

In the Matter of the Review of the Competitive)
Classification of the Exchanges of Embarq) **Case No. IO-2008-0092**
of Missouri, LLC.)

The Office of the Public Counsel has not discovered any material error in the facts in the Staff's Report regarding the identity of the competitor or competitors that are identified as providing local basic exchange service in an exchange or in the means the competitor employs for that service. However, Public Counsel disagrees with the Company's, the Staff's and the Public Service Commission's limited review of competition based only on those facts without consideration of all relevant facts, including the effect of this "competition" on customer prices, service quality, and more choice and opportunity for advanced telecommunications offered to customers in each of these exchanges. Public Counsel suggests that customer impact and the other factors defined as the General Assembly's statement of legislative intent and purpose in Section 392.185, RSMo must also be considered. These factors are part of the entire Commission decision-making process not only here in reviewing competition under Section 392.245.5, RSMo, but also in all decisions involving telecommunications in this state.

However, Public Counsel also recognizes that the PSC has consistently taken a different interpretation on this point and applied Section 392.245.5, RSMo according to that limited and strict construction and interpretation in prior competition review cases.

In the interests of judicial and administrative economy and to avoid the time, cost, and effort that an evidentiary hearing would require for all parties and the Commission

where there is a very low potential for success, Public Counsel will not further pursue an evidentiary hearing. To that end, Public Counsel waives its right to an evidentiary hearing in this case. Public Counsel does not object to the Stipulation and Agreement between the Staff and the Company, but it does not support or concur in it. The Commission can make its determination based on the record in this case to date and Public Counsel will also waive the filing of briefs.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed or hand delivered this 20th day of December, 2007 to the following:

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