

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

In the Matter of a Request to Declassify)
Certain Portions of Local Exchange Carriers)
Annual Reports Pursuant to 4 CSR 240-3.540 (5)) Case No. IO-2008-0227

**EMBARQ’S RESPONSE TO THE APPLICATION TO INTERVENE
OF BIG RIVER, SOCKET, AND XO**

COMES NOW Embarq Missouri, Inc. (“Embarq”) pursuant to 4 CSR 240-2.080 and submits this Response to the Application to Intervene (“Application”) of Big River Telephone Company, LLC, Socket Telecom, LLC, and XO Communications Services, Inc. (collectively, “Intervenors”), and respectfully states as follows:

1. Embarq filed its Application to Declassify certain portions of Local Exchange Carriers (“LECs”) Annual Reports on January 10, 2008, and did so pursuant to 4 CSR 240-3.540(5). The style of the case, and the contents of Embarq’s application, makes it quite clear what rule is applicable to this proceeding. Section 240-3.540(5) specifies that any utility affected by a request to declassify annual report information must file any permissive response within fifteen (15) days after such a request is filed. Responses to Embarq’s Application to Declassify were due on January 25. The Intervenors’ Application, if it were to be treated as a response, was filed on January 28 and is untimely. The Intervenors’ Application does not provide a good cause justification for filing an untimely response.

2. The requirement in Section 240-3.540(5) for any affected utility to file a response can and should be reasonably interpreted to require a substantive response. The Intervenors’ untimely Application does not provide a substantive response to the substantive arguments

presented by Embarq in its Application to Declassify. Embarq's Application to Declassify complied with the requirements of Section 240-3.540(5) by explaining how the public interest is served by disclosure of the pertinent information, and why such information should be made available to the public and/or is already available to the public. The Intervenors' Application merely stated that the Intervenors oppose Embarq's Application. Such a statement may satisfy one of the requirements of the Commission's intervention rule, Section 240-2.075(2), but that is not tantamount to a substantive response in compliance with the requirements of Section 240-3.540(5).

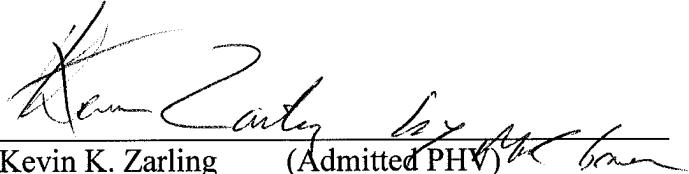
3. The Intervenors' decision to simply seek intervention and to ignore the requirements of Section 240-3.540(5) should not inure to their benefit. The procedure detailed in Section 240-3.540(5) contemplates a fairly expedited process, and does not contemplate a drawn-out contested case. In this matter the Commission's rule provides a very specific timeline that controls over the timelines in other more general rules, such as the default deadline for intervention. Moreover, the Intervenors' Application is deficient and does not comply with the intervention requirements under Section 240-2.075(4)(A) inasmuch as the Application contains no statement, let alone a "showing" (i.e., some explanation), that the Intervenors may be adversely affected by an order in this case. In the face of such a deficiency, Embarq opposes the Intervenors' Application. However, the Intervenors' Application should be immaterial to this case. Substantively and procedurally, the Intervenors have failed to respond to Embarq's Application to Declassify, contrary to the requirements of Section 240-3.540(5).

4. Accordingly, the Commission's General Counsel should issue a favorable recommendation to the Commission advising that it grant Embarq's request pursuant to the standards and procedures found in Section 240-3.540(5).

WHEREFORE, Embarq respectfully requests that the Interveners' Application be denied, but whether or not denied, that Embarq's Application be granted pursuant to Section 240-3.540(5).

Respectfully submitted,

EMBARQ MISSOURI, INC.



Kevin K. Zarling (Admitted PHV)

400 West 15th Street, Suite 400

Austin, Texas 78701

(512) 867-1075 (phone)

(512) 472-8362 (fax)

Kevin.K.Zarling@Embarq.com

William Watkins

MO Bar No. 36112

5454 West 110th Street

KSOPKJ0401

Overland, Park, KS 66211

Voice: 913-345-6687

Fax: 913-345-7885

bill.f.watkins@embarq.com

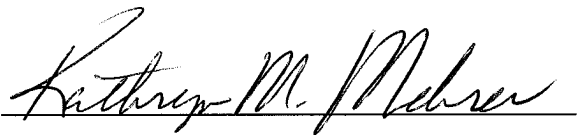
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above and foregoing was served on the parties listed by electronic mail, this 28th day of January 2008.

Office of the General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
william.haas@psc.mo.gov

Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov

Carl J. Lumley
Leland B. Curtis
Curtis, Heinz, Garrett & O'Keefe, PC
130 S. Bemiston, Suite 200
Clayton, Missouri 63105
314-725-8788
314-725-8789 (FAX)
clumley@lawfirmemail.com
lcurtis@lawfirmemail.com

A handwritten signature in cursive script, reading "Kathryn M. Mehrer", is written over a horizontal line.