

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Embarq Missouri, Inc.,)
for Competitive Classification Under) Case No. TO-2007-0301
Section 392.245.5, RSMo (2005).)

**MOTION OF EMBARQ MISSOURI, INC. TO CANCEL
REMAINDER OF PROCEDURAL SCHEDULE**

Comes now Embarq Missouri, Inc. (Embarq) and moves this Commission for an Order Canceling the remainder of the procedural schedule in the above referenced matter, more specifically the filing of pretrial briefs, list of witnesses and proposed findings of fact due on March 2, 2007 and the hearing scheduled for March 5, 2007. In support, Embarq states as follows:

1. The Order Directing Notice, Establishing Procedural Schedule, and Reserving Hearing Date issued February 14, 2007 (Procedural Order), established a procedure should a hearing become necessary or requested. That procedure includes the pre-filing of testimony on February 27, 2007; the filing of pre-trial briefs, list of witnesses, and proposed findings of fact on March 2, 2007; and a hearing on March 5, 2007.
2. On February 20, 2007, Fidelity Communication Services I, Inc. (FCSI) filed to intervene in opposition to the Application and to request a hearing. Intervention was granted on February 26, 2007 and the parties were reminded that the hearing and other provisions of the Procedural Order relating to the hearing must now be followed. No other party, including the Office of the Public Counsel, objected to the Application, requested intervention, or requested a hearing.


3. The Staff Recommendation filed in the case on February 23, 2007 recommends approval of Embarq's Application and revised tariff sheet.
4. On February 26, 2007, FCSI filed to withdraw its objections and to be excused from the hearing. As such, there is now no party objecting to the Application and no party requesting a hearing on the Application.
5. As currently required by the schedule, on February 27, 2007 Embarq filed the testimony of John Idoux and Staff filed the testimony of Adam McKinnie, in support of the Application. As both parties support the granting of the Application, there is no need for cross-examination of the witnesses, Embarq and Staff waive cross-examination of each other's witnesses, and the testimony may be submitted into the record without the necessity of the witnesses taking the stand.
6. The Commission's process in reviewing competitive classification applications under §392.245.5 RSMo allows for dispensing with a hearing and for a ruling on the basis of the verified Application, the verified Staff Recommendation and any record evidence when there are no objections to the Application. See, for example, *In the Matter of Sprint Missouri, Inc., Application for Competitive Classification under Section 392.245.5 RSMo (2005)* Case No. TO-2006-0375. In that case, the Application was granted based upon the verified Application and verified Staff Recommendation. No hearing or on-the-record conference was conducted.
7. While Embarq is seeking the cancellation of the remaining procedural schedule and the hearing in this case since there is no objection to the

Application, Embark will appear on March 5, 2007 for an on-the-record conference should the Commission have questions. An on-the-record conference has been used in the past when there are Commissioner questions but no opposition between or among the parties.

8. Staff supports the filing of this Motion. FCSI does not have any objection to cancelling the remaining schedule and ruling based upon the record.

WHEREFORE, for the foregoing reasons, Embark moves for the cancellation of the remaining procedural schedule in this case; more specifically, the filing of pretrial briefs, list of witnesses and proposed findings of fact due on March 2, 2007 and the hearing scheduled for March 5, 2007. Embark further moves for the submission into the record of the pre-filed testimony of Embark and Staff, without the necessity of the witnesses taking the stand and for a favorable decision based upon the Application, Staff Recommendation and pre-filed testimony. Should the Commission desire, Embark will appear for an on-the-record conference on March 5, 2007 or other date requested by the Commission.

Respectfully Submitted,
Embark Missouri, Inc.



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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been e-mailed, hand-delivered or mailed, postage prepaid, this 27th day of February 2007 to:

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