

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

In the Matter of the Application of NuVox)	
Communications of Missouri, Inc. for an)	
Investigation into the Wire Centers that AT&T)	Case No. TO-2006-0360
Missouri Asserts are Non-Impaired Under the)	
TRRO)	

**AT&T MISSOURI’S REPLY TO STAFF’S AND
THE CLECS’ RESPONSES TO THE
COMMISSION’S ORDER DIRECTING FILING**

AT&T Missouri¹ files this reply to the Staff’s and the CLECs’ September 12, 2007, responses to the Commission’s August 31, 2007, Order Directing Filing (“Order”).

SPRINGFIELD TUXEDO WIRE CENTER ISSUES

Staff suggests that if the Commission does not count NuVox as a Fiber-Based Collocator (“FBC”) in the Springfield Tuxedo wire center, “the issue becomes whether the Springfield wire center meets the Tier 2 criteria for business lines.”² Staff’s response is not quite correct.

For purposes of the March, 2005 wire center list, Springfield Tuxedo qualified as a Tier 1 wire center on the strength of four FBCs. It is correct to say that if the collocation arrangement AT&T Missouri identified as NuVox’s is not counted as an FBC, the question for purposes of that list becomes whether the wire center qualifies for Tier 2 status (it cannot qualify as Tier 1 because its business line count was beneath the 38,000 line threshold). However, the Commission could resolve this issue merely by determining that, while the collocation arrangement AT&T Missouri identified as NuVox’s may not count as an FBC, the wire centers’ three remaining FBCs (i.e., the collocation arrangements of pre-merger AT&T and two

¹ Southwestern Bell Telephone Company d/b/a AT&T Missouri (“AT&T Missouri”).

² Staff’s Response, p. 2.

unaffiliated carriers) still allow the wire center to qualify for Tier 2 status (without any need to address business line issues). That is because the Tier 2 “either/or” test requires three FBCs or 24,000 business lines. In other words, even if the Commission does not agree that the collocation arrangement AT&T Missouri identified as NuVox’s qualifies as an FBC, it could -- but does not necessarily have to -- decide whether Springfield Tuxedo wire center meets the Tier 2 criteria for business lines.

A different approach is required for purposes of the December, 2005 list. This list both reduced the number of Springfield Tuxedo FBCs from four to three (due to excluding pre-merger AT&T) and re-classified the wire center to Tier 2 status. Tier 2 status can be sustained merely on the strength of the number of FBCs (i.e., the collocation arrangement AT&T Missouri identified as NuVox’s, and the arrangements of two unaffiliated carriers). If the collocation arrangement AT&T Missouri identified as NuVox’s is not counted for purposes of this list, however, AT&T Missouri agrees that whether the wire center can be classified as a Tier 2 wire center depends on the business line count, since a count of 2 FBCs yields no “non-impairment” consequence.

AT&T Missouri disagrees with the CLECs’ assertion that NuVox’s having been counted as an FBC by AT&T Missouri necessitates the Commission’s consideration of the parties’ “collo-to-collo” arguments.³ First, as AT&T Missouri explained, whether its FBC counts and resulting Tier classifications were correct have nothing to do with the parties’ collo-to-collo arguments, since none of AT&T Missouri’s wire center classifications rested on an FBC count which included a collo-to-collo arrangement.⁴ Second, FBC designation for the collocation arrangement AT&T Missouri identified as NuVox’s was warranted for three independent reasons

³ CLECs’ Response, p. 4.

⁴ AT&T Missouri’s Response, pp. 3, 4; *see also*, AT&T Missouri’s Post-Hearing Brief, p. 22.

(the undisputed results of AT&T Missouri's 2005 physical inspection; NuVox's own description of its arrangement as of October, 2006; and, NuVox's identification of a third party). None of these reasons implicates the parties' collo-to-collo arguments.⁵

The CLECs are incorrect in suggesting that regardless of whether the Commission accepts either their or AT&T Missouri's business line counts recommendations, the Commission will be required to consider the "data vintage" issue (Issue A(3)).⁶ As explained above, the Commission need not reach any business line count issues in connection with this wire center, because Tier 1 status for purposes of the March, 2005 list (and Tier 2 status for purposes of the December, 2005 list) can be sustained merely by a correct count of FBCs. If, however, the Commission does reach business line issues, this wire center is properly regarded as a Tier 2 wire center for purposes of the March, 2005 list (and both later lists) based on the line count as of December 31, 2003 (which accounts for digital equivalence), because that count exceeds the 24,000 threshold. Moreover, Tier 2 status is sustained by accounting for digital equivalence alone, without reaching the data vintage question, because both 2003 and 2004 data yield a line count exceeding the 24,000 threshold.⁷

In sum, AT&T Missouri agrees with Staff that the Commission should first answer Issue B(3). If its answer is in the affirmative (thus counting the collocation arrangement AT&T Missouri identified as NuVox's as an FBC in this wire center), it should answer Issue C by finding that AT&T Missouri correctly identified the wire center as a Tier 1 wire center in March,

⁵ AT&T Missouri's Post-Hearing Brief, pp. 20-21.

⁶ CLECs' Response, p. 3.

⁷ AT&T Missouri's Response, p. 6. While Issue A(1) asks whether the business line count should include all UNE-L lines or only UNE-L lines used to provide switched service to business end users, AT&T Missouri's references to the word "all" in its September 12 Response to the Commission's Order accounts for digital equivalence as well (i.e., capacity, not usage), which encompasses Issue A(2), pursuant to the FCC's Rule 51.5 (47 C.F.R. § 51.5). As AT&T Missouri explained, "[i]t is undisputed that AT&T Missouri does not know -- much less report -- the use to which a CLEC may put a UNE loop." AT&T Missouri's Post-Hearing Brief, p. 10.

2005, and it should answer Issues C and F by finding that AT&T Missouri correctly re-classified the wire center as a Tier 2 wire center in December, 2005. Each answer is justified by relying merely on the FBC count (without consideration of the parties' collo-to-collo arguments).

ST. LOUIS LADUE WIRE CENTER ISSUES

Staff suggests that the Commission address all three business line count issues with respect to this wire center. AT&T Missouri would merely note that if the Commission answers Issues A(1) and A(2) in the affirmative, it need not proceed to answer the "data vintage" question presented by Issue A(3) because, as AT&T explained, both 2003 and 2004 data yield a line count exceeding the 38,000 threshold.⁸

OTHER ISSUES

AT&T Missouri agrees with the CLECs that the Commission should address Issue C (whether AT&T Missouri correctly identified 14 wire centers as Tier 1 wire centers in March, 2005).⁹ Indeed, while the "methodology" questions presented in Issues A and B are important, Issue C is also important, for two reasons. First, the March, 2005 wire center list presented in connection with Issue C is a direct result of AT&T Missouri's application of the methodology used to counts FBCs and business lines (i.e., Issues A and B). Second, the list included "pre-merger AT&T" FBCs, yet this inclusion has been challenged by the CLECs (but not Staff) and the inclusion is also the subject of Issues D (whether the March, 2005 list was properly updated in December, 2005) and Issue F (whether multiple lists should be approved).

AT&T Missouri did not interpret the Order as inviting argument, only identification of which issues the Commission should decide. However, in reply to the CLECs' arguments regarding the five "pre-merger AT&T" FBCs, AT&T Missouri merely notes that in connection


⁸ See, AT&T Missouri's Response, pp. 7-8.

⁹ CLECs' Response, p. 1.

with Issues C, D and F, it fully explained why these wire centers were properly identified in March, 2005, and properly re-classified in December, 2005.¹⁰ AT&T Missouri also explained that should the Commission rule in favor of AT&T Missouri on Issue C, it could then determine that Issues D and F are matters that the CLECs should take up with the FCC, since both issues involve whether the SBC/AT&T merger commitments made to that agency were met.¹¹ The CLECs have always been free to do just that, but for reasons only they know, have declined to do so.

Respectfully submitted,

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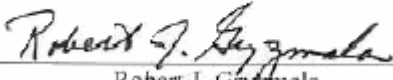
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¹⁰ AT&T Missouri's Post-Hearing Brief, pp. 22-23, 24-25; AT&T Missouri's Post-Hearing Reply Brief, pp. 13-15. AT&T Missouri has noticed an error at page 24 of its Post-Hearing Brief. The reference to "2006" as the last word in the last line of the brief (immediately preceding the conclusion) is incorrect. The reference should be to "2005" since the issue involves the "March 11, 2005 and December 16, 2005" lists. There was no December 16, 2006 list.

¹¹ AT&T Missouri's Response, p. 3.

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on September 24, 2007.


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