

Memorandum

To: Official Case File for Case No. TO-2009-0062
Tariff File No. YI-2009-0175
Embarq Missouri, Inc.

Through: General Counsel

From: John Van Eschen
Telecommunications Department

Date: September 24, 2008

Subject: Request for Waivers

Embarq Missouri, Inc. (Company), an incumbent local telecommunications company, has filed a Notice of Election of Waivers pursuant to Section 392.420, RSMo, as amended by House Bill 1779, effective August 28, 2008. In addition, the Company has submitted a tariff filing to identify these waivers in the Company's tariff. The Commission Staff (Staff) has no objections to the requested waivers identified in the Company's filings. This memorandum further explains Staff's review of the filings.

Two separate sections of the new legislation, Section 392.420 and 392.245.5(8), provide the genesis for waiving various statutes and Commission rules for telecommunications companies. Both sections are slightly different in terms of the circumstances surrounding their applicability. In addition both sections have slightly different descriptions of the types of rules covered by their provisions.

Section 392.420 RSMo authorizes the Commission, in connection with the issuance or modification of a certificate or service authority, to entertain a petition to suspend or modify the application of its rules and certain statutes. This section further provides that in the case of an application for a certificate of service authority to provide basic local telecommunications service filed by an alternative local exchange telecommunications company, and for all existing alternative local exchange telecommunications companies, the Commission shall waive, at a minimum, the application and enforcement of its quality of service and billing standards rules, and certain enumerated statutes. Where an alternative local exchange telecommunications company is authorized to provide local exchange telecommunications services in an incumbent local exchange telecommunications company's territory an incumbent may opt into all or some of the statutory and commission rule waivers by filing a notice of election with the Commission.

Section 392.245.5(8) RSMo indicates an incumbent local exchange telecommunications company with classification as a competitive company and all alternative local exchange telecommunications companies shall not be required to comply with customer billing rules, network engineering and maintenance rules, and rules

requiring the recording and submitting of service objectives or surveillance levels established by the Commission. This section does not address any statutes as described and identified in Section 392.420 RSMo.

As previously described, the Company is requesting waivers pursuant to Section 392.420 RSMo. In support of its filing, the Company has summarized its prior competitive classification cases and has identified selected carriers authorized to provide local services in the Company's exchanges. In Staff's opinion, these prior cases along with the most recent annual reports submitted by companies adequately demonstrate that alternative local exchange telecommunications companies provide service in the Company's territory.

The specific waivers requested by the Company comply with the type of waivers contemplated by the new legislation. These waivers and a brief description are as follows:

Commission Rules (4 CSR 240-)	Brief Description
3.550 (4) and (5)(A)	Held order records, Quality of service reports.
32.060	Engineering and maintenance
32.070	Quality of Service
32.080	Service objectives and surveillance levels
33.040(1) through (3) and (5) through (10)	Billing and payment standards
33.045	Clear identification and placement of charges on bills

Missouri Statutes	Brief description of Commission's authority
392.210(2)	Prescribe a system of accounts
392.240(1)	Determine reasonableness of rates
392.270	Determine valuation of property
392.280	Determine depreciation rates/accounts
392.290	Establish regulations regarding issuance of stocks, bonds and other indebtedness
392.300	Transfer of property and ownership of stock
392.310	Approval of issuing stocks, bonds and other indebtedness
392.320	Certificate of Commission to be recorded—stock dividends
392.330	Account for disposition of proceeds of all sales of stocks, bonds, notes and other indebtedness
392.340	Reorganization

Staff recommends the Commission grant to the company all of the waivers listed above and approve the accompanying tariff filing, Tariff File No. YI-2009-0175. Staff has also investigated and concluded the Company is currently compliant in obligations relating to the Commission's assessment, Missouri universal service fund, Relay Missouri and the submission of an annual report.

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

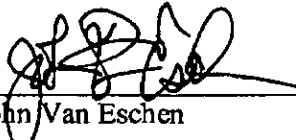
In the Matter of Notice of Election of)
Embarq Missouri, Inc. for Waiver of)
Commission Rules and Statutes Pursuant to)
Section 392.420 RSMo (2008)

Case No. TO-2009-0062

AFFIDAVIT OF John Van Eschen

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

John Van Eschen, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that he has participated in preparing the accompanying memorandum and that the facts therein are true and correct to the best of his knowledge and belief.



John Van Eschen

Subscribed and affirmed before me this 24th day of September 2008
I am commissioned as a notary public within the County of Callaway,
State of Missouri and my commission expires on 9-21-10



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086



NOTARY PUBLIC