KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9600

FACSIMILE

(202) 955-9792

www.kelleydrye.com

NEW YORK, NY
TYSONS CORNER, VA
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DIRECT LINE: (202) 887-1248

EMAIL: rbuntrock@kelleydrye.com

August 6, 2003

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: WC Docket No. 03-167: Errata to Opposition of NuVox Communications, Inc.

Dear Ms. Dortch:

Immediately after electronically filing its comments in the above referenced proceeding, NuVox Communications, Inc. ("NuVox") discovered a typographical error on page six of it comments. Specifically, the last sentence of page six should read as follows: "*It is on this level of power consumption that SBC bills NuVox the applicable Power Consumption MRC on **600** amps per collocation.*" (foot note omitted). The incorrect version read "60 amps per collocation."

Accordingly, NuVox hereby provides a corrected version of its comments with the corrected page six, and requests that you substitute this version of the filing for the version filed electronically earlier today. Please contact the undersigned at (202) 887-1248 if you have any questions regarding this transmittal.

Sincerely,

Ross A. Buntrock

Ross A. Buntrock

DC01/BUNTR/208811.1

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
The Application By SBC Communications Inc.	)	WC Docket 03-167
For Authorization Under Section 271 Of	)	
The Communications Act To Provide In-Region,	)	
InterLATA Service In The States Of Illinois	)	
Ohio, Indiana, and Wisconsin	)	

OPPOSITION OF NUVOX COMMUNICATIONS, INC.

Brad E. Mutschelknaus
Ross A. Buntrock
KELLEY DRYE & WARREN LLP
1200 19th Street, N.W., Fifth Floor
Washington, D.C. 20036
(202) 955-9600
(202) 955-9792 (facsimile)

Edward J. Cadieux, Vice President,
Regulatory – Midwest Region
NUVOX COMMUNICATIONS, INC.
16090 Swingley Ridge Road, Suite 500
Chesterfield, Missouri 63017
(636) 537-5743

Dated: August 6, 2003

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OPPOSITION OF NUVOX COMMUNICATIONS, INC.

NuVox Communications Inc. ("NuVox"), by its undersigned counsel, hereby respectfully submits these comments in response to the Commission's Public Notice requesting comments in the above-captioned proceeding.[1] The Public Notice invites interested parties to respond to the Application of SBC Communications ("SBC") to provide in-region interLATA services in the states of Illinois, Indiana, Ohio and Wisconsin pursuant to section 271 of the Communications Act of 1934, as amended (the "Act").

I. INTRODUCTION AND SUMMARY

NuVox is a facilities-based competitive local exchange carrier ("CLEC) and integrated communications services provider, providing voice, data, broadband internet access,

[1] *Comments Requested on the Application by SBC Communications Inc. for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the States of Illinois, Indiana, Ohio and Wisconsin*, Public Notice WC Docket No. 03-167, DA 03-2344 (July 17, 2003).

long-distance and related communications services to small and medium-sized business customers in thirty markets across thirteen Southeastern and Midwestern states, including in the states of Ohio, Indiana and Illinois in SBC's (former) Ameritech region.[2] NuVox's primary service is its bundled voice/broadband internet access product. NuVox also offers stand-alone voice and stand-alone broadband internet access services. All of these products utilize leased T-1 loops or T-1 loop/transport combinations (i.e., "Enhanced Extended Links," otherwise known as "EELs") to connect customers to NuVox's digital voice and ATM data switching platforms.

In these comments, NuVox opposes SBC's Application for Section 271 relief in Indiana and Ohio. In the experience of NuVox, SBC has failed, and continues to fail, to satisfy competitive Checklist item one,[3] which requires SBC to provide equal-in-quality interconnection to NuVox on terms and conditions that are just, reasonable and nondiscriminatory, in accordance with the terms and conditions of the interconnection agreement between the parties and according to the requirements of sections 251 and 252 of the Act. Specifically, SBC has unilaterally imposed unreasonable and anticompetitive conditions upon NuVox's use of its collocation facilities, and has employed anticompetitive and unreasonable collocation provisioning and billing practices in violation of the terms and conditions and procedures set forth in the interconnection agreement governing the parties relationship.[4] NuVox submits that SBC's collocation provisioning and billing practices contravene the interconnection agreement

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2 In the states of Ohio and Indiana NuVox operates through its wholly-owned subsidiaries, NuVox Communications of Ohio, Inc., and NuVox Communications of Indiana, Inc., respectively.

3 47 U.S.C. § 271(c)(2)(B)(i).

4 NuVox has filed complaints against SBC before the Indiana Utility Regulatory Commission and the Public Utility Commission of Ohio in connection with SBC's imposition of unreasonable and anticompetitive collocation terms and conditions.

between the parties, and constitute a violation of Sections 251 and 252 of the Act. Accordingly, SBC is in violation of Checklist item one, and should be denied relief under Section 271.

II. NUVOX MAKES EXTENSIVE USE OF COLLOCATION IN SBC INDIANA AND SBC OHIO AND SBC'S BILLING PRACTICES ARE NOT ONLY ILLEGAL, BUT FINANCIALLY BURDENSOME

Collocation in ILEC central offices is an essential component of NuVox's business plan. Indeed, NuVox maintains nearly 200 collocations system-wide, primarily in SBC and BellSouth central offices.[5] In SBC territory, NuVox has a total of ninety-seven (97) collocations, forty-five (45) of which are located in SBC central offices in Akron, Columbus, and Dayton, Ohio and Indianapolis, Indiana. These collocations allow NuVox to combine UNE T-1 loop facilities leased from the ILEC and aggregate traffic onto transport facilities connecting to NuVox's switches.

NuVox constructed its collocations in SBC Ohio and SBC Indiana central offices during calendar year 2000, and the collocations have thereafter operated continuously, supporting NuVox's provision of voice and broadband Internet access services to Ohio and Indiana business customers. However, NuVox's use of these collocations has been burden by a financial cloud resulting from SBC's unreasonable and anticompetitive collocation billing and provisioning practices.[6] SBC's unlawful billing practices, as detailed herein, have grossly inflated the charges SBC assesses for the power to NuVox's collocated equipment in SBC collocations.

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5 NuVox also has collocations in Cincinnati Bell and AllTel central offices.

6 NuVox also has a single collocation in an SBC Illinois central office. Power charges for that collocation are not at issue since, pursuant to Illinois Commerce Commission order, SBC bills for that power via a pure usage-based (i.e., per kilowatt hour used) charge.

To understand why SBC's practice of billing NuVox (and other competitors) for both fused and unfused collocation power is unlawful, it is first necessary to understand how power is supplied from ILEC central office power distribution systems to CLEC collocations. ILECs provide power to CLEC collocations via the use of dual feed pairs – i.e., paired "A" and "B" feeds, fused at specified levels (for example, 30 amps). Power is provisioned via dual feeds in order to provide redundancy – i.e., to permit continuity of service in the event the power flow in either of the feeds of a matched pair is interrupted. In Ohio and Indiana, SBC assesses the applicable monthly recurring Power Consumption per fuse/amp charge on 100% of "A" feed amps *plus* 100% of the "B" feed amps for all dual feed pairs.[7] Furthermore, SBC assesses the Power Consumption monthly recurring charge ("MRC") even to power feeds that have *never been fused and have never supplied any power to NuVox's equipment.*[8]

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[7] These rates are set by the applicable interconnection agreements as approved by the state commissions. The charges at issue are described as, "Power Consumption/per fuse amp" or "Power Consumption – per DC fuse amp." Currently, the applicable SBC Ohio rate is $6.96, and the applicable SBC Indiana rates is $6.09.

[8] At the time NuVox was constructing its Ohio and Indiana collocations, SBC (via its predecessor, Ameritech) also engaged in certain provisioning practices that exacerbate the overcharging for collocation power. These practices included: (a) Ameritech's refusal to permit CLECs to deploy – via the standard collocation application process -- their own power distribution panels within their collocation spaces. (Applications for such "distributed power arrangements" were confined to an amorphous and unworkable "non-standard application" process which provided no certainty to CLECs regarding price, construction timelines, or even whether the arrangement would ultimately be allowed at all); and, (b) A requirement that power feeds be sized at 150% of the maximum rated capacity of the equipment to be served (rather than the 125% standard followed by other ILECs). Because time was of the essence for facility-based CLEC market entry, NuVox had no practical choice but to operate under the limitations Ameritech dictated. After NuVox's collocations had been constructed and equipped and the power supply arrangements had already been implemented, both of these Ameritech practices were corrected in late 2000. But having forced NuVox into a highly inefficient power supply arrangement, Ameritech then erected an additional barrier which, at the time, effectively prevented NuVox from taking advantage of the modified SBC policies. Ameritech achieved this by insisting that any conversion to a distributed power

. . . *Continued*

In most of its 45 collocations in SBC central offices in Ohio and Indiana, NuVox has equipment deployed and draws power from three sets of dual (A/B) 30 amp power feeds and one set of dual (A/B) 50 amp power feeds, for a total 140 amps of redundant power in each collocation.[9] Each month, SBC has billed NuVox for 280 amps of power on these feeds – i.e., SBC has applied the collocation power MRC to 100% of the A feed amps *plus* to 100% of the B feed amps. Additionally, in most of NuVox's collocations in SBC central offices in Ohio and Indiana there are multiple non-fused power feeds that run from SBC's Battery Distribution Fuse Board ("BDFB") to NuVox's collocation space. With Ameritech's encouragement, NuVox ordered these feeds in anticipation of future growth which ultimately did not materialize.

In most of NuVox's collocations, the power capacity of the non-fused feeds -- if they had ever been fused – would be 160 amps redundant – i.e., several sets dual feed pairs totaling 160 amps on the A side and 160 amps on the B side. NuVox has never requested that these feeds be fused and, in fact, they have never been fused. They are not terminated to any equipment in NuVox's collocation spaces, *nor have they ever been supplied with any power whatsoever*. Nevertheless, SBC has billed the Power Consumption MRC on all of these "non-

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arrangement be accompanied by a "mining-out" of the to-be deactivated power feeds (i.e., those that terminated directly into NuVox's equipment bays), with all costs of the rearrangement to be borne by NuVox. At the time, the additional one-time costs for such a rearrangement on 45 collocations was estimated to be in the neighborhood of $1 million – an additional cost that NuVox could not accommodate in its start-up phase of facilities-based operations.

9 Recently, in an effort to reduce the rate of growth of the disputed amount, NuVox has embarked on a power reconfiguration program (and incurred the associated one-time charges) that will eliminate the non-fused feeds and reduced the fused amp capacity in each of the 45 collocations to one dual set of 50 amp feeds with power distributed via NuVox's own power distribution panel. However, NuVox anticipates that SBC will continue its practice of billing even this reconfigured power arrangement on 100% of the A feed amps plus 100% of the B feed amps (i.e., SBC will apply the Power Consumption MRC to 100 amps rather than 50 amps, thus continuing to inflate the cumulative amount of unauthorized charges.

fused amps," on 100% of what would be the A feeds amps *plus* 100% of what would be the B feed amps. Thus, in addition to its unlawful and unreasonable billing practices with respect to fused amps, for most of the 45 collocations at issue in Indiana and Ohio, SBC is also billing NuVox for 320 amps of fictional, i.e., non-fused/ unused power.

In total, each month SBC bills NuVox the Power Consumption MRC on 600 amps for each of the collocations at issue. NuVox began disputing the excessive power charges in April 2001. NuVox consistently pays SBC the undisputed amounts for collocation power, but withholds the remainder.[10] NuVox engaged in dispute resolution discussions with SBC regarding these matters over a period of nearly two years without success, whereupon NuVox filed complaints at the Public Utilities Commission of Ohio and the Indiana Utilities Regulatory Commission seeking redress under the applicable interconnection agreements.

The actual level of power demand that NuVox's collocation equipment draws from SBC's central office power systems in Ohio and Indiana is significantly lower than the 140 amps of fused redundant power feeds that terminate to NuVox equipment. Recent power metering measurements confirm that NuVox's actual peak power demand in the vast majority of these 45 collocations is in the 5 to 15 amp range, with the highest power demand for any single collocation at 21 amps. *It is on this level of power consumption that SBC bills NuVox the applicable Power Consumption MRC on 600 amps per collocation.*[11]

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10 The amount in dispute has grown to approximately $4.3 million, over 90% of which is directly attributable to SBC's billing practices with respect to fused and non-fused power feeds as described herein. Approximately $500,000 of the disputed amount has been deposited in an escrow account, as demanded by SBC.

11 There has been no indication from SBC that it has ever tested to measure the actual level of demand being placed on its central office power systems by NuVox's collocated equipment. SBC apparently considers actual power demand to be irrelevant to the question of how a Power Consumption MRC demand charge should be billed.

SBC claims that it is justified in billing NuVox for both fused and unfused feeds since each of the individual power feeds of a dual feed pair are *theoretically capable* of supplying a level of power equal at their full capacities in amps. That is, the Power Consumption MRC should, in SBC's view, be billed at 100% of A feed amps plus 100% of the B feed amps, because the CLEC has reserved that amount of power.[12] In other words, for a 30 amp dual feed pair serving a particular equipment bay, SBC's approach is that since the A and B feeds theoretically could supply their full 30 amps each, the Power Consumption MRC should be billed on 60 amps, rather than 30 amps.

SBC's ludicrous justification for double billing for power completely ignores the fundamental concept of redundancy in the power supply connections between the ILEC central office power distribution system and the CLEC collocation space. Sound engineering practices – and SBC's own central office and collocation technical requirements[13] – dictate that power be conveyed from the ILEC BDFB to the CLEC collocation space in a redundant manner in order to reduce the potential for major service-affecting power disruptions.[14] However, as set forth

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12 *See In the Matter of Application by SBC Communications* Inc, WC Docket No. 03-16, Reply Affidavit of Scott J. Alexander Regarding Wholesale Policy Issues at ¶¶ 7-11 (SBC "must, in effect be prepared to provide the full capacity of both leads and must manage power demands on it power plant facilities based on that parameter....the fact that [CLECs] may not have continuously drawn power from the "B" lead it ordered does not relieve it from its obligation to pay for the power capacity it has effectively reserved.")

13 *See*, Section III, *infra.*

14 Contrary to the implication of SBC's position, there is nothing inconsistent between this core redundancy principle and the fact that manufacturers of collocated equipment configure the units in a manner that splits the power draw over both feeds of a dual feed pair (i.e., rather than drawing the entire load solely from one feed and only shifting any load to the second feed in the event the first feed fails). Whether the load is split or not, the redundancy of the dual feed pair is maintained so long as the fused amp capacity of each feed is sufficient to carry the full load of the associated CLEC equipment if either load fails. With particular reference to NuVox's situation, the actual peak demand

. . . *Continued*

below, SBC's stated collocation engineering and technical standards regarding collocation power differ significantly from SBC's collocation power billing practices, at least as applied to CLECs.

III. SBC'S POWER BILLING PRACTICES ARE UNREASONABLE, UNLAWFUL AND VIOLATE THE INTERCONNECTION AGREEMENT BETWEEN THE PARTIES AND CHECKLIST ITEM ONE

Section 271(c)(2)(b)(i) of the Act requires a Section 271 applicant to provide "[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1)."[15] Section 251(c)(2) imposes a duty on incumbent LECs "to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network . . . for the transmission and routing of telephone exchange service and exchange access."[16]

Section 251 contains three requirements for the provision of interconnection. First, an incumbent LEC must provide interconnection "at any technically feasible point within the carrier's network."[17] Second, an incumbent LEC must provide interconnection that is "at least equal in quality to that provided by the local exchange carrier to itself."[18] Finally, the

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exerted by its equipment is so low compared to the fused amp capacity of either of the individual feeds of each dual feed (fused) pair that -- by an extremely wide margin – redundancy is clearly maintained. Moreover, SBC's approach has no applicability whatsoever to the non-fused power feeds, since they have never supplied NuVox any power and are incapable of supplying power unless they were to be fused by SBC at NuVox's request.

15 47 USC § 271(c)(2)(B)(i); *see Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, Memorandum Opinion and Order, FCC 99-40415 FCC Rcd at 3977-78, para. 63 (Bell Atlantic New York Order); *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640, ¶ 61; *Ameritech Michigan Order*, 12 FCC Rcd at 20662, ¶ 222.

16 47 USC §251(c)(2)(A).

17 47 USC §251(c)(2)(B).

18 47 USC §251(c)(2)(C).

incumbent LEC must provide interconnection "on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, *in accordance with the terms of the agreement* and the requirements of [section 251] and section 252."[19] Thus, in order to demonstrate compliance with item one of the competitive Checklist, a BOC must show that it is complying with each of the three prongs of Section 251. SBC, by the manner in which it bills NuVox for fused and unfused collocation power, is in effect unilaterally amending the terms, conditions and billing procedures agreed upon by the parties in their interconnection agreements between the parties in Indiana and Ohio, and thereby failing to provide interconnection to NuVox on a just reasonable and nondiscriminatory basis, *in accordance with the agreement between the companies.*

As explained above, SBC Ohio and SBC Indiana have billed the Power Consumption MRC to NuVox on 100% of fused "A" feed amps *plus* 100% of the fused "B" feed amps for all dual feed pairs that are connected to NuVox collocated equipment. However, SBC's own documents demonstrate that this practice is directly contrary to its collocation cost studies and to its own explicit central office and collocation technical requirements.

In its responses to discovery in NuVox's Ohio Complaint case, SBC has indicated that the basis for the collocation power charges it is billing NuVox is found in filings made with this Commission by Ameritech in 1994. Specifically, SBC refers to FCC Transmittal No. 819.[20] In the supporting documentation submitted as part of that Transmittal SBC defines the "Power Consumption" MRC as the rate element that:

> recovers the cost of commercial AC power and AD(sic)/DC power conversion equipment associated with 48 volt DC power consumed

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19 §251(c)(2)(D) (emphasis added).

20 *See,* Ameritech Operating Companies, Tariff F.C.C. No. 2, Access Service, Expanded Interconnection, Transmittal No. 819, dated September 1, 1994 and Amended Transmittal No. 819, dated October 4, 1994.

> by the equipment used to provide the customer's [collocated] service. The cost for a fuse amp of 48 volt DC power is based on the annual Kilowatt Hours (KWH) associated with one fuse amp and the average cost per KWH based on current electric utility rates. This element also includes incremental air conditioning power required per fuse amp.[21]

(emphasis added). Thus, both documents clearly indicate that the cost development is based on the power expected to be *consumed* by the collocator.

Moreover, the supporting information for Transmittal 819 also is clear regarding that fact that the Power Consumption charge was *not designed to recover the costs associated with Ameritech's central office power infrastructure*. Instead, a non-recurring "Power Delivery" rate element recovers those costs.[22] SBC's relevant central office and collocation technical documents have a direct bearing on the maximum amount of power SBC can reasonably assume will be consumed by a CLEC. SBC's technical documents are explicit regarding the fact that the sets of dual power feeds are intended for redundancy. Regarding DC Power, SBC guidelines specify:

> 6.4 With physical collocation, -48 volt DC power is normally provided in increments defined per state tariffs where they exist, or in increments described as 'standard power arrangements' in the Technical Publication for Physical Collocation. *While the increments may vary from state to state, all are characterized as redundant (load A and load B) arrangements of specific*

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21 Transmittal 819, Description and Justification, pp. 4-5, and Exhibit 3.

22 The Description and Justification for Transmittal 819 provides that: the "Power Delivery" rate element "recovers the cost of the central office power infrastructure used to deliver 48 volt DC power to the equipment bay used to provide the customer's [collocation] arrangement. Infrastructure components include an allocation of costs for a Battery Distribution Fuse Board providing a maximum capacity of 200 fuse positions, the cable rack with support, 100 feet of No.1/0 cable for grounding, a grounding cable rack and an additional power cable for each fuse position. Two fuse positions are provided for each customer's [collocation] arrangement, with the required power split evenly between the A & B positions. *Id.*, at 4.

amperage...Bell Service Practice, SBC Local Exchange Carriers, Section 790-100-656 MP, Issue B, November 2, 2000.

(emphasis added).

This recognition -- that the dual feed distribution system is intended to provide a redundant power supply – is likewise confirmed by SBC's central office equipment requirements, which state that: "*Redundant power feeders are required for all equipment serving network elements.* The term network element refers to all switching, transport and operator service equipment, and any adjuncts for those elements. *Redundant power feeder information* must be provided in the supplier's response documentation to be in compliance with this item." [23]

SBC's own documentation belies its justification for its collocation power practices. SBC engineers its power distribution systems with the understanding that CLEC collocated equipment may draw power from both feeds of a dual feed (A/B) pair, but with the expectation that CLECs will limit the power demand that their equipment draws on any individual feed of a dual feed pair to a maximum of 50% of the amperage capacity of each feed. So long as a CLEC does not exceed the 50% demand level on any individual feed, redundancy is maintained (because the remaining operational feed of the dual feed pair can handle the combined load until the defective feed is repaired). Under those circumstances, no engineering design limitation is exceeded on SBC's power system, and SBC is fully compensated (actually more than fully compensated) by billing the Power Consumption MRC to 50% of the A plus B feed amps. In other words, if a CLEC orders 40 amps of power into an equipment bay:

- It will be redundant power;

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[23] TP 76200 MP, Equipment Requirements, May 2001, Section 7.10. (emphasis added).

- It should be provisioned via a dual feed pair consisting of a 40 amp A feed and a 40 amp B feed;

- The CLEC operates within the engineering design parameters of SBC's power distribution system if it limits the demand it places over either of those feeds to a maximum of 20 amps per feed;

- If the A feed fails, it will carry zero power and the B feed will carry the combined load of up to 40 amps until the A feed is restored;

- Consistent with these operating parameters, the CLEC is cannot place a power demand on SBC's system that exceeds 40 amps.

- The CLEC should pay the Power Consumption charge on 40 amps (not on 80 amps, as SBC would have it).[24]

Moreover, SBC technical guidelines place an explicit obligation on its engineers to monitor and enforce the 50% maximum load per feed requirement. SBC requires that:

> The SBC LEC Power Equipment Engineer *shall determine when the growth of any BDFB is capped based upon the actual measured load.*
>
> During normal operating *conditions the actual measured load per feed shall not exceed 50% of the engineered load capacity.* Typical examples
>
> of this are as follows:
>
> -- A BDFB cabled and *fused for 600 A per bus shall not exceed an actual actual measured load of 300 A per feed.*
>
> -- A BDFB cabled and *fused for 400 A per bus shall not exceed an actual measured load of 200 A per feed.*"
>
> and,
>
> The BDFB load *shall be monitored to ensure that the actual load supplied by any single feed does not exceed 50% of the*

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24 *See also,* Bell Service Practice, SBC Local Exchange Carriers, 790-100-656 MP, Issue B, November 2, 2000, at p. 6, Section 4.1.3.: "The SBC LEC Power Equipment Engineer shall engineer the minimum fuse size as 125% of the List 2 drain documented for the load being protected. DC distribution circuit breakers are full load rated, if used, a circuit breaker may be of the same capacity as the List 2 drain. *At no time shall the actual load exceed 50% of the fuse or DC breaker protection rating*". (emphasis added).

> *nameplate rating on that primary protection device.* It is the responsibility of the SBC LEC Power Equipment Engineer to close a BDFB to growth when it's load has reached that value.[25]

SBC's power billing practices, however, blatantly ignore its technical requirements for CLECs, which limit their use of power to 50% of the fused capacity of individual feeds. Rather than having its engineers comply with its own explicit monitoring obligations, SBC effectively assumes, for billing purposes, that all CLECs violate this requirement, and assumes that they do so to the maximum extent theoretically possible – i.e., SBC's billing practice assumes that all CLECs draw 100% of the full amps on both the A and B feeds. Not only does SBC violate its own collocation technical requirements when it makes this assumption, it does so without any evidence whatsoever to support its validity as applied to a particular CLEC. This is certainly true with respect to NuVox, since at no time during the entirety of the more than 2 years since this dispute first arose has SBC ever even suggested that NuVox was drawing more than 50% of the capacity of any individual power feed.

To the contrary, the recent power measurements taken by NuVox confirm that *its equipment in the vast majority of cases is drawing less than 10% of the fused amps of any individual feed*, and in no instance is drawing anything even remotely approaching 50% of the fused amp capacity of an individual feed.

SBC, by its collocation practices as described herein, has imposed upon NuVox MRCs for power consumption that are far in excess of the level that NuVox's equipment is even capable of consuming, and far in excess of the power demand that NuVox's equipment places on

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25 *See* Bell Service Practice, SBC Local Exchange Carriers, 790-100-656 MP, Issue B, November 2, 2000, p. 8, Section 4.2.9.) (emphasis added). *See also, Id.,* Sec 4.2.10: "*...Any large variations, those being greater than 15%, in load between bus A and bus B should be investigated.*" (emphasis added).

SBC. SBC's practice of billing the Power Consumption MRC to the sum of 100% of the A and B feed fused amps bears no relationship to SBC's costs of providing the power actually consumed by NuVox and, if sustained, would reward SBC's anticompetitive behavior with a monumental windfall.

IV. CONCLUSION

SBC has, without technical or legal justification imposed exorbitant collocation costs upon NuVox . SBC's unreasonable and discriminatory collocation billing and provisioning practices necessitates a finding by the Commission that SBC has failed to comply with Checklist item one in the states of Indiana and Ohio, and accordingly, requires that the Commission should reject SBC's application in those states.

Respectfully submitted,

Brad E. Mutschelknaus
Ross A. Buntrock
KELLEY DRYE & WARREN LLP
1200 19th Street, N.W., Fifth Floor
Washington, D.C. 20036
(202) 955-9600
(202) 955-9792 (facsimile)

Edward J. Cadieux, Vice President,
Regulatory – Midwest Region
NUVOX COMMUNICATIONS, INC.
16090 Swingley Ridge Road, Suite 500
Chesterfield, Missouri 63017
(636) 537-5743

Dated: August 6, 2003