

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

In the Matter of Embarq Missouri, LLC.)
for Competitive Classification Under)
Section 392.245.5, RSMo 2005)

Case No. TO-2008-0380

**OFFICE OF THE PUBLIC COUNSEL’S STATEMENT CONCERNING
APPLICATION FOR COMPETITIVE CLASSIFICATION AND THE STAFF’S
RECOMMENDATION**

The Office of the Public Counsel will not oppose and will not support Embarq’s Application of reclassification of certain exchanges as competitive. Public Counsel has not discovered any material error in the facts in the Staff’s June 13, 2008 Recommendation To Approve Tariffs 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. Public Counsel will not object to the Commission considering the Recommendation and the Application together with the verified documents attached as part of the application as the record in this case. Although Public Counsel is entitled to an evidentiary hearing in this matter, it will waive an evidentiary hearing and cross-examination and other briefing. Public Counsel’s position should not be construed as support or approval of the reclassification, but only recognition that under the present state of the law, Embarq has provided the qualifying information.

Public Counsel disagrees with the 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 2000 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.

Public Counsel recognizes that the PSC has consistently taken a different interpretation on this point and applied Section 392.245.5, RSMo according to a 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 the denial of reclassification based on the statutory qualifications for competitive classification, Public Counsel will not pursue an evidentiary hearing. The Commission can make its determination based on the record in this case to date.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed, emailed and/or hand delivered this 16th day of June, 2008 to the following attorneys of record:

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