

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Embarq Missouri, Inc.'s Application)	
for Competitive Classification Under Section 392.245.5,)	<u>Case No. TO-2008-0147</u>
RSMo 2005.)	Tariff No. YI-2008-0303

ORDER DIRECTING NOTICE, ESTABLISHING
PROCEDURAL SCHEDULE, AND RESERVING HEARING DATE

Issue Date: November 9, 2007

Effective Date: November 9, 2007

On November 6, 2007, Embarq Missouri, Inc., filed its Application for Competitive Classification pursuant to Section 392.245.5, RSMo. In its application, Embarq requests that the Commission classify all of its residential services, other than exchange access service, as competitive for the following exchanges: (a) Ft. Leonard Wood, (b) Henrietta, (c) Holt, (d) Lone Jack, (e) St. Robert, and (f) Waynesville. In addition, Embarq requested that the Commission classify all of its business services, other than exchange access service, as competitive for the following exchanges: (a) Lone Jack, (b) Odessa, (c) Pleasant Hill, and (d) Warrensburg.

Section 392.245.5, RSMo, requires that the Commission make a determination within thirty days as to "whether the requisite number of entities are providing basic local telecommunications service . . . in an exchange and if so, shall approve tariffs designating all such business or residential services other than exchange access service, as competitive" Because of the need to proceed expeditiously, the Commission will issue notice, set a procedural schedule, and reserve a date for a hearing if one should become necessary, as set out below.

In addition, the Commission requires further information from the parties. In pertinent part, Section 392.245.5, RSMo. Cum. Supp. 2006, provides:

Each telecommunications service offered to residential customers, other than exchange access service, of an incumbent local exchange telecommunications company regulated under this section shall be classified as competitive in an exchange in which at least two non-affiliated entities in addition to the incumbent local exchange company are providing basic local telecommunications service to residential customers within the exchange.

Accordingly, the Commission will direct its Staff to investigate this matter and to file a verified pleading stating, for each exchange under consideration in this proceeding, whether the wireless and the facilities-based carriers have at least two residential and two business customers whose addresses are located within that exchange. In addition, Staff shall state whether Embarq has local numbers available to those customers in the various exchanges.

If a hearing becomes necessary, the following procedures will apply:

(A) The Commission will require all parties to prefile testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule, including the requirement that testimony be filed on line-numbered pages. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing. The parties will be allowed to present rebuttal witnesses at the hearing.

(B) The Commission will direct that the transcript be expedited and submitted within **one business day** of the hearing.

(C) Because much of the evidence will have been filed before the hearing, the Commission will require pretrial briefs that address all the issues in dispute and all the relevant prefiled testimony. Because of the expedited nature of the hearing, no post-trial

briefs will be allowed. The Commission will allow the opportunity for closing arguments at the end of the hearing.

(D) Each party shall file with its pre-trial brief a list of the witnesses it expects to call and the order in which they will be called.

(E) Each party is required to bring an adequate number of copies of exhibits that it intends to offer into evidence at the hearing. If an exhibit has been prefiled, and served on the other parties, only one copy of the exhibit is necessary for the court reporter. If an exhibit has not been prefiled, the party offering it shall bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Presiding Judge, and all counsel.

If no hearing is requested, the Commission may make its determination based on the verified pleadings and recommendations.¹

IT IS ORDERED THAT:

1. The Data Center of the Missouri Public Service Commission shall send notice of this application to all certificated competitive local exchange carriers and to all incumbent local exchange carriers in the state of Missouri.
2. The Public Information Office of the Missouri Public Service Commission shall provide notice of the application to the members of the General Assembly and to the news media.
3. Any party wishing to intervene in this matter must file an application no later than November 15, 2007, with:

¹ *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).

Colleen M. Dale, Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102-0360

and send copies to:

William Watkins
5454 West 110th Street
KSOPKJ0401
Overland Park, Kansas 66211
ATTORNEY FOR EMBARQ MISSOURI, INC.

and to:

Office of the Public Counsel
Post Office Box 2230
Jefferson City, Missouri 65102-2230

4. Any responses to requests for intervention shall be filed no later than November 19, 2007.

5. The Staff of the Missouri Public Service Commission shall file a recommendation or any objections to Embarq Missouri, Inc.'s Application no later than November 19, 2007.

6. The Office of the Public Counsel and any other interested party shall file any objections or recommendations regarding Embarq Missouri, Inc.'s Application no later than November 19, 2007.

7. If an objection is filed, the following other procedural dates will apply:

Testimony – all parties	November 21, 2007
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Pretrial Briefs and List of Witnesses	November 21, 2007
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8. The parties are hereby notified that if any party opposes Embarq Missouri, Inc.'s Application, a hearing will be set for November 26, 2007, beginning at 9:00 a.m., in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri.

The Governor Office Building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in the hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 prior to the hearing.

9. If a hearing is held, the transcript will be expedited to be filed within **one business day** following the hearing.

10. Each party shall comply with the procedural requirements set out in the body of this order.

11. This order shall become effective on November 9, 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)

Nancy Dippell, Deputy Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 9th day of November 2007.