

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

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

STAFF'S STATEMENT OF POSITION

COMES NOW the Staff of the Missouri Public Service Commission and states:

1. The Commission's Order, dated April 24, 2007, directed the parties to file a List of Issues, List of Witnesses, and Order of Cross-Examination by July 12, 2007, and to file their respective Statements of Position by July 19, 2007.

2. The parties filed an agreed upon List of Issues on July 12, 2007.

3. The Staff states its position on those issues:

(1) Does federal law preempt the Commission's jurisdiction over Comcast IP Phone's Voice over Internet Protocol (VoIP) service?

Staff's Position: No. The Commission is authorized to regulate intrastate telecommunications services.¹ The fact that the FCC has opened a rulemaking proceeding to comprehensively address the regulatory issues pertaining to VoIP services is not an expression of the FCC's intent to preempt the entire field of VoIP services.²

The FCC's Vonage Order preempted state regulation of nomadic

¹ *Comcast IP Phones of Missouri, LLC, v. The Missouri Public Service Commission*, Case No. 06-4233-CV-C-NKL, U.S. Dist. Ct. W.D. Mo., Order, filed Jan. 18, 2007, p.5.

² *Id.*, pp.9-11

VoIP services; it did not preempt state regulation of fixed VoIP services.³ Comcast provides a fixed VoIP telephone service. (Voight Direct Testimony, p. 17).

(2) If the Commission is not preempted by federal law, should the Commission refrain from taking action concerning Comcast IP Phone's VoIP service until the FCC classifies VoIP services?

Staff's Position: No. Section 392.420 RSMo 2000 authorizes the Commission, in connection with the issuance of a certificate of interexchange or local exchange service authority to entertain a petition under section 392.361 to suspend or modify the application of its rules or the application of statutory provision contained in sections 392.200 to 392.340 if such waiver is otherwise consistent with the other provisions of sections 392.361 to 392.520 and the purposes of this chapter. There is no statutory authority for the Commission to waive the certification requirement of section 392.410 RSMo.

Respectfully submitted,

/s/ William K. Haas
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³ *The Minnesota Public Utilities Commission v. Federal Communications Commission*, No. 05-1069, 8th Cir., Opinion, filed Mar. 21, 2007, pp.19-22.

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 19th day of July 2007.

/s/ William K. Haas