

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

In the Matter of Southwestern Bell Telephone)	Case No. TT-2002-472
Company's Tariff Filing to Initiate Residential)	Tariff No. 200200831
Customer Winback Promotion)	

In the Matter of Southwestern Bell Telephone)	Case No. TT-2002-473
Company's Tariff Filing to Initiate Business)	Tariff No. 200200828
Customer Winback Promotion)	

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
RESPONSE TO STAFF'S PROPOSED LIST OF ISSUES
AND TO RESPONSE TO STAFF'S PROPOSED LIST OF ISSUES FILED
ON BEHALF OF NUVOX COMMUNICATIONS OF MISSOURI, INC., MCIMETRO
ACCESS TRANSMISSION SERVICES, L.L.C.,
BROOKS FIBER COMMUNICATIONS OF MISSOURI, INC. AND
MCI WORLD COM COMMUNICATIONS INC.**

Comes now Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company ("SWBT") and, for its Response to Staff's Proposed List of Issues and Response to Staff's Proposed List of Issues Filed on Behalf of NuVox Communications of Missouri, Inc. ("NuVox"), MCI metro Access Transmission Services, L.L.C. ("MCI metro"), Brooks Fiber Communications of Missouri, Inc. ("Brooks"), and MCI WorldCom Communications ("MCIWC"), Inc.¹, states as follows:

1. On August 13, 2002, the Staff of the Missouri Public Service Commission ("Staff") filed its Proposed List of Issues. Staff noted that NuVox and WCOM filed a pleading proposing three issues.² Staff further noted that it agreed that the first two issues should be included in the list of issues to be heard in this case because "the first two questions address the purpose for which this consolidated case was created."³ Staff, however, disagreed with the

¹ MCI metro, Brooks, and MCIWC will be collectively referred to as WCOM.

² Staff's Proposed List of Issues, paragraph 3.

³ Id. at paragraph 4.

inclusion of the third question in the list of issues as it "is beyond the scope of this case, i.e., to determine whether the two specific tariff filings should be approved."⁴

2. SWBT agrees with Staff. As SWBT indicated in its Response to Proposed List of Issues Filed on Behalf of NuVox and WCOM, SWBT adamantly objects to Proposed issue number 3 as it is beyond the scope of the docket as established by the Missouri Public Service Commission ("Commission"). In its Order Further Suspending Tariff and Directing Notice, TT-2002-472, April 18, 2002, the Commission stated: "the Commission has decided to further suspend SWBT's tariff, as permitted by Section 392.230.3 RSMo. 2000, to allow the Commission an opportunity to determine whether it will also have an adverse effect on competition." The Commission included this same language in its Order Further Suspending Tariff and Directing Notice, Case No. TT-2002-473, April 18, 2002, which have since been consolidated.

3. Quite simply, this proceeding was established to consider whether two specific promotional tariffs proposed by SWBT should be approved. This proceeding is not a general examination of SWBT's marketing, pricing, or operational practices. Nor is it a proceeding to consider a proposed rule concerning winback offers which would apply equally to all local exchange carriers ("LECs"). Nowhere in any of the Commission's orders has it indicated that this docket was opened to investigate SWBT's winback and retention practices, including but not limited to SWBT's alleged use of CPNI and wholesale disconnect information. Further, SWBT does not even have a retention tariff at issue in this proceeding. While the CLECs may desire such a proceeding, they may not unilaterally expand the scope of this docket beyond the scope established by the Commission.

⁴ Id.

4. SWBT does not object to Staff's proposed order of witnesses to appear on each day of the hearing at this time. SWBT notes, however, that it will have a third witness who will be filing Surrebuttal Testimony. SWBT would like that witness to testify first. SWBT does not object to Staff's proposed order of cross-examination.

5. NuVox and WCOM claim that the third question "by definition cannot be beyond the scope of this case as Staff asserts, as it expressly asks whether another case should be opened." The Missouri Public Service Commission should not be misled by NuVox's and WCOM's claims. NuVox's and WCOM's proposed issue number 3 states:

Should the Commission commence an investigation regarding SWBT's winback and retention practices, including but not limited to SWBT's use of CPNI and wholesale disconnect information?

At the outset, SWBT notes that NuVox's and WCOM's proposed issue number 3 assumes facts not in evidence; specifically that SWBT uses CPNI and wholesale disconnect information and further proposed issue number 3 implies that SWBT uses such information in an inappropriate manner. Further, Staff is correct when it states "if the Commission is of the opinion that Southwestern Bell Telephone Company's retention and winback practices warrant an investigation, the Commission may, of its own motion, open an investigation under §386.330.1 RSMO. 2000."⁵ The Staff is also correct when it states "[a]lternatively, a party may file a complaint against SWBT under §386.330.2 RSMo 2000."⁶ Finally, for the reasons discussed in paragraphs 2 and 3 above, NuVox's and WCOM's proposed issue number 3 is beyond the scope of the docket.⁷

⁵ Id. at paragraph 5.

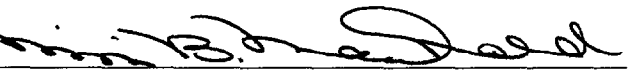
⁶ Id.

⁷ NuVox's and WCOM's allegation that witnesses propose further investigation of SWBT's retention and winback policies and practices proves nothing other than paper does not refuse ink. Just because WCOM proposes such action in its testimony does not mean that it is an issue that the Commission should consider in this action because, as evidenced above, this issue is beyond the scope of the docket.

Wherefore, Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company prays the Commission order that the List of Issues include issue numbers 1 and 2 as proposed by NuVox and WCOM, but strike issue number 3 as proposed by NuVox and WCOM as issue number 3 is beyond the scope of this docket, together with any additional and further relief the Commission deems just and proper.

Respectfully submitted,

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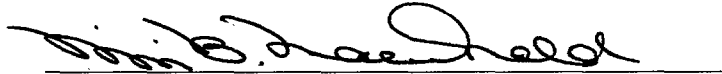
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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail and/or via hand-delivery on August 21, 2002.



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