

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

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NOVEMBER 6, 2003

T.R.A. DOCKET ROOM

IN RE: Implementation of the Federal) Docket No. 03-00491
Communications Commission's Triennial)
Review Order-9 Month Proceeding-Switching)
)

**OBJECTIONS OF NUVOX COMMUNICATIONS, INC. TO
BELLSOUTH'S FIRST SET OF INTERROGATORIES**

Pursuant to the *Order on October 21, 2003 Status Conference*, issued October 27, 2003 ("Procedural Order"), NuVox Communications, Inc. ("NuVox") submits its preliminary objections to BellSouth Telecommunications, Inc.'s ("BellSouth") First Set of Interrogatories to NuVox.

NuVox files these objections to comply with the ten (10) day requirement set forth in the *Procedural Order*. These objections are preliminary in nature. Should additional grounds for objection be discovered as NuVox prepares its responses to any discovery, NuVox reserves the right to supplement these objections.

Further, at the time of the filing of these objections, the issues to be addressed in this proceeding have not yet been identified. Should additional grounds for objections develop as the TRA identifies the issues to be addressed in this proceeding, NuVox reserves the right to supplement these objections.

GENERAL OBJECTIONS

NuVox makes the following general objections to the First Set of Interrogatories

1. NuVox objects to the "Definitions" section, the "General Instructions," and the individual items of BellSouth's First Set of Interrogatories to NuVox to the extent that

they are overly broad, unduly burdensome, and/or oppressive. NuVox will attempt to identify specific requests to which this objection applies within the specific objections that follow.

2. NuVox objects to the “Definitions,” the “General Instructions,” and the individual interrogatories to the extent they seek information that irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. By way of illustration and not limitation, NuVox objects to interrogatories that seek information that is unrelated to or inconsistent with the methodology and parameters of the analysis of impairment prescribed by the FCC in its Triennial Review Order. NuVox will attempt to identify individual items to which this general objection is applicable within the specific objections that follow.

3. NuVox objects to the “Definitions,” the “General Instructions,” and the individual interrogatories to the extent they are vague, ambiguous, imprecise, or utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these Requests.

4. NuVox objects to the “General Instructions” and the items of BellSouth’s First Set of Interrogatories to NuVox to the extent that they purport to impose discovery obligations on NuVox that exceed the scope of discovery allowed by the applicable [Tennessee Rules of Civil Procedure].

5. NuVox objects to BellSouth’s First Set of Interrogatories to NuVox to the extent that the interrogatories seek discovery of materials and/or information protected by the attorney/client privilege, the work product doctrine, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege.

6. NuVox objects to BellSouth's First Set of Interrogatories to the extent that the requests would require disclosure of information that constitutes trade secrets and/or confidential, proprietary business information, which either should not be disclosed at all or should be disclosed (provided the information is otherwise discoverable) only pursuant to the terms of a mutually acceptable confidentiality agreement and use of the TRA's rules and procedures relating to confidential and proprietary information.

7. NuVox objects to all interrogatories which would require NuVox to provide information which is already in BellSouth's possession (as a consequence, for instance, of the billing information BellSouth uses to submit bills to NuVox) or is in the public record before the TRA. To duplicate information that BellSouth already has or is readily available to BellSouth would be unduly burdensome and oppressive.

8. NuVox objects to BellSouth's First Set of Interrogatories to the extent BellSouth seeks to impose an obligation on NuVox to respond on behalf of subsidiaries and/or former officers, employees, agents, and directors on the grounds that such requests for production are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

9. NuVox objects to the use of the terms "qualifying service" and "nonqualifying service" on the grounds the terms are subject to differing interpretations.

10. NuVox objects to the use of the term "voice grade equivalent line" because such term is subject to differing interpretations.

11. NuVox objects to the use of the terms “Hot Cut”, “Batch Hot Cut”, “Individual Hot Cut”, “Coordinated Cut Over” and “Coordinated Time-Specific Cut Over” because such terms are not adequately defined and/or differentiated and subject to differing interpretations.

SPECIFIC OBJECTIONS TO INTERROGATORIES

NuVox hereby incorporates by reference the above general objections. To the extent possible given the constraints of the ten day preliminary objection period, NuVox will attempt to identify individual items that are objectionable. NuVox reserves the right to add to or enlarge upon these objections when it files its responses.

12. OBJECTION: NuVox objects to Interrogatories 2 and 4 on the grounds that these interrogatories would require NuVox to provide information regarding “CLLI” codes and switch location information that is already in BellSouth’s possession or is in the public record before the TRA. Other information requested by BellSouth pursuant to these interrogatories is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, this interrogatory requests information regarding “voice grade equivalent lines” a term that is subject to dispute. Finally, certain information sought in these interrogatories regarding the make and model of switching equipment is subject to confidentiality and non-disclosure agreements between NuVox and third parties, including equipment manufacturers.

13. OBJECTION: NuVox objects to Interrogatories 5 and 8 on the grounds that they would require NuVox to provide information that is already in BellSouth’s possession or is in the public record before the TRA. Certain information requested by BellSouth is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Additionally, this interrogatory requests information regarding “qualifying service” a term that is subject to dispute and requires clarification.

14. OBJECTION: NuVox objects to Interrogatories 6 and 9 on the grounds that they would require NuVox to provide information that is already in BellSouth’s possession or is in the public record before the TRA. Additionally, certain information requested by BellSouth is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. These interrogatories request information regarding “voice grade equivalent lines” a term that is subject to dispute and requires clarification.

15. OBJECTION: NuVox objects to Interrogatories 7, 10 and 13 as these interrogatories request information regarding “voice grade equivalent lines” a term that is subject to dispute and requires clarification. Additionally, BellSouth asks NuVox to break down the total voice-grade equivalent lines identified by ILEC wire center in a prior response on the basis of “end user and end user location.” NuVox objects to this interrogatory on the grounds it is vague and ambiguous. The meaning of “customer location” is unclear in context. NuVox requests clarification of the item. Further, in the event BellSouth intends to require NuVox to provide the information for each customer’s address, NuVox objects to the interrogatory on the basis that it is irrelevant, onerous, unduly burdensome, and asks for confidential, proprietary information that BellSouth does not require for its legitimate discovery purposes and is not entitled to. The information sought includes business and/or or commercial information and production of this information would lead to disclosure of information regarding NuVox’s confidential, internal operations which could seriously damage its business. Additionally, Nuvox objects to these interrogatories to the extent they seek or may be deemed to seek or require the production or disclosure of information subject to the attorney/client or other privileges, the work

product doctrine, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege.

16. OBJECTION: NuVox objects to Interrogatory 14(f) on the grounds that certain information requested by BellSouth regarding the “rates, terms and conditions of NuVox’s switching” capability is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, this interrogatory requests information regarding “voice grade equivalent lines” a term that is subject to dispute. Moreover, NuVox objects on the grounds that the information sought contains confidential, proprietary business or commercial information and production of this information would lead to disclosure of information regarding NuVox's confidential, internal operations that could seriously damage its business. NuVox objects to the request to the extent it seeks or may be deemed to seek or require the production or disclosure of information or documents subject to the attorney/client or other privileges, the work product doctrine or the protection afforded mental impressions, conclusions, opinions or legal theories of NuVox's attorneys or its representatives.

17. OBJECTION: NuVox objects to Interrogatory 15 on the grounds it seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, inasmuch as the FCC has determined that the state commissions’ analysis of impairment is not to be based on individual carriers’ business cases. NuVox also objects on the grounds that the interrogatory seeks the disclosure of commercially sensitive, confidential and proprietary business information. NuVox also objects because as defined within the interrogatories the term “business case” is overbroad. NuVox also objects because, particularly in view of the fact the information is irrelevant, requiring NuVox to disclose its internal analyses would be oppressive and unduly burdensome. Additionally, NuVox objects to this interrogatory

to the extent it seeks or may be deemed to seek or require the production or disclosure of information subject to the attorney/client or other privileges, the work product doctrine, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege.

18. OBJECTION: NuVox objects to this Interrogatories 16 and 17 on the grounds that, inasmuch as the FCC has determined the state commissions' impairment analyses is not to be based on individual carriers' business modules, these interrogatories seek information that is irrelevant to the impairment analysis to be conducted by the TRA and not reasonably calculated to lead to the discovery of admissible evidence. NuVox also objects on the grounds the interrogatories are overbroad, oppressive, and unduly burdensome. NuVox objects to these interrogatories on the grounds that the information sought contains confidential, proprietary business or commercial information and production of these documents would lead to disclosure of information regarding NuVox's confidential, internal operations that could seriously damage its business. NuVox objects to the request to the extent they seek or may be deemed to seek or require the production or disclosure of information or documents subject to the attorney/client, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege, including the work product doctrine or the protection afforded mental impressions, conclusions, opinions or legal theories of NuVox's attorneys or its representatives. NuVox also objects on the grounds the interrogatory seeks information that is unrelated to and inconsistent with the impairment analysis prescribed by the FCC. It is therefore irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. NuVox objects to this interrogatory on the grounds that the request to identify "every" document is unduly burdensome and oppressive.

19. OBJECTION: NuVox objects to this interrogatories 19 and 20 on the grounds that BellSouth already has in its possession the information pertaining to the areas in BellSouth's service area in which NuVox provides services through UNE-P and resale. Subject to clarification of the term "qualifying services", NuVox will make reasonable efforts to respond with certain information regarding its facilities based customers.

20. OBJECTION: NuVox objects to Interrogatory 21 on the grounds that it seeks information regarding the rates, terms and conditions pursuant to which NuVox offers "qualifying services". Subject to previous objections regarding the definition of "qualifying services", information regarding the general rates, terms and conditions of NuVox's service offerings are on file with the TRA and available for review by BellSouth at its leisure.

21. OBJECTION: With regard to Interrogatories 22 and 23 NuVox objects to the extent that NuVox requests clarification of the term "non-qualifying services". Subject to clarification of the terms "qualifying services" and "non-qualifying services", NuVox will make reasonable efforts to respond with certain information regarding its facilities-based services.

22. OBJECTION: NuVox objects to Interrogatory 24 on the grounds that it seeks information regarding the rates, terms and conditions pursuant to which NuVox offers "non-qualifying services". Subject to previous objections regarding the definition of "non-qualifying services", NuVox will make reasonable efforts to provide certain information regarding its "non-qualifying services". Certain other information regarding the general rates, terms and conditions of NuVox's service offerings are on file with the TRA and available for review by BellSouth at its leisure.

23. OBJECTION: NuVox objects to Interrogatory 26 on the grounds that the interrogatory asks for information that is irrelevant to the impairment analysis prescribed in the Triennial Review Order and not reasonably calculated to lead to the discovery of admissible evidence. NuVox also objects to this interrogatory on the grounds it seeks confidential and proprietary business information. Further, NuVox interprets this interrogatory to request aggregate information. If BellSouth intended to request average monthly revenues for each individual end use customer, then NuVox objects on the grounds that the interrogatory is unduly burdensome and oppressive.

24. OBJECTION: NuVox objects to Interrogatories 27-29 regarding the definition of “non-qualifying services” and “qualifying services”. NuVox will make reasonable efforts to provide certain information regarding its “non-qualifying services” and “qualifying services” that is not otherwise confidential, proprietary business or commercial information and production of its information would lead to disclosure of information regarding NuVox's confidential, internal operations that could seriously damage its business.

25. OBJECTION: NuVox objects to Interrogatories 31-35 on the grounds that these interrogatories seek information that is unrelated to and inconsistent with the impairment analysis prescribed in the Triennial Review Order, is therefore irrelevant to the issues in the case and the analysis to be conducted by the TRA, and is not reasonably designed to lead to the discovery of admissible evidence. NuVox objects to the request to the extent they seek or may be deemed to seek or require the production or disclosure of information or documents subject to the attorney/client, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege, including the work product doctrine or the protection afforded mental impressions, conclusions, opinions or legal theories of NuVox's

attorneys or its representatives. NuVox also objects on the grounds these interrogatories seek the disclosure of commercially sensitive, confidential and proprietary business information. NuVox also objects to the request for information on a monthly basis since January 2000 as onerous, oppressive, unduly burdensome and beyond any legitimate discovery need.

26. OBJECTION: NuVox objects to Interrogatory 40 on the grounds that, because it relates to NuVox's individual business model, it is inconsistent with the analysis prescribed in the Triennial Review order, is unrelated to the analysis the TRA is to make, irrelevant to the issues in the docket and not reasonably calculated to lead to the discovery of admissible evidence. NuVox also objects on the basis that the interrogatory seeks the disclosure of confidential and proprietary business information. NuVox objects to the request to the extent they seek or may be deemed to seek or require the production or disclosure of information or documents subject to the attorney/client, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege, including the work product doctrine or the protection afforded mental impressions, conclusions, opinions or legal theories of NuVox's attorneys or its representatives. NuVox also objects on the grounds the interrogatory as framed is overbroad and unduly burdensome.

27. OBJECTION: NuVox objects to this interrogatory 41 on the grounds it seeks confidential and proprietary information. Notwithstanding these objections, and without waiving them, subject to the execution of confidentiality agreement NuVox will make reasonable efforts to provide responsive information.

28. OBJECTION: NuVox objects to this interrogatory 42 on the grounds it seeks confidential and proprietary information. Notwithstanding these objections, and without

waiving them, subject to the execution of confidentiality agreement NuVox will make reasonable efforts to provide responsive information.

29. OBJECTION: NuVox objects to the Interrogatory 43 on the grounds it seeks information that, given the determination in the Triennial Review Order that the impairment analysis is not to be based on individual carriers' business models, is irrelevant to the issues in the case and unrelated to the analysis the TRA is to conduct, and is not reasonably calculated to lead to the discovery of admissible evidence. NuVox also objects on the grounds the interrogatory seeks the disclosure of confidential and proprietary business information. NuVox objects to the request to the extent they seek or may be deemed to seek or require the production or disclosure of information or documents subject to the attorney/client, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege, including the work product doctrine or the protection afforded mental impressions, conclusions, opinions or legal theories of Nuvox's attorneys or its representatives.

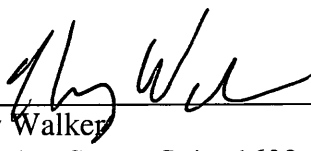
30. OBJECTION: NuVox objects to this interrogatory 44 on the grounds it seeks information that is inconsistent with the parameters of the Triennial Review Order, unrelated to the analysis the TRA is to conduct, irrelevant to the issues in the case, and not reasonably calculated to lead to the discovery of admissible evidence. NuVox also objects on the grounds the interrogatory seeks the disclosure of confidential and proprietary business information. NuVox objects to the request to the extent they seek or may be deemed to seek or require the production or disclosure of information or documents subject to the attorney/client, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege, including the work product doctrine or the protection afforded mental impressions, conclusions, opinions or legal theories of NuVox's attorneys or its representatives.

31. OBJECTION: NuVox objects to Interrogatories 50-53 and Interrogatories 59-68 on the grounds that it requires additional clarification of the definitions of "Hot Cut", "Batch Hot Cut", "Individual Hot Cut", "Coordinated Cut Over" and "Coordinated Time-Specific Cut Over" because such terms are not adequately defined and/or differentiated and subject to differing interpretations.

Respectfully submitted this 6th day of November, 2003

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: _____


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CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2003, a copy of the foregoing document was serviced on the parties of record, via US mail:

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