

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of an Interconnection)	
Agreement between Southwestern Bell)	Case No. TO-2005-0287
Telephone, L.P., and Sage Telecom, Inc.)	

SAGE TELECOM, INC. AND SOUTHWESTERN BELL TELEPHONE, L.P.,
D/B/A SBC MISSOURI'S RESPONSE TO
THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION'S
RESPONSE TO ORDER DIRECTING FILING

On April 27, 2005, the Staff of the Missouri Public Service Commission ("Staff") filed its Response to Order Directing Filing ("Response"). In its Response, Staff states: "in Staff's opinion, certain provisions of the Local Wholesale Complete documents are discriminatory and against the public interest. The Stipulation and Agreement addresses these provisions; therefore, the Staff's favorable recommendation is dependant upon the Stipulation and Agreement." To be clear, Sage Telecom, Inc. ("Sage") and Southwestern Bell Telephone, L.P., d/b/a SBC Missouri ("SBC Missouri") disagree with Staff's conclusions with respect to the Local Wholesale Complete documents.

What Sage and SBC Missouri are requesting in this proceeding is that the Commission approve the "Missouri Amendment Superseding Certain 251/252 Matters to Interconnection Agreement Under Sections 251 and 252 of the Telecommunications Act of 1996" ("Missouri Amendment"). Since the Missouri Amendment now includes the changes urged by the Staff and NuVox and agreed to in the Stipulation and Agreement, no party to this proceeding is contending that the Missouri Amendment is discriminatory or not in the public interest and no party, including the Staff, is opposing Commission approval of the Missouri Amendment.

The one remaining dispute between the parties in this proceeding involves the Private Commercial Agreement for Local Wholesale Complete and the amendment thereto (collectively referred to as “the LWC Documents”). Specifically, that remaining dispute is whether the LWC Documents are subject to Commission review under Section 252(e).

For the reasons set forth in Sage’s and SBC Missouri’s Brief Regarding Issue 1, the LWC Documents do not purport to implement any of the requirements of Section 251 and, therefore, are not subject to the requirements of Section 252, including the filing requirements of Section 252(e)(1) and the MFN provisions of Section 252(i). Thus, the Commission need not and should not conduct an analysis as to whether the LWC Documents discriminate against a telecommunications carrier not a party to the agreement, or whether the LWC Documents are inconsistent with the public interest under Section 252(e)(2)(A)(i-ii). Nevertheless, Sage and SBC Missouri steadfastly do not believe that the LWC Documents discriminate against a telecommunications carrier that is not a party to the agreement or that the LWC Documents are inconsistent with the public interest.

Missouri currently is the only state in which Sage is not operating under the SBC/Sage multi-state LWC Agreement. The Commission should forthwith approve the Missouri Amendment so that Sage and SBC Missouri can implement its terms and conditions, as well as the LWC Documents, without the requirement of obtaining Commission approval of the LWC Documents. However, if the Commission for any reason determines that the LWC Documents or any part thereof is subject to Section 252, Sage and SBC Missouri respectfully request that the Commission forthwith approve the

LWC Documents or their pertinent parts under Section 252(e), subject to the provisions of the Stipulation and Agreement. The parties to this proceeding have agreed that the provisions of the Stipulation and Agreement would eliminate any possible issue of whether the LWC Documents are discriminatory or not in the public interest and, as indicated in the Stipulation and Agreement, Sage and SBC Missouri are willing to accept those provisions as a condition of approval of the Missouri Amendment and the LWC Documents under Section 252(e).¹

Respectfully submitted,

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¹ Sage and SBC Missouri fully reserve their respective rights to appeal or otherwise seek review of any such treatment and related determinations.

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties via e-mail on April 28, 2005.


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