

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

Staff of the Public Service Commission of the State	)	
Of Missouri,	)	
	)	
Complainant,	)	Case No. TC-2007-0111
	)	
v.	)	
	)	
Comcast IP Phone, LLC,	)	
	)	
Respondent.	)	

**MOTION TO DISMISS OF RESPONDENT COMCAST IP PHONE, LLC**

Comes now Respondent Comcast IP Phone, LLC, by its undersigned attorneys, and makes a limited appearance to file this Motion to Dismiss and supporting Memorandum in Support of Motion to Dismiss, pursuant to 4 CSR 240-2.070(6), for failure to state a claim upon which relief may be granted, and to contest the jurisdiction of the Missouri Public Service Commission (“the Commission”) to hear the issues raises in the Complaint filed by the Commission’s Staff. In support of this Motion to Dismiss, Comcast IP Phone, LLC, states the following:

1. On September 21, 2006, the Commission’s Staff filed its Complaint against Comcast IP Phone, LLC (“Comcast”), initiating the captioned proceeding. The Notice of Complaint and Complaint were served on CT Corporation, Comcast’s registered agent for service of process, on September 29, 2006. See attached Ex. A. The Notice of Complaint states that response to the Complaint is due on or before October 26, 2006. This Motion to Dismiss, and Comcast’s limited appearance, are filed in response to the Notice of Complaint.

2. This Motion to Dismiss and the supporting Memorandum constitute an entry of appearance limited only to contesting the Commission’s jurisdiction, and should in no way be

construed to constitute a general appearance. Comcast is not submitting to the Commission's jurisdiction, and will vigorously contest any attempt by the Commission or Staff to argue that by filing this Motion to Dismiss and the supporting Memorandum, Comcast has submitted to Commission jurisdiction, regardless of the forum in which that argument is made.

3. Please direct copies of all correspondence, filings, pleadings, and orders arising out of this Motion to Dismiss to the following:

Mark P. Johnson  
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4. Simultaneous with the filing of this Motion to Dismiss, Comcast is filing its Memorandum in Support of Motion to Dismiss. Comcast requests that the Commission dismiss the Complaint, for the grounds set forth in the Memorandum.

Wherefore, Comcast IP Phone, LLC, moves that the Commission dismiss the Complaint for lack of jurisdiction, and therefore for failure to state a claim upon which relief can be granted.

Respectfully submitted,

/s/ Mark P. Johnson  
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ATTORNEYS FOR COMCAST IP PHONE, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that a true and final copy of the foregoing was served by electronic mail on this 26th day of October, 2006, on the following:

William Haas, Esq.  
Steven Reed, Esq.  
Missouri Public Service Commission  
200 Madison Street  
Jefferson City, MO 65102

/s/ Mark P. Johnson  
Mark P. Johnson