

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

JACOR CONTRACTING, INC., )  
)  
Complainant, )  
)  
v. )  
)  
NUVOX COMMUNICATIONS OF )  
MISSOURI, INC., )  
)  
and, )  
)  
SOUTHWESTERN BELL COMMUNICATIONS )  
COMPANY D/B/A AT&T MISSOURI )  
)  
Respondents. )

**Case No. CC-2009-0128**

## **ORDER SETTING PREHEARING CONFERENCE**

Issue Date: February 24, 2009

Effective Date: February 24, 2009

On October 9, 2008, JACOR Contracting, Inc., ("JACOR"), filed a complaint with the Commission against NuVox Communications of Missouri, Inc. ("NuVox") and Southwestern Bell Communications Company d/b/a AT&T Missouri ("AT&T Missouri"). On October 21, 2008, AT&T Missouri filed a request for mediation. Also on October 21, NuVox filed a response to AT&T Missouri's request indicating it was willing to mediate this dispute. On November 3, 2008, JACOR agreed to mediation and the Commission appointed a neutral mediator. Mediation concluded without settlement and the procedural schedule for responses to the complaint was resumed.

On February 13, 2009, AT&T Missouri and Nuvox filed their answers to the complaint and moved the Commission to dismiss JACOR's complaint for failure to state a

claim upon which relief could be granted. On that same date, AT&T Missouri filed a cross-claim against Nuvox and Nuvox filed a cross-complaint against AT&T Missouri. On February 23, 2009, AT&T Missouri and Nuvox responded to each other's cross-claims and the Commission's Staff filed a report of its investigation into the complaint. Staff's report indicates that it may have a separate complaint forthcoming regarding potential violations of Section 392.200, RSMo 2000.

This matter is now at issue and a prehearing conference is appropriate to ensure its prompt resolution. In part, a prehearing conference permits the parties to pursue settlement discussions and to identify all remaining procedural or substantive issues prior to the formal disposition of the issues in the case.<sup>1</sup>

The prehearing conference is *not an evidentiary hearing*. Sworn testimony will not be taken and no final decision will result from this prehearing conference.<sup>2</sup> However, all parties are required to be present for the prehearing conference, and a court reporter will be present to make a record of the parties that appear.

**THE COMMISSION ORDERS THAT:**

1. The parties shall appear at a prehearing conference to be held on March 10, 2009, beginning at 9:30 a.m. The prehearing conference will be held in Room 305 at the Commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, a building that meets the accessibility standards required by the Americans with Disabilities Act. Any person needing additional accommodations to participate in this

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<sup>1</sup> See Commission Rule 4 CSR 240-2.090(6).

<sup>2</sup> Also, under Commission Rule 4 CSR 240-2.090(7), any facts the parties may discuss during the conference, including any settlement offers or discussions, are privileged and cannot be used against any participating party unless the parties agree to disclose them or they are fully supported by other, independent evidence.

prehearing conference should call the Public Service Commission's Hotline at 1-800-392-4211 or dial Relay Missouri at 711 prior to the conference.

2. A conference call bridge has been established to allow the parties to participate in this conference by phone. Any party that wishes to participate in the conference by telephone may do so by calling (573) 526-5398 or (866) 630-9345 at the time set for the conference.

3. Any party wishing to request a continuance shall file a pleading with the Commission stating why they are unable to attend the scheduled prehearing conference on March 10, 2009, either in person or by phone, and shall provide the Commission with a list of dates when that party is available to appear. Any such pleading shall be filed no later than March 2, 2009, and shall also be served on every other party to this complaint.

4. This order shall become effective immediately upon issuance.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is written over a horizontal line.

Colleen M. Dale  
Secretary

( S E A L )

Harold Stearley, Senior Regulatory Law Judge,  
by delegation of authority under  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 24th day of February, 2009.