

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

**HOUSE BILL NO. 1779**

**94TH GENERAL ASSEMBLY**

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Reported from the Special Committee on Utilities February 13, 2008 with recommendation that House Committee Substitute for House Bill No. 1779 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules February 18, 2008 with recommendation that House Committee Substitute for House Bill No. 1779 Do Pass, with no time limit for debate on Perfection.

Taken up for Perfection March 5, 2008. House Committee Substitute for House Bill No. 1779 ordered Perfected and printed, as amended.

D. ADAM CRUMBLISS, Chief Clerk

4260L.03P

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**AN ACT**

To repeal sections 386.020, 392.200, 392.220, 392.230, 392.245, 392.361, 392.370, 392.420, 392.450, 392.451, 392.480, 392.490, 392.510, 392.515, and 392.520, RSMo, and to enact in lieu thereof fourteen new sections relating to telecommunications services.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 386.020, 392.200, 392.220, 392.230, 392.245, 392.361, 392.370, 2 392.420, 392.450, 392.451, 392.480, 392.490, 392.510, 392.515, and 392.520, RSMo, are 3 repealed and fourteen new sections enacted in lieu thereof, to be known as sections 386.020, 4 392.200, 392.220, 392.230, 392.245, 392.361, 392.370, 392.420, 392.450, 392.451, 392.480, 5 392.510, 392.520, and 392.550, to read as follows:

386.020. As used in this chapter, the following words and phrases mean:

2 (1) "Alternative local exchange telecommunications company", a local exchange 3 telecommunications company certified by the commission to provide basic or nonbasic local 4 telecommunications service or switched exchange access service, or any combination of such 5 services, in a specific geographic area subsequent to December 31, 1995;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 (2) "Alternative operator services company", any certificated interexchange  
7 telecommunications company which receives more than forty percent of its annual Missouri  
8 intrastate telecommunications service revenues from the provision of operator services pursuant  
9 to operator services contracts with traffic aggregators;

10 (3) "Basic interexchange telecommunications service" includes, at a minimum, two-way  
11 switched voice service between points in different local calling scopes as determined by the  
12 commission and shall include other services as determined by the commission by rule upon  
13 periodic review and update;

14 (4) "Basic local telecommunications service", two-way switched voice service within  
15 a local calling scope as determined by the commission comprised of any of the following  
16 services and their recurring and nonrecurring charges:

17 (a) Multiparty, single line, including installation, touchtone dialing, and any applicable  
18 mileage or zone charges;

19 (b) Assistance programs for installation of, or access to, basic local telecommunications  
20 services for qualifying economically disadvantaged or disabled customers or both, including, but  
21 not limited to, lifeline services and link-up Missouri services for low-income customers or  
22 dual-party relay service for the hearing impaired and speech impaired;

23 (c) Access to local emergency services including, but not limited to, 911 service  
24 established by local authorities;

25 (d) Access to basic local operator services;

26 (e) Access to basic local directory assistance;

27 (f) Standard intercept service;

28 (g) Equal access to interexchange carriers consistent with rules and regulations of the  
29 Federal Communications Commission;

30 (h) One standard white pages directory listing.

31

32 Basic local telecommunications service does not include optional toll-free calling outside a local  
33 calling scope but within a community of interest, available for an additional monthly fee or the  
34 offering or provision of basic local telecommunications service at private shared-tenant service  
35 locations;

36 (5) "Cable television service", the one-way transmission to subscribers of video  
37 programming or other programming service and the subscriber interaction, if any, which is  
38 required for the selection of such video programming or other programming service;

39 (6) "Carrier of last resort", any telecommunications company which is obligated to offer  
40 basic local telecommunications service to all customers who request service in a geographic area

41 defined by the commission and cannot abandon this obligation without approval from the  
42 commission;

43 (7) "Commission", the "Public Service Commission" hereby created;

44 (8) "Commissioner", one of the members of the commission;

45 (9) "Competitive telecommunications company", a telecommunications company which  
46 has been classified as such by the commission pursuant to section 392.361 or **392.245**, RSMo;

47 (10) "Competitive telecommunications service", a telecommunications service which  
48 has been classified as such by the commission pursuant to section 392.245, RSMo, or to section  
49 392.361, RSMo, or which has become a competitive telecommunications service pursuant to  
50 section 392.370, RSMo;

51 (11) "Corporation" includes a corporation, company, association and joint stock  
52 association or company;

53 (12) "Customer-owned pay telephone", a privately owned telecommunications device  
54 that is not owned, leased or otherwise controlled by a local exchange telecommunications  
55 company and which provides telecommunications services for a use fee to the general public;

56 (13) "Effective competition" shall be determined by the commission based on:

57 (a) The extent to which services are available from alternative providers in the relevant  
58 market;

59 (b) The extent to which the services of alternative providers are functionally equivalent  
60 or substitutable at comparable rates, terms and conditions;

61 (c) The extent to which the purposes and policies of chapter 392, RSMo, including the  
62 reasonableness of rates, as set out in section 392.185, RSMo, are being advanced;

63 (d) Existing economic or regulatory barriers to entry; and

64 (e) Any other factors deemed relevant by the commission and necessary to implement  
65 the purposes and policies of chapter 392, RSMo;

66 (14) "Electric plant" includes all real estate, fixtures and personal property operated,  
67 controlled, owned, used or to be used for or in connection with or to facilitate the generation,  
68 transmission, distribution, sale or furnishing of electricity for light, heat or power; and any  
69 conduits, ducts or other devices, materials, apparatus or property for containing, holding or  
70 carrying conductors used or to be used for the transmission of electricity for light, heat or power;

71 (15) "Electrical corporation" includes every corporation, company, association, joint  
72 stock company or association, partnership and person, their lessees, trustees or receivers  
73 appointed by any court whatsoever, other than a railroad, light rail or street railroad corporation  
74 generating electricity solely for railroad, light rail or street railroad purposes or for the use of its  
75 tenants and not for sale to others, owning, operating, controlling or managing any electric plant  
76 except where electricity is generated or distributed by the producer solely on or through private

77 property for railroad, light rail or street railroad purposes or for its own use or the use of its  
78 tenants and not for sale to others;

79 (16) "Exchange", a geographical area for the administration of telecommunications  
80 services, established and described by the tariff of a telecommunications company providing  
81 basic local telecommunications service;

82 (17) "Exchange access service", a service provided by a local exchange  
83 telecommunications company which enables a telecommunications company or other customer  
84 to enter and exit the local exchange telecommunications network in order to originate or  
85 terminate interexchange telecommunications service;

86 (18) "Gas corporation" includes every corporation, company, association, joint stock  
87 company or association, partnership and person, their lessees, trustees or receivers appointed by  
88 any court whatsoever, owning, operating, controlling or managing any gas plant operating for  
89 public use under privilege, license or franchise now or hereafter granted by the state or any  
90 political subdivision, county or municipality thereof;

91 (19) "Gas plant" includes all real estate, fixtures and personal property owned, operated,  
92 controlled, used or to be used for or in connection with or to facilitate the manufacture,  
93 distribution, sale or furnishing of gas, natural or manufactured, for light, heat or power;

94 (20) "Heating company" includes every corporation, company, association, joint stock  
95 company or association, partnership and person, their lessees, trustees or receivers, appointed by  
96 any court whatsoever, owning, operating, managing or controlling any plant or property for  
97 manufacturing and distributing and selling, for distribution, or distributing hot or cold water,  
98 steam or currents of hot or cold air for motive power, heating, cooking, or for any public use or  
99 service, in any city, town or village in this state; provided, that no agency or authority created by  
100 or operated pursuant to an interstate compact established pursuant to section 70.370, RSMo, shall  
101 be a heating company or subject to regulation by the commission;

102 (21) "High-cost area", a geographic area, which shall follow exchange boundaries and  
103 be no smaller than an exchange nor larger than a local calling scope, where the cost of providing  
104 basic local telecommunications service as determined by the commission, giving due regard to  
105 recovery of an appropriate share of joint and common costs as well as those costs related to  
106 carrier of last resort obligations, exceeds the rate for basic local telecommunications service  
107 found reasonable by the commission;

108 (22) "Incumbent local exchange telecommunications company", a local exchange  
109 telecommunications company authorized to provide basic local telecommunications service in  
110 a specific geographic area as of December 31, 1995, or a successor in interest to such a company;

111 (23) **"Interconnected voice over Internet protocol service", service that:**

112 (a) **Enables real-time, two-way voice communications;**

- 113           **(b) Requires a broadband connection from the user's location;**  
114           **(c) Requires Internet protocol-compatible customer premises equipment; and**  
115           **(d) Permits users generally to receive calls that originate on the public switched**  
116 **telephone network and to terminate calls to the public switched telephone network;**
- 117           **(24)** "Interexchange telecommunications company", any company engaged in the  
118 provision of interexchange telecommunications service;
- 119           [(24)] **(25)** "Interexchange telecommunications service", telecommunications service  
120 between points in two or more exchanges;
- 121           [(25)] **(26)** "InterLATA", interexchange telecommunications service between points in  
122 different local access and transportation areas;
- 123           [(26)] **(27)** "IntraLATA", interexchange telecommunications service between points  
124 within the same local access and transportation area;
- 125           [(27)] **(28)** "Light rail" includes every rail transportation system in which one or more  
126 rail vehicles are propelled electrically by overhead catenary wire upon tracks located  
127 substantially within an urban area and are operated exclusively in the transportation of  
128 passengers and their baggage, and including all bridges, tunnels, equipment, switches, spurs,  
129 tracks, stations, used in connection with the operation of light rail;
- 130           [(28)] **(29)** "Line" includes route;
- 131           [(29)] **(30)** "Local access and transportation area" or "LATA", contiguous geographic  
132 area approved by the U.S. District Court for the District of Columbia in *United States v. Western*  
133 *Electric*, Civil Action No. 82-0192 that defines the permissible areas of operations for the Bell  
134 Operating companies;
- 135           [(30)] **(31)** "Local exchange telecommunications company", any company engaged in  
136 the provision of local exchange telecommunications service. A local exchange  
137 telecommunications company shall be considered a "large local exchange telecommunications  
138 company" if it has at least one hundred thousand access lines in Missouri and a "small local  
139 exchange telecommunications company" if it has less than one hundred thousand access lines  
140 in Missouri;
- 141           [(31)] **(32)** "Local exchange telecommunications service", telecommunications service  
142 between points within an exchange;
- 143           [(32)] **(33)** "Long-run incremental cost", the change in total costs of the company of  
144 producing an increment of output in the long run when the company uses least cost technology,  
145 and excluding any costs that, in the long run, are not brought into existence as a direct result of  
146 the increment of output. The relevant increment of output shall be the level of output necessary  
147 to satisfy total current demand levels for the service in question, or, for new services, demand  
148 levels that can be demonstrably anticipated;

149            [(33)] **(34)** "Municipality" includes a city, village or town;  
150            [(34)] **(35)** "Nonbasic telecommunications services" shall be all regulated  
151 telecommunications services other than basic local and exchange access telecommunications  
152 services, and shall include the services identified in paragraphs (d) and (e) of subdivision (4) of  
153 this section. Any retail telecommunications service offered for the first time after August 28,  
154 1996, shall be classified as a nonbasic telecommunications service, including any new service  
155 which does not replace an existing service;

156            [(35)] **(36)** "Noncompetitive telecommunications company", a telecommunications  
157 company other than a competitive telecommunications company or a transitionally competitive  
158 telecommunications company;

159            [(36)] **(37)** "Noncompetitive telecommunications service", a telecommunications service  
160 other than a competitive or transitionally competitive telecommunications service;

161            [(37)] **(38)** "Operator services", operator-assisted interexchange telecommunications  
162 service by means of either human or automated call intervention and includes, but is not limited  
163 to, billing or completion of calling card, collect, person-to-person, station-to-station or third  
164 number billed calls;

165            [(38)] **(39)** "Operator services contract", any agreement between a traffic aggregator and  
166 a certificated interexchange telecommunications company to provide operator services at a traffic  
167 aggregator location;

168            [(39)] **(40)** "Person" includes an individual, and a firm or copartnership;

169            [(40)] **(41)** "Private shared tenant services" includes the provision of telecommunications  
170 and information management services and equipment within a user group located in discrete  
171 private premises as authorized by the commission by a commercial-shared services provider or  
172 by a user association, through privately owned customer premises equipment and associated data  
173 processing and information management services and includes the provision of connections to  
174 the facilities of local exchange telecommunications companies and to interexchange  
175 telecommunications companies;

176            [(41)] **(42)** "Private telecommunications system", a telecommunications system  
177 controlled by a person or corporation for the sole and exclusive use of such person, corporation  
178 or legal or corporate affiliate thereof;

179            [(42)] **(43)** "Public utility" includes every pipeline corporation, gas corporation, electrical  
180 corporation, telecommunications company, water corporation, heat or refrigerating corporation,  
181 and sewer corporation, as these terms are defined in this section, and each thereof is hereby  
182 declared to be a public utility and to be subject to the jurisdiction, control and regulation of the  
183 commission and to the provisions of this chapter;

184 [(43)] (44) "Railroad" includes every railroad and railway, other than street railroad or  
185 light rail, by whatsoever power operated for public use in the conveyance of persons or property  
186 for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations,  
187 real estate and terminal facilities of every kind used, operated, controlled or owned by or in  
188 connection with any such railroad;

189 [(44)] (45) "Railroad corporation" includes every corporation, company, association,  
190 joint stock company or association, partnership and person, their lessees, trustees or receivers  
191 appointed by any court whatsoever, owning, holding, operating, controlling or managing any  
192 railroad or railway as defined in this section, or any cars or other equipment used thereon or in  
193 connection therewith;

194 [(45)] (46) "Rate", every individual or joint rate, fare, toll, charge, reconsigning charge,  
195 switching charge, rental or other compensation of any corporation, person or public utility, or any  
196 two or more such individual or joint rates, fares, tolls, charges, reconsigning charges, switching  
197 charges, rentals or other compensations of any corporation, person or public utility or any  
198 schedule or tariff thereof;

199 [(46)] (47) "Resale of telecommunications service", the offering or providing of  
200 telecommunications service primarily through the use of services or facilities owned or provided  
201 by a separate telecommunications company, but does not include the offering or providing of  
202 private shared tenant services;

203 [(47)] (48) "Service" includes not only the use and accommodations afforded consumers  
204 or patrons, but also any product or commodity furnished by any corporation, person or public  
205 utility and the plant, equipment, apparatus, appliances, property and facilities employed by any  
206 corporation, person or public utility in performing any service or in furnishing any product or  
207 commodity and devoted to the public purposes of such corporation, person or public utility, and  
208 to the use and accommodation of consumers or patrons;

209 [(48)] (49) "Sewer corporation" includes every corporation, company, association, joint  
210 stock company or association, partnership or person, their lessees, trustees or receivers appointed  
211 by any court, owning, operating, controlling or managing any sewer system, plant or property,  
212 for the collection, carriage, treatment, or disposal of sewage anywhere within the state for gain,  
213 except that the term shall not include sewer systems with fewer than twenty-five outlets;

214 [(49)] (50) "Sewer system" includes all pipes, pumps, canals, lagoons, plants, structures  
215 and appliances, and all other real estate, fixtures and personal property, owned, operated,  
216 controlled or managed in connection with or to facilitate the collection, carriage, treatment and  
217 disposal of sewage for municipal, domestic or other beneficial or necessary purpose;

218 [(50)] (51) "Street railroad" includes every railroad by whatsoever type of power  
219 operated, and all extensions and branches thereof and supplementary facilities thereto by

220 whatsoever type of vehicle operated, for public use in the conveyance of persons or property for  
221 compensation, mainly providing local transportation service upon the streets, highways and  
222 public places in a municipality, or in and adjacent to a municipality, and including all cars, buses  
223 and other rolling stock, equipment, switches, spurs, tracks, poles, wires, conduits, cables,  
224 subways, tunnels, stations, terminals and real estate of every kind used, operated or owned in  
225 connection therewith but this term shall not include light rail as defined in this section; and the  
226 term "street railroad" when used in this chapter shall also include all motor bus and trolley bus  
227 lines and routes and similar local transportation facilities, and the rolling stock and other  
228 equipment thereof and the appurtenances thereto, when operated as a part of a street railroad or  
229 trolley bus local transportation system, or in conjunction therewith or supplementary thereto, but  
230 such term shall not include a railroad constituting or used as part of a trunk line railroad system  
231 and any street railroad as defined above which shall be converted wholly to motor bus operation  
232 shall nevertheless continue to be included within the term "street railroad" as used herein;

233 ~~[(51)]~~ **(52)** "Telecommunications company" includes telephone corporations as that term  
234 is used in the statutes of this state and every corporation, company, association, joint stock  
235 company or association, partnership and person, their lessees, trustees or receivers appointed by  
236 any court whatsoever, owning, operating, controlling or managing any facilities used to provide  
237 telecommunications service for hire, sale or resale within this state;

238 ~~[(52)]~~ **(53)** "Telecommunications facilities" includes lines, conduits, ducts, poles, wires,  
239 cables, crossarms, receivers, transmitters, instruments, machines, appliances and all devices, real  
240 estate, easements, apparatus, property and routes used, operated, controlled or owned by any  
241 telecommunications company to facilitate the provision of telecommunications service;

242 ~~[(53)]~~ **(54)** "Telecommunications service", the transmission of information by wire,  
243 radio, optical cable, electronic impulses, or other similar means. As used in this definition,  
244 "information" means knowledge or intelligence represented by any form of writing, signs,  
245 signals, pictures, sounds, or any other symbols. Telecommunications service does not include:

246 (a) The rent, sale, lease, or exchange for other value received of customer premises  
247 equipment except for customer premises equipment owned by a telephone company certificated  
248 or otherwise authorized to provide telephone service prior to September 28, 1987, and provided  
249 under tariff or in inventory on January 1, 1983, which must be detariffed no later than December  
250 31, 1987, and thereafter the provision of which shall not be a telecommunications service, and  
251 except for customer premises equipment owned or provided by a telecommunications company  
252 and used for answering 911 or emergency calls;

253 (b) Answering services and paging services;

254 (c) The offering of radio communication services and facilities when such services and  
255 facilities are provided under a license granted by the Federal Communications Commission  
256 under the commercial mobile radio services rules and regulations;

257 (d) Services provided by a hospital, hotel, motel, or other similar business whose  
258 principal service is the provision of temporary lodging through the owning or operating of  
259 message switching or billing equipment solely for the purpose of providing at a charge  
260 telecommunications services to its temporary patients or guests;

261 (e) Services provided by a private telecommunications system;

262 (f) Cable television service;

263 (g) The installation and maintenance of inside wire within a customer's premises;

264 (h) Electronic publishing services; [or]

265 (i) Services provided pursuant to a broadcast radio or television license issued by the  
266 Federal Communications Commission; **or**

267 **(j) Interconnected voice over Internet protocol service;**

268 [(54)] **(55)** "Telephone cooperative", every corporation defined as a telecommunications  
269 company in this section, in which at least ninety percent of those persons and corporations  
270 subscribing to receive local telecommunications service from the corporation own at least ninety  
271 percent of the corporation's outstanding and issued capital stock and in which no subscriber owns  
272 more than two shares of the corporation's outstanding and issued capital stock;

273 [(55)] **(56)** "Traffic aggregator", any person, firm, partnership or corporation which  
274 furnishes a telephone for use by the public and includes, but is not limited to, telephones located  
275 in rooms, offices and similar locations in hotels, motels, hospitals, colleges, universities, airports  
276 and public or customer-owned pay telephone locations, whether or not coin operated;

277 [(56)] **(57)** "Transitionally competitive telecommunications company", an interexchange  
278 telecommunications company which provides any noncompetitive or transitionally competitive  
279 telecommunications service, except for an interexchange telecommunications company which  
280 provides only noncompetitive telecommunications service;

281 [(57)] **(58)** "Transitionally competitive telecommunications service", a  
282 telecommunications service offered by a noncompetitive or transitionally competitive  
283 telecommunications company and classified as transitionally competitive by the commission  
284 pursuant to section 392.361 or 392.370, RSMo;

285 [(58)] **(59)** "Water corporation" includes every corporation, company, association, joint  
286 stock company or association, partnership and person, their lessees, trustees, or receivers  
287 appointed by any court whatsoever, owning, operating, controlling or managing any plant or  
288 property, dam or water supply, canal, or power station, distributing or selling for distribution, or  
289 selling or supplying for gain any water;

290            [(59)] (60) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes,  
291 headgates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and  
292 personal property, owned, operated, controlled or managed in connection with or to facilitate the  
293 diversion, development, storage, supply, distribution, sale, furnishing or carriage of water for  
294 municipal, domestic or other beneficial use.

392.200. 1. Every telecommunications company shall furnish and provide with respect  
2 to its business such instrumentalities and facilities as shall be adequate and in all respects just  
3 and reasonable. All charges made and demanded by any telecommunications company for any  
4 service rendered or to be rendered in connection therewith shall be just and reasonable and not  
5 more than allowed by law or by order or decision of the commission. Every unjust or  
6 unreasonable charge made or demanded for any such service or in connection therewith or in  
7 excess of that allowed by law or by order or decision of the commission is prohibited and  
8 declared to be unlawful.

9            2. No telecommunications company shall directly or indirectly or by any special rate,  
10 rebate, drawback or other device or method charge, demand, collect or receive from any person  
11 or corporation a greater or less compensation for any service rendered or to be rendered with  
12 respect to telecommunications or in connection therewith, except as authorized in this chapter,  
13 than it charges, demands, collects or receives from any other person or corporation for doing a  
14 like and contemporaneous service with respect to telecommunications under the same or  
15 substantially the same circumstances and conditions. Promotional programs for  
16 telecommunications services may be offered by telecommunications companies for periods of  
17 time so long as the offer is otherwise consistent with the provisions of this chapter and approved  
18 by the commission. Neither this subsection nor subsection 3 of this section shall be construed  
19 to prohibit an economy rate telephone service offering. This section and section 392.220 to the  
20 contrary notwithstanding, the commission is authorized to approve tariffs filed by local exchange  
21 telecommunications companies which elect to provide reduced charges for residential  
22 telecommunications connection services pursuant to the lifeline connection assistance plan as  
23 promulgated by the federal communications commission. Eligible subscribers for such  
24 connection services shall be those as defined by participating local exchange telecommunications  
25 company tariffs.

26            3. No telecommunications company shall make or give any undue or unreasonable  
27 preference or advantage to any person, corporation or locality, or subject any particular person,  
28 corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect  
29 whatsoever except that telecommunications messages may be classified into such classes as are  
30 just and reasonable, and different rates may be charged for the different classes of messages.

31           4. (1) No telecommunications company may define a telecommunications service as a  
32 different telecommunications service based on the geographic area or other market segmentation  
33 within which such telecommunications service is offered or provided, unless the  
34 telecommunications company makes application and files a tariff or tariffs which propose relief  
35 from this subsection. Any such tariff shall be subject to the provisions of sections 392.220 and  
36 392.230 and in any hearing thereon the burden shall be on the telecommunications company to  
37 show, by clear and convincing evidence, that the definition of such service based on the  
38 geographic area or other market within which such service is offered is reasonably necessary to  
39 promote the public interest and the purposes and policies of this chapter.

40           (2) It is the intent of this act to bring the benefits of competition to all customers and to  
41 ensure that incumbent and alternative local exchange telecommunications companies have the  
42 opportunity to price and market telecommunications services to all prospective customers in any  
43 geographic area in which they compete. To promote the goals of the federal  
44 Telecommunications Act of 1996, **for an alternative local exchange telecommunications**  
45 **company or** for an incumbent local exchange telecommunications company in any exchange  
46 where an **incumbent local exchange telecommunications company has been classified**  
47 **competitive under sections 392.245 and 392.361, an** alternative local exchange  
48 telecommunications company has been certified and is providing basic local telecommunications  
49 services or switched exchange access services, or [for an alternative local exchange  
50 telecommunications company] **an interconnected voice over Internet protocol service**  
51 **provider has been registered and is providing local voice service**, the commission shall  
52 review and approve or reject, within forty-five days of filing, tariffs for proposed different  
53 services as follows:

54           (a) For services proposed on an exchangewide basis, it shall be presumed that a tariff  
55 which defines and establishes prices for a local exchange telecommunications service or  
56 exchange access service as a different telecommunications service in the geographic area, no  
57 smaller than an exchange, within which such local exchange telecommunications service or  
58 exchange access service is offered is reasonably necessary to promote the public interest and the  
59 purposes and policies of this chapter;

60           (b) For services proposed in a geographic area smaller than an exchange or other market  
61 segmentation within which or to whom such telecommunications service is proposed to be  
62 offered, a local exchange telecommunications company may petition the commission to define  
63 and establish a local exchange telecommunications service or exchange access service as a  
64 different local exchange telecommunications service or exchange access service. The  
65 commission shall approve such a proposal unless it finds that such service in a smaller  
66 geographic area or such other market segmentation is contrary to the public interest or is contrary

67 to the purposes of this chapter. Upon approval of such a smaller geographic area or such other  
68 market segmentation for a different service for one local exchange telecommunications company,  
69 all other local exchange telecommunications companies certified to provide service in that  
70 exchange may file a tariff to use such smaller geographic area or such other market segmentation  
71 to provide that service;

72 (c) For proposed different services described in paragraphs (a) and (b) of this  
73 subdivision, the local exchange telecommunications company which files a tariff to provide such  
74 service shall provide the service to all similarly situated customers, upon request in accordance  
75 with that company's approved tariff, in the exchange or geographic area smaller than an exchange  
76 or such other market segmentation for which the tariff was filed, and no price proposed for such  
77 service by an incumbent local exchange telecommunications company, other than for a  
78 competitive service, shall be lower than its long-run incremental cost, as defined in section  
79 386.020, RSMo;

80 (3) The commission, on its own motion or upon motion of the public counsel, may by  
81 order, after notice and hearing, define a telecommunications service offered or provided by a  
82 telecommunications company as a different telecommunications service dependent upon the  
83 geographic area or other market within which such telecommunications service is offered or  
84 provided and apply different service classifications to such service only upon a finding, based  
85 on clear and convincing evidence, that such different treatment is reasonably necessary to  
86 promote the public interest and the purposes and policies of this chapter.

87 5. No telecommunications company may charge a different price per minute or other unit  
88 of measure for the same, substitutable, or equivalent interexchange telecommunications service  
89 provided over the same or equivalent distance between two points without filing a tariff for the  
90 offer or provision of such service pursuant to sections 392.220 and 392.230. In any proceeding  
91 under sections 392.220 and 392.230 wherein a telecommunications company seeks to charge a  
92 different price per minute or other unit of measure for the same, substitutable, or equivalent  
93 interexchange service, the burden shall be on the subject telecommunications company to show  
94 that such charges are in the public interest and consistent with the provisions and purposes of this  
95 chapter. The commission may modify or prohibit such charges if the subject telecommunications  
96 company fails to show that such charges are in the public interest and consistent with the  
97 provisions and purposes of this chapter. This subsection shall not apply to reasonable price  
98 discounts based on the volume of service provided, so long as such discounts are  
99 nondiscriminatory and offered under the same rates, terms, and conditions throughout a  
100 telecommunications company's certificated or service area.

101           6. Every telecommunications company operating in this state shall receive, transmit and  
102 deliver, without discrimination or delay, the conversations and messages of every other  
103 telecommunications company with whose facilities a connection may have been made.

104           7. The commission shall have power to provide the limits within which  
105 telecommunications messages shall be delivered without extra charge.

106           8. Customer-specific pricing is authorized on an equal basis for incumbent and  
107 alternative local exchange companies, and for interexchange telecommunications companies for:

108           (1) Dedicated, nonswitched, private line and special access services;

109           (2) Central office-based switching systems which substitute for customer premise,  
110 private branch exchange (PBX) services; and

111           (3) Any business service offered in an exchange in which basic local telecommunications  
112 service offered [to business customers] by the incumbent local exchange telecommunications  
113 company has been declared competitive under section 392.245, **and any retail business service**  
114 **offered to an end-user in a noncompetitive exchange.**

115           9. This act shall not be construed to prohibit the commission, upon determining that it  
116 is in the public interest, from altering local exchange boundaries, provided that the incumbent  
117 local exchange telecommunications company or companies serving each exchange for which the  
118 boundaries are altered provide notice to the commission that the companies approve the  
119 alteration of exchange boundaries.

120           10. Notwithstanding any other provision of this section, every telecommunications  
121 company is authorized to offer term agreements of up to five years on any of its  
122 telecommunications services.

123           11. Notwithstanding any other provision of this section, every telecommunications  
124 company is authorized to offer discounted rates or special promotions on any of its  
125 telecommunications services to any existing, new, and/or former customers.

126           12. Packages of services may be offered on an equal basis by incumbent and alternative  
127 local exchange companies and shall not be subject to regulation under section 392.240 or  
128 392.245, nor shall packages of services be subject to the provisions of subsections 1 through 5  
129 of this section, provided that each telecommunications service included in a package is available  
130 apart from the package of services and still subject to regulation under section 392.240 or  
131 392.245. For the purposes of this subsection, a "package of services" includes more than one  
132 telecommunications service or one or more telecommunications service combined with one or  
133 more nontelecommunications service. **Any tariff to introduce a new package or to make any**  
134 **change to an existing package, except for the elimination of a package, shall be filed, on an**  
135 **informational basis, with the commission at least one day prior to the introduction of such**  
136 **new package or implementation of such change. Any tariff to eliminate an existing**

137 **package shall be filed, on an informational basis, with the commission at least ten days**  
138 **prior to the elimination of the package.**

392.220. 1. Every telecommunications company shall print and file with the commission  
2 schedules showing the rates, rentals and charges for service of each and every kind by or over  
3 its facilities between points in this state and between each point upon its facilities and all points  
4 upon all facilities leased or operated by it and between each point upon its facilities or upon any  
5 facility leased or operated by it and all points upon the line of any other telecommunications  
6 company whenever a through service or joint rate shall have been established between any two  
7 points. If no joint rate over through facilities has been established, the several companies joined  
8 over such through facilities shall file with the commission the separately established rates and  
9 charges applicable where through service is afforded. Such schedule shall plainly state the places  
10 between which telecommunications service will be rendered and shall also state separately all  
11 charges and all privileges or facilities granted or allowed and any rules or regulations or forms  
12 of contract which may in any wise change, affect or determine any or the aggregate of the rates,  
13 rentals or charges for the service rendered. Such schedule shall be plainly printed and kept open  
14 to public inspection. The commission shall have the power to prescribe the form of every such  
15 schedule and may from time to time prescribe, by order, changes in the form thereof. The  
16 commission shall also have power to establish rules and regulations for keeping such schedules  
17 open to public inspection and may from time to time modify the same. Every  
18 telecommunications company shall file with the commission as and when required by it a copy  
19 of any contract, agreement or arrangement in writing with any other telecommunications  
20 company or with any other corporation, association or person relating in any way to the  
21 construction, maintenance or use of telecommunications facilities or service by or rates and  
22 charges over or upon any facilities.

23 2. Unless the commission otherwise orders, and except for the rates charged by a  
24 telephone cooperative for providing telecommunications service within an exchange or within  
25 a local calling scope as determined by the commission other than the rates for exchange access  
26 service, no change shall be made in any rate, charge or rental, or joint rate, charge or rental which  
27 shall have been filed by a telecommunications company in compliance with the requirements of  
28 sections 392.190 to 392.530, except after thirty days' notice to the commission, which notice  
29 shall plainly state the changes proposed to be made in the schedule then in force and the time  
30 when the changed rate, charge or rental shall go into effect; and all proposed changes shall be  
31 shown by filing new schedules or shall be plainly indicated upon the schedules filed and in force  
32 at the time and kept open to public inspection. The commission for good cause shown may  
33 allow changes in rates, charges or rentals without requiring the thirty days' notice, under such  
34 conditions as it may prescribe. All such changes shall be immediately indicated upon its

35 schedules by such telecommunications company. No telecommunications company shall charge,  
36 demand, collect or receive a different compensation for any service rendered or to be rendered  
37 than the charge applicable to such service as specified in its schedule on file and in effect at that  
38 time. No telecommunications company shall refund or remit directly or indirectly any portion  
39 of the rate or charge so specified, nor extend to any person or corporation any form of contract  
40 or agreement, or any rule or regulation, or any privilege or facility other than such privileges and  
41 facilities as are contemplated by sections 392.200, 392.245, and 392.455, except such as are  
42 specified in its schedule filed and in effect at the time and regularly and uniformly extended to  
43 all persons and corporations under like circumstances for a like or substantially similar service.

44         3. No telecommunications company subject to the provisions of this law shall, directly  
45 or indirectly, give any free or reduced service, or any free pass or frank for the provision of  
46 telecommunications services between points within this state, except to its officers, employees,  
47 agents, surgeons, physicians, attorneys at law and their families; to persons or corporations  
48 exclusively engaged in charitable and eleemosynary work and ministers of religions; to officers  
49 and employees of other telegraph corporations and telephone corporations, railroad corporations  
50 and street railroad corporations; public education institutions, public libraries and not-for-profit  
51 health care institutions. This subsection shall not apply to state, municipal or federal contracts.

52         4. Any proposed rate or charge for any new telecommunications service which has not  
53 previously been provided by a telecommunications company to its Missouri customers may be  
54 suspended by the commission for a period not to exceed [~~sixty~~] **thirty** days from the proposed  
55 effective date of such proposed rate or charge. This subsection shall not be applicable to any  
56 new price or method of pricing for a service presently being offered by any telecommunications  
57 company to its Missouri customers. Upon proposing a rate or charge for a telecommunications  
58 service which has not previously been provided by a telecommunications company to its  
59 Missouri customers, the offeror must file with the commission its justification for considering  
60 such offering a new service and such other information as may be required by rule or regulation,  
61 and must identify that service as being noncompetitive, transitionally competitive or competitive.  
62 If the offeror is a noncompetitive or transitionally competitive telecommunications company and  
63 it proposes such service as a transitionally competitive or competitive telecommunications  
64 service, the telecommunications service shall be treated as a transitionally competitive  
65 telecommunications service until such time as the commission finally determines the appropriate  
66 classification. If the offeror is a competitive telecommunications company and it proposes such  
67 service as a competitive service, the competitive classification proposed by the offeror of the  
68 service shall apply until such time as the commission finally determines the appropriate  
69 classification. Such final determination by the commission of the appropriate classification of  
70 such service may be made by the commission after the end of the maximum [~~sixty-day~~] **thirty-**

71 **day** suspension period, but any such decision by the commission issued after the maximum  
72 [sixty-day] **thirty-day** suspension period shall be prospective in nature. The commission shall  
73 expedite proceedings under this subsection in order to facilitate the rapid introduction of new  
74 telecommunications products and services into the marketplace.

75 5. Unless the commission otherwise orders, any change in rates or charges, or change  
76 in any classification or tariff resulting in a change in rates or charges, for any telephone  
77 cooperative shall be filed, on an informational basis, with the commission at least thirty days  
78 prior to the date for implementation of such change. Nothing contained in this section shall be  
79 construed as conferring jurisdiction upon the commission over the rates charged by a telephone  
80 cooperative for providing telecommunications service within an exchange or within a local  
81 calling scope as determined by the commission, except for exchange access service.

82 6. If after notice and hearing, the commission determines that a telecommunications  
83 company has violated the requirements of section 392.200 or this section, it may revoke the  
84 certificate of service authority under which that telecommunications company operates and shall  
85 direct its general counsel to initiate an action under section 386.600, RSMo, to recover penalties  
86 from such telecommunications company in an amount not to exceed the revenues received as a  
87 result of such violation multiplied by three or the gross jurisdictional operating revenues of that  
88 company for the preceding twelve months, the provisions of section 386.570, RSMo,  
89 notwithstanding.

392.230. 1. No telecommunications company subject to the provisions of this chapter  
2 shall charge or receive any greater compensation in the aggregate for the transmission of any  
3 interexchange telecommunications service offered or provided for a shorter than for a longer  
4 distance over the same line or route in the same direction, within this state, the shorter being  
5 included within the longer distance, or charge any greater compensation for a through  
6 interexchange telecommunications service than the aggregate of the intermediate rates or tolls  
7 subject to the provisions of this chapter; but this shall not be construed as authorizing any such  
8 telecommunications company to charge or receive as great a compensation for a shorter as for  
9 a longer distance.

10 2. Upon application to the commission, a telecommunications company may, in special  
11 cases, after investigation, be authorized by the commission to charge less for a longer than for  
12 a shorter distance service for the transmission of messages or conversations, and the commission  
13 may from time to time prescribe the extent to which such telecommunications companies may  
14 be relieved from the operation and requirements of this section.

15 3. Whenever there shall be filed with the commission by any telecommunications  
16 company, other than a small telephone company, any schedule stating a new individual or joint  
17 rate, rental or charge, or any new individual or joint regulation or practice affecting any rate,

18 rental or charge, the commission shall have, and it is hereby given, authority, either upon  
19 complaint or upon its own initiative without complaint, at once, and if it so orders without  
20 answer or other formal pleading by the interested telecommunications company or companies,  
21 but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate, rental,  
22 charge, regulation or practice; and pending such hearing and the decision thereon the  
23 commission, upon filing with such schedule and delivering to the telecommunications company  
24 affected thereby a statement in writing of its reasons for such suspension, may suspend the  
25 operation of such schedule and defer the use of such rate, rental, charge, regulation or practice,  
26 but not for a longer period than [one hundred and twenty] **sixty** days beyond the time when such  
27 rate, rental, charge, regulation or practice would otherwise go into effect; and after full hearing,  
28 whether completed before or after the rate, rental, charge, regulation or practice goes into effect,  
29 the commission may make such order in reference to such rate, rental, charge, regulation or  
30 practice as would be proper in a proceeding initiated after the rate, rental, charge, regulation or  
31 practice had become effective, however, if any such hearing cannot be concluded within the  
32 period of suspension, as above stated, the commission may, in its discretion, extend the time of  
33 suspension for a further period not exceeding [six months] **ninety days**.

34         4. For the purposes of this section, a "small telephone company" is defined as a local  
35 exchange telecommunications company which serves no more than twenty-five thousand  
36 subscriber access lines in the state of Missouri.

37         5. Whenever a small telephone company seeks to implement any new individual or joint  
38 rate, rental or charge, or any individual or joint regulation or practice affecting any rate, rental  
39 or charge, it shall file same with the commission and notify its customers of such change at least  
40 thirty days in advance of the date on which the new rate, rental, charge, regulation or practice is  
41 proposed to become effective. Upon the filing by a small telephone company of any new  
42 individual or joint rate, rental or charge, or any new individual or joint regulation or practice  
43 affecting any rate, rental or charge, the commission shall have, and it is hereby given, authority,  
44 either upon complaint or upon its own initiative without complaint, at once, and if it so orders  
45 without answer or other formal pleading by the interested small telephone company or  
46 companies, but upon reasonable notice, to enter upon a hearing concerning the propriety of such  
47 rate, rental, charge, regulation or practice; and pending such hearing and the decision thereon the  
48 commission, upon filing with such schedule and delivering to the small telephone company  
49 affected thereby a statement in writing of its reasons for such suspension, may suspend the  
50 operation of such schedule and defer the use of such rate, rental, charge, regulation or practice,  
51 but not for a longer period than one hundred fifty days beyond the time when such rate, rental,  
52 charge, regulation or practice would otherwise go into effect. If the commission fails to issue

53 its decision within the one-hundred-fifty-day suspension period, the investigation shall be closed  
54 and the rate, rental, charge, regulation or practice shall be considered approved for all purposes.

55 6. At any hearing involving a rate increased or a rate sought to be increased after the  
56 passage of this law, the burden of proof to show that the increased rate or proposed increased rate  
57 is just and reasonable shall be upon the telecommunications company, and the commission shall  
58 give to the hearing and decision of such questions preference over all other questions pending  
59 before it and decide the same as speedily as possible.

392.245. 1. The commission shall have the authority to ensure that rates, charges, tolls  
2 and rentals for telecommunications services are just, reasonable and lawful by employing price  
3 cap regulation. Any rate, charge, toll, or rental that does not exceed the maximum allowable  
4 price under this section shall be deemed to be just, reasonable, and lawful. As used in this  
5 chapter, "price cap regulation" shall mean establishment of maximum allowable prices for  
6 telecommunications services offered by an incumbent local exchange telecommunications  
7 company, which maximum allowable prices shall not be subject to increase except as otherwise  
8 provided in this section.

9 2. A large incumbent local exchange telecommunications company shall be subject to  
10 regulation under this section upon a determination by the commission that an alternative local  
11 exchange telecommunications company has been certified to provide basic local  
12 telecommunications service **or an interconnected voice over Internet protocol service**  
13 **provider has been registered to provide service under section 392.550**, and is providing such  
14 service in any part of the large incumbent company's service area. A small incumbent local  
15 exchange telecommunications company may elect to be regulated under this section upon  
16 providing written notice to the commission if an alternative local exchange telecommunications  
17 company has been certified to provide basic local telecommunications service **or an**  
18 **interconnected voice over Internet protocol service provider has been registered to provide**  
19 **service under section 392.550**, and is providing such service, or if two or more commercial  
20 mobile service providers providing wireless two-way voice communications services are  
21 providing services, in any part of the small incumbent company's service area, and the incumbent  
22 company shall remain subject to regulation under this section after such election.

23 3. Except as otherwise provided in this section, the maximum allowable prices  
24 established for a company under subsection 1 of this section shall be those in effect on December  
25 thirty-first of the year preceding the year in which the company is first subject to regulation under  
26 this section. Tariffs authorized under subsection 9 of this section shall be phased in as provided  
27 under such tariffs as approved by the commission.

28 4. (1) Except as otherwise provided in subsections 8 and 9 of this section and section  
29 392.248, the maximum allowable prices for exchange access and basic local telecommunications

30 services of a small, incumbent local exchange telecommunications company regulated under this  
31 section shall not be changed for a period of twelve months after the date the company is subject  
32 to regulation under this section. Except as otherwise provided in subsections 8 and 9 of this  
33 section and section 392.248, the maximum allowable prices for exchange access and basic local  
34 telecommunications services of a large, incumbent local exchange telecommunications company  
35 regulated under this section shall not be changed prior to January 1, 2000. Thereafter, the  
36 maximum allowable prices for exchange access and basic local telecommunications services of  
37 an incumbent local exchange telecommunications company shall be annually changed by [one  
38 of] the following methods:

39 (a) By the change in the [telephone service component of the] Consumer Price Index  
40 [(CPI-TS)] (**CPI**), as published by the United States Department of Commerce or its successor  
41 agency for the preceding twelve months; provided however, that if such a change in the [CPI-TS]  
42 (**CPI**) for the preceding twelve months is negative, upon request by the company and approval  
43 by the commission for good cause shown, the commission may waive any requirement to reduce  
44 prices of exchange access and basic local telecommunications service and those existing prices  
45 shall remain the maximum allowable prices for purposes of this section until the next annual  
46 change. All revenues that are attributable to a [CPI-TS] (**CPI**) reduction waiver shall be used  
47 for the purposes approved by the commission to benefit local exchange ratepayers in a specific  
48 exchange or exchanges, including but not limited to expanded local calling scopes; [or]

49 (b) [Upon request by the company and approval by the commission, by the change in the  
50 Gross Domestic Product Price Index (GDP-PI), as published by the United States Department  
51 of Commerce or its successor agency for the preceding twelve months, minus the productivity  
52 offset established for telecommunications service by the Federal Communications Commission  
53 and adjusted for exogenous factors.] **Notwithstanding the foregoing, companies that are**  
54 **subject to price-cap regulation and that have telecommunications services in one or more**  
55 **exchanges classified as competitive may increase the maximum allowable rate for basic**  
56 **local telecommunications service in noncompetitive exchanges at a level not to exceed the**  
57 **statewide average for basic local telecommunications service in the competitively classified**  
58 **exchanges of that company.**

59 (2) The commission shall approve a change to a maximum allowable price or make a  
60 determination regarding a request for waiver filed pursuant to [paragraph (a) of] subdivision (1)  
61 of this subsection within forty-five days of filing of notice by the local exchange  
62 telecommunications company. An incumbent local exchange telecommunications company shall  
63 file a tariff to reduce the rates charged for any service in any case in which the current rate  
64 exceeds the maximum allowable price established under this subsection.

65 (3) [As a part of its request under paragraph (b) of subdivision (1) of this subsection, a  
66 company may seek commission approval to use a different productivity offset in lieu of the  
67 productivity offset established by the Federal Communications Commission. An adjustment  
68 under paragraph (b) of subdivision (1) of this subsection shall not be implemented if the  
69 commission determines, after notice and hearing to be conducted within forty-five days of the  
70 filing of the notice of a change to a maximum allowable price, that it is not in the public interest.  
71 In making such a determination, the commission shall consider the relationship of the proposed  
72 price of service to its cost and the impact of competition on the incumbent local exchange  
73 telecommunications company's intrastate revenues from regulated telecommunications services.  
74 Any adjustments for exogenous factors shall be allocated to the maximum allowable prices for  
75 exchange access and basic local telecommunications service in the same percentage as the  
76 revenues for such company bears to such company's total revenues from basic local, nonbasic  
77 and exchange access services for the preceding twelve months.

78 (4) For the purposes of this section, the term "exogenous factor" shall mean a cumulative  
79 impact on a local exchange telecommunications company's intrastate regulated revenue  
80 requirement of more than three percent, which is attributable to federal, state or local government  
81 laws, regulations or policies which change the revenue, expense or investment of the company,  
82 and the term "exogenous factor" shall not include the effect of competition on the revenue,  
83 expense or investment of the company nor shall the term include any assessment made under  
84 section 392.248.

85 (5) [An incumbent local exchange telecommunications company may change the rates  
86 for its services, consistent with the provisions of subsections 2 through 5 of section 392.200, but  
87 not to exceed the maximum allowable prices, by filing tariffs which shall be approved by the  
88 commission within [thirty] **ten** days, provided that any such rate is not in excess of the maximum  
89 allowable price established for such service under this section.

90 5. Each telecommunications service offered to business customers, other than exchange  
91 access service, of an incumbent local exchange telecommunications company regulated under  
92 this section shall be classified as competitive in any exchange in which at least two nonaffiliated  
93 entities in addition to the incumbent local exchange company are providing basic local  
94 telecommunications service to business **or residential** customers within the exchange. Each  
95 telecommunications service offered to residential customers, other than exchange access service,  
96 of an incumbent local exchange telecommunications company regulated under this section shall  
97 be classified as competitive in an exchange in which at least two nonaffiliated entities in addition  
98 to the incumbent local exchange company are providing basic local telecommunications service  
99 to residential customers within the exchange. For purposes of this subsection **and not for**  
100 **purposes of defining the commission's jurisdiction:**

101 (1) Commercial mobile service providers as identified in 47 U.S.C. Section 332(d)(1)  
102 and 47 C.F.R. Parts 22 or 24 shall be considered as entities providing basic local  
103 telecommunications service, provided that only one such nonaffiliated provider shall be  
104 considered as providing basic local telecommunications service within an exchange. **If the**  
105 **commercial mobile service provider does not designate customers by business or residential**  
106 **class, such provider will be deemed to be providing service to both business and residential**  
107 **customers;**

108 (2) Any entity providing local voice service in whole or in part over telecommunications  
109 facilities or other facilities in which it or one of its affiliates have an ownership interest shall be  
110 considered as [a] **providing** basic local telecommunications service [provider] regardless of  
111 whether such entity is subject to regulation by the commission, **including any interconnected**  
112 **voice over Internet protocol service provider registered under section 392.550.** A provider  
113 of local voice service that requires the use of a third party, unaffiliated broadband network or  
114 dial-up Internet network for the origination of local voice service shall not be considered a basic  
115 local telecommunications service provider. For purposes of this subsection only, a "broadband  
116 network" is defined as a connection that delivers services at speeds exceeding two hundred  
117 kilobits per second in at least one direction;

118 (3) Regardless of the technology utilized, local voice service shall mean two-way voice  
119 service capable of receiving calls from a provider of basic local telecommunications services as  
120 defined by subdivision (4) of section 386.020, RSMo;

121 (4) Telecommunications companies only offering prepaid telecommunications service  
122 or only reselling telecommunications service as defined in subdivision [(46)] **(54)** of section  
123 386.020, RSMo, in the exchange being considered for competitive classification shall not be  
124 considered entities providing basic telecommunications service; and

125 (5) "Prepaid telecommunications service" shall mean a local service for which payment  
126 is made in advance that excludes access to operator assistance and long distance service;

127 (6) Upon request of an incumbent local exchange telecommunications company seeking  
128 competitive classification of [business service or residential service, or both] **its services under**  
129 **this subsection,** the commission shall, within thirty days of the request, determine whether [the  
130 requisite number of entities are] **there are at least two entities** providing basic local  
131 telecommunications service [to business or residential customers, or both,] in an exchange and  
132 if so shall approve tariffs designating all such [business or residential] services other than  
133 exchange access service, as competitive within such exchange. Notwithstanding any other  
134 provision of this subsection, any incumbent local exchange company may petition the  
135 commission for competitive classification within an exchange based on competition from any  
136 entity providing local voice service in whole or in part by using its own telecommunications

137 facilities or other facilities or the telecommunications facilities or other facilities of a third party,  
138 including those of the incumbent local exchange company as well as providers that rely on an  
139 unaffiliated third-party Internet service. The commission shall approve such petition within sixty  
140 days [unless it finds that such competitive classification is contrary to the public interest]. The  
141 commission shall maintain records of [regulated] **certified and registered** providers of local  
142 voice service, including those [regulated] providers who provide local voice service over their  
143 own facilities, or through the use of facilities of another provider of local voice service. In  
144 reviewing an incumbent local exchange telephone company's request for competitive status in  
145 an exchange, the commission shall consider their own records concerning ownership of facilities  
146 and shall make all inquiries as are necessary and appropriate from [regulated] **certified and**  
147 **registered** providers of local voice service to determine the extent and presence of [regulated]  
148 local voice providers in an exchange. If the services of an incumbent local exchange  
149 telecommunications company are classified as competitive under this subsection, the local  
150 exchange telecommunications company may thereafter adjust its rates for such competitive  
151 services upward or downward as it determines appropriate in its competitive environment, upon  
152 filing tariffs which shall become effective within the time lines identified in section 392.500.  
153 The commission [shall] **may, [at least] not more than once** every two years[, or where an  
154 incumbent local exchange telecommunications company increases rates for basic local  
155 telecommunications services in an exchange classified as competitive,] review those exchanges  
156 where an incumbent local exchange carrier's services have been classified as competitive, to  
157 determine if the conditions of this subsection for competitive classification continue to exist in  
158 the exchange and if the commission determines, after hearing, that such conditions no longer  
159 exist for the incumbent local exchange telecommunications company in such exchange, it shall  
160 reimpose upon the incumbent local exchange telecommunications company, in such exchange,  
161 the provisions of paragraph (c) of subdivision (2) of subsection 4 of section 392.200 and the **new**  
162 maximum allowable prices **for basic local telecommunications service in such exchange shall**  
163 **be** established by the provisions of [subsections] **subsection 4** [and 11] of this section[, and, in  
164 any such case, the maximum allowable prices established for the telecommunications services  
165 of such incumbent local exchange telecommunications company shall reflect all index  
166 adjustments which were or could have been filed from all preceding years since the company's  
167 maximum allowable prices were first adjusted pursuant to subsection 4 or 11 of this section] ;  
168 **(7) Upon a finding that fifty-five percent or more of an incumbent local exchange**  
169 **telecommunications company's total subscriber access lines are in exchanges where such**  
170 **company's services have been declared competitive, the incumbent local exchange**  
171 **telecommunications company shall be deemed competitive and shall no longer be subject**  
172 **to price-cap regulation, except that rates charged for basic local telecommunications**

173 service in exchanges that were noncompetitive immediately prior to this finding can be  
174 increased to a rate that is no higher than the statewide average rate for basic local  
175 telecommunications service in the incumbent local exchange company's competitively  
176 classified exchanges for a period of four years. During the four year period, any annual  
177 increase in rates for residential basic local telecommunications service shall not exceed two  
178 dollars and fifty cents per line per month. Rates charged for exchange access service by  
179 and incumbent local exchange telecommunications company deemed competitive shall not  
180 exceed the rates charged at the time the company was deemed competitive;

181 (8) An incumbent local exchange telecommunications company deemed competitive  
182 under this section shall not be required to comply with customer billing rules, network  
183 engineering and maintenance rules, and rules requiring the recording and submitting of  
184 service objectives or surveillance levels established by the commission, but shall be subject  
185 to commission authority to hear and resolve customer complaints to the extent the  
186 customer complaint is based on Truth-in-Billing regulations established by the Federal  
187 Communications Commission, network engineering and maintenance standards  
188 established within the National Electric Safety Code. In addition, the commission shall  
189 continue to have authority to hear and resolve customer complaints to the extent such  
190 complaints are based on a failure to comply with the provisions of applicable tariffs, or a  
191 failure to comply with the rules of the commission other than those rules related to  
192 customer billing, network engineering and maintenance, and service objectives and  
193 surveillance levels or a failure to provide service in a manner that is safe, adequate, usual  
194 and customary in the telecommunications industry.

195 (9) The commission may reimpose its customer billing rules, network engineering  
196 and maintenance rules, and rules requiring the recording and submitting of service  
197 objectives or surveillance levels, as applicable, on an incumbent local exchange  
198 telecommunications company that has been deemed competitive under this section, only  
199 upon a finding that the incumbent local exchange telecommunications company has  
200 engaged in a pattern or practice of inadequate service in these subject areas and that the  
201 reimposition of such rules is necessary to ensure the protection of consumer rights and/or  
202 the public safety. Prior to formal notice and hearing, the commission shall notify the  
203 incumbent local exchange telecommunications company of any deficiencies and provide  
204 such company an opportunity to remedy such deficiencies in a reasonable amount of time,  
205 but not less than sixty days. Should the incumbent local exchange telecommunications  
206 company remedy such deficiencies within a reasonable amount of time, the commission  
207 shall not reimpose the applicable customer billing rules, network engineering and  
208 maintenance rules, and rules requiring the recording and submitting of service objectives

209 or surveillance levels. Should the incumbent local exchange telecommunications company  
210 fail to remedy such deficiencies, the commission shall reimpose the applicable customer  
211 billing rules, network engineering and maintenance rules, and rules requiring the  
212 recording and submitting of service objectives or surveillance levels, if it finds that:

213 (a) The reimposition of such rules is necessary for the protection of the majority  
214 of the incumbent local exchange telecommunications company's customers or for the  
215 public safety;

216 (b) No alternative or less burdensome action is adequate to protect the majority of  
217 the incumbent local exchange telecommunications company's customers; and

218 (c) Competitive market forces have been and will continue to be insufficient to  
219 protect the majority of the incumbent local exchange telecommunications company's  
220 customers.

221 (10) Should the commission determine that an emergency exists that impacts public  
222 safety or is essential for the protection of a majority of customers of all local exchange  
223 telecommunications companies operating in this state, the commission may, on an emergency  
224 basis, impose its customer billing rules, network engineering and maintenance rules, and rules  
225 requiring the recording and submitting of service objectives or surveillance levels, as  
226 applicable, on all local exchange telecommunications companies on a uniform and non-  
227 discriminatory basis. The commission may only issue such emergency rules after determining  
228 that:

229 (a) The rules are essential for the protection of a majority of customers of local  
230 exchange telecommunications companies operating in this state;

231 (b) No alternative or less burdensome mechanism will suffice to protect the majority  
232 of customers of local exchange telecommunications companies operating in this state; and

233 (c) Competitive market forces have been and will continue to be insufficient to protect  
234 the majority of customers of local exchange telecommunications companies operating in this  
235 state.

236 Emergency rules promulgated by the commission under this subdivision shall extend  
237 only until the legislature concludes its regular legislative session immediately following the  
238 imposition of any of the rules referenced herein, and shall become invalid unless ratified by  
239 legislation approved by the general assembly.

240 6. Nothing in this section shall be interpreted to alter the commission's jurisdiction over  
241 quality and conditions of [service] **noncompetitive telecommunications services** or to relieve  
242 **noncompetitive** telecommunications companies from the obligation to comply with commission  
243 rules relating to minimum basic local and interexchange telecommunications service.

244           7. A company regulated under this section shall not be subject to regulation under subsection  
245 1 of section 392.240.

246           8. An incumbent local exchange telecommunications company regulated under this section  
247 may reduce intrastate access rates, including carrier common line charges, subject to the provisions  
248 of subsection 9 of this section, to a level not to exceed one hundred fifty percent of the company's  
249 interstate rates for similar access services in effect as of December thirty-first of the year preceding  
250 the year in which the company [is] first [subject to regulation under this section] **exercises its option**  
251 **to rebalance rates under this subsection.** [Absent commission action under subsection 10 of this  
252 section, an incumbent local exchange telecommunications company regulated under this section shall  
253 have four years from the date the company becomes subject to regulation under this section to make  
254 the adjustments authorized under this subsection and subsection 9 of this section.] Nothing in this  
255 subsection shall preclude an incumbent local exchange telecommunications company from  
256 establishing its intrastate access rates at a level lower than one hundred fifty percent of the company's  
257 interstate rates for similar access services in effect as of December thirty-first of the year preceding  
258 the year in which the company [is] first [subject to regulation under this section] **exercises its option**  
259 **to rebalance rates under this subsection.**

260           9. Other provisions of this section to the contrary notwithstanding [and no earlier than  
261 January 1, 1997], the commission shall allow an incumbent local exchange telecommunications  
262 company regulated under this section which reduces its intrastate access service rates pursuant to  
263 subsection 8 of this section to offset the **annual** revenue loss resulting from [the first year's] **its** access  
264 service rate reduction by increasing **each year** its monthly maximum allowable prices applicable to  
265 basic local exchange telecommunications services by an amount not to exceed one dollar fifty cents.  
266 A large incumbent local exchange telecommunications company shall not increase its monthly rates  
267 applicable to basic local telecommunications service under this subsection unless it also reduces its  
268 rates for intraLATA interexchange telecommunications services by at least ten percent **in the year**  
269 **it first exercises its option to rebalance rates under subsection 8 of this section.** [No later than  
270 one year after the date the incumbent local exchange telecommunications company becomes subject  
271 to regulation under this section, the commission shall complete an investigation of the cost  
272 justification for the reduction of intrastate access rates and the increase of maximum allowable prices  
273 for basic local telecommunications service. If the commission determines that the company's monthly  
274 maximum allowable average statewide prices for basic local telecommunications service after  
275 adjustment pursuant to this subsection will be equal to or less than the long-run incremental cost, as  
276 defined in section 386.020, RSMo, of providing basic local telecommunications service and that the  
277 company's intrastate access rates after adjustment pursuant to this subsection will exceed the long-run  
278 incremental cost, as defined in section 386.020, RSMo, of providing intrastate access services, the

279 commission shall allow the company to offset the revenue loss resulting from the remaining  
280 three-quarters of the total needed to bring that company's intrastate access rates to one hundred fifty  
281 percent of the interstate level by increasing the company's monthly maximum allowable prices  
282 applicable to basic local telecommunications service by an amount not to exceed one dollar fifty cents  
283 on each of the next three anniversary dates thereafter; otherwise, the commission shall order the  
284 reduction of intrastate access rates and the increase of monthly maximum allowable prices for basic  
285 local telecommunications services to be terminated at the levels the commission determines to be  
286 cost-justified.] The total **annual** revenue increase due to the increase to the monthly maximum  
287 allowable prices for basic local telecommunications service shall not exceed the total **annual** revenue  
288 loss resulting from the reduction to intrastate access service rates.

289         10. Any telecommunications company whose intrastate access costs are reduced pursuant  
290 to subsections 8 and 9 of this section shall decrease its rates for intrastate toll telecommunications  
291 service to flow through such reduced costs to its customers. The commission may permit a  
292 telecommunications company to defer a rate reduction required by this subdivision until such  
293 reductions, on a cumulative basis, reach a level that is practical to flow through to its customers.

294         11. [The maximum allowable prices for nonbasic telecommunications services of a small,  
295 incumbent local exchange telecommunications company regulated under this section shall not be  
296 changed until twelve months after the date the company is subject to regulation under this section or,  
297 on an exchange-by-exchange basis, until an alternative local exchange telecommunications company  
298 is certified and providing basic local telecommunications service in such exchange, whichever is  
299 earlier. The maximum allowable prices for nonbasic telecommunications services of a large,  
300 incumbent local exchange telecommunications company regulated under this section shall not be  
301 changed until January 1, 1999, or on an exchange-by-exchange basis, until an alternative local  
302 exchange telecommunications company is certified and providing basic local telecommunications  
303 service in such exchange, whichever is earlier. Thereafter, the maximum allowable prices for  
304 nonbasic telecommunications services of an incumbent local exchange telecommunications company  
305 may be annually increased by up to five percent for each of the following twelve-month periods upon  
306 providing notice to the commission and filing tariffs establishing the rates for such services in such  
307 exchanges at such maximum allowable prices. This subsection shall not preclude an incumbent local  
308 exchange telecommunications company from proposing new telecommunications services and  
309 establishing prices for such new services. An incumbent local exchange telecommunications  
310 company may change the rates for its services, consistent with the provisions of subsections 2 through  
311 5 of section 392.200, but not to exceed the maximum allowable prices, by filing tariffs which shall  
312 be approved by the commission within thirty days, provided that any such rate is not in excess of the  
313 maximum allowable price established for such service under this section.] **All nonbasic**

314 **telecommunications services of an incumbent local exchange telecommunications company that**  
315 **is subject to price-cap regulation shall be exempt from limitations on maximum allowable**  
316 **prices.**

317 12. The commission shall permit an incumbent local exchange telecommunications company  
318 regulated under this section to determine and set its own depreciation rates which shall be used for  
319 all intrastate regulatory purposes. Provided, however, that such a determination is not binding on the  
320 commission in determining eligibility for or reimbursement under the universal service fund  
321 established under section 392.248.

322 13. Prior to January 1, 2006, the commission shall determine the weighted, statewide average  
323 rate of nonwireless basic local telecommunications services as of August 28, 2005. The commission  
324 shall likewise determine the weighted, statewide average rate of nonwireless basic local  
325 telecommunications services two years and five years after August 28, 2005. The commission shall  
326 report its findings to the general assembly by January 30, 2008, and provide a second study by  
327 January 30, 2011. If the commission finds that the weighted, statewide average rate of nonwireless  
328 basic local telecommunications service in 2008 or 2011 is greater than the weighted, statewide  
329 average rate of nonwireless basic local telecommunications service in 2006 multiplied by one plus  
330 the percentage increase in the Consumer Price Index for all goods and services for the study periods,  
331 the commission shall recommend to the general assembly such changes in state law as the  
332 commission deems appropriate to achieve the purposes set forth in section 392.185. In determining  
333 the weighted, statewide average rate of nonwireless basic local telecommunications service, the  
334 commission shall exclude rate increases to nonwireless basic telecommunications service permitted  
335 under subsections 8 and 9 of this section and section 392.240 or exogenous costs incurred by the  
336 providers of nonwireless basic local telecommunications service.

392.361. 1. **As an alternative to the provisions of section 392.245**, a telecommunications  
2 company, **including price-cap regulated companies**, may file with the commission a petition to be  
3 classified as a competitive telecommunications company or a transitionally competitive  
4 telecommunications company under this section, or to have services classified as competitive or  
5 transitionally competitive telecommunications services under this section. [The office of public  
6 counsel may initiate classification proceedings by petition. The commission may initiate  
7 classification proceedings on its own motion. The commission may require all telecommunications  
8 companies potentially affected by a classification proceeding to appear as parties for a determination  
9 of their interests.]

10 2. The commission [or a petitioner] shall serve by regular mail a copy of any petition or  
11 motion filed under subsection 1 of this section on all telecommunications companies that have applied  
12 for authority to provide or are authorized to provide intrastate telecommunications service within this

13 state. In response to a petition filed [or a proceeding instituted upon its own motion], the commission  
14 shall afford all interested persons reasonable notice and an opportunity to be heard to determine  
15 whether a telecommunications company or service may be subject to sufficient competition to justify  
16 a lesser degree of regulation. In making this determination, the commission shall, within nine months  
17 of the filing of the petition [or initiation of a proceeding] under this section, consider all relevant  
18 factors and shall issue written findings of fact delineating all factors considered. [The commission  
19 may, for good cause, extend the time for determination for an additional three months. A second  
20 extension period not exceeding three months may, for good cause, be granted by the commission.]  
21 In any hearing involving the same telecommunications service or company, the commission may, if  
22 appropriate and if no new finding of fact is required, rely on a finding of fact made in a prior hearing.

23 3. The commission may classify a telecommunications company as a competitive  
24 telecommunications company [only] upon a finding that [all] **a majority of its** telecommunications  
25 services offered by such company are competitive telecommunications services.

26 4. If, after following the procedures required under subsection 2 of this section, the  
27 commission determines that a telecommunications service is subject to sufficient competition to  
28 justify a lesser degree of regulation and that such lesser regulation is consistent with the protection  
29 of ratepayers and promotes the public interest it may, by order, classify:

30 (1) The subject telecommunications service offered by a telecommunications company as  
31 a competitive telecommunications service;

32 (2) The subject telecommunications service offered by a noncompetitive or transitionally  
33 competitive telecommunications company as a transitionally competitive telecommunications service;

34 (3) The subject telecommunications company, subject to the condition set forth in subsection  
35 3 of this section, as a competitive telecommunications company; or

36 (4) The subject interexchange telecommunications company as a transitionally competitive  
37 telecommunications company.

38 5. By its order classifying a telecommunications service as competitive or transitionally  
39 competitive or a telecommunications company as competitive or transitionally competitive, the  
40 commission may, with respect to that service or company and with respect to one or more providers  
41 of that service, suspend or modify the application of its rules or the application of any statutory  
42 provision contained in sections 392.200 to 392.340, except as provided in section 392.390. [The  
43 commission may suspend different requirements for different telecommunications companies, if such  
44 different treatment is reasonable and not detrimental to the public interest.]

45 6. If the commission suspends the application of a statutory requirement under this section,  
46 it may require a telecommunications company to comply with any conditions reasonably made  
47 necessary to protect the public interest by the suspension of the statutory requirement. **The exchange**

48 **access rates of an incumbent local exchange company that is declared a competitive**  
49 **telecommunications company shall not exceed the rates that were charged at the time the**  
50 **company became a competitive telecommunications company. The exchange access rates of**  
51 **an alternative local exchange company shall not exceed the exchange access rates of the**  
52 **incumbent local exchange company against whom the alternative local exchange company is**  
53 **competing.**

54 7. [If necessary to protect the public interest, the commission may at any time, by order, after  
55 hearing upon its own motion or petition filed by the public counsel, a telecommunications company,  
56 or any person or persons authorized to file a complaint as to the reasonableness of any rates or charges  
57 under section 386.390, RSMo, reimpose or modify the statutory provisions suspended under  
58 subsection 5 of this section upon finding that the company or service is no longer competitive or  
59 transitionally competitive or that the lesser regulation previously authorized is no longer in the public  
60 interest or no longer consistent with the provisions and purposes of this chapter.

61 8.] A telecommunications company may file a petition to have a telecommunications service  
62 it then offers classified as competitive or transitionally competitive under this section no more than  
63 once every two years, unless exceptional circumstances are demonstrated. A telecommunications  
64 company shall consolidate in a single petition all telecommunications services the company then  
65 offers which it seeks to classify as competitive or transitionally competitive within two years from  
66 the date such petition is filed, unless the commission determines, for good cause shown, that a waiver  
67 of this provision should be granted.

68 **8. Notwithstanding the foregoing or the provisions of section 392.245, intrastate**  
69 **operator and directory services, including directory assistance services, shall be deemed**  
70 **competitive on a statewide basis for all local exchange telecommunications companies.**

392.370. [I.] After the effective date of an order of the commission which finds, pursuant  
2 to section 392.361, that a telecommunications service is sufficiently competitive to justify a lesser  
3 degree of regulation, the same, substitutable, or equivalent service offered by a transitionally  
4 competitive or noncompetitive telecommunications company shall be classified as transitionally  
5 competitive [pursuant to the procedure set out in subsection 2 of section 392.490], if the  
6 telecommunications service granted a lesser degree of regulation is authorized to be provided  
7 anywhere within the certificated or service area of the transitionally competitive or noncompetitive  
8 telecommunications company. Any transitionally competitive telecommunications service offered  
9 by a noncompetitive local exchange telecommunications company shall be classified as a competitive  
10 telecommunications service no later than three years after the effective date of a tariff for such service  
11 bearing the classification "transitionally competitive". Any transitionally competitive service offered  
12 by a transitionally competitive interexchange telecommunications company shall be classified as a

13 competitive telecommunications service no later than two years after the effective date of a tariff for  
14 such service bearing the classification "transitionally competitive". **The exchange access rates of**  
15 **an incumbent local exchange company that is declared a competitive telecommunications**  
16 **company shall not exceed the rates that were charged at the time the company became a**  
17 **competitive telecommunications company. The exchange access rates of an alternative local**  
18 **exchange company shall not exceed the exchange access rates of the incumbent local exchange**  
19 **company against whom the alternative local exchange company is competing.**

20 [2. The commission may extend or reinstate a transitionally competitive service  
21 classification applicable to any service provided by a noncompetitive local exchange  
22 telecommunications company for two periods in addition to the initial three-year period, each  
23 additional period not to exceed three years, after notice and hearing, upon the issuance of an order  
24 finding that a competitive classification for such service is not in the public interest or not consistent  
25 with the purposes and policies of this chapter. The commission may extend or reinstate a  
26 transitionally competitive service classification applicable to any service provided by a transitionally  
27 competitive interexchange telecommunications company for two periods in addition to the initial  
28 two-year period, each additional period not to exceed two years, after notice and hearing, upon the  
29 issuance of an order finding that a competitive classification for such service is not in the public  
30 interest or not consistent with the purposes and policies of this chapter. The commission, on its own  
31 motion, or public counsel or any telecommunications company, by complaint, may initiate a  
32 proceeding in which the commission shall consider whether to extend or reinstate a transitionally  
33 competitive service classification under this section. In any proceeding initiated under this subsection  
34 by the commission or the public counsel, the burden to prove that such service is a competitive  
35 telecommunications service shall be on the noncompetitive or transitionally competitive  
36 telecommunications company providing such service. The commission may consolidate different  
37 proceedings under this section involving different transitionally competitive telecommunications  
38 services for purposes of hearing.

39 3. The commission may issue an order, effective at or after such time as the commission may  
40 no longer extend or reinstate a transitionally competitive service classification, that reclassifies a  
41 competitive or transitionally competitive telecommunications service as a noncompetitive  
42 telecommunications service if the commission, after notice and hearing upon its own motion or  
43 petition filed by the public counsel, a telecommunications company, or any person or persons  
44 authorized to file a complaint as to the reasonableness of any rates or charges under section 386.390,  
45 RSMo, determines that a competitive classification for such service is not in the public interest or not  
46 consistent with the provisions and purposes of this chapter. Should the commission issue an order  
47 under this subsection reclassifying a competitive or transitionally competitive telecommunications

48 service as noncompetitive it shall thereafter apply equal regulation, with respect to such service, to  
49 all telecommunications companies providing the same equivalent or substitutable  
50 telecommunications service.

51 4. No tariff which proposes a new rate, rental, or charge or new regulation or practice  
52 affecting any rate, rental, or charge for a transitionally competitive telecommunications service which  
53 is filed by a noncompetitive local exchange telecommunications company, or a noncompetitive or  
54 transitionally competitive interexchange telecommunications company, shall be effective unless and  
55 until the noncompetitive local exchange telecommunications company, or the noncompetitive or  
56 transitionally competitive interexchange telecommunications company, offering or providing, or  
57 seeking to offer or provide, such proposed transitionally competitive telecommunications service  
58 prepares and files a study of the cost of providing such service. Such study may in the commission's  
59 discretion be given proprietary treatment at the request of such company.

60 5. Except as provided in subsection 6 of this section, the provisions of sections 392.220 and  
61 392.230 shall apply to any tariff filed for the offer or provision of a transitionally competitive  
62 telecommunications service.

63 6. So long as a transitionally competitive interexchange telecommunications company  
64 charges the same price per minute or other unit of measure for the same, equivalent, or substitutable  
65 interexchange telecommunications service provided over the same or equivalent distance between  
66 any two points, the provisions of subsections 4 and 5 of this section shall not apply to such  
67 transitionally competitive interexchange telecommunications company for any proposed decrease in  
68 rates for a transitionally competitive interexchange telecommunications service. Such proposed  
69 decrease shall instead be treated as a competitive service pursuant to section 392.500.

70 7. A transitionally competitive telecommunications service which becomes a competitive  
71 telecommunications service pursuant to this section or section 392.361 shall no longer be subject to  
72 the provisions of subsections 4, 5, and 6 of this section and any increase or decrease in rates or  
73 charges applicable to such competitive service shall be treated pursuant to section 392.500.]

392.420. The commission is authorized, in connection with the issuance or modification of  
2 a certificate of interexchange or local exchange service authority or the modification of a certificate  
3 of public convenience and necessity for interexchange or local exchange telecommunications service,  
4 to entertain a petition [under section 392.361 and in accordance with the procedures set out in section  
5 392.361,] to suspend or modify the application of its rules or the application of any statutory provision  
6 contained in sections 392.200 to 392.340 if such waiver or modification is otherwise consistent with  
7 the other provisions of sections 392.361 to 392.520 and the purposes of this chapter. **In the case of**  
8 **an application for certificate of service authority to provide basic local telecommunications**  
9 **service filed by an alternative local exchange telecommunications company, the commission**

10 shall waive, at a minimum, the application and enforcement of its quality of service and billing  
11 standards rules, as well as the provisions of subsection 2 of section 392.210, subsection 1 of  
12 section 392.240, and sections 392.270, 392.280, 392.290, 392.300, 392.310, 392.320, 392.330, and  
13 392.340. Notwithstanding any other provision of law in this chapter and chapter 386, RSMo,  
14 where an alternative local exchange telecommunications company is authorized to provide local  
15 exchange telecommunications services in an incumbent local exchange telecommunications  
16 company's authorized service area, the incumbent local exchange telecommunications company  
17 may opt into all or some of the above-listed statutory and commission rule waivers by filing a  
18 notice of election with the commission that specifies which waivers are elected. In addition,  
19 where an interconnected voice over Internet protocol service provider is registered to provide  
20 service in an incumbent local exchange telecommunications company's authorized service area  
21 under section 392.550, the incumbent local exchange telecommunications company may opt  
22 into all or some of the above-listed statutory and commission rule waivers by filing a notice of  
23 election with the commission that specifies which waivers are elected. The commission may  
24 reimpose its quality of service and billing standards rules, as applicable, on an incumbent local  
25 exchange telecommunications company but not on a company granted competitive status under  
26 subdivision (7) of subsection 5 of section 392.245 in an exchange where there is no alternative  
27 local exchange telecommunications company or interconnected voice over Internet protocol  
28 service provider that is certificated or registered to provide local voice service only upon a  
29 finding, following formal notice and hearing, that the incumbent local exchange  
30 telecommunications company has engaged in a pattern or practice of inadequate service. Prior  
31 to formal notice and hearing, the commission shall notify the incumbent local exchange  
32 telecommunications company of any deficiencies and provide such company an opportunity  
33 to remedy such deficiencies in a reasonable amount of time, but not less than sixty days.  
34 Should the incumbent local exchange telecommunications company remedy such deficiencies  
35 within a reasonable amount of time, the commission shall not reimpose its quality of service or  
36 billing standards on such company.

392.450. 1. The commission shall approve an application for a certificate of local exchange  
2 service authority to provide basic local telecommunications service or for the resale of basic local  
3 telecommunications service only upon a showing by the applicant, and a finding by the commission,  
4 after notice and hearing that the applicant has complied with the certification process established  
5 pursuant to section 392.455.

6 2. In addition, the commission shall adopt such rules, consistent with section 253(b) of the  
7 federal Telecommunications Act of 1996 to preserve and advance universal service, protect the public  
8 safety and welfare, ensure the continued quality of telecommunications services, and safeguard the

9 rights of consumers. Such rules, at a minimum, shall require that all applicants seeking a certificate  
10 to provide basic local telecommunications services under this section:

11 (1) File and maintain tariffs with the commission in the same manner and form as the  
12 commission requires of the incumbent local exchange telecommunications company with which the  
13 applicant seeks to compete; and

14 (2) Meet the minimum service standards[, including quality of service and billing standards,]  
15 as the commission requires of the incumbent local exchange telecommunications company with  
16 which the applicant seeks to compete.

17 **3. An alternative local exchange telecommunications company which possesses a**  
18 **certificate of service authority to provide basic local telecommunications service as of August**  
19 **28, 2008, in some but not all exchanges of the state may request the commission to modify its**  
20 **existing certificate to include some or all of the remaining exchanges in the state. The**  
21 **commission shall grant such request within thirty days of its filing as long as the alternative**  
22 **local exchange telecommunications company is in good standing, in all respects, with all**  
23 **applicable commission rules and requirements.**

392.451. [1. Notwithstanding any provisions of this act to the contrary, and consistent with  
2 section 253(f) of the federal Telecommunications Act of 1996, the commission shall approve an  
3 application for a certificate of local exchange service authority to provide basic local  
4 telecommunications service or for the resale of basic local telecommunications service in an area that  
5 is served by a small incumbent local exchange telecommunications company only upon a showing  
6 by the applicant, and a finding by the commission, after notice and hearing, that:

7 (1) The applicant shall, throughout the service area of the incumbent local exchange  
8 telecommunication company, offer all telecommunications services which the commission has  
9 determined are essential for purposes of qualifying for state universal service fund support; and

10 (2) The applicant shall advertise the availability of such essential services and the charges  
11 therefor using media of general distribution.

12 2. In addition, the commission shall adopt such rules, consistent with section 253(b) of the  
13 federal Telecommunications Act of 1996 to preserve and advance universal service, protect the public  
14 safety and welfare, ensure the continued quality of telecommunications services, and safeguard the  
15 rights of consumers. Such rules, at a minimum, shall require that all applicants seeking a certificate  
16 to provide basic local telecommunications services under this section:

17 (1) File and maintain tariffs with the (1) commission in the same manner and form as the  
18 commission requires of the incumbent local exchange telecommunications company with which the  
19 applicant seeks to compete;

20 (2) Meet the minimum service standards, including quality of service and billing standards,  
21 as the commission requires of the incumbent local exchange telecommunications company with  
22 which the applicant seeks to compete;

23 (3) Make such reports to and other information filings with the commission as is required  
24 of the incumbent local exchange telecommunications company with which the applicant seeks to  
25 compete; and

26 (4) Comply with all of the same rules and regulations as the commission may impose on the  
27 incumbent local exchange telecommunications company with which the applicant seeks to compete.

28 3.] The state of Missouri hereby adopts and incorporates in total the provisions of section  
29 251(f)(1) of the federal Telecommunications Act of 1996 providing exemption for certain rural  
30 telephone companies.

392.480. [1.] Except as provided in section 392.520, all telecommunications services offered  
2 or provided by telecommunications companies shall be offered under tariff and classified as either  
3 competitive, transitionally competitive, or noncompetitive telecommunications services, subject to  
4 proper certification and other applicable provisions of this chapter. Any tariff filed with the  
5 commission shall indicate whether the telecommunications service to be offered or provided is  
6 competitive, transitionally competitive, or noncompetitive.

7 [2. Subject to the provisions of subsection 4 of section 392.220, an offering or the provision  
8 of a telecommunications service shall be classified as competitive only if, and only to the extent that,  
9 the commission has issued an order to that effect pursuant to section 392.361 or pursuant to its  
10 findings issued in an order granting or modifying a certificate of authority or certificate of public  
11 convenience and necessity pursuant to section 392.410 or if, and only to the extent that, a  
12 transitionally competitive telecommunications service has become a competitive  
13 telecommunications service pursuant to section 392.370. Subject to the provisions of subsection 4  
14 of section 392.220, an offering or the provision of a telecommunications service shall be classified  
15 as transitionally competitive only if, and only to the extent that, the commission has issued an order  
16 to that effect pursuant to section 392.361 or pursuant to its findings issued in an order granting or  
17 modifying a certificate of authority or certificate of public convenience and necessity pursuant to  
18 section 392.410 or if, and only to the extent that, a telecommunications service has become a  
19 transitionally competitive telecommunications service pursuant to subsection 1 of section 392.370  
20 and subsection 2 of section 392.490. All telecommunications services not properly classified as  
21 competitive or transitionally competitive shall be classified as noncompetitive telecommunications  
22 service.]

392.510. 1. Telecommunications companies may file proposed tariffs for any competitive  
2 or transitionally competitive telecommunications service, which includes and specifically describes

3 a range, or band, setting forth a maximum and minimum rate within which range a change in rates  
4 or charges for such telecommunications service could be made without prior notice or prior  
5 commission approval.

6 2. The commission may approve such a proposed tariff for a transitionally competitive  
7 service only if a noncompetitive or transitionally competitive telecommunications company  
8 demonstrates, and the commission finds, that any and all rates or charges within the band or range,  
9 are consistent with the public interest and the provisions and purposes of this chapter. To the extent  
10 any proposed band or range encompasses rates or charges which are not consistent with the public  
11 interest and the provisions and purposes of this chapter, the commission shall have the power, upon  
12 notice and after hearing, to modify the level, scope or limits of such band or range, as necessary, to  
13 ensure that rates or charges resulting therefrom are consistent with the public interest and the  
14 provisions and purposes of this chapter.

15 3. The provisions of sections 392.220, 392.230, [subsections 4 and 5 of section 392.370,] and  
16 [section] 392.500 shall not apply to any rate increase or decrease within the band or range authorized  
17 pursuant to this section. A telecommunications company shall file written notice of the rate change  
18 and its effective date with the commission within ten days after the effective date of any increase or  
19 decrease authorized pursuant to this section.

20 4. Any tariffs that have been approved by the commission prior to September 28, 1987,  
21 which establish a range or band of rates within which range or band of rates a change in rates or  
22 charges for such telecommunications service could be made without prior notice or prior commission  
23 approval shall be deemed approved by the commission. The provisions of sections 392.220, 392.230,  
24 [subsections 4 and 5 of section 392.370,] and [section] 392.500 shall not apply to any rate increase  
25 or decrease within such band or range.

392.520. 1. The commission shall have jurisdiction over the provision of private shared  
2 tenant services and customer owned coin telephone telecommunications services, but shall subject  
3 such services to the minimum regulation permitted by this chapter for competitive  
4 telecommunications services. The commission shall exempt the provision of private shared and  
5 customer owned coin telephone telecommunications services from the tariff filing requirements of  
6 sections 392.220, 392.230, [subsections 4 and 5 of section 392.370,] and [section] 392.500 and may  
7 exempt the provision of such telecommunications services from the provisions of subdivisions (1)  
8 and (3) of section 392.390 and from the provisions of section 386.370, RSMo.

9 2. The commission shall establish the rates or charges and terms of connection for access by  
10 such services to the local exchange network. In so doing, the commission shall consider the network  
11 integrity of the principal provider of local exchange service and the impact of private shared tenant  
12 services on the cost to provide, and rates or charges, for local exchange service. If the commission

13 finds, upon notice and investigation, that tenants in private shared tenant services locations have no  
14 alternative access to a local exchange telecommunications company providing basic local  
15 telecommunications service, it may require the private shared tenant services provider to make  
16 alternative facilities available on reasonable terms and conditions at reasonable prices.

**392.550. 1. No person, corporation, or other entity shall offer or provide  
2 interconnected voice over Internet protocol service as defined in section 386.020, RSMo,  
3 without first having obtained a registration from the commission allowing it to do so. Upon  
4 application, the commission shall grant a registration to any person, corporation, or other  
5 entity to provide interconnected voice over Internet protocol service, subject to the provisions  
6 of this section.**

**7 2. Interconnected voice over Internet protocol service shall be subject to exchange  
8 access charges to the same extent that telecommunications services are subject to such charges.**

**9 3. The commission shall grant a registration, without a hearing and no later than thirty  
10 days following the filing of an application accompanied by an affidavit signed by an officer or  
11 general partner of the applicant stating the following:**

**12 (1) The location of the principal place of business and the names of the principal  
13 executive officers of the applicant;**

**14 (2) Each exchange, in whole or in part, of a local exchange company in which the  
15 applicant proposes to provide interconnected voice over Internet protocol service;**

**16 (3) That the applicant is legally, financially, and technically qualified to provide  
17 interconnected voice over Internet protocol services;**

**18 (4) That the applicant is ready, willing, able, and will comply with all applicable state  
19 and federal laws and regulations imposed upon providers of interconnected voice over Internet  
20 protocol services;**

**21 (5) That the applicant will charge and collect from its end-user customers on  
22 interconnected voice over Internet protocol service, and remit to the appropriate authority, fees  
23 and surcharges in the same manner as are charged and collected upon end user customers of  
24 local exchange telecommunications service and remitted by local exchange telecommunications  
25 companies, including but not necessarily limited to:**

**26 (a) Telecommunications services under section 209.255, RSMo;**

**27 (b) Missouri universal service fund under section 392.248;**

**28 (c) Local enhanced 911;**

**29 (d) Any applicable license tax;**

**30 (6) That the applicant will remit the annual assessment imposed by the commission  
31 under section 386.370, RSMo;**

32           (7) That the applicant will file, either directly or indirectly through an affiliated  
33 competitive local exchange carrier, with the commission an annual report at a time and  
34 covering the yearly period fixed by the commission. Verification shall be made by the official  
35 holding office at the time of the filing of such report, and if not made upon the knowledge of  
36 the person verifying, the same shall set forth in general terms the sources of his or her  
37 information and the grounds for his or her belief as to any matters not stated to be verified on  
38 his or her knowledge. Such annual report shall be verified by the oath of the president,  
39 treasurer, general manager, or receiver, if any, of any of such companies, or by the person  
40 required to file the same. The commission shall prescribe the form of such reports and the  
41 character of the information to be contained therein; provided, however, that such form and  
42 character of the information to be provided shall be limited to:

43           (a) Information necessary to enable the commission to determine the assessment of the  
44 fees and surcharges set forth in subdivisions (5) and (6) of this subsection;

45           (b) A list of all Missouri exchanges, in whole or in part, in which customers are served;  
46 and

47           (c) The number of customers or lines served in each exchange. The commission shall  
48 maintain such information as proprietary and not available to the public; and

49           (8) That the applicant has established a process for handling inquiries from customers  
50 concerning billing issues, service issues, and other consumer-related complaints.

51           4. Notwithstanding any other provision of law to the contrary, the public service  
52 commission shall have the following authority with respect to providers of interconnected voice  
53 over Internet protocol service and their provision of such service:

54           (1) To assess and collect fees to support telecommunications relay services under  
55 section 209.255, RSMo;

56           (2) To assess and collect fees to support the Missouri universal service fund under  
57 section 392.248;

58           (3) To assess and collect fees to support the operations of the commission under section  
59 386.370, RSMo;

60           (4) To assess and collect fees and surcharges under subdivisions (5) and (6) of  
61 subsection 3 of this section;

62           (5) To hear and resolve complaints under sections 386.390 and 386.400, RSMo,  
63 regarding the payment or nonpayment for exchange access services regardless of whether a  
64 user of exchange access service has been certificated or registered by the commission and  
65 regardless of whether the commission otherwise has authority over such user. This

66 **subdivision shall not grant the commission authority to review rates for exchange access**  
67 **services that are set under section 392.245; and**

68 **(6) To revoke or suspend the registration of any provider of interconnected voice over**  
69 **Internet protocol service who fails to comply with the requirements of this section.**

2 [392.490. 1. Except as provided in subsection 2 of this section and in  
3 subsection 4 of section 392.220, any telecommunications company which seeks to  
4 file a tariff classifying a telecommunications service as competitive or transitionally  
5 competitive shall apply to the commission consistent with section 392.361, prior to  
6 offering or providing such service as competitive or transitionally competitive, for an  
7 order finding that the proposed tariff is proper and consistent with the law. The  
8 commission or the telecommunications company applying for commission approval  
9 pursuant to this subsection shall provide notice of its application and proposed tariff  
10 as provided in section 392.361, and the commission shall afford all interested persons  
11 reasonable notice and an opportunity to be heard. No such tariff shall become  
12 effective until after the commission issues an order consistent with section 392.361.

13 2. A noncompetitive or transitionally competitive telecommunications  
14 company which seeks to file a tariff classifying a telecommunications service as  
15 transitionally competitive by operation of subsection 1 of section 392.370, shall apply  
16 to the commission for an order finding that the transitionally competitive  
17 classification is consistent with subsection 1 of section 392.370. If such tariff does  
18 not otherwise propose a new rate, rental or charge or new regulation or practice  
19 affecting any rate, rental or charge, the transitionally competitive classification shall  
20 become effective ninety days after filing with the commission and notice to public  
21 counsel and all telecommunications companies unless the commission issues an  
22 order prior to the effective date of such tariff, after notice and hearing, upon its own  
23 motion or upon complaint by the public counsel or a telecommunications company,  
24 which finds that the transitionally competitive classification is not consistent with  
25 subsection 1 of section 392.370.]

2 [392.515. Notwithstanding the provisions of sections 392.361, 392.370,  
3 392.380, 392.400, 392.480, 392.490, 392.500, 392.510 and 392.520 to the contrary:

4 (1) Intrastate operator services provided by alternative operator service  
5 companies shall be provided pursuant to rates approved by the commission under the  
6 provisions of subsection 2 of section 392.220, provided that proposed rates shall be  
7 presumed reasonable by the commission and approved if they are no higher than  
8 operator services rates of certificated interexchange telecommunications companies  
9 which are not alternative operator services companies;

10 (2) The commission shall promulgate rules as are supported by evidence as  
11 to reasonableness to protect users of intrastate operator services provided by  
12 interexchange telecommunications companies at traffic aggregator locations from  
unjust and unreasonable rates, charges, and practices; and to ensure that such users

13 have the opportunity to make informed choices between and among providers of  
14 operator services. All such proposed rules shall be filed with the secretary of state  
15 and published in the Missouri Register as provided in chapter 536, RSMo, and a  
16 hearing shall be held at which affected parties may present evidence as to the  
17 reasonableness of any proposed rule. The provisions of subdivision (6) of section  
18 386.250, RSMo, shall apply to rules promulgated under the authority of this section;  
19 (3) Notwithstanding the provisions of paragraph (d) of subdivision (44) of  
20 section 386.020, RSMo, to the contrary, no traffic aggregator shall deny a user of  
21 intrastate operator services access to that user's interexchange telecommunications  
22 company of choice unless the commission, after hearing, orders otherwise for good  
23 cause shown.]

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