

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

People of the State of New York and the Public
Service Commission of the State of New York,

Petitioners

v.

Federal Communications Commission and the
United States of America,

Respondents.

PETITION
FOR REVIEW

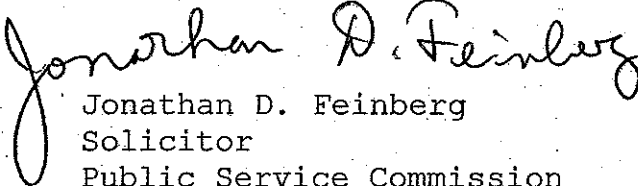
The People of the State of New York ("New York") and the Public Service Commission of the State of New York ("PSCNY") hereby petition this Court, pursuant to 28 U.S.C. Sections 2342, 2344, 47 U.S.C. Section 402(a) and Rule 15(a) of the Federal Rules of Appellate Procedure, for review of the Memorandum Opinion and Order issued by the Federal Communications Commission (FCC Order), released November 12, 2004, 19 FCC Rcd 22404 and captioned, Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission, WC Docket No. 03-211. A copy of the FCC Order is attached as Exhibit A.

The FCC Order concludes that Vonage Holding Corporation's Digital Voice service and other Internet Protocol enabled services having the same capabilities cannot be

separated into interstate and intrastate components for jurisdictional purposes. The Court has jurisdiction pursuant to 28 U.S.C. 2342. Venue is proper in this Court pursuant to 28 U.S.C. 2343, as the PSCNY has its principal offices within this judicial circuit.

New York and the PSCNY seek an order and judgment that portions of the FCC order are arbitrary and capricious, 5 U.S.C. §706(2) (A), beyond the FCC's jurisdiction, authority or power, 5 U.S.C. §706(2) (C), and otherwise not in accordance with law, 5 U.S.C. §706(2) (A).

Respectfully submitted,



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Dated: January 7, 2005
Albany, New York