

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 Response to Order Setting Procedural Conference state to the Commission:

4. There is no evidence in the record in this case that bears upon the current state of competition in SBC's exchanges or that would otherwise be relevant to the inquiry required under the current version of the price cap statute. Likewise, SBC's pleadings do not conform to the new statute.

5. SBC recently sought and obtained relief under the new version of the price cap statute in Case Nos. TO-2006-0093 and TO-2006-0102. To the extent that such relief was granted or denied regarding the services mentioned in paragraph 2 above, such action has made this case moot. To the extent that SBC did not seek relief regarding the services mentioned in paragraph 2 above, it must do so under a future filing pursuant to the new version of the price cap statute and cannot do so based on the stale pleadings and evidence in this case. For just such reasons, SBC recently endorsed dismissal of Case No. TO-2005-0035.

6. There is no need for the parties or the Commission to devote further resources to this case. The Commission should simply direct SBC to file revised tariffs that correctly reflect the status of the services mentioned in paragraph 2 based on the decision of the Court of Appeals and the subsequent actions of the Commission in Case Nos. TO-2006-0093 and TO-2006-0102. In all exchanges where such services remain subject to price cap regulation as a result of these Court and Commission decisions, the Commission should direct SBC to revise its prices to the extent necessary to comply with the maximum prices that existed as of the January 6, 2002 effective date of the Commission's Report and Order herein, subject to any intervening adjustments to such maximum prices under the price cap statute in its respective versions applicable during such time period. SBC should submit a written justification of the rates it proposes to change and the rates it does not propose to change regarding the services in question. Copies of such compliance tariffs should also be filed in this case for review and comment by the parties. The Commission will then be able to make certain that appropriate tariffs are filed and dismiss this proceeding.

7. A proposed order is attached hereto.

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

Respectfully submitted,

CURTIS, HEINZ,
GARRETT & O'KEEFE, P.C.

/s/ Carl J. Lumley

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CERTIFICATE OF SERVICE

A true and correct copy of the foregoing was mailed or emailed this 5th day of December, 2005, to the persons listed on the attached service list.

/s/ Carl J. Lumley

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BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

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

ORDER DIRECTING SBC TO FILE TARIFFS

As the Commission indicated in its November 16, 2005 Order Setting Procedural Conference, there has been a change in applicable law and there have been intervening Commission decisions in related cases since the parties filed recommendations regarding the procedure to be followed in this case on remand.

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.

Senate Bill 237¹ has now taken effect and the price cap statute, section 392.245 RSMo., has been significantly revised.

There is no evidence in the record in this case that bears upon the current state of competition in SBC's exchanges or that would otherwise be relevant to the inquiry required under the current version of the price cap statute. Likewise, SBC's pleadings do not conform to the new statute.

SBC recently sought and obtained relief under the new version of the price cap statute in Case Nos. TO-2006-0093 and TO-2006-0102. To the extent that such relief was granted or denied regarding the services mentioned above, such action has made this case moot. To the extent that SBC did not seek relief regarding the services mentioned above, it must do so under a future filing pursuant to the new version of the price cap

¹ CCS/HCS/SS/SCS/SB 237, 93rd General Assembly, First Regular Session (Mo. 2005).

statute and cannot do so based on the stale pleadings and evidence in this case. For just such reasons, SBC recently endorsed dismissal of Case No. TO-2005-0035.

To resolve this matter, within 10 days of the date of this Order, SBC shall file revised tariffs bearing 30-day effective dates that correctly reflect the status of the services mentioned above based on the decision of the Court of Appeals and the subsequent actions of the Commission in Case Nos. TO-2006-0093 and TO-2006-0102. In all exchanges where such services remain subject to price cap regulation as a result of these Court and Commission decisions, SBC shall revise its prices to the extent necessary to comply with the maximum prices that existed as of the January 6, 2002 effective date of the Commission's Report and Order herein, subject to any intervening adjustments to such maximum prices under the price cap statute in its respective versions applicable during such time period. Within such 10-day period, SBC shall file a pleading in this case justifying its tariff filing, including both rates that are changed and rates that are not changed for the services in question, together with copies of its compliance tariffs. Other parties shall have 10 days to review and respond to SBC's submittal. The Commission will then be able to make certain that appropriate tariffs are filed and dismiss this proceeding.