

1  toll free calling outside a local calling scope but within a  
2  community of interest, available for an additional monthly fee or  
3 (but does not include) the offering or provision of basic local  
4 telecommunications service at private shared tenant service  
5 locations;

6 [(4)] (5) "Cable television service", the one-way  
7 transmission to subscribers of video programming or other  
8 programming service and the subscriber interaction, if any, which  
9 is required for the selection of such video programming or other  
10 programming service;

11 (6) "Carrier of last resort", any telecommunications  
12  company which is obligated to offer basic local  
13  telecommunications service to all customers who request service  
14  in a geographic area defined by the commission and cannot abandon  
15  this obligation without approval from the commission;

16 [(5)] (7) "Commission", the "Public Service Commission"  
17 hereby created;

18 [(6)] (8) "Commissioner", one of the members of the  
19 commission;

20 [(7)] (9) "Common carrier" includes all railroad  
21 corporations, street railroad corporations, express companies,  
22 car companies, sleeping car companies, freight companies,  
23 freightline companies, steamboat, power boat, vessel boat and  
24 ferry companies, and every corporation, company, association,  
25 joint stock company or association, partnership, and person,  
26 their lessees, trustees, or receivers appointed by any court  
27 whatsoever, owning, holding, operating, controlling or managing  
28 any such agency for public use in the conveyance of persons or

1 property within this state;

2        ~~[(8)]~~ (10) "Competitive telecommunications company", a  
3 telecommunications company which has been classified as such by  
4 the commission pursuant to section 392.361, RSMo;

5        ~~[(9)]~~ (11) "Competitive telecommunications service", a  
6 telecommunications service which has been classified as such by  
7 the commission pursuant to section 392.361, RSMo, or which has  
8 become a competitive telecommunications service pursuant to  
9 section 392.370, RSMo;

10        ~~[(10)]~~ (12) "Corporation" includes a corporation, company,  
11 association and joint stock association or company;

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

17        (14) "Effective competition" shall be determined by the  
18 commission based on:

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

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

24        (c) Existing economic or regulatory barriers to entry; and

25        (d) Any other factors deemed relevant by the commission.

26        ~~[(11)]~~ (15) "Electric plant" includes all real estate,  
27 fixtures and personal property operated, controlled, owned, used  
28 or to be used for or in connection with or to facilitate the

1 generation, transmission, distribution, sale or furnishing of  
2 electricity for light, heat or power; and any conduits, ducts or  
3 other devices, materials, apparatus or property for containing,  
4 holding or carrying conductors used or to be used for the  
5 transmission of electricity for light, heat or power;

6        [(12)] (16) "Electrical corporation" includes every  
7 corporation, company, association, joint stock company or  
8 association, partnership and person, their lessees, trustees or  
9 receivers appointed by any court whatsoever, other than a  
10 railroad or street railroad corporation generating electricity  
11 solely for railroad or street railroad purposes or for the use of  
12 its tenants and not for sale to others, owning, operating,  
13 controlling or managing any electric plant except where  
14 electricity is generated or distributed by the producer solely on  
15 or through private property for railroad or street railroad  
16 purposes or for its own use or the use of its tenants and not for  
17 sale to others;

18        [(13)] (17) "Exchange", a geographical area for the  
19 administration of telecommunications services, established and  
20 described by the tariff of a telecommunications company providing  
21 basic local telecommunications service;

22        [(14)] (18) "Exchange access service", a service provided  
23 by a local exchange telecommunications company which enables a  
24 telecommunications company or other customer to enter and exit  
25 the local exchange telecommunications network in order to  
26 originate or terminate interexchange telecommunications service;

27        [(15)] (19) "Express corporation" includes every  
28 corporation, company, association, joint stock company or

1 association, partnership and person, their lessees, trustees or  
2 receivers appointed by any court whatsoever, engaged in or  
3 transacting the business of transporting any freight, merchandise  
4 or other property for compensation on the line of any common  
5 carrier within this state;

6 [(16)] (20) "Gas corporation" includes every corporation,  
7 company, association, joint stock company or association,  
8 partnership and person, their lessees, trustees or receivers  
9 appointed by any court whatsoever, owning, operating, controlling  
10 or managing any gas plant operating for public use under  
11 privilege, license or franchise now or hereafter granted by the  
12 state or any political subdivision, county or municipality  
13 thereof;

14 [(17)] (21) "Gas plant" includes all real estate, fixtures  
15 and personal property owned, operated, controlled, used or to be  
16 used for or in connection with or to facilitate the manufacture,  
17 distribution, sale or furnishing of gas, natural or manufactured,  
18 for light, heat or power;

19 [(18)] (22) "Heating company" includes every corporation,  
20 company, association, joint stock company or association,  
21 partnership and person, their lessees, trustees or receivers,  
22 appointed by any court whatsoever, owning, operating, managing or  
23 controlling any plant or property for manufacturing and  
24 distributing and selling, for distribution, or distributing hot  
25 or cold water, steam or currents of hot or cold air for motive  
26 power, heating, cooking, or for any public use or service, in any  
27 city, town or village in this state; provided, that no agency or  
28 authority created by or operated pursuant to an interstate

1 compact established under section 70.370, RSMo, shall be a  
2 heating company or subject to regulation by the commission;

3 (23) "High cost area", a geographic area, which shall  
4 follow exchange boundaries and be no smaller than an exchange nor  
5 larger than a local calling scope, where the cost of providing  
6 basic local telecommunications service as determined by the  
7 commission, giving due regard to recovery of an appropriate share  
8 of joint and common costs as well as those costs related to  
9 carrier of last resort obligations, exceeds the rate for basic  
10 local telecommunications service found reasonable by the  
11 commission:

12 (24) "Incumbent local exchange telecommunications company",  
13 a local exchange telecommunications company authorized to provide  
14 basic local telecommunications service in a specific geographic  
15 area as of December 31, 1995, or a successor in interest to such  
16 a company:

17 [(19)] (25) "Interexchange telecommunications company",  
18 any company engaged in the provision of interexchange  
19 telecommunications service (which company does not also provide  
20 basic local telecommunications service);

21 [(20)] (26) "Interexchange telecommunications service",  
22 telecommunications service between points in two or more  
23 exchanges;

24 (27) "InterLATA", interexchange telecommunications service  
25 between points in different local access and transportation  
26 areas:

27 (28) "IntraLATA", interexchange telecommunications service  
28 between points within the same local access and transportation

1 area:

2 [(21)] (29) "Line" includes route;

3 (30) "Local access and transportation area" or "LATA",  
4 contiguous geographic area approved by the U.S. District Court  
5 for the District of Columbia in United States v. Western  
6 Electric, Civil Action No. 82-0192 that defines the permissible  
7 areas of operations for the Bell Operating companies;

8 [(22)] (31) "Local exchange telecommunications company",  
9 any company engaged in the provision of local exchange  
10 telecommunications service. A local exchange telecommunications  
11 company shall be considered a "large local exchange  
12 telecommunications company" if it has at least one hundred  
13 thousand access lines in Missouri and a "small local exchange  
14 telecommunications company" if it has less than one hundred  
15 thousand access lines in Missouri;

16 [(23)] (32) "Local exchange telecommunications service",  
17 telecommunications service between points within an exchange;

18 (33) "Long run incremental cost", the change in total costs  
19 of the company of producing an increment of output in the long  
20 run when the company uses least cost technology, and excluding  
21 any costs that, in the long run, are not brought into existence  
22 as a direct result of the increment of output. The relevant  
23 increment of output shall be the level of output necessary to  
24 satisfy total current demand levels for the service in question,  
25 or, for new services, demand levels that can be demonstrably  
26 anticipated;

27 (24)] (34) "Municipality" includes a city, village or  
28 town;

1        ~~(15) "Non-basic telecommunications services" shall be all~~  
2 ~~regulated telecommunications services other than basic local and~~  
3 ~~exchange access telecommunications services, and shall include~~  
4 ~~the services identified in paragraphs (d) and (e) of subdivision~~  
5 ~~(4) of this section. Any retail telecommunications service~~  
6 ~~offered for the first time after August 28, 1996, shall be~~  
7 ~~classified as a non-basic telecommunications service, including~~  
8 ~~any new service which does not replace an existing service:~~

9        ~~[(25)]~~ ~~(16)~~ "Noncompetitive telecommunications company", a  
10 telecommunications company other than a competitive  
11 telecommunications company or a transitionally competitive  
12 telecommunications company;

13        ~~[(26)]~~ ~~(17)~~ "Noncompetitive telecommunications service", a  
14 telecommunications service other than a competitive or  
15 transitionally competitive telecommunications service;

16        ~~[(27)]~~ ~~(18)~~ "Operator services", operator-assisted  
17 interexchange telecommunications service by means of either human  
18 or automated call intervention and includes, but is not limited  
19 to, billing or completion of calling card, collect,  
20 person-to-person, station-to-station or third number billed  
21 calls;

22        ~~[(28)]~~ ~~(19)~~ "Operator services contract", any agreement  
23 between a traffic aggregator and a certificated interexchange  
24 telecommunications company to provide operator services at a  
25 traffic aggregator location;

26        ~~[(29)]~~ ~~(40)~~ "Person" includes an individual, and a firm or  
27 copartnership;

28        ~~[(30)]~~ ~~(41)~~ "Private shared tenant services" includes the

1 provision of telecommunications and information management  
2 services and equipment within a user group located in discrete  
3 private premises as authorized by the commission by a commercial  
4 shared services provider or by a user association, through  
5 privately owned customer premises equipment and associated data  
6 processing and information management services and includes the  
7 provision of connections to the facilities of local exchange  
8 telecommunications companies and to interexchange  
9 telecommunications companies;

10 [(31)] (42) "Private telecommunications system", a  
11 telecommunications system controlled by a person or corporation  
12 for the sole and exclusive use of such person, corporation or  
13 legal or corporate affiliate thereof;

14 [(32)] (43) "Public utility" includes every common  
15 carrier, pipeline corporation, gas corporation, electrical  
16 corporation, telecommunications company, water corporation, heat  
17 or refrigerating corporation, and sewer corporation, as these  
18 terms are defined in this section, and each thereof is hereby  
19 declared to be a public utility and to be subject to the  
20 jurisdiction, control and regulation of the commission and to the  
21 provisions of this chapter;

22 [(33)] (44) "Railroad" includes every railroad and  
23 railway, other than street railroad, by whatsoever power operated  
24 for public use in the conveyance of persons or property for  
25 compensation, with all bridges, ferries, tunnels, equipment,  
26 switches, spurs, tracks, stations, real estate and terminal  
27 facilities of every kind used, operated, controlled or owned by  
28 or in connection with any such railroad;

1            [(34)] (45) "Railroad corporation" includes every  
2 corporation, company, association, joint stock company or  
3 association, partnership and person, their lessees, trustees or  
4 receivers appointed by any court whatsoever, owning, holding,  
5 operating, controlling or managing any railroad or railway or any  
6 cars or other equipment used thereon or in connection therewith;

7            [(35)] (46) "Rate", every individual or joint rate, fare,  
8 toll, charge, reconsigning charge, switching charge, rental or  
9 other compensation of any corporation, person or public utility,  
10 or any two or more such individual or joint rates, fares, tolls,  
11 charges, reconsigning charges, switching charges, rentals or  
12 other compensations of any corporation, person or public utility  
13 or any schedule or tariff thereof;

14           [(36)] (47) "Resale of telecommunications service", the  
15 offering or providing of telecommunications service primarily  
16 through the use of services or facilities owned or provided by a  
17 separate telecommunications company, but does not include the  
18 offering or providing of private shared tenant services;

19           [(37)] (48) "Service" includes not only the use and  
20 accommodations afforded consumers or patrons, but also any  
21 product or commodity furnished by any corporation, person or  
22 public utility and the plant, equipment, apparatus, appliances,  
23 property and facilities employed by any corporation, person or  
24 public utility in performing any service or in furnishing any  
25 product or commodity and devoted to the public purposes of such  
26 corporation, person or public utility, and to the use and  
27 accommodation of consumers or patrons;

28           [(38)] (49) "Sewer corporation" includes every

1 corporation, company, association, joint stock company or  
2 association, partnership or person, their lessees, trustees or  
3 receivers appointed by any court, owning, operating, controlling  
4 or managing any sewer system, plant or property, for the  
5 collection, carriage, treatment, or disposal of sewage anywhere  
6 within the state for gain, except that the term shall not include  
7 sewer systems with fewer than twenty-five outlets;

8 [(39)] (50) "Sewer system" includes all pipes, pumps,  
9 canals, lagoons, plants, structures and appliances, and all other  
10 real estate, fixtures and personal property, owned, operated,  
11 controlled or managed in connection with or to facilitate the  
12 collection, carriage, treatment and disposal of sewage for  
13 municipal, domestic or other beneficial or necessary purpose;

14 [(40)] (51) "Street railroad" includes every railroad by  
15 whatsoever type of power operated, and all extensions and  
16 branches thereof and supplementary facilities thereto by  
17 whatsoever type of vehicle operated, for public use in the  
18 conveyance of persons or property for compensation, mainly  
19 providing local transportation service upon the streets, highways  
20 and public places in a municipality, or in and adjacent to a  
21 municipality, and including all cars, buses and other rolling  
22 stock, equipment, switches, spurs, tracks, poles, wires,  
23 conduits, cables, subways, tunnels, stations, terminals and real  
24 estate of every kind used, operated or owned in connection  
25 therewith; and the term "street railroad" when used in this  
26 chapter, shall also include all motor bus and trolley bus lines  
27 and routes and similar local transportation facilities, and the  
28 rolling stock and other equipment thereof and the appurtenances

1 thereto, when operated as a part of a street railroad or trolley  
2 bus local transportation system, or in conjunction therewith or  
3 supplementary thereto, but such term shall not include a railroad  
4 constituting or used as part of a trunk line railroad system and  
5 any street railroad as defined above which shall be converted  
6 wholly to motor bus operation shall nevertheless continue to be  
7 included within the term "street railroad" as used herein;

8        ~~[(41)]~~ (52) "Street railroad corporation" includes every  
9 corporation, company, association, joint stock company or  
10 association, partnership and person, their lessees, trustees or  
11 receivers appointed by any court whatsoever, owning, holding,  
12 operating, controlling or managing any street railroad as herein  
13 defined; and any such street railroad, and all of its cars,  
14 buses, other equipment, instrumentalities, property and  
15 operations, shall be governed by and subject to the provisions of  
16 this chapter applicable to street railroads and street railroad  
17 corporations and not by the provisions applicable to other types  
18 of carriers;

19        ~~[(42)]~~ (53) "Telecommunications company" includes  
20 telephone corporations as that term is used in the statutes of  
21 this state and every corporation, company, association, joint  
22 stock company or association, partnership and person, their  
23 lessees, trustees or receivers appointed by any court whatsoever,  
24 owning, operating, controlling or managing any facilities used to  
25 provide telecommunications service for hire, sale or resale  
26 within this state;

27        ~~[(43)]~~ (54) "Telecommunications facilities" includes  
28 lines, conduits, ducts, poles, wires, cables, crossarms,

1 receivers, transmitters, instruments, machines, appliances and  
2 all devices, real estate, easements, apparatus, property and  
3 routes used, operated, controlled or owned by any  
4 telecommunications company to facilitate the provision of  
5 telecommunications service;

6 [(44)] (55) "Telecommunications service", the transmission  
7 of information by wire, radio, optical cable, electronic  
8 impulses, or other similar means. As used in this definition,  
9 "information" means knowledge or intelligence represented by any  
10 form of writing, signs, signals, pictures, sounds, or any other  
11 symbols. Telecommunications service does not include:

12 (a) The rent, sale, lease, or exchange for other value  
13 received of customer premises equipment except for customer  
14 premises equipment owned by a telephone company certificated or  
15 otherwise authorized to provide telephone service prior to  
16 September 28, 1987, and provided under tariff or in inventory on  
17 January 1, 1983, which must be detariffed no later than December  
18 31, 1987, and thereafter the provision of which shall not be a  
19 telecommunications service, and except for customer premises  
20 equipment owned or provided by a telecommunications company and  
21 used for answering 911 or emergency calls;

22 (b) Answering services and paging services;

23 (c) The offering of radio communication services and  
24 facilities when such services and facilities are provided under a  
25 license granted by the Federal Communications Commission under  
26 the [public] ~~commercial~~ mobile ~~radio~~ services rules and  
27 regulations;

28 (d) Services provided by a hospital, hotel, motel, or other

1 similar business whose principal service is the provision of  
2 temporary lodging through the owning or operating of message  
3 switching or billing equipment solely for the purpose of  
4 providing at a charge telecommunications services to its  
5 temporary patients or guests;

6 (e) Services provided by a private telecommunications  
7 system;

8 (f) Cable television service; [or]

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

11 (h) Electronic publishing services; or

12 (i) Services provided pursuant to a broadcast radio or  
13 television license issued by the Federal Communications  
14 Commission;

15 [(45)] (56) "Telephone cooperative", every corporation  
16 defined as a telecommunications company in this section, in which  
17 at least ninety percent of those persons and corporations  
18 subscribing to receive local telecommunications service from the  
19 corporation own at least ninety percent of the corporation's  
20 outstanding and issued capital stock and in which no subscriber  
21 owns more than two shares of the corporation's outstanding and  
22 issued capital stock;

23 [(46)] (57) "Traffic aggregator", any person, firm,  
24 partnership or corporation which furnishes a telephone for use by  
25 the public and includes, but is not limited to, telephones  
26 located in rooms, offices and similar locations in hotels,  
27 motels, hospitals, colleges, universities, airports and public or  
28 customer-owned pay telephone locations, whether or not coin

1 operated:

2 [(47)] (58) "Transitionally competitive telecommunications  
3 company", an interexchange telecommunications company which  
4 provides any noncompetitive or transitionally competitive  
5 telecommunications service, except for an interexchange  
6 telecommunications company which provides only noncompetitive  
7 telecommunications service;

8 [(48)] (59) "Transitionally competitive telecommunications  
9 service", a telecommunications service offered by a  
10 noncompetitive or transitionally competitive telecommunications  
11 company and classified as transitionally competitive by the  
12 commission pursuant to section 392.361 or 392.370, RSMo;

13 [(49)] (60) "Transportation of persons" includes every  
14 service in connection with or incidental to the safety, comfort  
15 or convenience of the person transported and the receipt,  
16 carriage and delivery of such person and his baggage;

17 [(50)] (61) "Transportation of property" includes any  
18 service in connection with the receiving, delivery, elevation,  
19 transfer in transit, ventilation, refrigeration, icing, storage,  
20 and handling of the property transported;

21 [(51)] (62) "Water corporation" includes every  
22 corporation, company, association, joint stock company or  
23 association, partnership and person, their lessees, trustees, or  
24 receivers appointed by any court whatsoever, owning, operating,  
25 controlling or managing any plant or property, dam or water  
26 supply, canal, or power station, distributing or selling for  
27 distribution, or selling or supplying for gain any water;

28 [(52)] (63) "Water system" includes all reservoirs,

1 tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals,  
2 structures and appliances, and all other real estate, fixtures  
3 and personal property, owned, operated, controlled or managed in  
4 connection with or to facilitate the diversion, development,  
5 storage, supply, distribution, sale, furnishing or carriage of  
6 water for municipal, domestic or other beneficial use.

7 392.180. The provisions of section 386.020, RSMo, defining  
8 words, phrases and terms, shall apply to and determine the  
9 meaning of all such words, phrases and terms as used in sections  
10 392.190 to [392.360] 392.510.

11 392.185. The provisions of this chapter shall be construed  
12 to:

13 (1) Promote universally available and widely affordable  
14 telecommunications services;

15 (2) Maintain and advance the efficiency and availability of  
16 telecommunications services;

17 (3) Promote diversity in the supply of telecommunications  
18 services and products throughout the state of Missouri;

19 (4) Ensure that customers pay only reasonable charges for  
20 telecommunications service;

21 (5) Permit flexible regulation of competitive  
22 telecommunications companies and competitive telecommunications  
23 services; and

24 (6) Allow full and fair competition to function as a  
25 substitute for regulation when consistent with the protection of  
26 ratepayers and otherwise consistent with the public interest;

27 (7) Promote one hundred percent universal subscription to  
28 basic local telecommunications services;

1        (8) Promote parity of urban and rural telecommunications  
2 services:

3        (9) Promote economic, educational, health care and cultural  
4 enhancements; and

5        (10) Protect consumer privacy.

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

17        2. No telecommunications company shall directly or  
18 indirectly or by any special rate, rebate, drawback or other  
19 device or method charge, demand, collect or receive from any  
20 person or corporation a greater or less compensation for any  
21 service rendered or to be rendered with respect to  
22 telecommunications or in connection therewith, except as  
23 authorized in this chapter, than it charges, demands, collects or  
24 receives from any other person or corporation for doing a like  
25 and contemporaneous service with respect to telecommunications  
26 under the same or substantially the same circumstances and  
27 conditions. Promotional programs for [competitive or  
28 transitionally competitive] telecommunications [service] services

1 may be offered by telecommunications companies for periods of  
2 time so long as the offer is otherwise consistent with the  
3 provisions of this chapter and approved by the commission.

4 Neither this subsection nor subsection 3 of this section shall be  
5 construed to prohibit an economy rate telephone service offering.  
6 This section and section 392.220 to the contrary notwithstanding,  
7 the commission is authorized to approve tariffs filed by local  
8 exchange telecommunications companies which elect to provide  
9 reduced charges for residential telecommunications connection  
10 services pursuant to the lifeline connection assistance plan as  
11 promulgated by the federal communications commission. Eligible  
12 subscribers for such connection services shall be those as  
13 defined by participating local exchange telecommunications  
14 company tariffs.

15 3. No telecommunications company shall make or give any  
16 undue or unreasonable preference or advantage to any person,  
17 corporation or locality, or subject any particular person,  
18 corporation or locality to any undue or unreasonable prejudice or  
19 disadvantage in any respect whatsoever except that  
20 telecommunications messages may be classified into such classes  
21 as are just and reasonable, and different rates may be charged  
22 for the different classes of messages.

23 4. (1) No telecommunications company may define a  
24 telecommunications service as a different telecommunications  
25 service based on the geographic area or other market segmentation  
26 within which such telecommunications service is offered or  
27 provided, unless the telecommunications company makes application  
28 and files a tariff or tariffs which propose relief from this

1 subsection. Any such tariff shall be subject to the provisions  
2 of sections 392.220 and 392.230 and in any hearing thereon the  
3 burden shall be on the telecommunications company to show, by  
4 clear and convincing evidence, that the definition of such  
5 service based on the geographic area or other market within which  
6 such service is offered is reasonably necessary to promote the  
7 public interest and the purposes and policies of this chapter.

8 (2) It is the intent of this act to bring the benefits of  
9 competition to all customers and to ensure that incumbent and  
10 alternative local exchange telecommunications companies have the  
11 opportunity to price and market telecommunications services to  
12 all prospective customers in any geographic area in which they  
13 compete. To promote the goals of the federal Telecommunications  
14 Act of 1996, for an incumbent local exchange telecommunications  
15 company in any exchange where an alternative local exchange  
16 telecommunications company has been certified and is providing  
17 basic local telecommunications services or switched exchange  
18 access services, or for an alternative local exchange  
19 telecommunications company, the commission shall review and  
20 approve or reject, within forty-five days of filing, tariffs for  
21 proposed different services as follows:

22 (a) For services proposed on an exchange-wide basis, it  
23 shall be presumed that a tariff which defines and establishes  
24 prices for a local exchange telecommunications service or  
25 exchange access service as a different telecommunications service  
26 in the geographic area, no smaller than an exchange, within which  
27 such local exchange telecommunications service or exchange access  
28 service is offered is reasonably necessary to promote the public

1 interest and the purposes and policies of this chapter:

2 (b) For services proposed in a geographic area smaller than  
3 an exchange or other market segmentation within which or to whom  
4 such telecommunications service is proposed to be offered, a  
5 local exchange telecommunications company may petition the  
6 commission to define and establish a local exchange  
7 telecommunications service or exchange access service as a  
8 different local exchange telecommunications service or exchange  
9 access service. The commission shall approve such a proposal if  
10 it finds, based upon clear and convincing evidence, that such  
11 service in a smaller geographic area or such other market  
12 segmentation is in the public interest and is reasonably  
13 necessary to promote competition and the purposes of this  
14 chapter. Upon approval of such a smaller geographic area or such  
15 other market segmentation for a different service for one local  
16 exchange telecommunications company, all other local exchange  
17 telecommunications companies certified to provide service in that  
18 exchange may file a tariff to use such smaller geographic area or  
19 such other market segmentation to provide that service:

20 (c) For proposed different services described in paragraphs  
21 (a) and (b) of this subdivision, the local exchange  
22 telecommunications company which files a tariff to provide such  
23 service shall provide the service to all similarly situated  
24 customers, upon request in accordance with that company's  
25 approved tariff, in the exchange or geographic area smaller than  
26 an exchange or such other market segmentation for which the  
27 tariff was filed, and no price proposed for such service by an  
28 incumbent local exchange telecommunications company, other than

1 for a competitive service, shall be lower than its long run  
2 incremental cost, as defined in section 386.020, RSMo.

3 (3) The commission, on its own motion or upon motion of the  
4 public counsel, may by order, after notice and hearing, define a  
5 telecommunications service offered or provided by a  
6 telecommunications company as a different telecommunications  
7 service dependent upon the geographic area or other market within  
8 which such telecommunications service is offered or provided and  
9 apply different service classifications to such service only upon  
10 a finding, based on clear and convincing evidence, that such  
11 different treatment is reasonably necessary to promote the public  
12 interest and the purposes and policies of this chapter.

13 5. No telecommunications company may charge a different  
14 price per minute or other unit of measure for the same,  
15 substitutable, or equivalent interexchange telecommunications  
16 service provided over the same or equivalent distance between two  
17 points without filing a tariff for the offer or provision of such  
18 service pursuant to sections 392.220 and 392.230. In any  
19 proceeding under sections 392.220 and 392.230 wherein a  
20 telecommunications company seeks to charge a different price per  
21 minute or other unit of measure for the same, substitutable, or  
22 equivalent interexchange service, the burden shall be on the  
23 subject telecommunications company to show that such charges are  
24 in the public interest and consistent with the provisions and  
25 purposes of this chapter. The commission may modify or prohibit  
26 such charges if the subject telecommunications company fails to  
27 show that such charges are in the public interest and consistent  
28 with the provisions and purposes of this chapter. This

1 subsection shall not apply to reasonable price discounts based on  
2 the volume of service provided, so long as such discounts are  
3 nondiscriminatory and offered under the same rates, terms, and  
4 conditions throughout a telecommunications company's certificated  
5 or service area.

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

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

14 8. Customer specific pricing is authorized for dedicated,  
15 non-switched, private line and special access services and for  
16 central office based switching systems which substitute for  
17 customer premise, private branch exchange (PBX) services,  
18 provided such customer specific pricing shall be equally  
19 available to incumbent and alternative local exchange  
20 telecommunications companies.

21 392.201. 1. Prior to February 7, 2000, no incumbent local  
22 exchange telecommunications company may engage in the provision  
23 of electronic publishing services, on an intrastate basis, which  
24 services are disseminated by means of such telecommunications  
25 company's or any of its affiliates' telecommunications services;  
26 except that nothing in this section shall prohibit a separated  
27 affiliate or electronic publishing joint venture operated in  
28 accordance with this section from engaging in the provision of

1. intrastate electronic publishing services.

2. The state of Missouri hereby adopts and incorporates in total the electronic publishing provisions of section 274 of the federal Telecommunications Act of 1996 for the purpose of governing the provision of electronic publishing services on an intrastate basis; provided that said provisions shall be fully applicable to and binding on all incumbent local exchange telecommunications companies operating in the state of Missouri until February 7, 2000.

3. The public service commission is hereby granted all primary and concurrent jurisdiction and powers necessary and proper to administer the provisions of this section consistent with the federal Telecommunications Act of 1996, as incorporated herein, and otherwise consistent with the public service commission law.

4. Other provisions of law to the contrary notwithstanding, the provisions of this section shall not be construed to affect or prohibit incumbent local exchange telecommunications companies from providing international networking (Internet) services, including content, electronic bulletin board and related services which are offered primarily as a community or public service.

392.220. 1. Every telecommunications company shall print and file with the commission schedules showing the rates, rentals and charges for service of each and every kind by or over its facilities between points in this state and between each point upon its facilities and all points upon all facilities leased or operated by it and between each point upon its facilities or upon any facility leased or operated by it and all points upon the

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

27 2. Unless the commission otherwise orders, and [until  
28 September 30, 1996,] except for the rates charged by a telephone

1 cooperative for providing telecommunications service within an  
2 exchange or within a local calling scope as determined by the  
3 commission other than the rates for exchange access service, no  
4 change shall be made in any rate, charge or rental, or joint  
5 rate, charge or rental which shall have been filed by a  
6 telecommunications company in compliance with the requirements of  
7 sections 392.190 to 392.930, except after thirty days' notice to  
8 the commission, which notice shall plainly state the changes  
9 proposed to be made in the schedule then in force and the time  
10 when the changed rate, charge or rental shall go into effect; and  
11 all proposed changes shall be shown by filing new schedules or  
12 shall be plainly indicated upon the schedules filed and in force  
13 at the time and kept open to public inspection. The commission  
14 for good cause shown may allow changes in rates, charges or  
15 rentals without requiring the thirty days' notice, under such  
16 conditions as it may prescribe. All such changes shall be  
17 immediately indicated upon its schedules by such  
18 telecommunications company. No telecommunications company shall  
19 charge, demand, collect or receive a different compensation for  
20 any service rendered or to be rendered than the charge applicable  
21 to such service as specified in its schedule on file and in  
22 effect at that time. No telecommunications company shall refund  
23 or remit ~~directly or indirectly~~ any portion of the rate or charge  
24 so specified, nor extend to any person or corporation any form of  
25 contract or agreement, or any rule or regulation, or any  
26 privilege or facility other than such privileges and facilities  
27 as are contemplated by sections 392.200, 392.245, and 392.455,  
28 except such as are specified in its schedule filed and in effect

1 at the time and regularly and uniformly extended to all persons  
2 and corporations under like circumstances for a like or  
3 substantially similar service.

4 3. No telecommunications company subject to the provisions  
5 of this law shall, directly or indirectly, give any free or  
6 reduced service, or any free pass or frank for the provision of  
7 telecommunications services between points within this state,  
8 except to its officers, employees, agents, surgeons, physicians,  
9 attorneys at law and their families; to persons or corporations  
10 exclusively engaged in charitable and eleemosynary work and  
11 ministers of religions; to officers and employees of other  
12 telegraph corporations and telephone corporations, railroad  
13 corporations and street railroad corporations; public education  
14 institutions, public libraries and not-for-profit health care  
15 institutions. This subsection shall not apply to state,  
16 municipal or federal contracts.

17 4. Any proposed rate or charge for any new  
18 telecommunications service which has not previously been provided  
19 by a telecommunications company to its Missouri customers may be  
20 suspended by the commission for a period not to exceed sixty days  
21 from the proposed effective date of such proposed rate or charge.  
22 This subsection shall not be applicable to any new price or  
23 method of pricing for a service presently being offered by any  
24 telecommunications company to its Missouri customers. Upon  
25 proposing a rate or charge for a telecommunications service which  
26 has not previously been provided by a telecommunications company  
27 to its Missouri customers, the offeror must file with the  
28 commission its justification for considering such offering a new