

# BEFORE THE PUBLIC SERVICE COMMISSION

## OF THE STATE OF MISSOURI

In the Matter of Embark Missouri, Inc.'s Application for )  
Competitive Classification Under Section 392.245.5, ) **Case No. TO-2009-0061**  
RSMo 2008. )

### **ORDER DIRECTING NOTICE AND DIRECTING FILING**

Issue Date: October 1, 2008

Effective Date: October 1, 2008

On August 28, 2008, Embark Missouri, Inc., filed its Application for Competitive Classification pursuant to Section 392.245.5, RSMo.<sup>1</sup> In its application, Embark requests that the Commission classify all of Embark's residential services, other than exchange access service, for the Lone Jack exchange as competitive. In addition, Embark requests competitive classification of all of its business services, other than exchange access service, in the following 43 exchanges: (1) Appleton City, (2) Butler, (3) California, (4) Centerview, (5) Chilhowee, (6) Clarksburg, (7) Clinton, (8) Cole Camp, (9) Craig, (10) Deepwater, (11) Eugene, (12) Fort Leonard Wood, (13) Greenridge, (14) Hardin, (15) Harrisonville, (16) Henrietta, (17) Holden, (18) Hopkins, (19) Ionia, (20) King City, (21) Lake Lotawana, (22) Leeton, (23) Lexington, (24) Lincoln, (25) Lone Jack, (26) Maryville, (27) Missouri City, (28), Montrose, (29) New Bloomfield, (30) Newburg, (31) Pickering, (32) Richland, (33) Russellville, (34) Sweet Springs, (35) Syracuse, (36) Tarkio, (37) Tipton, (38) Urich, (39) Warsaw, (40) Waverly, (41) Wellington, (42) Weston, and (43) Windsor.

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<sup>1</sup> Section 392.245 was recently amended by H.B. 1779, effective August 28, 2008. All statutory citations are to the Revised Statutes of Missouri as amended by H.B. 1779, unless otherwise indicated.

Upon the filing of a petition of a company subject to regulation under Section 392.245 for competitive classification pursuant to Subsection 392.245.5, the Commission must determine if “there are at least two entities providing basic local telecommunications service in an exchange and if so” the Commission shall approve the application within 60 days. Because of the need to proceed expeditiously, the Commission will issue notice, set a time for any objections to the application or requests for a hearing to be filed, and set a time for a recommendation from the Staff of the Commission. If no proper person requests a hearing, the Commission may make its decision based on the verified application and other filings in the case.<sup>2</sup>

**THE COMMISSION ORDERS THAT:**

1. The Data Center of the Missouri Public Service Commission shall send notice of this application to all certificated competitive local exchange carriers and to all incumbent local exchange carriers in the state of Missouri.

2. The Public Information Office of the Missouri Public Service Commission shall provide notice of the application to the members of the General Assembly and to the news media.

3. Any party wishing to object to this application or to request a hearing in this matter must file a request to do so no later than October 8, 2008, with:

Colleen M. Dale, Secretary  
Missouri Public Service Commission  
Post Office Box 360  
Jefferson City, Missouri 65102-0360

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<sup>2</sup> *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm’n*, 776 S.W.2d 494, 495-496 (Mo. App. 1989).

and send copies to:

Craig T. Smith, Esq.  
Embarq Missouri, Inc.  
5454 West 11th Street  
KSOPKJ0401  
Overland Park, Kansas 66211

and to:

Office of the Public Counsel  
Post Office Box 2230  
Jefferson City, Missouri 65102-2230

4. The Staff of the Missouri Public Service Commission shall file a recommendation or any objections to the petition no later than October 15, 2008.
5. This order is effective upon issuance.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Nancy Dippell, Deputy Chief Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 1st day of October, 2008.