

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In The Matter of the Application of Embarq Missouri, Inc.,)
for Competitive Classification Under Section 392.245.5,) **Case No. IO-2006-0551**
RSMo 2005.

OFFICE OF THE PUBLIC COUNSEL'S RESPONSE TO THE REQUEST FOR COMPETITIVE CLASSIFICATION

The Office of Public Counsel asks the Public Service Commission to require strict proof of compliance with the requirements of Section 392.245.5, RSMo 2000 (as amended 2005) relating to Embarq Missouri, Inc's application that the Commission classify all of its residential services as competitive for the exchanges a) Buckner, (b) Lake Lotawana, (c) Oak Grove, (d) Odessa, and (e) Pleasant Hill exchanges. The reclassification of these exchanges from price cap regulated exchanges to competitive classification has significant impact on the customers in these communities in that they will lose the price cap protection of a 5% limit on nonbasic services as well as the annual limit on basic local service under the Consumer Price Index-Telecommunications Services.

Public Counsel raises this concern since it appears that lower prices do not always result from the competitive classification even though competition has been touted for more than a decade as the means to bring lower prices, better service, and more choices in services to consumers. AT&T Missouri's announced local basic service rate increases and increases in some nonbasic services for residential (but not business) customers in its exchanges recently designated as competitive under Section 392.245.5, RSMo 2000 (as amended 2005). This increase on the heels of the reclassifications is evidence that

competition does not always protect the ratepayers and the public interest. (Section 392.185 (6), RSMo.)

Of course, Embarq cannot be saddled with the behavior of AT&T Missouri. However, Public Counsel wants to emphasize this pricing practice to the Commission and express Public Counsel's fear that other companies will follow AT&T Missouri's lead. Public Counsel hopes and expects that Embarq's pricing practices in any exchanges termed competitive will be consistent with the benefits that are to accrue to ratepayers with competition and local service increases will not follow.

In addition, Public Counsel asks for the PSC 's scrutiny of the coverage of the wireless carriers identified as qualifying competitors to ensure that all portions of the exchanges at issue have service available by each carrier the applicant relies for its classification.. The Commission was concerned with this coverage issue in the hearings on the wireless carriers' applications for ETC status. That issue is relevant in the ability of a wireless carrier to compete in an exchange.

For these reason, Public Counsel recommends that the Commission require the applicant to fully disclose the facts that support its assertion that it faces competition in these exchanges as defined by Section 392.245, RSMo 2000 (as amended 2005) and address the above concerns so that the Commission and the public will be advised of the basis for any competitive classification for these services.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed, emailed and/or hand delivered this 11th day of July, 2006 to the following attorneys of record:

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