

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

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

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and for its recommendation states:

1. On February 8, 2007, Embarq Missouri, Inc. ("Embarq") filed its verified Application for Competitive Classification pursuant to Section 392.245.5, RSMo Cum. Supp. 2005. In its Application, which includes a revised tariff sheet with an effective date of March 10, 2007, Embarq requests that the Commission classify the business services Embarq offers in its Lebanon exchange, other than exchange access services, as competitive.

2. On February 14, 2007, the Commission directed the Staff to file, no later than February 23, 2007, any objections and a verified recommendation regarding Embarq's application. Specifically, the Commission directed the Staff to investigate whether there are at least two carriers serving Embarq's Lebanon exchange who are not affiliated with Embarq but provide basic local service to business customers located within that exchange and whether the competing carriers have local numbers available for use by business customers in the Lebanon exchange. The Commission also directed that, if any party objects, then all parties are to file testimony on February 27, 2007.

3. The Staff does not object to Embarq's application. In the attached verified Memorandum labeled as Appendix A, the Staff reports on its investigation. The Staff concludes that two nonaffiliated carriers are providing service to business customers in the Lebanon exchange and that those carriers have local numbers available for use by business customers in

the Lebanon exchange The Staff will supplement its recommendation with testimony due next week.

WHEREFORE, the Staff recommends approval of Embark's Application and revised tariff sheet.

Respectfully submitted,

/s/ William K. Haas
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Deputy General Counsel
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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 23rd day of February 2007.

/s/ William K. Haas

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Company Name:
Tariff File No. YI-2007-0559 Case No. TO-2007-0301

From: Adam McKinnie
Telecommunications Department

/s/ William K. Haas 02/23/07
General Counsel's Office/Date

Subject: Recommendation for approval

Date: 2-23-07

Summary:

Staff recommends granting the Application of Embarq Missouri, Inc. (Embarq) requesting competitive classification of its business services (other than exchange access service) in the Lebanon exchange and letting the accompanying tariff filing go into effect. At this time, Staff concludes Embarq meets the requirements of Section 392.245.5 RSMo (2005): there exists at least one nonaffiliated wireless carrier with customers with addresses within the Lebanon exchange with telephone numbers assigned to the Lebanon exchange, and one nonaffiliated wireline carrier with customers with addresses within the Lebanon exchange with telephone numbers assigned to the Lebanon exchange. Staff anticipates receiving additional information from additional wireless carriers in the near future and anticipates filing testimony of Tuesday, February 27th to reflect any additional information.

Body:

On February 8th, 2007, Embarq filed an "Application for Competitive Status". Embarq is seeking competitive classification for all business services, other than exchange access services, offered in its Lebanon exchange pursuant to Section 392.245.5.

The thirty day track in 392.245.5(6) requires, for a grant of competitive classification, two non-affiliated carriers providing local voice service to residential and / or business customers within the exchange, depending on whether competitive classification is being sought for residential services, business services, or both (in the instant case, just to business customers). Only one carrier may be a wireless carrier; the second carrier must be providing service in whole or in part over its own facilities.

Through information provided by Embarq and as a result of Staff's investigation, Staff concludes there is a nonaffiliated wireline carrier, Fidelity Communication Services I (Fidelity), serving at least

two customers in whole or in part over its own facilities with telephone numbers rated as local within the Lebanon exchange.

Through information provided by Embarq and as a result of Staff's investigation so far, Staff concludes there is at least one wireless carrier unaffiliated with Embarq providing local service to customers geographically located within the Lebanon exchange with numbers rated as local to the Lebanon exchange.

Staff concludes currently there are wireless carriers, including Cingular, with telephone numbers rated as local to the Lebanon exchange. Staff has received a verified affidavit from Cingular (now the new AT&T) stating it has "two or more customers associated with business accounts that have addresses within the Lebanon exchange to the best of her knowledge and belief". Staff has received informal notification from a representative of at least one other wireless carrier that serves at least two customers located within the Lebanon exchange.

Staff anticipates filing more detailed testimony on Tuesday, February 27th, including updating the Commission regarding the status of other wireless carriers.

Conclusion:

Staff recommends the Commission grant Embarq's Application for "Competitive Status" in the instant case and allow the accompanying tariff filing to go into effect. Through a combination of information provided by Embarq and Staff's investigation, Staff is satisfied that the requirements of Section 392.245.5 RSMo (2005) are satisfied, and that Embarq's business services (other than exchange access service) should be classified as competitive in the Lebanon exchange.

- ☒ Embarq is not delinquent in filing an annual report and paying the PSC assessment.
☐ The Company is delinquent. Staff recommends the Commission grant the requested relief/action on the condition the applicant corrects the delinquency. The applicant should be instructed to make the appropriate filing in this case after it has corrected the delinquency.
(☐ No annual report ☐ Unpaid PSC assessment. Amount owed:)

