

**Declaration of Keith Coker  
on behalf of NuVox Communications**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Special Access Rates for Price Cap Local Exchange Carriers	)	WC Docket No. 05-25
	)	
AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services	)	RM-10593
	)	

**DECLARATION OF KEITH COKER  
OF NUVOX COMMUNICATIONS**

DECLARATION OF KEITH COKER

I, Keith Coker, hereby declare under penalty of perjury that the following is true and correct:

1. My name is Keith Coker and I am Chief Technology Officer for NuVox Communications (“NuVox”). My business address is 301 N. Main Street, Suite 5000 Greenville, SC 29601. My primary job responsibilities are planning and managing NuVox’s network.

2. This Declaration is made on behalf of NuVox, and in support of the initial comments filed jointly by XO Communications Inc., Covad Communications Group and NuVox Communications in the above-captioned proceeding (the “Joint Comments”), refreshing the record and urging the Commission to eliminate Phase II

special access pricing flexibility and to reinitialize incumbent local exchange carrier (“ILEC”) rates for special access.<sup>1</sup>

3. NuVox is a competitive local exchange carrier providing numerous services including local voice and data, domestic and international long distance, dedicated high-speed Internet access and voice over Internet protocol (“VoIP”), generally in bundled service offerings. NuVox operates in 16 states, including each of the states in the former BellSouth region and several of the states in the pre-BellSouth merger AT&T region. NuVox provides innovative and cost effective communications services to small and medium-sized businesses.

4. This Declaration is divided into three sections. In Section I, I demonstrate that where unbundled network element (“UNE”) loops are not available at forward looking cost-based rates, self-supply, competitive supply, and ILEC special access are not viable economic substitutes. In Section II, I explain that NuVox has no alternative but to rely on ILEC special access channel mileage when EELs or dedicated transport UNEs and equivalent Type I facilities-based offerings are not available. In Section III, I discuss the effects of higher prices for special access on NuVox and its end users.

#### **I. Procurement of Loops/Channel Terms**

5. Where unbundled network elements are not available at forward looking cost-based rates, NuVox generally is unable to find economic alternatives from other competitive providers. It then faces an unfortunate choice: either use unreasonably

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<sup>1</sup> *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25, AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, RM-10593, Public Notice, FCC 07-123 (July 9, 2007).*

priced above-cost special access service from an ILEC or not serve the end user.

Currently, less than 1% of NuVox's loop access needs are met through the use of circuits or facilities obtained from competitive providers. Thus in all but the rarest of circumstances, NuVox is forced to use ILEC special access when high capacity loops are not available as UNEs priced at forward looking cost-based prices under section 251 or at just and reasonable prices under section 271. Section 271 loop offerings – those that differ from special access in terms of price – are presently available to NuVox in the State of Georgia and no where else within NuVox's service territory.

## **II. Procurement of Loop/Transport Combinations (EEL Equivalents)**

6. Similar to the market for loops and channel terminations, there are almost no competitive alternatives to ILEC special access services for the provision of loop and interoffice transport combinations. Currently, less than 1% of NuVox's loop and interoffice transport combination needs are met by using competitive alternatives.

## **III. The Effects of Higher Prices for Special Access**

7. Implementation of the FCC's *Triennial Review Remand Order* non-impairment thresholds has resulted in the replacement of a number of UNE circuits with unreasonably priced ILEC special access circuits because NuVox cannot obtain circuits from competitive providers. With decreased availability of bottleneck last mile facilities at forward looking cost-based prices, NuVox's costs and cost structure are raised, resulting in a concurrent need to raise prices and revenues to cover such increased costs. Higher prices for critical bottleneck customer access facilities significantly reduce the geographic availability of competitive services while, at best, moving the focus of competitive local exchange carriers ("CLECs") "up-market." This means that "lower

end” (*i.e.*, those with smaller needs) small-business customers may get left behind, as products and marketing are shifted to focus on mid-to-large businesses who generally produce greater average monthly revenue.

8. For example, in many markets NuVox can provide bundled voice and broadband service via DS1 loops or DS1 loop/transport combinations to customers with as few as six voice lines plus Internet service if loop access facilities are available as UNEs. Where NuVox must rely on ILEC special access in lieu of UNE loops and EELs, that set of services generally cannot be provided profitably to that size of customer, or any size of customer, because of the excessively high prices of ILEC special access and the near total lack of alternatives. Indeed, unavailability of UNEs stemming from non-impairment findings has caused NuVox to discontinue actively marketing certain services in certain wire centers where DS1 customer access facilities can now only be obtained by leasing them from the ILECs as special access.

9. Thus, recent non-impairment findings have forced NuVox into a corner, increasing its reliance on over-priced and typically uneconomical special access. This has resulted in market retrenchment, as NuVox must, in certain markets, shift its focus toward larger business customers that produce greater average monthly revenue. For small business, competitive choice for communications services, including but not limited to broadband services (*e.g.*, via bundled offerings), is limited and in some cases eliminated, by NuVox’s forced reliance on excessively and unreasonably priced ILEC special access and complete lack of access to bottleneck facilities – whether leased from an ILEC or competitor.

10. This concludes my Declaration.



Keith Coker  
Chief Technology Officer  
NuVox Communications

Dated: August 8, 2007