

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 7th day of
October, 2009.

In the Matter of the Application of tw telecom
of kansas city llc for Partial Waiver of
Commission Rule 4 CSR 240-32.050(4)(B)

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File No. CE-2010-0077

**ORDER GRANTING PARTIAL WAIVER
OF 4 CSR 240-32.050(4)(B)**

Issue Date: October 7, 2009

Effective Date: October 17, 2009

On September 1, 2009, tw telecom of kansas city llc (referred to as "TWTC") filed an application for partial waiver of 4 CSR 240-32.050(4)(B) in its St. Louis, Kansas City, and Springfield service areas. TWTC filed its request after the Commission granted a waiver to Southwestern Bell Telephone Company, d/b/a AT&T Missouri,¹ from distributing white pages to every customer in those service areas except upon request of the customer. Charter Fiberlink–Missouri, LLC, was also granted a limited waiver from the white pages requirement along with AT&T and later, Socket Telecom, LLC, was granted a similar waiver.² TWTC also urged "the Commission to grant a blanket waiver for all CLECs operating in AT&T's St. Louis, Kansas City and/or Springfield service territories, or establish an expedited, less formal procedure for such waivers to be granted individually."

¹ Case No. IE-2009-0357.

² See, Case No. TA-2010-0006.

TWTC requested similar treatment to that of Charter Fiberlink and Socket with the exception that TWTC requested to be able to instruct its customers who want a white pages directory to call AT&T's toll-free number on the yellow pages directory. This request differs from Charter Fiberlink and Socket's waiver in that those competitive local exchange companies (CLECs) will be receiving the calls from their customers and passing the information on to AT&T instead of the call going directly to AT&T. In the Stipulation and Agreement approved in Case No. IE-2009-0357, "AT&T Missouri agrees to use the same process to provide printed residential white page directories for CLEC customers residing within AT&T Missouri's service territory as it will use for its own customers . . ." TWTC believes this more direct process will result in less customer confusion, less cost, and fewer errors.

The Commission directed notice of the application be sent and received a recommendation on September 28, 2009, from the Staff of the Missouri Public Service Commission. Staff recommends that the waiver be granted. Staff also supports the extension of the exemption to all other similarly situated CLECS. No other responses were filed.

Under 4 CSR 240-32.010, the Commission may grant a temporary or permanent waiver from any rule in 4 CSR 240-32. In addition, the Commission has granted AT&T, Charter Fiberlink, and Socket similar waivers with certain conditions and limitations. TWTC's request is slightly different in that it requests that its customers use AT&T's toll-free number to request a white pages directory. This more direct contact by the customers will reduce the number of errors and will be more efficient.

The Commission finds that good cause exists to grant a partial waiver of 4 CSR 240-32.050(4)(B) to the same extent that waiver was granted to AT&T in Case No. IE-2009-0357, with the exception that TWTC may opt to instruct its end-user customers to use AT&T's toll-free number to receive a copy of the directory.

TWTC has also asked that the Commission grant a "blanket waiver" for all similarly situated CLECs, and Staff does not object to this waiver being granted. The Commission, however, cannot grant such a "blanket waiver" as that would be akin to making a regulation without having first gone through the rulemaking process set out in the statutes. The Commission will direct its Staff to review Chapter 32 in light of the waivers that have been granted, and recommend the promulgation of any new rules or the amendment of current rules that it believes is necessary. In the meantime, the Commission will make every attempt to expedite similar waiver requests when received.

THE COMMISSION ORDERS THAT:

1. tw telecom of kansas city llc is granted a waiver of 4 CSR 240-32.050(4)(B) consistent with the waiver granted to Southwestern Bell Telephone Company, d/b/a AT&T Missouri, and Charter Fiberlink–Missouri, LLC, in Case No. IE-2009-0357 and Socket Telecom, LLC, in Case No. TA-2010-0006, with the exception that tw telecom of Kansas city llc may opt to instruct its end-user customers to use Southwestern Bell Telephone Company, d/b/a AT&T Missouri's toll-free number found on the yellow pages directory in order to receive a copy of the white pages directory.

2. The request for a "blanket waiver" is denied.

3. The Staff of the Missouri Public Service Commission shall review 4 CSR 240-32.050 and make recommendations to the Commission regarding any new regulations or amended regulations Staff believes should be promulgated.

4. This order shall become effective on October 17, 2009.

5. This case may close on October 18, 2009.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett,
Gunn, and Kenney, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge