

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

In The Matter of Embarq Missouri, Inc.       )  
Application for Competitive Classification    )  
Under Section 392.245.5 RSMo. (2005)       )

Case No. \_\_\_\_\_

**APPLICATION FOR COMPETITIVE CLASSIFICATION**

COMES NOW Embarq Missouri, Inc. ("Embarq Missouri") and hereby requests the Commission approve Embarq Missouri's Application for Competitive Classification under Section 392.245.5 RSMo (2005). Embarq Missouri is seeking competitive classification for all residential services, other than exchange access service, offered in its Buckner, Lake Lotawana, Oak Grove, Odessa, Pleasant Hill, St. Robert, and Waynesville exchanges. In addition, Embarq Missouri is seeking competitive classification for all business services, other than exchange access services, offered in its Lebanon exchange. In support of its Application, Embarq Missouri states as follows:

1.       Embarq Missouri is a public utility and a telecommunications company, as those terms are defined in Section 386.020(42) and (51) RSMo 2000. Embarq Missouri is a large incumbent local exchange telecommunications company and is subject to Price Cap Regulation under Section 392.245.

2.       Missouri Revised Statutes §392.245.5 (2005) allows carriers subject to Price Cap Regulation to seek competitive classification for each telecommunications service offered to business and residential customers, other than exchange access service, in any exchange in which at least two non-affiliated entities are providing basic local telecommunications service to customers within the exchange.

3. Embarq Missouri faces growing and intense residential competition from at least two non-affiliated entities in its Buckner, Lake Lotawana, Oak Grove, Odessa, Pleasant Hill, St. Robert, and Waynesville exchanges as well as business competition from two or more non-affiliated entities in its Lebanon exchange. More specifically, Embarq Missouri faces competition from numerous non-affiliated wireless providers and from wireline carriers using their own facilities, in whole or in part, to provide basic local telecommunications services.

4. As stated, Embarq Missouri has numerous non-affiliated wireless providers operating in its Buckner, Lake Lotawana, Oak Grove, Odessa, Pleasant Hill, St. Robert, Waynesville, and Lebanon exchanges providing local service. Exhibit A identifies the following wireless carriers providing local service to business and residential customers in these exchanges: Sprint, Cingular, Verizon, Alltel, T-Mobile, and US Cellular (See Exhibit A). Section 392.245.5(1) RSMo (2005) recognizes that commercial mobile service providers shall be considered as entities providing basic local telecommunications service, provided that only one such non-affiliated provider shall be considered as providing basic local telecommunications service within an exchange.

5. Section 392.245.5(2) RSMo (2005), also recognizes wireline carriers providing local phone service, in whole or in part, over telecommunications facilities it owns as competing entities that providing basic local telecommunications services in competition with Embarq Missouri. The following wireline carriers are providing basic local telecommunications services in the identified Embarq Missouri exchanges, in whole or in part, over telecommunications facilities owned by that carrier:

- a) Buckner, Lake Lotawana, Oak Grove, Odessa, and Pleasant Hill exchanges: Comcast Phone of Missouri, LLC d/b/a Comcast Digital Phone ("Comcast") is providing residential service.

- b) St. Robert and Waynesville exchanges: Fidelity Communications Services I ("Fidelity") is providing residential phone service.
- c) Lebanon exchange: Socket Telecom LLC is providing business phone service.

6. Comcast offers local phone service to residential customers in direct competition with Embarq Missouri in Embarq Missouri's Buckner, Lake Lotawana, Oak Grove, Odessa, and Pleasant Hill exchanges. Comcast obtained a Certificate to Provide Basic Local, Local Exchange, and Interexchange Telecommunications Services within Missouri, including the exchanges of Embarq Missouri on June 27, 2005 (Case No. LA-2005-0417). Embarq Missouri has experienced residential customer loss to Comcast in its Buckner, Lake Lotawana, Oak Grove, Odessa, and Pleasant Hill exchanges. According to its website ([www.comcast.com](http://www.comcast.com)) "Comcast Digital Voice® gives you unlimited local and long-distance calling, 12 popular calling features you expect, plus cool new features you'll love, all this over our advanced broadband network".

7. Fidelity Communications Services I offers local phone service to residential customers in direct competition with Embarq Missouri in Embarq Missouri's St. Robert and Waynesville exchanges. Fidelity obtained a Certificate to Provide Basic Local, Local Exchange, and Interexchange Telecommunications Services within Missouri, including the exchanges of Embarq Missouri on November 30, 1999 (Case No. TA-2000-191). Embarq Missouri has experienced residential customer loss to Fidelity in St. Robert and Waynesville. The Commission previously found that Fidelity provided business phone services in Embarq Missouri's St. Robert and Waynesville exchanges in direct competition with Embarq Missouri in Case No. IO-2006-0086.

8. Finally, Socket Telecom LLC offers local phone service to business customers in direct competition with Embarq Missouri in the Lebanon exchange. Socket obtained a

Certificate to Provide Basic Local, Local Exchange, and Interexchange Telecommunications Services within Missouri, including the exchanges of Embarq Missouri, on August 3, 2001 (Case No. Case No. TA-2001-671). Socket is not a reseller of Embarq Missouri's services but uses a combination of its own facilities and facilities of other providers. Furthermore, Socket is not relying upon UNE-P from Embarq Missouri to provide its local phone service. Socket is currently aggressively marketing its local voice telephone service to business customers in the Lebanon exchange. According to its website ([www.socket.net](http://www.socket.net)), Socket offers local telephone service, competitive long distance, custom voice applications, and bundled offerings. Embarq Missouri has experienced competitive losses to Socket in its Lebanon exchange.

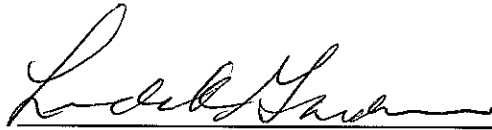
9. Embarq Missouri's Application for Competitive Classification does not request any price changes. In fact, Embarq Missouri acknowledges that all rates currently in effect for these exchanges will remain in effect until such time Embarq Missouri files a tariff requesting a price change. Under current law, Embarq Missouri will be required to file tariffs for any future price changes, either increases or decreases, associated with these exchanges which will continue to require Commission approval. Furthermore, Embarq Missouri will be required to notify its customers of any future price increase. A proposed tariff reflecting the change in classification is attached as Exhibit B.

WHEREFORE Embarq Missouri respectfully requests the Commission approve Embarq Missouri's Application for Competitive Classification pursuant to Section 392.245.5 RSMo (2005). Embarq Missouri has demonstrated that at least two non-affiliated entities are providing basic local telecommunications service to residential customers within its Buckner, Lake Lotawana, Oak Grove, Odessa, Pleasant Hill, St. Robert, and Waynesville exchanges. Furthermore, Embarq Missouri has demonstrated that at least two non-affiliated entities are

providing basic local telecommunications service to business customers within its Lebanon exchange. Embarq Missouri's Application meets the statutory requirements for competitive classification and should become effective in no more than 30 days.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 22<sup>nd</sup> day of June 2006, a copy of the foregoing document was served via electronic mail, facsimile or U.S. Mail, postage prepaid to each of the following:

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