

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

Birch Telecom of Missouri, Inc., AT&T)	
Communications of the Southwest, Inc.,)	
TCG Kansas City, Inc., and TCG St. Louis, Inc.,)	
NuVox Communications of Missouri, Inc.,)	
and XO Missouri, Inc.)	
)	Case No. TC-2003-0547
Complainants,)	(with Consolidated Case Nos.
)	XC-2003-0421 and
v.)	LC-2003-0570)
)	
Southwestern Bell Telephone, L.P.,)	
d/b/a SBC Missouri,)	
)	
Respondent.)	

JOINT MOTION TO SUSPEND ALL CASE PROCEEDINGS

Birch Telecom of Missouri, Inc. (“Birch”), AT&T Communications of the Southwest, Inc. (“AT&T”), TCG Kansas City, Inc. and TCG St. Louis, Inc. (collectively, “TCG”), XO Missouri, Inc. (“XO”) and Southwestern Bell Telephone, L. P., d/b/a SBC Missouri (“SBC Missouri”) hereby move the Commission to enter an order suspending all proceedings in this case for a period of thirty days following the date of the Commission’s order. In particular, as explained in greater detail below, the parties request that the Commission issue an order – before June 30, 2004, when the filing of direct testimony by the complainants is presently due – to (a) suspend the procedural schedule established in this case, (b) suspend the period within which Staff and SBC Missouri may respond to Birch’s, AT&T’s and TCG’s Motion for Summary Disposition, and (c) suspend the date by which SBC Missouri may respond to Birch’s, AT&T’s and TCG’s Motion for Suspension of Procedural Schedule. In support of this motion, the parties state as follows:

1. Birch, AT&T and TCG filed this case on June 9, 2003. On June 23, 2003, XO filed its own case (LC-2003-0570), which was later consolidated with this case.¹ Each of their complaints challenge certain aspects of SBC Missouri's collocation power charges.

2. The current procedural schedule was established by the Commission's April 1, 2004, Order Establishing Procedural Schedule. Under that schedule, the filing of direct testimony by the complainants is due June 30, 2004. The schedule concludes with a hearing on the merits presently set for October 26-29, 2004.

3. On June 16, 2004, Birch, AT&T and TCG filed a Motion for Summary Disposition pursuant to 4 CSR 240-2.117(1). On June 18, 2004, the Commission issued its Order Directing Filing in which it directed the Staff to file a response to the motion by not later than July 16, 2004. The Order Directing Filing also indicated that any other party could file a response to the motion by not later than July 16, 2004. The provisions of 4 CSR 240-2.117(1)(C) provide that a party may file a response to a motion for summary disposition not later than thirty days after the motion is served (which, as applied here, would likewise allow a response to be filed by not later than July 16, 2004).

4. On June 17, 2004, Birch, AT&T and TCG filed a Motion for Suspension of Procedural Schedule. The motion requested (at p. 2) that the schedule be suspended so that "this case can be processed pursuant to 4 CSR 240-2.117(1)," i.e., pursuant to the procedures governing motions for summary disposition. SBC Missouri's response to the motion is presently due June 28, 2004.

5. In the meantime, settlement discussions among the individual complainants, on the one hand, and SBC Missouri, on the other, commenced some time ago. More recently, these

¹ A similar case, XC-2003-0421, precipitated by NuVox Communications of Missouri, Inc.'s ("NuVox's") April 14, 2003 complaint, was consolidated with this case. NuVox's complaint was later resolved and voluntarily dismissed.

separate discussions have intensified and each complainant and SBC Missouri have continued to engage in earnest discussions and related efforts designed to resolve all issues presented by the various complaints filed in this case. The parties are confident, that given additional time, they can consummate settlements that will result in their dismissal of all complaints consolidated in this case. To that end, all parties to this motion submit that their resources would be far better expended if their attention can remain focused on striving for settlements, rather than participation in the various activities required by the procedural schedule and pending motions.

6. Counsel for SBC Missouri has spoken with the Commission's Staff Counsel, who indicated that Staff supports this motion.

WHEREFORE, Birch, AT&T, TCG, XO and SBC Missouri move the Commission to enter an order prior to June 30 that suspends all case proceedings for a period of thirty days following the date of the order. Specifically, the order sought by all parties should (a) suspend in its entirety the procedural schedule established in this case, (b) suspend the period within which Staff must respond (by the Order Directing Filing) and the period within which SBC Missouri may respond (both by the Order Directing Filing and the provisions of 4 CSR 240-2.117(1)(C)) to Birch's, AT&T's and TCG's Motion for Summary Disposition., and (c) suspend the date by which SBC Missouri may respond to Birch's, AT&T's and TCG's Motion for Suspension of Procedural Schedule. Further, all parties agree that following the period of suspension, they should provide a status report to the Commission indicating the status of the case and, to the extent necessary, proposing new dates for those suspended activities that remain necessary to conclude this case if it is not by then entirely resolved.

Respectfully submitted,

Katherine K. Mudge
SMITH, MAJCHER & MUDGE, L.L.P.
816 Congress Ave., Suite 1270
Austin, Texas 78701
Tel: (512) 322-9044
Fax: (512)322-9020

Rose Mulvany Henry
BIRCH TELECOM, Inc.
2020 Baltimore Avenue
Kansas City, Missouri 64108
(816) 300-3731 (voice)
(816) 300-3350 (fax)
rmulvany@birch.com

Rebecca B. DeCook
AT&T
1875 Lawrence Street, Suite 1575
Denver, Colorado 80202
(303) 298-6357 (direct)
(303) 298-6301 (fax)
decook@att.com

Mark W. Comley
Newman, Comley 7 Ruth P.C.
601 Monroe Street, Suite 301
Jefferson City, Missouri 65102
(573) 634-2266
(573) 636-3306 (fax)
comleym@ncrpc.com

By: /s/ Katherine K. Mudge (by rjg)
Katherine K. Mudge #14617600

ATTORNEYS FOR BIRCH TELECOM Ltd, L.P.,
AT&T COMMUNICATIONS OF THE SOUTHWEST,
INC., TCG KANSAS CITY, INC. AND TCG ST. LOUIS,
INC.

By: /s/ Carl J. Lumley (by rjg)
Carl J. Lumley, #32869
Leland B. Curtis, #20550
CURTIS, OETTING, HEINZ,
GARRETT & O'KEEFE, P.C.
130 S. Bemiston, Suite 200
Clayton, Missouri 63105
(314) 725-8788
(314) 725-8789 (Fax)
clumley@cohgs.com
lcurtis@cohgs.com

Attorneys for XO Missouri, Inc.

Southwestern Bell Telephone, L.P.,
d/b/a SBC Missouri

BY Robert J. Gryzmala
PAUL G. LANE #27011
LEO J. BUB #34326
ROBERT J. GRYZMALA #32454
MIMI B. MACDONALD #37606

Attorneys for SBC Missouri
One SBC Center, Room 3516
St. Louis, Missouri 63101
314-235-6060 (Telephone)
314-247-0014 (Facsimile)
robert.gryzmala@sbc.com

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this document was served on all counsel of record by electronic mail on June 24, 2004.

Robert J. Gryzmala
Robert J. Gryzmala