

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of the Embarq Local Operating)	
Companies for Limited Forbearance under 47)	WC Docket No. 08-8
U.S.C. §160(c) from Enforcement of Rule 69.5(a),)	
47 U.S.C. §251(b), and Commission Orders on the)	
ESP Exemption)	

ORDER

Adopted: January 9, 2009

Released: January 9, 2009

By the Deputy Chief, Wireline Competition Bureau:

1. In this order, pursuant to section 10(c) of the Communications Act of 1934, as amended (the Act),¹ we extend by 90 days the date by which the petition requesting forbearance filed by the Embarq Local Operating Companies (Embarq)² shall be deemed granted in the absence of a Commission decision that the petition fails to meet the standards for forbearance under section 10(a) of the Act.³

2. On January 11, 2008, Embarq filed a petition asking the Commission to forbear from any application or enforcement of the ESP exemption⁴ to IP-to-PSTN voice traffic.⁵ Specifically, Embarq requests that the Commission forbear from “enforcing the ESP exemption, as adopted by Commission orders”⁶ and from applying “section 69.5(a) of its rules to the IP-originated voice traffic that terminates on the PSTN.”⁷ Embarq additionally requests that the Commission “forbear from enforcing 47 U.S.C. section 251(b)(5) to . . . non-local traffic terminated as voice traffic on the PSTN.”⁸ The Commission released a Public Notice establishing a comment cycle for the petition on January 14, 2008.⁹

3. Section 10(c) of the Act states that a petition for forbearance shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forbearance under section 10(a) within one year after the Commission receives it, unless the Commission extends the one-year

¹ 47 U.S.C. § 160(c).

² Petition of the Embarq Local Operating Companies for Limited Forbearance under 47 U.S.C. §160(c) from Enforcement of Rule 69.5(a), 47 U.S.C. §251(b), and Commission Orders on the ESP Exemption, WC Docket No. 08-8 (filed Jan. 11, 2008) (Embarq Forbearance Petition).

³ 47 U.S.C. § 160(a).

⁴ See *Amendments of Part 69 of the Commission’s Rules Relating to Enhanced Service Providers*, CC Docket 87-215, Order, 3 FCC Rcd 2631 (1988).

⁵ Embarq Forbearance Petition at 1.

⁶ *Id.* at 17.

⁷ *Id.*

⁸ *Id.*

⁹ *Pleading Cycle Established for Petition of the Embarq Local Operating Companies for Limited Forbearance under 47 U.S.C. §160(c) from Enforcement of Rule 69.5(a), 47 U.S.C. §251(b), and Commission Orders on the ESP Exemption*, WC Docket No. 08-8, Public Notice, 23 FCC Rcd 348 (WCB 2008).

period.¹⁰ The Commission may extend the initial one-year period by an additional 90 days if the Commission finds that an extension is necessary to meet the requirements of section 10(a).¹¹

4. The petition under review raises significant questions regarding whether forbearing from any application or enforcement of the ESP exemption to IP-to-PSTN voice traffic meets the statutory requirements set forth in section 10(a). The Wireline Competition Bureau thus finds that a 90-day extension is warranted under section 10(c) of the Act.

5. Accordingly, IT IS ORDERED that, pursuant to section 10 of the Communications Act of 1934, as amended, 47 U.S.C. § 160, and the authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, the date on which the petition seeking forbearance filed by Embarq shall be deemed granted, in the absence of a Commission denial of the petition for failure to meet the statutory standards for forbearance, IS EXTENDED to April 11, 2009.

FEDERAL COMMUNICATIONS COMMISSION

Julie Veach
Deputy Chief, Wireline Competition Bureau

¹⁰ 47 U.S.C. § 160(c).

¹¹ 47 U.S.C. § 160(a). *See also, e.g., Petition of the Verizon Telephone Companies for Forbearance under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Their Broadband Services*, WC Docket No. 04-440, Order, 20 FCC Rcd 20037 (WCB 2005).