

In the Matter of the Investigation of the)
State of Competition in the Exchanges of) Case No. TO-2001-467
Southwestern Bell Telephone Company.)

COME NOW NuVox Communications of Missouri, Inc. (NuVox), XO Communications Services, Inc. f/k/a XO Missouri, Inc. (XO), MCImetro Access Transmission Services, LLC and MCI Communications Services, Inc. f/k/a MCI WorldCom Communications, Inc. (MCI) and for their Reply to AT&T Missouri's Motion to Dismiss state to the Commission:

2. The Court of Appeals reversed the Commission's decision in this case that private line/dedicated services, intraLATA toll services, WATS/800 services, special access services, and certain operator services should be released from price cap regulation. Under the court mandate, the Commission cannot lawfully dismiss this case without taking action to correct the consequences of its prior Report and Order.

3. In its pleading (para. 11), AT&T Missouri concedes that its current rates violate the price cap statute as a result of the decision of the appellate court, even after taking into account subsequent decisions of this Commission under the statute in its new version. Notwithstanding AT&T Missouri's candor, it would behoove the Commission to direct its Staff to independently verify that the full extent of the violations has been identified.

4. Accordingly, the Commission should proceed as recommended in the Response to Order Setting Procedural Conference submitted by NuVox, XO and MCI. Contrary to AT&T Missouri's assertion, the price cap was expressly referenced as the authority for such action, and rightly so. Section 392.245.5 provides for reinstitution of maximum prices (as adjusted for intervening years) when the price cap statute becomes applicable again to a company and its services. Further, Section 392.245.1 authorizes the Commission to ensure that rates comply with the applicable maximum prices.

WHEREFORE, NuVox, XO and MCI continue to recommend that the Commission issue its order directing SBC to file compliance tariffs.

Respectfully submitted,

CURTIS, HEINZ,
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CERTIFICATE OF SERVICE

A true and correct copy of the foregoing was mailed or emailed this 19th day of December, 2005, to the persons listed on the attached service list.

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