

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 27th day of
November, 2007.

In the Matter of the Review of the)	
Competitive Classification of the Exchanges of)	<u>Case No. IO-2008-0092</u>
Embarq Missouri, Inc., d/b/a Embarq)	

**ORDER GRANTING REQUEST FOR EVIDENTIARY HEARING AND
SCHEDULING A PREHEARING CONFERENCE**

Issue Date: November 27, 2007

Effective Date: November 27, 2007

On September 28, 2007, the Staff of the Missouri Public Service Commission filed a report pursuant to Section 392.245.5, RSMo (Supp. 2006), regarding continued competitive classification for Embarq Missouri, Inc., d/b/a Embarq's competitively classified exchanges. Staff concluded that competitive conditions continue to exist in Embarq's competitively classified exchanges and recommended that the Commission make a finding of that fact. The Commission established October 22 as the deadline for the filing of applications to intervene. No such applications were filed. On October 30, the Office of the Public Counsel filed a request for an evidentiary hearing regarding Staff's report.

Public Counsel does not take issue with any detail of Staff's report and indicates it has not made an independent investigation of the state of competition in Embarq's exchanges. However, Public Counsel asks the Commission to require strict proof of the competition faced by Embarq in the competitively classified exchanges.

Embarq filed a reply to Public Counsel's request for hearing, contending that the standard for determining whether competition continues to exist in the exchanges classified

as competitive is very straightforward and objective. Embarq argues Staff's verified report is sufficient to establish compliance with that standard and that no hearing is required for the Commission to accept that report.

Embarq correctly points out that the statutorily established standard for determining whether competition continues to exist in those Embarq exchanges previously designated as competitive is very straightforward. Competition is defined to exist in those exchanges if at least two nonaffiliated entities in addition to the incumbent local exchange company are providing basic local telecommunications service to customers. Staff's report indicates the statutory standard continues to be met in Embarq's competitively classified exchanges. However, the Commission cannot simply assume that Staff's report is accurate in the face of Public Counsel's objection and demand for hearing.

Since Public Counsel has requested a hearing, the Commission will hold a hearing. So that the parties can discuss the scheduling of that hearing, the Commission will schedule a prehearing conference.

IT IS ORDERED THAT:

1. The Office of the Public Counsel's request for hearing is granted.
2. A prehearing conference is scheduled for December 10, 2007, at 2:00 p.m., at the Commission's office at the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, Room 305. This building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this conference, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the conference.

3. This order shall become effective on November 27, 2007.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Clayton and Appling, CC., concur.
Murray, C., dissent, and Jarrett, C., dissent, with separate
dissenting opinion to follow.

Woodruff, Deputy Chief Regulatory Law Judge