

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

XO MISSOURI, INC.)	
)	
V.)	Cause No. LC-2003-0570
)	
SOUTHWESTERN BELL)	
TELEPHONE, L.P. D/B/A)	
SBC MISSOURI.)	

MOTION TO CONSOLIDATE

COMES NOW XO Missouri, Inc. ("XO"), pursuant to 386.390.2 RSMo and 4 CSR 240-2.110(3) and for its Motion to Consolidate states to the Commission as follows:

1. XO has herein filed a complaint against Southwestern Bell Telephone, L.P. d/b/a SBC Missouri ("SBC"). In its complaint, XO describes serious unlawful, abusive and anticompetitive practices by SBC regarding collocation services.

2. As explained in XO's complaint, SBC has acted unlawfully and in bad faith by suddenly deciding to ignore years of established business practices and unilaterally reinterpret existing tariff language in an attempt to double charge for collocation power consumption and related HVAC both prospectively and retroactively.

3. Birch Telecom of Missouri, Inc., AT&T Communications of the Southwest, Inc., TCG Kansas City, Inc., and TCG St. Louis, Inc. have also filed a complaint regarding the same illegal conduct by SBC. Their complaint has been assigned Case No. TC-2003-0547.

4. NuVox Communications of Missouri, Inc. has also filed a complaint regarding the same illegal conduct by SBC. Its complaint has been assigned Case No. XC-2003-0421.

5. Section 386.390.2 RSMo. provides that "all matters upon which complaint may be founded may be joined in one hearing."

6. Rule 4 CSR 240-2.110(3) provides that "when pending actions involve related questions of law or fact, the commission may order a joint hearing of any or all the matters at issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay."

7. The complaints filed by XO, Birch, AT&T, the TCG companies, and NuVox against SBC all concern the same misconduct by SBC and involve the same issues of fact and law under SBC's collocation tariff. It is possible that the CLECs will use at least some of the same expert witnesses if the cases are consolidated. It is also likely that the same personnel will testify for SBC, Staff and OPC regarding each of the complaints. It will be more efficient for all parties and the Commission to consolidate these actions and hold a joint hearing. Consolidation will avoid unnecessary costs and delay.

WHEREFORE, XO respectfully requests the Commission to consolidate this case with Case Nos. TC-2003-0547 and LC-2003-0570.

CURTIS, OETTING, HEINZ,
GARRETT & O'KEEFE, P.C.

/s/ Carl J. Lumley
Carl J. Lumley, #32869
Leland B. Curtis, #20550
130 S. Bemiston, Suite 200
Clayton, Missouri 63105
(314) 725-8788
(314) 725-8789 (FAX)
clumley@cohgs.com
lcurtis@cohgs.com

Attorneys for XO Missouri, Inc.

Certificate of Service

A true and correct copy of the foregoing was served upon the parties identified on the attached service list on this 26th day of August, 2003, by placing same in the U.S. Mail, postage paid, by email and/or by fax transmission.

/s/ Carl J. Lumley

Office of Public Counsel
P.O. Box 7800
Jefferson City, Missouri 65102
Fax 573-751-5562

Office of General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102
Fax 573-751-9285

Legal Department
Southwestern Bell Telephone Company
One Bell Center, Room 3520
St. Louis, Missouri 63101-1976
314-247-0014