

Dinsmore & Shohl LLP
ATTORNEYS

Holly C. Wallace
502-540-2309
holly.wallace@dinslaw.com

February 21, 2006

RECEIVED

FEB 21 2006

PUBLIC SERVICE
COMMISSION

via Hand Delivery
Hon. Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Blvd.
P. O. Box 615
Frankfort, KY 40601

Re: *BellSouth Telecommunications, Inc v. Nuvox Communications, Inc.*
Case No. 2005-00217

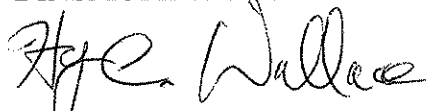
Dear Ms. O'Donnell:

Enclosed for filing in the above-styled case is the original and ten copies of NuVox Communications, Inc.'s ("Nuvox") Response to BellSouth's Motion to Hold in Abeyance and Reply in Support of NuVox's Motion to Dismiss.

Thank you, and if you have any questions, please call me.

Very truly yours,

DINSMORE & SHOHL LLP



Holly C. Wallace

100997v2
34264-1

RECEIVED

FEB 21 2006

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE
COMMISSION

In the Matter of:

ENFORCEMENT OF COMMISSION'S ORDER IN) CASE NO. 2005-00217
CASE NO. 2004-00295, DATED APRIL 15, 2005)

**NUVOX COMMUNICATION, INC.'S RESPONSE TO
BELLSOUTH'S MOTION TO HOLD IN ABEYANCE AND
REPLY IN SUPPORT OF NUVOX'S MOTION TO DISMISS**

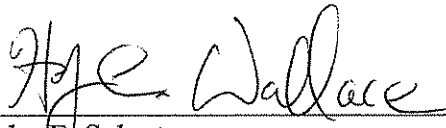
NuVox Communications, Inc. ("NuVox"), by counsel, in response to the Motion to Hold in Abeyance of BellSouth Telecommunications, Inc. ("BellSouth") and in support of NuVox's Motion to Dismiss, states as follows.

On June 3, 2005, BellSouth filed a Complaint seeking enforcement of the April 15, 2005 Order of the Kentucky Public Service Commission (the "Commission") in Case No. 2004-00295 providing for the audit of fifteen (15) circuits purchased by NuVox from BellSouth. On June 23, 2005, NuVox filed a Motion to Dismiss on the grounds that NuVox fully complied with the auditor's requests. BellSouth did not contest the motion. Now, eight months after NuVox filed its Motion to Dismiss, BellSouth belatedly filed what it styles a "Motion to Hold in Abeyance and Response to NuVox's Motion to Dismiss." In its motion, BellSouth states that the audit is proceeding and has been proceeding for several months. [*See BellSouth's Motion to Hold in Abeyance and Response to NuVox's Motion to Dismiss*, p.1.] In addition, BellSouth states it "expects that NuVox will continue to cooperate with the audit." [*Id.* at 2.] Nonetheless, BellSouth wants to hold the present case in abeyance in the unlikely event "it will be necessary for BellSouth to seek appropriate relief from the Commission." [*Id.*] This is absurd. There is no need to clog the Commission's docket with meritless claims such as those made by BellSouth in its Complaint. Moreover, to do so would simply be unfair to NuVox. There is nothing to prevent BellSouth from seeking relief from the

Commission if and when necessary. BellSouth is not entitled to maintain a baseless Complaint on file with the Commission in the event it may want to invoke other claims at some indefinite time in the future.

For the reasons stated above, the Commission should deny BellSouth's Motion to Hold in Abeyance, and grant NuVox's Motion to Dismiss.

Respectfully submitted,



John E. Selent
Holly C. Wallace
DINSMORE & SHOHL LLP
1400 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202
Tel. (502) 540-2300
Fax (502) 585-2207
john.selent@dinslaw.com
holly.wallace@dinslaw.com

John J. Heitmann
Jennifer M. Kashatus
KELLEY DRYE & WARREN LLP
1200 19th Street, NW, Suite 500
Washington, D.C. 20036
Tel. (202) 955-9600
Fax (202) 955-9792
jheitmann@kelleydrye.com
jkashatus@kelleydrye.com

Counsel to NuVox Communications, Inc.

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing was served by mailing a copy of the same by First Class United States Mail, postage prepaid this 21st day of February, 2006, to:

Dorothy J. Chambers
Cheryl R. Winn
BellSouth Telecommunications, Inc.
601 W. Chestnut Street, Room 410
P.O. Box 32410
Louisville, KY 40232

R. Douglas Lackey
John T. Tyler
BellSouth Center - Suite 4300
675 West Peachtree Street, NE
Atlanta, GA 30376


Counsel to NuVox Communications, Inc.

107579v1
34264-1