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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS  
Procedural Conference  
December 5, 2005  
Jefferson City, Missouri  
Volume 8

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

NANCY M. DIPPELL, Presiding,  
SENIOR REGULATORY LAW JUDGE.

REPORTED BY:  
KELLENE K. FEDDERSEN, CSR, RPR, CCR  
MIDWEST LITIGATION SERVICES

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## APPEARANCES:

PAUL G. LANE, General Counsel - Missouri  
ROBERT J. GRYZMALA, Senior Counsel  
AT&T Missouri  
One SBC Center, Room 3520  
St. Louis, MO 63101  
(314)235-4300

FOR: Southwestern Bell Telephone, LP  
d/b/a AT&T Missouri.

CARL J. LUMLEY, Attorney at Law  
Curtis, Oetting, Heinz, Garrett & O'Keefe  
130 South Bemiston, Suite 200  
Clayton, MO 63105-1913  
(314)725-8788

FOR: Nuvox Communications of Missouri,  
Inc.  
XO Communications Services, Inc.  
MCI Metro Access Transmission  
Services, LLC.  
MCI Communications Services, Inc.

CRAIG JOHNSON, Attorney at Law  
1648A East Elm  
Jefferson City, MO 65101  
(573)632-1900

FOR: NE Missouri Rural.

MICHAEL DANDINO, Deputy Public Counsel  
P.O. Box 2230  
200 Madison Street, Suite 650  
Jefferson City, MO 65102-2230  
(573)751-4857

FOR: Office of the Public Counsel  
and the Public.

WILLIAM K. HAAS, Deputy General Counsel  
P.O. Box 360  
200 Madison Street  
Jefferson City, MO 65102  
(573)751-3234

FOR: Staff of the Missouri Public Service  
Commission.

1 P R O C E E D I N G S

2 JUDGE DIPPELL: This is Case No.  
3 TO-2001-467, in the matter of the investigation of  
4 statewide competition in the exchanges of Southwestern  
5 Bell Telephone Company. My name is Nancy Dippell. I'm  
6 the Regulatory Law Judge assigned to this matter.

7 We've come here today for a procedural  
8 conference to talk about how or if this case needs to go  
9 forward, and that's basically why I called it. There's  
10 been a change in the law since this case was originally  
11 filed, decided, remanded. And given the last pleadings  
12 that were filed, there was some disagreement as to what  
13 needed to happen then. Since then, that law's become  
14 effective.

15 And so I just wanted to get you all  
16 together and see if there was some agreement on what  
17 needed to happen or, if not, at least lay out how we  
18 needed to go forward.

19 Mr. Lane, you're nodding. Does SBC --  
20 what's SBC's position on this, the status of this?

21 MR. LANE: We're planning -- and I can do  
22 it orally if you want. We're planning to move to dismiss,  
23 Judge, because of the change in law that's taken place  
24 since the case was remanded back.

25 JUDGE DIPPELL: Well, in that case we don't

1 really need to be here, then, unless you think there's  
2 still some things that need to be --

3 MR. LANE: I don't remember who's in the  
4 other case. We have another case where we also have the  
5 remand back.

6 JUDGE DIPPELL: Right. That's Judge Ruth  
7 is the judge.

8 MR. LANE: We have a different position on  
9 that because of the nature of the mandate and what was  
10 directed, and actually that's really -- I'm appearing  
11 because I wanted to make it clear that while we're going  
12 to move to dismiss this case because of the change in law,  
13 that a different issue is presented in our other case  
14 where the mandate specifically directs the Commission to  
15 approve some tariffs that were previously filed. And I'm  
16 willing to explain that to anybody that wants to hear it,  
17 but that's the reason that we're here.

18 JUDGE DIPPELL: I think I will want any  
19 motions in writing just so that the record is clear.

20 MR. LANE: I'll file one tomorrow.

21 JUDGE DIPPELL: And then, Mr. Lumley, will  
22 his motion to dismiss take care of your recent filing  
23 issues?

24 MR. LUMLEY: Well, we certainly agree that  
25 the case should be dismissed, but I think there is an

1 interim step that the Commission needs to make, and that's  
2 to verify that there aren't any rates for the group of  
3 services at issue, which is the private line, the  
4 intraLATA toll, the WATS 800, the special access and the  
5 specific operator services. The Court of Appeals rejected  
6 the release from price caps, and so they're still subject  
7 to price caps as of that moment.

8                   If there's rates above what that cap would  
9 be because SBC took advantage of the release in that  
10 period of time before the Court of Appeals decision, and  
11 if they have not subsequently been rereleased in certain  
12 exchanges under the new statute, they may need to conform  
13 their tariffs to have rates back under that cap. They  
14 should not be allowed to have rates in excess of the cap  
15 if they didn't get lawful relief here based on the Court  
16 of Appeals decision or lawful relief in the two new cases.

17                   So we think because of that, the Commission  
18 should make sure that they are in compliance. Other than  
19 that, we agree the case should not proceed.

20                   JUDGE DIPPELL: Mr. Lane, do you have any  
21 response to that?

22                   MR. LANE: I haven't read his motion,  
23 Judge. I guess in general tariffs that are in effect  
24 remain lawful until otherwise changed by some order of the  
25 Commission. In this case, I have no idea what all the

1 individual rates are, but subsequent events, most of our  
2 lines have been declared competitive in any event. So I  
3 don't think there's any need to take any other action at  
4 this point. But I haven't read his motion. Maybe I'll  
5 feel different.

6 JUDGE DIPPELL: I guess I got a little  
7 ahead of myself. We didn't do entries. You all did  
8 written entries of appearance, I'm certain.

9 MR. LANE: Well, you allowed me to avoid  
10 having to say who I represented. It would have been  
11 difficult.

12 JUDGE DIPPELL: I was wanting to know.  
13 That's right. I think the name has changed probably  
14 several times since the beginning of this case.

15 MR. DANDINO: How ironic.

16 MR. LANE: Yes.

17 JUDGE DIPPELL: Okay. Well --

18 MR. DANDINO: Your Honor, I just want to  
19 say, I agree with Mr. Lumley to the extent that I think  
20 that anything that was -- that the Court of Appeals  
21 ordered voided needs to go back. Even though it's most of  
22 their lines, I think these -- the Order in this case was  
23 addressed to some statewide services, and SBC so far they  
24 have not reclassified all their services in all their  
25 exchanges. There's still some exchanges that are still

1 under price cap. And at least I think if the company  
2 dismisses it, they at least have some verification or some  
3 statement that they are conforming all these to the -- the  
4 ones that were not changed to the price cap.

5 JUDGE DIPPELL: Mr. Lane, you may want to  
6 take more than just until tomorrow to file your motion.  
7 You may want to put some statement in your motion as to if  
8 those rates are -- what the status of each of those rates  
9 that were voided by the Court of Appeals is. I mean, if  
10 you choose not to do that, the Commission may order you to  
11 at a later date, depending on responses to your motion.  
12 But if you want to save everybody a little bit of time,  
13 you may want to figure that out ahead of time. It sounds  
14 like that's going to be an issue.

15 MR. LANE: All right. I'll have to read  
16 his motion. If you want me to respond to it, I can  
17 respond to it.

18 JUDGE DIPPELL: Is there anything else from  
19 any of the parties? Okay. Then seeing nothing further,  
20 we can go ahead and I'll be looking for a motion from  
21 Mr. Lane's client, some form of SBC, formerly SWBT, now  
22 maybe AT&T. All right. Thank you. We can go off the  
23 record.

24 WHEREUPON, the recorded portion of the  
25 procedural conference was concluded.

