

MINTZ LEVIN
COHN FERRIS
GLOVSKY AND
POPEO PC

Boston
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Reston
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Los Angeles
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EX PARTE OR LATE FILED

701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202 434 7300
202 434 7400 fax
www.mintz.com

Michael H. Pryor

Direct dial 202 434 7365
mhpryor@mintz.com

ORIGINAL

December 1, 2004

REDACTED – FOR PUBLIC INSPECTION

Via Hand Delivery

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

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DEC - 1 2004

Federal Communications Commission
Office of Secretary

Re: Ex Parte Presentation in *Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338

Dear Ms. Dortch:

On November 30, 2004, undersigned counsel, James W. Akerhielm, Chief Executive Officer of NuVox and Jake E. Jennings, Vice President for Regulatory and Industry Affairs for NuVox met separately with Commissioner Kevin J. Martin and Senior Legal Advisor Daniel Gonzalez, with Commissioner Jonathan S. Adelstein and Legal Advisor Scott Bergmann, and with Jessica Rosenworcel, Legal Advisor to Commissioner Michael J. Copps. Karen Knutson of ML Strategies also attended the meeting with Commissioner Martin and Daniel Gonzalez. The purpose of these meetings was to discuss the FCC's consideration of new unbundling rules in the above-captioned proceedings, and the positions asserted were consistent with NuVox's prior filings in these proceedings. During the meeting, a confidential version of the attached presentation, which has been redacted for public review, was provided for discussion.

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's rules, NuVox requests that this notice be included in the public record of the above-referenced proceedings. The confidential version of this presentation is being submitted via hand delivery under a separate cover pursuant to the Commission's August 20, 2004 order in the above-referenced matter.

No. of Copies rec'd 012
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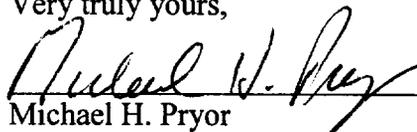
Federal Communications Commission

December 1, 2004

Page 2

Please date stamp the enclosed return copy and return it in the envelope provided.
If you have any questions relating to this filing, please contact the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael H. Pryor", written over a horizontal line.

Michael H. Pryor

Counsel to NuVox, Inc.

Enclosures

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.

Federal Communications Commission

December 1, 2004

Page 3

cc: Janice M. Myles, VIA HAND DELIVERY
Wireline Competition Bureau
Competition Policy Division
445 12th Street, S.W.
Washington, D.C. 20554
(redacted version)
(5 copies)

Best Copy & Printing, Inc., VIA HAND DELIVERY AND ELECTRONIC MAIL
Portals II
445 12th Street, S.W. Room CY-B402
Washington, D.C. 20554
fcc@bcpiweb.com
(redacted version)

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Continued Access to DS1 Loops and EELs Is Critical For Competition In The Small Business Market

November, 2004



Competitive Choices for Small Business

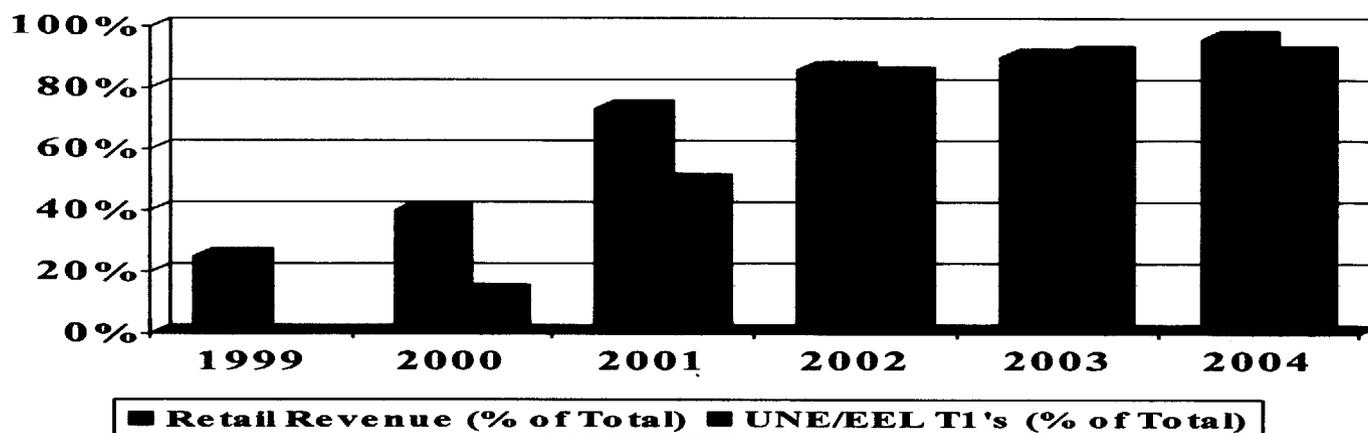
- NuVox brings competitive choice to small business
 - 40,000 small business customers averaging 14 lines
 - Small Business Customers spend approximately \$500 - \$700/month
 - Examples of small business:
 - Health Care
 - Professional Service
 - Legal
 - Insurance Agents
 - Banking
 - Hospitality Industry

Benefits of Competitive Choice

- NuVox's small business customers are, for the first time, receiving the benefits of broadband
 - Over 90% of NuVox's customers are upgraded to broadband when they switch their service from the Bell company
- Innovative Services
 - Integrated T1 Service (Voice/Data)
 - Dynamic Bandwidth
 - Enterprise Voice over Internet Protocol
 - Click to Talk
 - Single Telephone Number
 - Unified Messaging

Need for High Capacity Loops/EELs

- NuVox is able to provide competitive service to small business customers only because DS1 loop/EEL UNEs are available
- Trend – Retail Revenue and UNE/EEL T1 Mix



- Network deployment complete 4Q 2001
- EBITDA positive 2Q 2002

Lack of Alternatives

- No 3rd party alternatives in the marketplace other than the ILEC to serve small business customers
 - Cable is unavailable
 - NuVox study shows numbers are not ported to cable companies
 - Wireless is not a substitute
- Special Access is not a substitute
 - Materially increases cost
 - Puts CLEC at mercy of ILEC pricing decisions
 - Locks carriers onto ILEC networks

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Special Access Is Not a Substitute

[Proprietary Information Begins]

[Proprietary Information Ends]

Self-Provisioning Is Not Viable for DS1 Service

- Self-provisioning is not economically viable for small business customers using DS1 capacity services
- Self-provisioning by fiber providers to a building does not demonstrate competitive choice for small business customers in that building
- No evidence of significant deployment of DS1-level capacity; even in buildings with fiber

Key Consideration for DS1 Loop Impairment Test

The record and *USTA II* fully support a national finding of impairment. Any alternative wholesale test must include the following principles.

Wholesale DS1 Providers:

- Connect to the customer location. Being in the building is not enough if the wholesaler has no ability timely to connect to the particular customer;
- Must be connected to NuVox. Carriers typically demand substantial revenue commitments to establish connections that cannot be met with DS1 level facilities;
- Ability to install, provision and maintain in a timely and reliable manner
- There must be a sufficient number (at least two) to foster competitive pricing



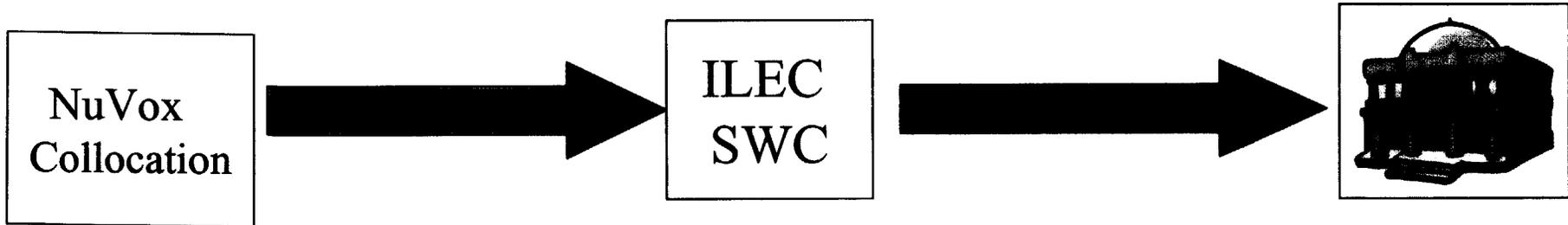
The Same Impairment Test Should Apply to DS1 Transport When Used as Part of an EEL

- EELs are critical to NuVox's ability to bring competitive choice to small businesses
 - Forty-five percent of NuVox's circuits are EELs. EELs expand geographic reach from more than 250 collocations to more than 1500
- The Commission found that EELs promote facilities investment and innovation
- Applying a different test to transport component of the EEL may result in having to use multiple vendors for a single circuit
 - Leads to higher cost, longer installation intervals and more difficult repair

DS1 EEL Impairment

Just as with DS1 Loops, DS1 EELs are a single, end-to-end circuit whose cost must be recovered from a single, typically small business end user.

Customer Revenue
\$500-\$700/month



	Interoffice		Loop	
	UNE Rate	SPA Discounted Rate	UNE Rate	SPA Discounted Rate
Mileage @ 10miles	\$1.05	\$80.00	\$41.02	\$123.00
Fixed	\$34.19	\$65.00		



Implementation – Key Considerations

- Determinations must be made by a neutral third party
- No certification or auditing unless requirements and substantiating evidence are clearly prescribed
 - CLECs may not know if wholesalers exist

CERTIFICATE OF SERVICE

I, Michelle C. Gardner, hereby certify that on this 1st day of December 2004, the foregoing Ex Parte of NuVox Communications, was filed with the Federal Communications Commission's Washington D.C. location via hand delivery and copies were sent to the following as indicated:

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554
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(2 copies redacted version)

Janice Myles
Competition Policy Division
Wireline Competition Bureau
Federal Communications Commission
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Michelle C. Gardner