

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye	Chair
David C. Boyd	Commissioner
Marshall Johnson	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of a Petition by Embarq  
Minnesota, Inc. For Renewal and Revision of  
its Revised Alternative Regulation Plan

ISSUE DATE: August 10, 2007

DOCKET NO. P-430/AR-07-948

ORDER ESTABLISHING PROCEDURES  
AND SETTING SETTLEMENT PROCESS

**PROCEDURAL HISTORY**

On March 1, 2002, Embarq Minnesota, Inc. (Embarq) filed its First Revised Alternative Form of Regulation (AFOR) Plan. On February 14, 2003, the Commission approved Embarq's First Revised AFOR Plan, with an effective date of January 1, 2003 and a termination date of January 1, 2006.<sup>1</sup>

On November 7, 2005, the Commission extended Embarq's First Revised AFOR Plan until January 1, 2007. On August 18, 2006, the Commission extended Embarq's First Revised AFOR Plan until January 1, 2008.

On June 29, 2007, Embarq submitted its Second Revised AFOR Plan for implementation effective January 1, 2008, to replace the current plan.

On July 26, 2007, the Commission met to consider the procedural considerations of Embarq's petition related to its Second Revised AFOR Plan.

**FINDINGS AND CONCLUSIONS**

**I. Authority**

Minnesota Statutes § 237.766 states that "Within six months prior to the termination of the plan, the plan must be reviewed by the commission, and with the consent of the company, revised or renewed."

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<sup>1</sup> Docket No. P-430/AR-02-290, Order Approving Alternative Regulation Plan (February 14, 2003).

Section XII of Embarq's Revised AFOR Plan contains the following provisions related to Plan Renewal:

Six months prior to the termination date of the Revised AFOR Plan, Embarq shall file with the Commission the following reports:

1. A quality of service report which, at a minimum, shall consist of summary information, by year, on the quality of service indices achieved by Embarq under the Revised AFOR Plan; and
2. An investment report, which, at a minimum, shall consist of summary information, by year, on the modernization commitments implemented by Embarq in connection with the Revised AFOR Plan.

At the same time, Embarq shall file its proposed recommendations with the Commission as to whether the Revised AFOR Plan shall continue under its current form, be modified and to what extent, or terminated and a new plan or such other procedures as the Commission deems appropriate be implemented. Interested parties shall have such time as the Commission shall designate to file comments on the proposal submitted by Embarq. The Commission shall establish such procedures as it deems necessary to make a determination on the appropriateness of the proposal. Should the Commission be unable to render a

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**II. Procedures for Review and Adoption of Embarq’s Second Revised AFOR Plan**

Minnesota Statutes § 237.764 sets forth general procedures and guidelines for adopting, renewing and modifying AFOR plans. The statute provides for a settlement conference to encourage settlement or stipulation of issues, public meetings as necessary, expedited proceedings under § 237.61, and a six-month timeline for resolution unless the petitioner and the Commission agree otherwise, among other things.

At the Commission’s July 26, 2007, meeting, the parties agreed that the procedural framework and schedule set forth in this Order’s Ordering Paragraphs are reasonable and supported their adoption. The Commission finds that these provisions are appropriate and will adopt them. The Commission will use them as guidance for its activity in this matter and in the Ordering Paragraphs will also identify the specific actions that these procedures require of the parties or

authorize them to do.

In accordance with Minnesota Statutes § 237.764, subdivision 2, if a stipulation or settlement is submitted to the Commission by all or a substantial number of the parties, the Commission may accept, reject or modify it in lieu of accepting, rejecting or modifying Embarq's Revised AFOR plan.

## ORDER

1. The Commission hereby adopts the following procedures for review and adoption of Embarg's Second Revised AFOR:

### **A. Initial Notice and Service List**

The Company shall take the actions set forth below:

1. Send a notice to all telecommunications carriers in Minnesota with which it has an interconnection agreement, informing them where they can find the Company's AFOR petition and this Order on the internet, either on the commission's website or on one of the Company's websites or both;
2. File with the Commission a list of all persons served with this notice;
3. Post its petition, the case timetable and any other pertinent information on one of its websites.

### **B. Petition for Intervention**

Any person who wishes to intervene shall file a petition under Minn. Rules, Part 7829.0800 within 20 days of the Order, or August 22, 2007, whichever comes later.

### **C. Declaration of Interest Form**

A Declaration of Interest Form is attached to this Order as Attachment A. Any person who wishes to be placed on the service list shall so indicate on the Declaration of Interest Form and return it to the Commission within 20 days of the Order, or August 22, 2007, whichever comes later.

### **D. Service of Documents**

After receiving the Declaration of interest Form or intervention petition, the Commission will establish and maintain the official service list for this proceeding. After the service list is distributed, a copy of all documents submitted to the Commission must be served with proof of service on all other persons on the service list.

An original and 15 copies of all documents shall be served on the Commission by submitting them to:

Burl Haar, Executive Secretary  
Minnesota Public Utilities Commission  
121 Seventh Place East, Suite 350  
St. Paul, Minnesota 55101-2147

Any questions concerning this matter should be addressed to Commission staff member Roger Moy at 651-201-2217.

**E. Comments on the Adequacy of Embarq's Filing as to Form**

The Commission will accept written comments on the adequacy of Embarq's filing as to form on or before August 24, 2007. Specifically, comments should address whether the Company's filing meets the requirements of Minn. Stat. §§ 237.76-237.769 and the renewal provisions of the current Plan and whether the filing meets the requirements for expedited proceedings under section 237.61.

Reply comments shall be submitted to the Commission by August 31, 2007.

Following receipt of comments and replies, the Commission will, if it deems necessary, schedule a meeting to determine the adequacy of the Company's filing as to form. The Commission will reject a filing that it finds to be substantially out of compliance with Minn. Stat. §§ 237.76 *et seq.*

If there are no objections as to form, the Commission will proceed with the other schedules as described below.

**F. Comments on the Merits of Embarq's Proposed AFOR Renewal**

The Commission will accept comments on the merits of Embarq's proposed Second Revised AFOR Plan on or before September 18, 2007. Comments should, at a minimum, address: (1) the merits of the Company's filing; (2) differences between the current AFOR plan and the proposed AFOR Renewal; and (3) whether or not the Commission should approve the filing.

Reply comments shall be submitted to the Commission on or before October 2, 2007.

**G. Protective Order**

The Commission will designate at a later date a Lead Commissioner to deal with the protection of trade secret and privileged data in this docket.

**H. Public Meetings**

The parties, including the Department of Commerce and the Office of the Attorney General - Residential Utilities Division (RUD-OAG), may determine whether to conduct public meetings.

**I. Customer Notice**

The Company shall provide notice of the proposed Second Revised AFOR Plan to all its individual customers. The notice shall include how customers can e-mail the Company

with questions and concerns about the Company's proposal, including any request for a public meeting to address the Company's proposal. The Company shall work with the Department of Commerce, the RUD-OAG, and Commission staff to finalize the proposed notice and to determine the timing of the notice.

**J. Information Requests**

Embarq and all parties shall answer any information requests that may be issued by the Commission staff, the Department, the RUD-OAG or any other party within 10 days of receipt of the request. A copy of each information request must be served on the Commission and on the service list developed for this proceeding. Answers to the information requests shall be served on the party filing the request and on other parties and non-party participants upon request, subject to the protective order described above.

**K. Authority to Vary Time Periods**

To further expedite this proceeding, the Commission hereby delegates to its Executive Secretary the authority to vary the time periods established in the Order on its own motion or at the request of a party for good cause shown.

**L. Settlement Conference and Reports**

The Commission directs the parties to convene settlement meetings as needed, and to submit either a settlement report or a recommended time extension by September 14, 2007. The Commission also directs the Company to submit a written progress report on the settlement negotiations every 30 days thereafter until a settlement is reached.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 201-2202 (voice) or 1-800-627-3529 (MN relay service).

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION  
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**DECLARATION OF INTEREST**

The person named below would like to remain on the mailing list for the above captioned matter.

NAME:

ADDRESS:

TELEPHONE NO.:

PERSON'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

E-MAIL ADDRESS:

TELEPHONE NUMBER

SIGNATURE OF PERSON OR ATTORNEY: \_\_\_\_\_

DATE: \_\_\_\_\_

The person named below would like to be deemed an interested person for purposes of Minn Stat § 237.61 in this proceeding.

NAME:

ADDRESS:

TELEPHONE NO.:

PERSON'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

E-MAIL ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PERSON OR ATTORNEY: \_\_\_\_\_

DATE: \_\_\_\_\_