

EMBARQ'S APPLICATION TO DECLASSIFY

¹ A copy of a Embarras Missouri's Certificate of Good Standing from the Missouri Secretary of State is appended to this application as Attachment 1.

3. Embarq has no unsatisfied final judgments or decisions against it from any state or federal agency or court, which involves retail customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of this application.
4. Embarq does not have any annual report or assessment fees that are overdue.
5. On November 2, 2007, Embarq Missouri, Inc. submitted an open-records request with the Commission to obtain a listing of CLECs providing service in Missouri, on an exchange basis. Embarq did not request the number of CLEC customers – simply a listing, by exchange, showing where CLECs are providing residential and business service. Embarq did not request that the Commission Staff create a new report; rather, Embarq simply requested a copy of a listing the Commission already has developed and is required to develop by Section 392.245.5(6) RSMo..²
6. Although Embarq's November 2 open-records request was not a request for LEC Annual Reports, Staff represented that the CLEC listing it maintains as required by law is derived, in part, by information obtained from the Annual Reports of CLECs. Specifically, Staff represented that the source for its CLEC listing is the Schedule 10 from the Annual Reports. Most LECs, including Embarq, file Schedule 10 of the Annual Report as Highly Confidential due to the fact that it contains highly sensitive customer count information on an exchange-level basis. Carriers filing Schedule 10 as Highly Confidential also file a public version and generally redact the entire schedule rather than selectively redacting only the sensitive information, which may be an administratively burdensome task.
7. Staff's CLEC listing is information primarily obtained from what Embarq contends is non-sensitive, albeit non-public, portions of Schedule 10. Consequently, Embarq is submitting

² (6)The commission shall maintain records of regulated providers of local voice service, including those regulated providers who provide local voice service over their own facilities, or through the use of facilities of another provider of local voice service. In reviewing an incumbent local exchange telephone company's request for competitive status in an exchange, the commission shall consider their own records concerning ownership of facilities and shall make all inquiries as are necessary and appropriate from regulated providers of local voice service to determine the extent and presence of regulated local voice providers in an exchange

this application pursuant to Commission Rule 4 CSR 240-3.540 (5) to obtain a non-redacted version of Staff's CLEC Listing report as Embarq requested in its November 2, 2007 open-records request.

8. As stated above, Embarq has requested a listing of CLECs providing residential and/or service, by exchange, for the entire state. Embarq is not requesting any sensitive or non-public information as Embarq does not request information on the number of CLEC customers, either statewide or by exchange. In addition, Embarq is not requesting that the Commission Staff create a new report; rather, Embarq is simply requesting a copy of a listing the Commission already has developed and is required to develop by Section 392.245.5.(6). This listing can be publicly disclosed if the Commission determines that the source information derived from Schedule 10 of the Annual Report should be declassified.

9. Commission rule 4 CSR 240-3.540 (5) states, in part, that any pleading to declassify "must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal". Embarq submits that the only information contained within Schedule 10 of the Annual Report that is sensitive and subject to confidentiality is the customer or line count information which is provided on an exchange basis. Embarq is not seeking that sensitive and confidential exchange-specific customer or line count information. The core of Embarq's application is a challenge to the ability of CLECs to keep secret where they are actually providing service. While ILECs' tariffs publicly identify where the carriers provide service, CLEC tariffs generally list where the CLEC is certificated to provide service and may have little bearing to where the carrier is actually providing local phone service.

10. Declassifying Annual Report information about where CLECs are actually providing service, and in turn the Staff's CLEC Listing report, is in the public interest. This listing will

provide customers with specific information regarding which carriers are actually providing service in their area. The listing will also provide cities and municipalities with specific knowledge of carriers operating within their boundaries, which will help to ensure that all carriers are fairly and properly collecting and remitting necessary taxes and franchise fees. The current listing on the Commission website includes all certificated carriers and not just the carriers providing service and is ineffective as a customer education tool.

11. Commission Rule 4 CSR 240-3.540 (4) states that utilities can only classify information as confidential within Annual Reports if none of the information is “available to the public in any format” (emphasis added). Embark submits that where a carrier is providing service is information that is currently available to the public in multiple formats. First, if the carrier is providing service it is obviously open for business. Most carriers publicly announce where they operate as a way to obtain additional customers and there is no sound reason to redact this public information in annual filings with the Commission. Second, if the carrier is providing service it is required to collect and remit to cities and counties applicable taxes, surcharges and franchise fees – an act that is public and in turn subject to open-records requests to cities and counties.

12. Embark submits that (1) it is good public policy to release the requested information and that (2) the requested information is already publicly available in some format, albeit not in a form that is readily accessible. Per Commission rules, Embark must only demonstrate one of the above factors. Embark’s request for declassification of this Annual Report data and access to the Staff’s CLEC Listing report does not include access to the sensitive customer count information contained within Schedule 10 – just the exchanges where carriers are actually providing service. It defies common sense that the general location where any carrier actually provides service is confidential. The information requested by Embark should be available to anyone requesting

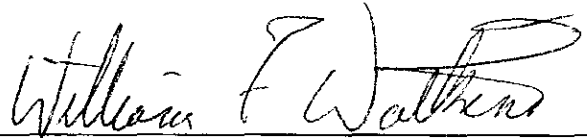
such records and could also be made available on the Commission's website as an improved tool for customers searching for competitive alternatives.

13. In compliance with Commission Rule 4 CSR 240-3.540 (5), Embark has served a copy of this Application to Declassify to all CLECs. The service list was derived from EFIS as instructed by Staff.

WHEREFORE, Embark respectfully requests the Commission declassify the exchange-level information from Schedule 10 of the Annual Report as described above and as compiled in Staff's CLEC Listing report.

Respectfully submitted,

EMBARQ MISSOURI, INC.



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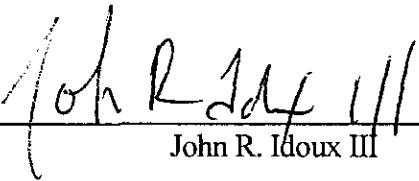
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VERIFICATION

STATE OF KANSAS)
)ss.
COUNTY OF JOHNSON)

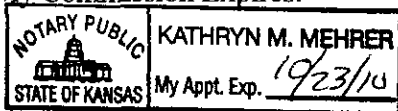
I, John R. Idoux III, being duly affirmed according to law, depose and say that I am authorized to make this affidavit on behalf of Embargo Missouri, Inc., being the Manager, Regulatory Affairs, and that the facts above set forth are true and correct to the best of my knowledge, information and belief.




John R. Idoux III

SUBSCRIBED AND SWORN to before me this 10th day of January 2008.

My Commission Expires:





Notary Public in and for said
County and State

STATE OF MISSOURI



Robin Carnahan
Secretary of State

**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

**EMBARQ MISSOURI, INC.
T00000533**

was created under the laws of this State on the 10th day of January, 1929, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 7th day of January, 2008

A handwritten signature in cursive script that reads "Robin Carnahan".

Secretary of State

