

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of a Notice of Election of)
Embarq Missouri, Inc. for Waiver) **Case No. TO-2009-0062**
of Commission Rules and Statutes) Tracking No. YI-2009-0175
Pursuant to Section 392.420, RSMo)

ORDER CONCERNING ELECTION OF WAIVERS

Issue Date: November 6, 2008

Effective Date: November 6, 2008

On August 28, 2008, House Bill 1779 became effective, modifying §392.420 RSMo 2000, so that it now provides, in pertinent part:

Notwithstanding any other provision of law in this chapter and chapter 386, RSMo, where an alternative local exchange telecommunications company is authorized to provide local exchange telecommunications services in an incumbent local exchange telecommunications company's authorized service area, the incumbent local exchange telecommunications company may opt into all or some of the above-listed statutory and commission rule waivers by filing a notice of election with the commission that specifies which waivers are elected.

On August 28, 2008, Embarq Missouri, Inc. ("the Company") filed notification with the Missouri Public Service Commission ("Commission") that it elects to waive certain Commission rules and statutory provisions pursuant to RSMo Section 392.420. The Company has also submitted a tariff filing to identify these waivers in the Company's tariff. That tariff filing has been assigned Tariff

File No. YI-2009-0175 and bears a proposed effective date of September 28, 2008.

On September 26, 2008, the Commission Staff submitted its memorandum concerning the notice. It noted that:

1. Embarq is an incumbent local exchange telecommunications company as that term is used in Section 392.420.

2. Prior Commission cases and annual reports confirm that one alternative local exchange telecommunications carrier is providing service in some part of the Company's territory.

3. Embarq is currently compliant in obligations relating to Commission assessment, Missouri Universal Service Fund, Relay Missouri, and the submission of an annual report.

The waivers into which Embarq has opted are:

4 CSR 240-3.550 (4) and (5)(A), Held order records, quality of service reports.
4 CSR 240-32.060 Engineering and maintenance
4 CSR 240-32.070 Quality of Service
4 CSR 240-32.080 Service objectives and surveillance levels
4 CSR 240-33.040(1) through (3) and (5) through (10) Billing and payment standards
4 CSR 240-33.045 Clear identification and placement of charges on bills
392.210(2) Accounting requirements (system of accounts)
392.240(1) Reasonableness of rates
392.270 Accounting requirements (valuation of property)
392.280 Accounting requirements (depreciation rates/accounts)
392.290 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 Accounting requirements (proceeds of sales of stock, bonds, notes, etc.)
392.340 Company reorganization

The Staff recommends that the Commission take notice of the Company's election and either approve the submitted tariffs or allow the tariffs to go into effect by operation of law.

Section 392.420 further provides:

The commission may reimpose its quality of service and billing standards rules, as applicable, on an incumbent local exchange telecommunications company but not on a company granted competitive status under subdivision (7) of subsection 5 of section 392.245 in an exchange where there is no alternative local exchange telecommunications company or interconnected voice over Internet protocol service provider that is certificated or registered to provide local voice service only upon a finding, following formal notice and hearing, that the incumbent local exchange telecommunications company has engaged in a pattern or practice of inadequate service. Prior to formal notice and hearing, the commission shall notify the incumbent local exchange telecommunications company of any deficiencies and provide such company an opportunity to remedy such deficiencies in a reasonable amount of time, but not less than sixty days. Should the incumbent local exchange telecommunications company remedy such deficiencies within a reasonable amount of time, the commission shall not reimpose its quality of service or billing standards on such company.

THE COMMISSION ORDERS THAT:

1. The Company's Notice of Election and its tariff filing are acknowledged as received.

2. The Staff shall send a public notice to news outlets in the Company's service area and the State Legislators whose districts are in the service area, notifying the news outlets and State Legislators that the filing company is no longer subject to certain Commission quality of

service and billing rules, and also provide a brief description of the rules that are waived. The notice shall also inform the news outlets and State Legislators that although the Commission no longer has jurisdiction to process those complaints, the Commission will continue to track any positive and negative inquiries or complaints about service quality and billing issues.

3. The Commission's Customer Service Staff shall receive and track any positive and negative inquiries or complaints about service quality and billing issues and if Staff determines that the Company has engaged in a pattern or practice of inadequate service in service quality or increase in billing issues, it shall notify the Commission by filing a written report.

4. The Commission will not approve the tariffs, but will allow them to go into effect by operation of law.

5. This order is effective upon issuance, after which this case may be closed.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Colleen M. Dale, Chief Regulatory Law
Judge, by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
On this 6th day of November, 2008.