completed by the passage of House Bill 1779, and that therefore Staff has no objection.

7. Level 3 is currently compliant in obligations relating to Commission assessment, Missouri Universal Service Fund, Relay Missouri, and the submission of an annual report.

WHEREFORE, Staff recommends that the Commission grant to Level 3 Communications, LLC, all of the waivers listed in Appendix A and direct the company to file tariff revisions consistent therewith.

Respectfully submitted,

/s/ Eric Dearmont

Eric Dearmont

Assistant General Counsel

Missouri Bar No. 60892

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Missouri Public Service Commission

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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 9th day of October, 2008.

/s/ Eric Dearmont

Memorandum

To: Official Case File
 Case No. CE-2009-0113
 Level 3 Communications, LLC

Through: General Counsel

From: John Van Eschen
 Telecommunications Department

Date: October 3, 2008

Subject: Request for Waivers

Level 3 Communications, Inc. (Company), an alternative local exchange telecommunications company, has filed an Application for Waiver of Commission Rules and Statute pursuant to Sections 392.245.5(8) and 392.420, RSMo, as amended by House Bill 1779, effective August 28, 2008. The Commission Staff (Staff) has no objections to the requested waivers identified in the Company's filing. This memorandum further explains Staff's review of the filing.

Two separate sections of the new legislation, Section 392.420 and 392.245.5(8), provide the genesis for waiving various statutes and Commission rules for telecommunications companies. Both sections are slightly different in terms of the circumstances surrounding their applicability. In addition both sections have slightly different descriptions of the types of rules covered by their provisions.

Section 392.420 RSMo authorizes the Commission, in connection with the issuance or modification of a certificate or service authority, to entertain a petition to suspend or modify the application of its rules and certain statutes. This section further provides that in the case of an application for a 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 companies, the Commission shall waive, at a minimum, the application and enforcement of its quality of service and billing standards rules, and certain enumerated statutes. Where an alternative local exchange telecommunications company is authorized to provide local exchange telecommunications services in an incumbent local exchange telecommunications company's territory an incumbent may opt into all or some of the statutory and commission rule waivers by filing a notice of election with the Commission.

Section 392.245.5(8) RSMo indicates an incumbent local exchange telecommunications company with classification as a competitive company and all alternative local exchange telecommunications companies shall not be required to comply with customer billing rules, network engineering and maintenance rules, and rules

requiring the recording and submitting of service objectives or surveillance levels established by the Commission. This section does not address any statutes as described and identified in Section 392.420 RSMo.

In support of its filing, the Company states the Company is an alternative local exchange company pursuant to Section 386.020(1). The specific waivers requested by the Company comply with the type of waivers contemplated by the new legislation. These waivers and a brief description are as follows:

Commission Rules (4 CSR 240-)	Brief Description
3.550 (4) and (5)(A)	Held order records, Quality of service reports.
32.060	Engineering and maintenance
32.070	Quality of Service
32.080	Service objectives and surveillance levels
33.040(1) through (3) and (5) through (10)	Billing and payment standards
33.045	Clear identification and placement of charges on bills
33.080(1)	Clearly identify company name & toll free number on bill
33.130(1), (4) and (5)	Operator service billing-related requirements

Missouri Statutes	Brief description of Commission's authority
392.300.1	Transfer of property and ownership of stock

Staff recommends the Commission grant to the company all of the waivers listed above and direct the Company to list these waivers in the Company's tariff. Staff has also investigated and concluded the Company is currently compliant in obligations relating to the Commission's assessment, Missouri universal service fund, Relay Missouri and the submission of an annual report.

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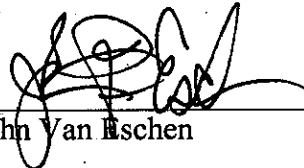
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Case No. CE-2009-0113

AFFIDAVIT OF John Van Eschen

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

John Van Eschen, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that he has participated in preparing the accompanying memorandum and that the facts therein are true and correct to the best of his knowledge and belief.



John Van Eschen

Subscribed and affirmed before me this 6th day of October 2008.



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086



NOTARY PUBLIC