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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
TRANSCRIPT OF PROCEEDINGS

Prehearing

March 16, 2004  
Jefferson City, Missouri  
Volume 2

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

KENNARD L. JONES, Presiding  
REGULATORY LAW JUDGE

REPORTED BY: Monnie S. VanZant, CCR, CSR, RPR  
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A P P E A R A N C E S

For Staff of the Missouri Public Service Commission:

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For Birch Telecom of Missouri, aT&T Communications of the  
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1 P R O C E E D I N G S

2 JUDGE JONES: Okay. We can go ahead  
3 and go on the record. Good morning. This is  
4 Case No. TC-2003-0547. Today is February --  
5 or March -- I don't even know.

6 MR. LUMLEY: 16th.

7 JUDGE JONES: March 16th. Thank  
8 you. And the time is about 10:00. My name is  
9 Kennard Jones. I'm the Judge presiding over  
10 this matter. First, let's be clear, NuVox  
11 Communications I've dismissed from the -- from  
12 the case. They aren't -- are they represented  
13 here today?

14 MR. LUMLEY: I was their attorney.  
15 But, yeah, NuVox is out of the case.

16 JUDGE JONES: NuVox. Is that how  
17 it's pronounced?

18 MR. LUMLEY: Yes.

19 JUDGE JONES: XO Missouri also --

20 MR. LUMLEY: Yes.

21 JUDGE JONES: -- still in the case?

22 MR. LUMLEY: Yes.

23 JUDGE JONES: As is Birch Telecom of  
24 Missouri, Incorporated, AT&T Communications of  
25 Southwest and TCG of both St. Louis and Kansas

1 City?

2 MR. COMLEY: That's correct.

3 JUDGE JONES: Okay. Well, this is a  
4 prehearing conference in this matter. And as  
5 you all know, that creates an opportunity for  
6 you all to settle. But -- and I don't know  
7 how busy you've been with other cases, but  
8 probably had ample time to -- to work towards  
9 settling the matter. If not, then you have  
10 this room for the day in order to work towards  
11 that end. I have just a -- a couple -- a few  
12 questions. I know that NuVox's dismissal had  
13 -- had something to do with an interconnection  
14 agreement that needed to be approved by the  
15 Commission. Has that happened?

16 MR. LUMLEY: Yes, it has.

17 JUDGE JONES: Okay.

18 MR. LUMLEY: If you want that  
19 reference on the record, that was Case  
20 XK-2004-0221.

21 JUDGE JONES: And I also know that  
22 our prehearing conference was put off because  
23 of TO-2004-0207. Are all of you involved in  
24 that case?

25 MR. LUMLEY: Yes.

1 MR. COMLEY: (Mr. Comley nods head.)

2 JUDGE JONES: Is that still impeding  
3 your ability to move forward with this one?

4 MR. LUMLEY: No. I don't --

5 MR. COMLEY: I wouldn't think so.

6 MR. LUMLEY: As long as we have a  
7 sufficient amount of time, you know, prior to  
8 hearing. It --

9 JUDGE JONES: All right.

10 MR. LUMLEY: That case is kind of up  
11 in the air at the moment.

12 JUDGE JONES: Well, I should --  
13 before I go any further, I don't want to  
14 forget to do that. I should have you all  
15 enter your appearances on the record starting  
16 with staff of the Commission.

17 MR. MEYER: David Meyer, Bruce Bates  
18 for the Staff of the Missouri Public Service  
19 Commission. Our address is P.O. Box 360,  
20 Jefferson City, Missouri 65102.

21 JUDGE JONES: Mr. Lumley?

22 MR. LUMLEY: Good morning. Carl  
23 Lumley of the Curtis Law Firm at 130 South  
24 Bemiston, Suite 200, Clayton, Missouri, 63105,  
25 appearing on behalf of XO Missouri, Inc.

1 JUDGE JONES: Mr. Comley?

2 MR. COMLEY: Judge, thank you. Mark  
3 W. Comley, Newman, Comley & Ruth, 601 Monroe  
4 Street, Jefferson City, Missouri, appearing on  
5 behalf of all the complainants except XO  
6 Missouri. Birch Telecom of Missouri, AT&T  
7 Telecommunications of the Southwest, and TCG  
8 of Kansas City and St. Louis.

9 JUDGE JONES: Thank you. And you,  
10 sir?

11 MR. GRYZMALA: Good morning, your  
12 Honor. Bob Gryzmala, One SBC Center, Room  
13 3516 in St. Louis, 63101, representing  
14 Southwestern Bell Telephone LP, d/b/a SBC  
15 Missouri.

16 JUDGE JONES: Thank you. And I'll  
17 note for the record that the Office of Public  
18 Counsel is not present. So it sounds like you  
19 all intend to go through with the hearing?

20 MR. LUMLEY: Well, speaking for XO,  
21 other parties on a multi-state basis are still  
22 working diligently to settle the dispute  
23 between XO and SBC and remain optimistic that  
24 we'll be settled, but -- so we need to get a  
25 schedule in place in case it's not.

1 JUDGE JONES: Okay. Have you all  
2 talked about any discovery or witnesses or  
3 anything along the lines of proceeding with  
4 the hearing?

5 MR. COMLEY: Well, we've talked  
6 preliminarily about a schedule that we could  
7 jointly propose.

8 JUDGE JONES: Okay.

9 MR. GRYZMALA: Right.

10 JUDGE JONES: And I take it you may  
11 work on that today?

12 MR. COMLEY: Yes.

13 JUDGE JONES: And do you just need  
14 today in order to be able to file a proposed  
15 procedural schedule?

16 MR. COMLEY: I would suggest that we  
17 take about a week before we file it. I've got  
18 some people that need to review it that are  
19 not in the hearing room today. And I wanted  
20 to make sure and confirm that their schedules  
21 would permit the discovery that's anticipated  
22 as well as the proposed hearing dates.

23 JUDGE JONES: Okay. Well, if I --  
24 if I set hearing date of March 31st for a  
25 proposed procedural schedule, would that be

1                   enough time?

2                               MR. COMLEY:  Certainly.

3                               MR. LUMLEY:  Yes.

4                               JUDGE JONES:  Okay.  We'll set that  
5                   date.  Is there anything else you all needed  
6                   to discuss on the record?

7                               MR. GRYZMALA:  No, your Honor.

8                               JUDGE JONES:  Okay.  I'll leave you  
9                   to your work.  And you all have a -- have a  
10                  good day.

11                               MR. LUMLEY:  Thank you.

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