

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

Petition of MCImetro Access Transmission Services,)
L.L.C. d/b/a Verizon Access Transmission Services)
for Arbitration of an Interconnection Agreement with) **Case No. TO-2008-0037**
Embarq Missouri, Inc. d/b/a Embarq Under Section)
252(b) of the Telecommunications Act of 1996)

ORDER ADOPTING PROCEDURAL SCHEDULE

Issue Date: August 30, 2007

Effective Date: August 30, 2007

On August 8, 2007,¹ MCImetro Access Transmission Service, L.L.C. d/b/a Verizon Access Transmission Services ("Verizon Access") filed its petition for arbitration with the Commission pursuant to the Telecommunications Act of 1996, Section 386.230, RSMo 2000, 4 CSR 240-2 and 4 CSR 240-36. The petition asks the Commission to arbitrate issues related to Verizon Access's negotiation of an interconnection agreement with Embarq Missouri, Inc. ("Embarq").

Section 252(b)(4) of the federal Telecommunications Act ("Act") requires that this arbitration be completed not later than 9 months after the date on which the local exchange carrier received the request for negotiation.² Commission Rule 4 CSR 240-36.040(24) requires the Commission to issue its final decision resolving all issues no later than the two-hundred seventieth day following the request. In its petition for arbitration, Verizon Access states that it initiated negotiations on March 1. Consequently, pursuant to the Commission's rule and the federal statute, the Commission would be required to issue its final decision no later than November 26.

¹ All dates throughout this order refer to the year 2007 unless otherwise noted.

² 47 U.S.C. 252(b)(4).

On August 29, the Arbitrator held the initial arbitration meeting pursuant to Commission Rule 4 CSR 240-36.040(9), for the purpose of setting the procedural schedule that would culminate with the Final Arbitrator's Report and the Commission's Final Order. During that on-the-record meeting, the parties unanimously agreed that the time-table contemplated by the Commission Rule and Section 252(b)(4) of the Act were too restrictive to allow adequate time for completion of the arbitration.

Commission Rule 4 CSR 240-36.040(15) grants the Arbitrator the authority to set out a procedural schedule that varies from the Commission rules as long as the schedule complies with the deadlines in the Act. The Federal Communications Commission ("FCC") has, in multiple cases, interpreted Section 252(e)(5) to be a grant to state commissions of an additional 90 days beyond the nine month deadline for completion of the arbitration.³ Adding this additional 90 days would extend the deadline for completion of the arbitration until February 24, 2008.

The parties jointly submitted a proposed procedural schedule setting February 15, 2008 as the date for issuance of the Commission's Final Order. This schedule would permit the Commission to issue its final order within the deadlines contemplated by the Act, while still allowing for the filing of any motions for rehearing or reconsideration. Consequently, the Arbitrator will exercise his authority pursuant to Commission Rule 4 CSR 240-36.040(15) and adopt the unanimously submitted procedural schedule.

Additionally, Commission Rule 4 CSR 240-36.040(12)(B) states that upon the arbitrator's request, and after notice to the parties, the arbitrator may pose questions to commission staff members or outside individuals who are not part of the arbitrator's

³ See *In the matter of Petition of AutoTel Pursuant to Section 252(e)(5) of the Communication Act for Preemption of the Jurisdiction of the Public Utilities Commission of Nevada regarding Arbitration of an Interconnection Agreement with SBC Nevada*, WC Docket No. 04-311, DA 04-3339, 19 FCC Rcd. 20920, paragraph 11, 2004 WL 2387514*4 (F.C.C.), Released and Adopted October 22, 2004.

advisory staff. Answers must be submitted in the form determined by the arbitrator and any person so responding shall be subject to cross-examination. Said responses and cross-examination must be included in the record before the arbitrator and the commission.

The arbitrator shall require the Staff of the Public Service Commission ("Staff") to respond to the direct testimony offered by Verizon Access and Embarq in this matter. Staff shall provide a neutral analysis of the legal positions of the parties and their witnesses' testimony. Staff is also directed to submit a recommendation as to which position advocated by the parties is the correct interpretation of existing law, and/or, which position better serves the public interest. Staff shall select subject matter experts to provide the ordered responses who are not members of the Arbitrator's Advisory Staff.

IT IS ORDERED THAT:

1. The following procedural schedule is adopted:

Embarq Missouri, Inc.'s Response to Petition	September 5, 2007
Joint Statement of Issues and Positions	September 5, 2007
Direct Testimony of all Parties	September 13, 2007
Staff's Response to Direct Testimony	September 27, 2007
Rebuttal Testimony of all Parties	October 11, 2007
Hearing	October 23-24, 2007
Post-hearing Briefs	November 8, 2007
Reply Briefs	November 21, 2007
Arbitrator's Draft Report	December 21, 2007
Parties' Comments on Draft Report	January 11, 2008
Arbitrator's Final Report	January 18, 2008
Final Commission Decision	February 15, 2008

2. This order shall become effective on August 30, 2007.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Harold Stearley, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 30th day of August, 2007.