

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

Staff of the Public Service Commission)
of the State of Missouri,)

Complaint,)

v.)

Comcast IP Phone, LLC,)

Respondent.)

Case No. TC-2007-0111

PETITION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

COMES NOW Embarq Missouri, Inc. d/b/a Embarq, pursuant to Commission Rule 4 CSR 240-2.075(6) and for its Petition for leave to file a brief as an *amicus curiae*, respectfully states to the Missouri Public Service Commission (“Commission” or “PSC”) as follows:

1. Embarq is an incumbent local exchange telephone company (“ILEC”) as defined by Missouri law and provides telecommunications service in many areas of the state of Missouri under the regulation of the Commission. Embarq is a “telecommunications company” and a “public utility” as those terms are defined by §386.020 RSMo. 2000 and is subject to the jurisdiction, regulation and control of the Commission as provided by law. Embarq is an ILEC whose service territory in Missouri is predominantly rural, yet contains various areas where Embarq’s services have been declared competitive under §392.245(5) RSMo. 2006.

2. The issues raised by this case are important to the public and to the telecommunications industry in Missouri and nationwide. The issues of whether, and to

what extent, the Commission should assert jurisdiction over fixed voice over internet protocol (“VoIP”) services such as those provided by Comcast IP Phone, LLC (“Comcast”), are critical to the competitive environment in which ILECs such as Embarq operate. Cable telephony providers, such as Comcast are direct competitors of ILECs and Comcast directly competes with Embarq in Embarq’s Buckner, Lake Lotawana, Oak Grove, Odessa, and Pleasant Hill exchanges.¹ In addition, Embarq believes that VoIP technology will increasingly be used to provide communications, and so its regulatory status is important to Embarq as a provider of voice communications. Embarq actively participates in regulatory proceedings in other states and before the Federal Communications Commission where issues concerning regulation of VoIP services are being addressed, and Embarq believes that it has developed expertise on the legal issues that have been raised in the case.

3. Accordingly, Embarq has a vital interest in the subject matter of this proceeding, and is situated so that the outcome of this proceeding may, as a practical matter, impair or impede Embarq’s ability to protect its interests. Embarq’s *Amicus Curiae* Brief sets forth its views as a competitor and its legal opinions on the jurisdictional issues faced by the Commission. It is desirable for the Commission to hear Embarq’s perspective on the issues presented because the Commission will benefit from Embarq’s expertise and unique view as a large rural ILEC with affiliated operations in multiple states. In addition, in this proceeding the Commission previously granted leave for other parties to file *amicus* comments.

¹ In the Matter of the Application of Embarq Missouri, Inc. for Competitive Classification Under Section 392.245.5, RSMo 2005, Case No. IO-2006-0551, Report and Order (July 20, 2006).

WHEREFORE, Embarq respectfully requests that the Commission grant leave to Embarq to file the *amicus curiae* brief being filed simultaneously with this Petition.

Respectfully submitted,

A handwritten signature in cursive script that reads "William F. Watkins". The signature is written in dark ink and is positioned above a horizontal line.

William Watkins MO Bar No. 36112
5454 West 110th Street
KSOPKJ0401
Overland, Park, KS 66211
Voice: 913-345-6687
Fax: 913-345-7885
bill.f.watkins@embarq.com

Kevin K. Zarling
5454 West 110th Street
KSOPKJ0401
Overland, Park, KS 66211
Voice: 512-867-1075
Fax: 512-472-8362
kevin.k.zarling@embarq.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above and foregoing was served on the following parties by electronic mail, this 14th day of September 2007.

Office of the General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
gencounsel@psc.mo.gov

Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov

Roger W. Steiner
rsteiner@sonnenschein.com

Mark P. Johnson
mjohnson@sonnenschein.com

Craig S. Johnson
craig@csjohnsonlaw.com


