

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

NUVOX COMMUNICATIONS)
OF MISSOURI, INC., ET AL.,)
)
V.)
)
SOUTHWESTERN BELL)
TELEPHONE, L.P. D/B/A)
SBC MISSOURI.)

Case No. TC-2004-0600

**RESPONSE OF SBC MISSOURI TO NOTICE OF
VOLUNTARY DISMISSAL OF COMPLAINT**

COMES NOW Southwestern Bell Telephone, L.P. d/b/a SBC Missouri ("SBC Missouri") and for its response to the Notice of Voluntary Dismissal of Complaint filed by NuVox Communications of Missouri, Inc., Victory Communications, Inc., Socket Telecom, LLC, MCImetro Access Transmission Services, LLC, The Pager Company d/b/a The Pager and Phone Company, Birch Telecom of Missouri, Inc., Xspedius Communications, LLC, AT&T Communications of the Southwest, Inc., TCG St. Louis, Inc., and TCG Kansas City, Inc. (collectively "Joint CLECs") states as follows:

1. The Joint CLECs filed their Notice of Voluntary Dismissal of Complaint on July 19, 2004, just 41 days after filing their Complaint and Request for Immediate Orders Preserving the Status Quo and Prohibiting Discontinuance of UNE Services ("Complaint") and their separate Motion for Expedited Treatment. The Joint CLECs previously filed a Withdrawal of Motion for Expedited Treatment on June 14, 2004.

2. SBC Missouri does not object to the Joint CLECs' dismissal of their Complaint. Pursuant to the provisions of 4 CSR 240-2.116(1), the Joint CLECs are permitted to withdraw their Complaint without seeking approval of the Commission. SBC Missouri does, however, object strenuously to the Joint CLECs' continued attempts to portray SBC Missouri as failing to meet obligations under its interconnection agreements and to the scurrilous and unsupported

accusations made by the Joint CLECs. As the Joint CLECs are well aware, the Complaint was devoid of any factual support and should never have been filed in the first instance. Rather than simply admitting that the Complaint was baseless, the Notice of Withdrawal is accompanied by the same stream of unsupported accusations that comprised the Complaint.

3. In its Notice of Voluntary Dismissal, the Joint CLECs assert that they were “compelled to file such complaints by SBC’s threats to unilaterally and abruptly change the manner in which provided UNEs to Joint CLECs” and that “SBC has backed off from its threats to unilaterally and abruptly walk away from its contractual commitments.”¹ Joint CLECs conclude their Notice of Withdrawal with the threat to “file a new Complaint with the Commission in the event SBC resurrects its threats to violate these commitments and disrupt Missouri telecommunications.”²

4. The Joint CLECs continue to follow their long-standing tradition of unsupported accusations. Contrary to their claims, however, SBC Missouri never asserted that it would take unilateral action in disregard of its existing, effective interconnection agreements. To the contrary, SBC Missouri has consistently made clear that, upon issuance of the mandate in United States Telecom Ass’n v. FCC, 359 F.3d 554 (D.C. Cir. 2004) (“USTA II”), it would continue to adhere to its interconnection agreements, including applicable change of law provisions. In its Response to Complaint and Request for Immediate Orders (“Response”), SBC Missouri pointed out that the Joint CLECs provided no facts in support of their claims that SBC Missouri had made “unlawful, abusive and anti-competitive threats to terminate UNE services.”³ SBC Missouri explained that the Joint CLECs had provided no factual support because none existed. In its Response, SBC Missouri detailed the actions that the SBC ILECs had taken since the issuance of the mandate in

¹ Notice of Voluntary Dismissal of Complaint, paras. 1, 4.

² Id. at para. 5.

³ Response at pp. 2-3 citing Complaint at p. 1.

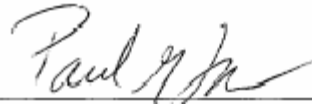
USTA II to advise the Federal Communications Commission (“FCC”) and CLECs that the SBC ILECs would continue to provide wholesale services without disruption.⁴ SBC Missouri also detailed its commitment to continue to provide mass market UNE-P, loops and high-capacity transport between SBC offices without unilaterally increasing the applicable state-approved prices for these facilities at least through the end of the year.⁵

5. The regulatory process is not well served by the baseless carping of the Joint CLECs. Neither SBC Missouri’s nor the Commission’s resources should be utilized to respond to complaints and demands for expedited treatment that are totally lacking in any factual foundation. The Commission should keep Joint CLECs’ conduct here in mind when evaluating their complaints in other proceedings.

WHEREFORE, SBC Missouri provides this Response to the Joint CLECs’ Notice of Voluntary Dismissal.

Respectfully submitted,

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⁴ Id. at p. 3.

⁵ Id. at p. 4.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this document was served on all counsel of record by electronic mail on July 22, 2004.



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