

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Application of)
NuVox Communications of Missouri, Inc. for)
an Investigation into the Wire Centers that) Case No. _____
AT&T Missouri Asserts are Non-Impaired)
Under the TRRO.)

NUVOX COMMUNICATIONS OF MISSOURI, INC.'S
APPLICATION FOR AN INVESTIGATION INTO THE WIRE CENTERS THAT
AT&T MISSOURI ASSERTS ARE NON-IMPAIRED
UNDER THE TRRO

NuVox Communications of Missouri, Inc. (herein "NuVox"), pursuant to Sections 386.250, 386.320, 386.330, 392.240, 4 CSR 240-2-060, the other statutes and rules governing the Public Service Commission, the Telecommunications Act of 1996 (including, without limitation, Sections 251 and 252 thereof) and Federal Communications Commission ("FCC") regulations and orders issued pursuant thereto, applies to the Missouri Public Service Commission (herein "Commission" or "PSC") for an investigation into the wire centers that AT&T Missouri alleges are non-impaired pursuant to the FCC's Triennial Review Remand Order.¹ In support of this Application, NuVox states as follows:

1. Pursuant to the statutes, rules and orders cited above, this Commission has the authority to supervise all public utilities, including telecommunications carriers, and to monitor their compliance with the law and the orders of the Commission. This Commission also has the power to hold investigations, inquiries and hearings.

2. On February 4, 2005, the FCC issued its *TRRO* in which it conditioned certain unbundling obligations under Section 251 of the Telecommunications Act relating to high-capacity UNE loops, dedicated interoffice transport and dark fiber on the specific characteristics of ILEC wire

¹ *In the Matter of Unbundled Access to Network Elements*, WC Docket No. 04-313 and *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338. (hereafter "TRRO"), rel'd February 4, 2005.

centers associated with those UNEs. Specifically, the FCC established impairment triggers which focus on the number of fiber-based collocators and the number of business access lines present in a specific wire center as indicia of the ability of CLECs to obtain facilities and services from providers other than the ILECs or to deploy their own facilities. The FCC concluded that CLECs are not impaired in the following instances:

- DS1 transport on routes connecting a pair of wire centers that both have at least four fiber-based collocators or at least 38,000 business access lines;²
- DS3 or dark fiber transport on routes connecting a pair of wire centers that both contain at least three fiber-based collocators or at least 24,000 business access lines;³
- DS1 capacity loops to any building within the service area of a wire center containing four or more fiber-based collocators and at least 60,000 business lines; and⁴
- DS3 capacity loops to any building within the service area of a wire center containing four or more fiber-based collocators and at least 38,000 business lines.⁵

3. On February 22, 2005, AT&T (t/k/a SBC) issued Accessible Letters to CLECs asserting that certain wire centers, including a number of wire centers located in Missouri, met the various non-impairment tests set forth in the *TRRO*. Thereafter on several occasions, including most recently on or about December 16, 2005 through a filing made at the FCC, AT&T modified its non-impaired wire center lists.⁶ The December 16 list represents AT&T's current identification of wire

² *TRRO* ¶ 66.

³ *Id.*

⁴ *TRRO* ¶ 5; 47 C.F.R. § 51.319(a)(4).

⁵ *TRRO* ¶ 5; 47 C.F.R. § 51.319(a)(5).

⁶ As a condition for approval of SBC's proposed merger with AT&T, the FCC required the applicants to perform a one-time recalculation of the number of fiber-based collocators to exclude pre-merger AT&T collocation arrangements established in SBC's region that were identified by pre-merger SBC as fiber-based collocators in wire centers where SBC/AT&T claimed there is no impairment pursuant to the UNE triggers in the *TRRO*. AT&T revised its identification of non-impaired wire centers, purportedly in a manner consistent with the FCC's order regarding SBC/AT&T's merger, and reported the new list of wire centers to the FCC on December 16, 2005.

centers it contends are non-impaired under the *TRRO* criteria, and a copy of this list is attached hereto as Exhibit 1.

4. CLECs are not required to accept the ILECs' identification of wire centers that are not impaired. Paragraph 234 of the *TRRO* expressly provides that CLECs have the right to submit self-certifications with the ILECs stating that, based upon reasonably diligent inquiry, the CLEC to the best of its knowledge believes that it is entitled to order high-capacity loops or transport circuits as UNEs. ILECs are required to provision UNEs ordered subject to such self-certifications, but they have the right to thereafter challenge CLECs' right to such UNEs through dispute resolution. Shortly after the *TRRO* was issued, NuVox self-certified its prospective orders for high-capacity loop and dedicated transport UNEs based on business line and fiber-based collocators data-by-wire center obtained from outside consultants. Thereafter, in August, 2005 AT&T triggered the dispute resolution provisions of its seven (7) interconnection agreements with NuVox with respect to NuVox's self-certification and AT&T's wire center designations.⁷ The dispute resolution process concluded in November, 2005, with a mutual acknowledgment that the parties had reached an impasse. The dispute resolution process confirmed that the parties have significant substantive differences of opinion regarding how business lines and fiber-based collocators should be counted under the FCC's definitions contained in the *TRRO* and accompanying rules. Moreover, within the dispute resolution process AT&T refused to provide NuVox access to data that NuVox considers essential – in light of its substantive position regarding counting under those definitions – to assess the impact those differences may have on AT&T's wire center classifications.

⁷ Initially AT&T failed to include NuVox's Missouri subsidiary and operations within the stated scope of the notice of dispute resolution for the other six (6) NuVox states in AT&T's incumbent local exchange service territory. Upon being advised of that oversight by NuVox, the parties mutually agreed to add NuVox's Missouri subsidiary to the process.

5. As noted above, the FCC in the *TRRO* conditioned certain unbundling obligations relating to high-capacity UNE loops and dedicated interoffice transport on the specific characteristics of ILEC wire centers associated with those UNEs, specifically focusing on the number of fiber-based collocators and the number of business lines present in a specific wire center. The data necessary to determine whether the specific characteristics of ILEC wire centers meet the FCC's impairment triggers, however, is in the possession of ILECs like AT&T. The FCC recognized that the information necessary to make impairment determinations is readily available to ILECs, but not necessarily to CLECs. As the FCC stated when describing the "fiber-based collocator" criteria:

Many *incumbent LECs* have been reviewing and maintaining this [fiber-based collocation] data for years in order to demonstrate eligibility for special access pricing flexibility. Indeed *the BOCs* have submitted into this record data and arguments tied to fiber-based collocation. Moreover, because most competitive LECs purchase some facilities or services from incumbent LECs . . . an *incumbent LEC* typically possesses significant aggregated information about competitors in its markets. Information regarding fiber-based collocation is *readily identifiable by incumbent LECs*, via review of billing records or physical inspection of central office premises.⁸

Given that the fiber-based collocation data on which the FCC relied was predominantly in the possession of ILECs, the FCC ensured that an ILEC's natural economic incentive to apply a self-serving interpretation of the wire center classification criteria would be countered by making the ILECs' wire center designations subject to verification and challenge by the CLECs. In the concluding sentence of the paragraph quoted above, the FCC held: "Moreover, incumbent LEC counts of fiber-based collocators can be verified by competitive LECs, which will also be able to

⁸ *TRRO* ¶ 100 (emphasis supplied).

challenge the incumbent's estimates in the context of section 252 interconnection agreement disputes.”⁹

6. To date, however, AT&T has refused to identify (even under a protective agreement) the entities that it claims satisfy the FCC's definition of fiber-based collocators in Missouri wire centers. NuVox and other individual CLECs have knowledge only of their own collocation arrangements, and must have a way to verify the existence (and appropriate classification) of other collocators before they can agree that AT&T's list is accurate. Moreover, NuVox is aware from its negotiations with AT&T and from contested proceedings in other states that AT&T is making its claims regarding fiber-based collocator and business line counts based on an incorrect interpretation of the *TRRO* – an interpretation that, not surprisingly, leads to elimination of substantially more UNEs than the FCC envisioned. The *TRRO* requires that CLECs “be able to challenge the incumbent's estimates” regarding non-impaired wire centers in “section 252 interconnection agreement disputes.”¹⁰ Similarly, the FCC contemplated that challenges to CLEC self-certification would occur in evidentiary proceedings arising out of the parties' interconnection agreement dispute resolution provisions.¹¹ In other states, ILECs *have* provided much more information to state commissions and CLECs than AT&T was willing to voluntarily provide here in Missouri. In the former Ameritech states, AT&T has been required to provide or has agreed to provide to CLEC parties the identity of the entities it claims are fiber-based collocators, under protective agreements, in proceedings in which its wire center designations are disputed. In Texas¹² and in Michigan,¹³ the

⁹ *Id.*

¹⁰ *Id.*

¹¹ *TRRO* ¶ 234.

¹² Texas Public Utility Commission Docket No. 31303, *Post-Interconnection Dispute Resolution Regarding Wire Center UNE Declassification*. The docket sheet and filings in the Texas proceeding are available electronically at <http://www.puc.state.tx.us>.

state commissions are each conducting a generic docket to address the accuracy of AT&T's initial wire center impairment designations. The first phase of the Texas proceeding, in which the Commission examined AT&T's counting of fiber-based collocators and business lines under the FCC's rules went to hearing in mid-January 2006 and the Texas Commission order ruling on those issues is expected later this month. A compliance proceeding thereafter will be conducted to verify that AT&T Texas has designated wire centers in conformance with the Texas Commission's rulings.

7. In Michigan, in accordance with the Michigan Commission's order establishing a process for resolving wire center designation disputes, SBC Michigan (now AT&T Michigan) challenged Covad Communications Company's self-certification for UNE loops in one wire center.¹⁴ As part of its direct case in that dispute, SBC Michigan provided the type of information NuVox and other CLECs will need to address the issues in this proceeding. SBC Michigan provided the names of the carriers that it had designated as fiber-based collocators in the disputed wire center under a protective order which allowed counsel of record and witnesses a copy of the specific information.¹⁵ In Missouri, however, AT&T has refused to provide such information to NuVox despite repeated requests during the informal dispute resolution process.¹⁶ Subsequently, the Michigan Commission

¹³ *In the matter, on the Commission's own motion, to commence a collaborative proceeding to monitor and facilitate implementation of Accessible Letters issued by SBC Michigan and Verizon*, Case No. U-14447, Order Denying Motion, December 20, 2005.

¹⁴ *In the matter, on the Commission's own motion, to commence a collaborative proceeding to monitor and facilitate implementation of Accessible Letters issued by SBC Michigan and Verizon*, Case No. U-14447, Order and Notice of the Adoption of a Dispute Resolution Procedure 6-7 (Mar. 29, 2005).

¹⁵ See Case No. U-14447, Joint Affidavit of Carol A. Chapman, Robert G. Bryan, and Patricia L. Constable In Support of SBC Michigan's Challenge to the Self-Certification of Covad Communications Company and CBeyond Communications With Respect to the Dearborn Fairborn Wire Center, Schedule 4 (filed April 8, 2005). Schedule 4 is designated as Highly Sensitive Proprietary Information, but was provided to the parties of record, subject to the terms of the protective order (a copy of the Schedule was given to counsel of record (for use in their offices) and witnesses were given access to the information through their counsel of record).

¹⁶ NuVox notes that in the Michigan *TRRO* wire center designation proceeding, there were over 25 CLEC parties to the proceeding – all of which received the same information as long as they signed the protective order.

ordered that the accuracy of all of AT&T Michigan's wire center designations would be determined in a generic proceeding, and it required AT&T Michigan to provide the identity of the entities counted as fiber-based collocators in its wire centers and ruled that it would verify AT&T Michigan's count through on-site visits.¹⁷

8. Throughout the former Ameritech states, as part of the arbitration processes that have resulted in amendments to CLECs' interconnection agreements with the AT&T ILECs incorporating the FCC's Triennial Review Order¹⁸ and *TRRO*, the amendments specify that in a dispute regarding wire center designation, AT&T will provide to CLECs the detailed information on which it relied in designating wire centers as non-impaired. And, in the negotiation of a successor agreement to the A2A in Arkansas, AT&T and NuVox agreed to incorporate certain contract language developed by AT&T ILECs and CLECs in the Ameritech states, including language obligating AT&T to provide that underlying detail.¹⁹ As a result of this language and orders entered in Michigan and elsewhere in the Ameritech region, in the vast majority of states in which AT&T is the incumbent LEC, CLECs have or will have access to the detailed information on which AT&T relies in making its wire center designations, including the identity of fiber-based collocators.

9. In the neighboring BellSouth region, the ILEC and CLECs have worked together in a collaborative process to better identify the disputes over fiber-based collocator designations and

¹⁷ *In the matter, on the Commission's own motion, to commence a collaborative proceeding to monitor and facilitate implementation of Accessible Letters issued by SBC Michigan and Verizon*, Case No. U-14447, Order Denying Motion, December 20, 2005.

¹⁸ *See In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, CC Docket No. 01-338, et al. (Aug. 21, 2003).

¹⁹ "In the event of a dispute following CLEC's Self-Certification, upon request by the Commission or CLEC, AT&T ARKANSAS will make available, subject to the appropriate state or federal protective order, and other reasonable safeguards, all documentation and all data upon which AT&T ARKANSAS intends to rely, which will include the detailed business line information for the AT&T ARKANSAS wire center or centers that are the subject of the dispute." Attachment UNE 6, Section 1.5.4, of the interconnection agreement between NuVox Arkansas and AT&T Arkansas.

BellSouth agreed to provide such information (identification of designated fiber-based collocators by wire center) under a protective order that limited review of the data to CLEC counsel and consultants.²⁰ An affiliate of NuVox is involved in the BellSouth generic *TRRO* implementation proceedings where this process has been in place. NuVox believes that BellSouth's willingness to share basic information regarding its wire center designations has resulted in an efficient process that promotes the exchange of relevant information.

10. In Missouri, however, the complete set of numbers and names of the fiber-based collocators, and the detailed information behind the business line count in each wire center is currently ONLY available to AT&T Missouri. So far, including during the NuVox-AT&T dispute resolution process, AT&T has permitted only restricted, on-site review to limited supporting information, which is insufficient for NuVox or other CLECs to make adjustments to the data that would be consistent with reasonable interpretations of business line and fiber-based collocator definitions of the *TRRO*. The Commission's opening of an investigation will be the only way for CLECs and the Commission to gain meaningful access to underlying data to determine the validity of AT&T's classifications. In fact, reasonable access to the information relied upon by AT&T Missouri may actually resolve disputes and minimize the need to present issues regarding claims of non-impairment to the Commission.

11. As discussed above, AT&T has exclusive possession of much of the information needed for the Commission to verify AT&T's designation of its wire centers as Tier 1, Tier 2 or Tier

²⁰ See, e.g., *In Re: Petition to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting From Changes of Law*, Docket No. 041269-TP, Competitive Carriers of the South, Inc. Second Request for Production of Documents (No. 2) to BellSouth Telecommunications, Inc. (Sept. 26, 2005); *In Re: Generic Proceeding to Examine Issues Related to BellSouth's Obligations to Provide Unbundled Network Elements*, Docket No. 19341-U, CompSouth's First Set of Data Requests (Nos. 1-12) to BellSouth Telecommunications, Inc., Interrogatory No. 6 (July 12, 2005). NuVox is in possession of these pleadings and will provide them to the Commission if further detail on the BellSouth process would be helpful in this proceeding.

3 and as non-impaired with respect to high-capacity loops and transport circuits in Missouri. If AT&T were using that information to make the “objective” determinations it claims to have made, the parties’ disputes would likely be much narrower. That is not the case: in other states, AT&T has advocated theories of how to count “fiber-based collocators” and “business lines” that vastly inflate the number of wire centers that meet the FCC’s non-impairment criteria. Unless the Commission orders otherwise, AT&T will continue to apply its overly aggressive, self-serving reading of the FCC’s *TRRO* to inappropriately deny CLECs access to UNEs in wire centers the FCC did not intend to be de-listed. For example, AT&T over-counts “fiber-based collocators” by counting single CLEC fiber networks multiple times. AT&T achieves this result by counting any CLEC that is merely cross-connected to a fiber-based collocator in a wire center as an independent fiber-based collocator. The Michigan Commission specifically rejected SBC (now AT&T) Michigan’s attempt to count single networks multiple times. In the proceeding cited above, the Michigan Commission ruled that:

The arrangement in which one CLEC cross connects to the facilities of another CLEC that is a fiber-based collocator does not increase the number of fiber-based collocators for purposes of this analysis. See 47 C.F.R. 51.5. Contrary to SBC’s arguments, the issue is not ownership, but rather control and operation of fiber facilities. There is no support for finding that this arrangement includes fiber to the collocation cage of the CLEC that cross-connects to the CLEC that does control and operate fiber facilities. Because there are only three fiber-based collocators at the Dearborn Fairborn wire center, the wire center is impaired. . . .²¹

12. In its *TRRO*, the FCC ruled that once a wire center has been determined to be non-impaired for high-capacity loops and transport circuits, its designation cannot be reversed even if the classification criteria cease to be met.²² Thus, it is essential that the initial wire center designations in Missouri be in compliance with the FCC’s rulings in the *TRRO*. Moreover, if AT&T did not have the ability – absent Commission intervention – to implement its overreaching de-listing of UNEs, the

²¹ *In the Matter, on the Commission’s Own Motion, to Commence a Collaborative Proceeding to Monitor and Facilitate Implementation of Accessible Letters Issued by SBC Michigan and Verizon*, Michigan Public Service Commission Docket U-14447, Order at 11 (September 20, 2005).

²² 47 C.F.R. §§ 51.319(a)(4)(i), 51.319(a)(5)(i) and 51.319(e)(3)(i).

CLECs' problem would not be so acute. Given that the *TRRO* permits AT&T to gather the data and issue its own list of where wire centers are non-impaired, however, it is critical for the methodology used by AT&T to be one the Commission has reviewed and approved. Without such review, AT&T would have undue control over the availability of UNEs in Missouri, contrary to what the FCC provided in the *TRRO*. Thus, NuVox urges the Commission to perform the dual roles in this proceeding of weighing the specific facts regarding particular wire centers and ruling on whether the methods AT&T is using to identify non-impaired wire centers are compliant with the *TRRO*.

13. In addition to the Texas, Michigan and BellSouth-region cases discussed above, a number of other states have proceedings pending with the purpose of considering these same issues concerning the proper methods and counting of business lines and fiber-based collocators and, ultimately, the correct wire center classifications under the *TRRO*. Investigatory cases, such as that NuVox requests here, have been launched in Illinois²³, Indiana²⁴ and Ohio²⁵, while complaint cases have been filed by AT&T against NuVox in Arkansas²⁶, Kansas²⁷ and Oklahoma²⁸. Additionally, BellSouth's wire center classifications were recently litigated in the TRO/TRRO change of law cases that are now being decided. These same issues need to be addressed by the Missouri Commission in order to ensure that the list of AT&T Missouri non-impaired wire centers is not excessive and comports with a reasonable reading of the *TRRO*, and to establish a clear and appropriate understanding of the method for how "business lines" and fiber-based collocators" will be counted for any additional Missouri wire center classifications that AT&T Missouri may seek to implement in the future.

²³ Illinois Commerce Commission Docket No. 06-0029.

²⁴ Indiana Utility Regulatory Commission Cause No. 22986.

²⁵ Public Utilities Commission of Ohio Case No. 05-1393-TP-UNC.

²⁶ Arkansas Public Service Commission Docket No. 05-140-C

²⁷ Kansas Corporation Commission Docket No. 06-SWBT-743-COM.

²⁸ Oklahoma Corporation Commission Cause No. PUD 200600034.

14. While the Commission's Arbitration Order in Case No. TO-2005-0336 addresses some issues relative to the non-impairment analysis, the order does not address how the parties should qualify the underlying data AT&T uses to make determinations of the number of fiber-based collocators and business line counts.²⁹ The most pertinent sections of the approved Interconnection Agreement between AT&T Missouri and NuVox incorporate the self-certification requirements of paragraph 234 of the *TRRO* and provides for dispute resolution. For example, with respect to high-capacity loops, the parties' interconnection agreement provides as follows:

CLEC shall undertake a reasonably diligent inquiry to determine whether an order for a DS1 or DS3 UNE loop intended to be used to serve a new customer (i.e. ordered on or after March 11, 2005 and, therefore, not part of CLEC's embedded customer base) satisfies the availability criteria set forth in Section 4.7.1. above prior to submitting its order to SBC Missouri. SBC Missouri has posted and will post a list to its CLEC-Online website, identifying the wire centers where DS1 and DS3 UNE Loops are Declassified under Sections 4.7.1.1 and 4.7.1.2, above, and those Sections shall apply. For situations where SBC Missouri's posted list does not identify a wire center(s) relevant to CLEC's order for DS1 or DS3 UNE Loop(s), CLEC shall self-certify, if requested to do so by SBC MISSOURI, that based on that reasonable inquiry it is CLEC's reasonable belief, to the best of its knowledge, that its order satisfies the criteria in Section 4.7.1 as to the particular UNE(s) sought. SBC MISSOURI shall provision the requested DS1 and DS3 loop in accordance with CLEC's order and within SBC MISSOURI's standard ordering interval applicable to such loops. SBC MISSOURI shall have the right to contest such orders, and CLEC's ability to obtain requested DS1 and DS3 UNE Loop only after provisioning, by notifying CLEC in writing of its dispute and, if the Parties are unable to resolve the dispute to both Parties' satisfaction within 30 days of SBC Missouri's written dispute notice, either Party may directly pursue any available legal or equitable remedy for resolution of the dispute. If the Parties determine through informal dispute resolution or if it is otherwise determined in a legally binding way (i.e. the determination has not been stayed pending appeal, if an appeal is being pursued) that CLEC was not entitled to the provisioned DS1 or DS3 UNE Loop, the rates paid by CLEC for the affected Loop shall be subject to true-up and CLEC shall be required to transition from the UNE DS1 or DS3 Loop to an alternative service/facility within 30 days of such determination. If CLEC does not transition the Loop within the 30 day period, then SBC MISSOURI may disconnect the loop or convert it to an analogous service.³⁰

²⁹ See, *Southwestern Bell Telephone, L.P., d/b/a SBC Missouri's Petition for Compulsory Arbitration of Unresolved Issues for a Successor Interconnection Agreement to the Missouri 271 Agreement ("M2A")*, Arbitration Order issued July 11, 2005, Mo. PSC Case No. TO-2005-0336.

³⁰ Attachment UNE 6, Section 4.7.3. See also, e.g., Sections 10.10.3 and 10.10.4 that address self-certification for high-capacity transport circuits and Section 5.5.1 regarding dark fiber.

On information and belief, the same, similar or analogous provisions are set forth in AT&T Missouri's interconnection agreements with other CLECs. On information and belief, AT&T Missouri has violated the provisions of the Agreement by including wire centers on its posted list that do not meet the FCC's criteria.

15. The decisions which the Commission will make in this case will affect not only NuVox, but all carriers – both those currently operating and those which enter the market in the future – whose business plans involve use of high-capacity loops and/or dedicated transport to serve Missouri customers. If AT&T Missouri is permitted to implement methods and practices which over-count business lines and/or fiber-based collocators, the elimination of UNEs will be broader than what would result from a reasonable implementation of the *TRRO*'s requirements, and UNE-based competition will be artificially restricted and the public interest will be harmed. Because the Commission's decisions on these issues will affect multiple carriers and competition generally, a generic investigation where all interested parties can participate is an appropriate procedural vehicle.

16. Thus, NuVox requests that this Commission open a proceeding whereby this Commission and interested parties can review AT&T Missouri's designation of its wire centers as Tier 1 or Tier 2, and its designation of wire centers as non-impaired. In such proceeding, NuVox urges that the Commission first determine what methodology correctly counts "fiber-based collocators" and "business lines" under the FCC's rules set forth in the *TRRO*. NuVox urges that the Commission issue a protective order in this proceeding that establishes procedures that allow NuVox and intervening parties reasonable access to the data supporting AT&T's wire center designations as non-impaired for high-capacity loops and transport. NuVox urges that, after the Commission determines the proper methodology for counting fiber-based collocators and business lines, it conduct a verification proceeding to ensure that AT&T Missouri has conducted its counts correctly.

Last, the Commission should establish clear procedures under which AT&T Missouri can seek to add wire centers to the initial list established in this case.

17. NuVox is a competitive facilities-based telecommunications company duly incorporated and existing under and by virtue of the laws of the State of Delaware and authorized to do business in the State of Missouri as a foreign corporation. Its principal Missouri offices are currently located at 16090 Swingley Ridge Road, Suite 500, Chesterfield, Missouri 63017. NuVox is an authorized provider of intrastate switched and non-switched local exchange and interexchange telecommunications services in Missouri under certificates granted and tariffs approved by the Commission. NuVox is also an authorized provider of interstate telecommunications services in Missouri under the jurisdiction of the FCC. A certificate of authority to conduct business in Missouri is attached hereto as Exhibit 2 and incorporated herein by this reference.

18. All communications and pleadings in this case should be directed to:

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19. NuVox does not have any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or customer rates, which action, judgment, or decision has occurred within three years of the date of this Application.

20. NuVox does not have any overdue annual reports or assessment fees.

WHEREFORE, this Commission should grant the relief requested by this Application and:

- A. Open an investigation into the issues regarding AT&T Missouri's assertions that certain Missouri wire centers are non-impaired under the *TRRO* for high-capacity loops, high-capacity transport circuits and dark fiber transport circuits;
- B. Make NuVox and AT&T Missouri parties and provide notice and an opportunity to intervene to all Missouri CLECs and any other interested party;
- C. Conduct proceedings to establish an appropriate interpretation of "fiber-based collocater" and of "business line" for the purposes of determining non-impairment under the *TRRO*;
- D. Subject to the terms of a standard protective order, require AT&T Missouri to provide to NuVox, Commission Staff and any intervenors under a proprietary classification reasonably recent supporting data for each wire center that AT&T Missouri asserts is non-impaired;
- E. Determine the initial list of AT&T Missouri's truly non-impaired wire centers;
- F. Establish procedures under which AT&T Missouri may seek in the future to designate additional wire centers as non-impaired subsequent to the Commission's determination of AT&T Missouri's wire centers established in this case; and,
- G. Grant such additional relief as may be consistent with the public interest.

Respectfully submitted,

/s/ Carl J. Lumley

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ATTORNEYS FOR NUVOX COMMUNICATIONS OF
MISSOURI, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served upon the parties on the attached list by either U.S. Mail, fax, or email on this 17th day of March, 2006

/s/ Carl J. Lumley

Carl J. Lumley

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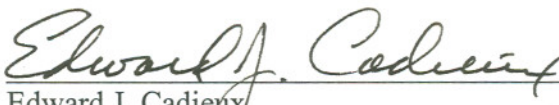
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STATE OF MISSOURI)
)
COUNTY OF ST. LOUIS) SS.


VERIFICATION

I, Edward J. Cadieux, first being duly sworn, state on my oath that I am over the age of twenty-one years, sound of mind, and the Executive Director, Regulatory and Public Affairs of NuVox Communications of Missouri, Inc. I am authorized to act on behalf of NuVox Communications of Missouri, Inc. regarding the foregoing Application. I have read the Application and I am informed and believe that the matters contained therein are true. Further, I hereby confirm that Carl J. Lumley, Leland B. Curtis, and Curtis, Heinz, Garrett & O'Keefe, P.C., 130 S. Bemiston, Suite 200, Clayton, Missouri 63105, are authorized to sign all pleadings and documents necessary to obtain the decision of the Missouri Public Service Commission on the foregoing Application, and to represent NuVox Communications of Missouri, Inc. in this proceeding.


Edward J. Cadieux

On this 17th day of March, 2006, before me, a Notary Public, personally appeared Edward J. Cadieux, and being first duly sworn upon his oath stated that he is over twenty-one years, sound of mind and the Executive Director, Regulatory and Public Affairs of NuVox Communications of Missouri, Inc., he signed the foregoing document as Executive Director, Regulatory and Public Affairs of NuVox Communications of Missouri, Inc., and the facts contained therein are true and correct according to the best of his information, knowledge and belief.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year above-written.


Notary Public

My Commission Expires:

