

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Embarq Communications, Inc.)
) IC No. 06-S0253368
Complaint Regarding)
Unauthorized Change of)
Subscriber's Telecommunications Carrier)

PETITION FOR RECONSIDERATION

Embarq Communications, Inc., pursuant to Section 1.106 of the Commission's Rules, hereby respectfully requests reconsideration of the Order released on January 30, 2007 (DA 07-259) in the above-captioned proceeding. In that Order, the Consumer Policy Division found that Embarq failed to submit a third party verification or letter of agency pursuant to 47 C.F.R. § 64.1120-64.1130 and, therefore, the Division found that Embarq's actions resulted in an unauthorized change in Complainant's telecommunications service provider. As explained below, however, Embarq did not provide a third party verification or letter of agency to the Commission because this was a new service order whereby third party verifications or letters of agency are not required by the Commission. Only when a change is made on behalf of the subscriber in the subscriber's selection of a provider of telecommunications service is a third party verification or letter of agency is required.¹ Therefore, the Order should be reconsidered and Embarq should be relieved on any liability.

There Was No Unauthorized Change Because Embarq Received a New Service Order.

As noted in Embarq's December 21, 2006 response to the Division, Embarq's records reflect that the Complainant contacted Embarq on or about August 31, 2006 requesting new service.

¹ 47 C.F.R. § 64.1120

(Exhibit A) Because a new service order was taken from the Complainant no services were “changed” or “switched” and a third party verification or letter of agency was not completed. Thus, Embarq did not provide any third party verification or letter of agency.

Time Warner Cable’s Service Was Never Switched. Further, Time Warner Cable is not due any monies from Embarq pursuant to the Commission’s rule 64.1170(b) because services were never switched from Time Warner Cable to Embarq. As evidenced by the Time Warner Cable bills provided by the Complainant, (Exhibit B), Time Warner Cable was billing the Complainant for service and presumably received payment from the Complainant. If the Complainant’s service had been switched from Time Warner Cable to Embarq, Time Warner Cable would have ceased billing the Complainant. Additionally, Complainant’s complaint states that Time Warner Cable advised the Complainant that it did not receive a disconnect order from Embarq, which indicates that no change or switch was made to the Complainant’s account.

Time Warner Cable and the Complainant Are Not Due Refunds. Embarq also and respectfully refutes the Order’s requirement that Embarq forward to Time Warner Cable an amount equal to 150% of all charges paid by the subscriber to Embarq. All monies paid by the Complainant to Embarq have already been refunded to the Complainant. On November 10, 2006 Embarq issued check number 0014140514 to the Complainant in the amount of \$253.70. Embarq records indicate said check cleared on January 29, 2007. (Exhibit C)

For the reasons cited above, Embarq respectfully requests reconsideration of the Order. The previous finding should be rescinded and, instead, it should be determined that Embarq did not switch the Complainant’s service and, in any event, the service in question was a new service set up and thus no third party verification or letter of agency is required.

Respectfully submitted,

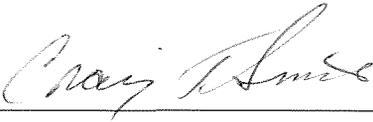
EMBARQ COMMUNICATIONS, INC.

A handwritten signature in cursive script, appearing to read "Craig T. Smith". The signature is written in black ink and is positioned above a horizontal line.

Craig T. Smith
5454 W. 110th Street
Overland Park, KS 66211
(913) 345-6691

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Petition for Reconsideration of Embargo Communications, Inc.** was sent by forgoing methods on this 26th day of February 2007, to the below-listed parties:



Regular Mail:

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Regular Mail and E-Mail:

Nancy Stevenson
Deputy Chief
Consumer Policy Division
Consumer & Governmental Affairs Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
Nancy.Stevenson @fcc.gov

David Marks
Consumer Policy Division
Consumer & Governmental Affairs Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
David.marks@fcc.gov

EXHIBIT A



Voice | Data | Internet | Wireless | Entertainment

Embarq Corporation
720 Western Blvd
Tarboro, NC 27886
EMBARQ.com

December 21, 2006

Federal Communications Commission
Consumer and Governmental Affairs Bureau
Room CY A257A-Attention Slam Team
445 12th St., SW
Washington, DC 20554

Re: David G. Winget, File Number: 06-S0253368

To Whom It May Concern:

Embarq records indicate a new service order requested by David Wingate was processed effective August 31, 2006. The order was noted on August 31, 2006 that the customer needed service as soon as possible. Mr. Wingate contacted Embarq on September 18, 2006 and advised that he did not authorize service with Embarq and the representative he spoke with issued a disconnect order and bill effected the order back to the installation date of August 31, 2006.

As of the November 3, 2006 billing, the balance on the account was \$253.70, however; Mr. Wingate paid \$253.70 which posted to the account on November 1, 2006. An adjustment was issued to refund the payment back to Mr. Wingate, but the credit was delayed in approval. I got the adjustment approved and processed and the credit, in the amount of \$261.78, was applied to the account on October 26, 2006. The final bill now has a credit balance of \$253.70. A refund check should be issued shortly to return the \$253.70 to Mr. Wingate.

Mr. Wingate states that he was contacted by Encore Receivables Management regarding the balance owed on the Embarq final bill. Embarq Receivables Management has contacted Encore and any collections attempts were suspended. This will not have an adverse affect on Mr. Wingate's credit. Encore does not report to the credit bureaus.

If additional information is required, please do not hesitate to contact me.

Sincerely,

Pamela S. Place, Specialist
Executive & Regulatory Services

EXHIBIT B

Account Name:

David Winget

Account Number:

082275905

Understanding our Bill

Prior Month's Usage: Cable services
 payments made on prior bill were

Partial Month Service: Cable service
 correspond to the partial month of
 service provided. Service provided in
 partial month is prorated.

Monthly Service: Cable service during
 Cable service for the month of

Taxes and Fees: Cable service charges
 for the month of service. Cable service
 and special services. Cable service
 provided in the month of service.

Prior Month's History

REMAINING BALANCE 40.00

Partial Month Services
MONTHLY SERVICES

Basic Cable	35.00
Pay Per View	45.00
Video on Demand	20.00
High Speed Internet	20.00
Other Services	20.00

4-2-07 11:50AM:EMBAHU S. RECOVERY # 23/ 26

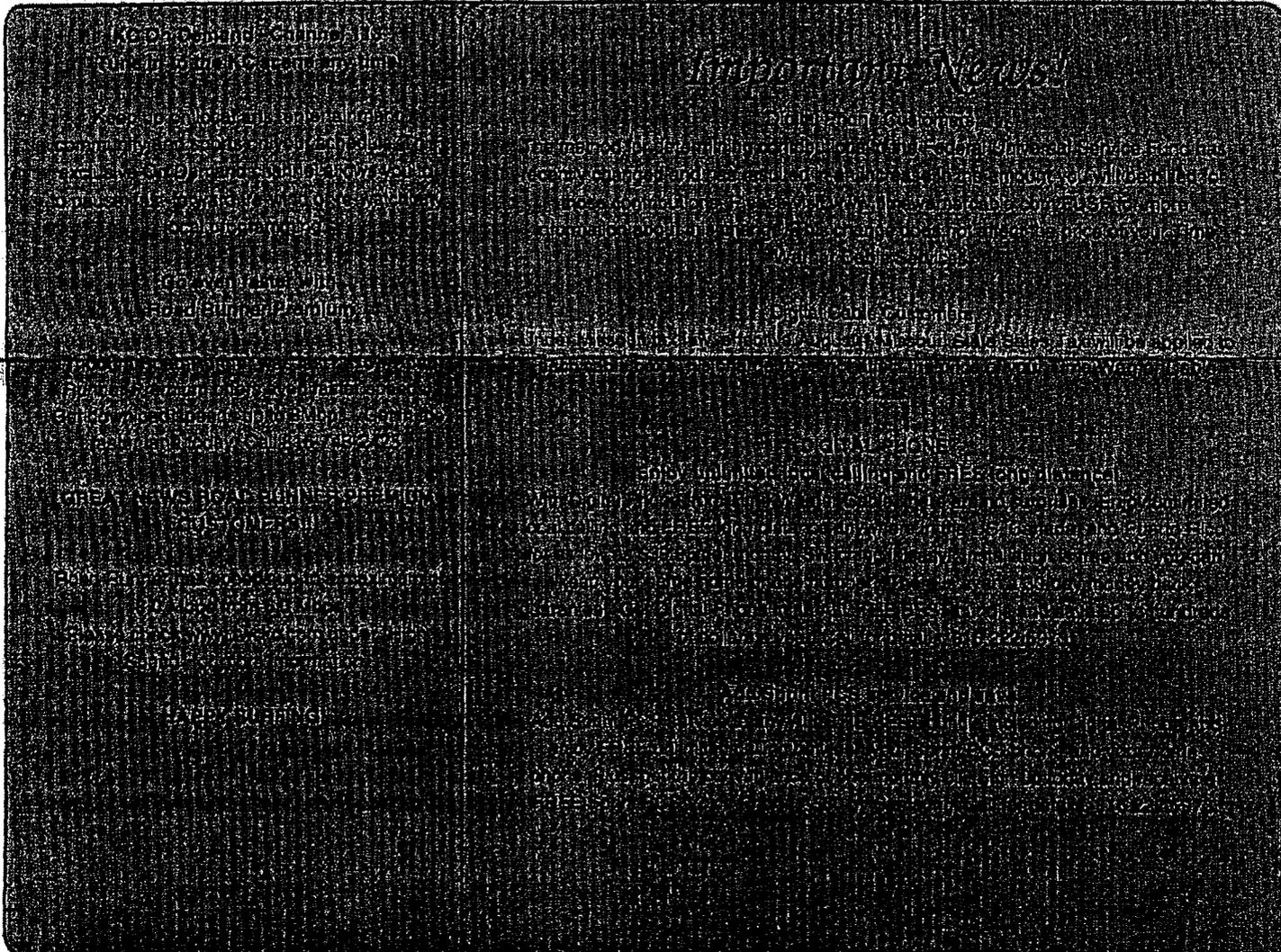


**TIME WARNER
CABLE**

Now anything's possible ..

For Service at: 3109 Devonshire Dr
Platte City, MO 64078-7244

Account No:	0100000000
Scheduled Debit Date:	Oct 13, 2006
Amount To Be Debited:	\$107.92
NO ACTION REQUIRED	



2-2-07 11:35AM:EMBAHU S. RECOVERY : 2528242737 # 24 / 26



Account Name: David Winget
Account Number: 082275905



WAB012 Post (10/00)

EXHIBIT C

Payment Information Results

Criteria Entered: AP BU = P5
 Invoice Number = 816-431-4997-225
 Invoice Amount = \$253.70

Invoice Details: Invoice Date = 11/3/2006
 Invoice Amount = \$253.70

Vendor Name	Voucher ID	PO Number
DAVID G WINGET	M1110212	

Check Number	Check Date	Check Cleared Date	Scheduled Pay Date
0014140514	11/10/2006	1/29/2007	

Remit Address Line 1	Remit Address Line 2	Remit Address Line 3	Remit Address Line 4	Remit City	Remit State	Zip Code
3109 DEVONSHIRE DR				PLATTE CITY	MO	64079- 7244