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Missouri Public Service Commission

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, Missouri 65102

RE: *In the Matter of the Investigation into Signaling Protocols, Call Records, Trunking Arrangements, and Traffic Measurement*, Case No. TO-99-593

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter are the original and eight (8) copies of the Initial Brief of GTE Midwest Incorporated d/b/a Verizon Midwest. A copy of the foregoing Initial Brief has been hand-delivered or mailed this date to each party on the attached Service List.

Thank you for your attention to this matter.

Sincerely,

James M. Fischer

James M. Fischer

/jr
Enclosure

cc: Service List

SERVICE LIST
March 1, 2001
Case No. TO-99-593

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered or mailed, First Class mail, postage prepaid, this 1st day of March, 2001, to:

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James M. Fischer

James M. Fischer

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Investigation into)
Signaling Protocols, Call Records, Trunk) Case No. TO-99-593
Arrangements and Traffic Measurement)

INITIAL BRIEF OF GTE MIDWEST INCORPORATED <u>D/B/A VERIZON MIDWEST</u>

COMES NOW GTE Midwest Incorporated d/b/a Verizon Midwest ("Verizon") and submits the following Initial Brief addressing the issues identified in Proposed List of Issues filed by the parties on January 17, 2001.

I. INTRODUCTION

This case was established pursuant to the Report and Order that the Missouri Public Service Commission ("Commission") issued on June 10, 1999, in Case No. TO-99-254. The Commission created this case "to investigate the issues of signaling protocols, call records, trunking arrangements, and traffic measurement." (*See* Report and Order, Case No. TO-99-254, p. 11, and Order Directing Notice, Case No. TO-99-593, June 15, 1999) However, in many respects, this case has evolved into a re-argument of issues that have already been reviewed by the Commission, including a request by the Small Telephone Company Group ("STCG") and the Missouri Independent Telephone Company Group ("MITG)(collectively the "small ILECs" or "former SCs") to change the "business relationship" between the carriers in the telecommunications industry. As the Staff has pointed out, the Commission does not regulate the "business relationship" between the companies (Staff Position

Statement, p. 2), and therefore the relief requested by the small ILECs on this issue (*i.e.* ordering a change in the business relationship) is arguably beyond the authority of the Commission to grant. Since the "business relationship" issue has become the primary focus in the evidentiary hearings, Verizon will address this issue first before discussing the remaining more technical issues.

II. What business relationship should be utilized for payment for intrastate intraLATA traffic terminating over the common trunks between the former PTCs and the former SCs?

In this proceeding, the small ILECs have raised an issue related to the "business relationship" between the former Primary Toll Carriers ("PTCs") and the former Secondary Carriers ("SCs") that was not identified as an issue by the Commission in its order initiating the proceeding. According to the small ILECs, the Commission should <u>mandate</u>, over the objections of the former PTCs and without the consent of other affected carriers, a change in the current business relationship between the former PTCs, former SCs, and other carriers (not parties to this proceeding). As the Commission knows, the current business relationship in the telecommunications industry requires the originating carrier to be responsible for the payment of terminating access charges to the terminating carrier. (Ex No. 9, pp. 2-4; Ex No. 10, pp. 3, 10) This business relationship is consistent with Commission-approved tariffs and interconnection agreements used throughout the telecommunications industry in Missouri for intrastate, intraLATA traffic. However, in this proceeding, the small ILECs have requested that the Commission <u>order</u> the former PTCs to be financially responsible for paying for the termination of other carriers' traffic if the carriers' traffic is terminated using the former PTC's common trunk or tandem. If adopted, the small ILECs' proposal would completely disrupt the business relationship used in the intrastate, intraLATA market in Missouri.

Verizon believes that no change in the existing business relationship is required or otherwise appropriate. Furthermore, Verizon disagrees with the small ILECs' contention that a tandem switch owner should pay or otherwise by responsible for both "identified" and "unidentified" traffic that transits its common trunk group or tandem. Simply put, Verizon should not be obligated to pay for calls originated by other carriers' customers, including the customers of Sprint and Southwestern Bell, or CLECs and wireless carriers, merely because their traffic happens to come over a Verizon common trunk or tandem. This is particularly true since Verizon believes that it is obligated by law to transit or transport the traffic from other carriers and terminate that traffic to the small ILEC exchanges behind its tandem.

A. The Commission Does Not Have The Statutory Authority To Mandate A Change In The Business Relationship Between Former PTCs and the Small ILECs.

The Staff has correctly pointed out that: **"The Commission does not regulate the business relationships between companies. When the Commission ordered, in its Report and Order in Case No. TO-99-254, that this case be established, it did not identify business relationships as an issue that the parties should address in this case."** (Staff Position Statement, p. 2)(emphasis added) Verizon wholeheartedly agrees with Staff on this point.

According to Staff witness Arthur P. Kuss, the Staff does not believe that it is the job of the Commission to regulate the business relationships between the telecommunications companies. (Tr. 754-55) Typically, the Commission leaves such management decisions to the managers of the public utilities. (Tr. 752) *See State ex rel. City of St. Joseph v. Public Service Commission,* 30 S.W.2d 8 (Mo.1930); *Integrated Gas Resource Planning Rules,* 1995 WL 614488 at 4-5 (June 2, 1995); *Re General Telephone Co. of Midwest*, 1973 WL 29359, 18 Mo.P.S.C.(N.S.) 141 (July 13, 1973). The Supreme Court of the United States, in *Missouri ex rel. Southwestern Bell Telephone*

Company v. Public Service Commission, 262 U.S. 276 (1923) stated, at page 289:

> It must never be forgotten that while the state may regulate, with a view to enforcing reasonable rates and charges, it is not the owner of the property of public utility companies, and is not clothed with the general power of management incident to ownership.

Verizon believes that the Commission should not deviate from this long standing principle of law in this proceeding.

Recently, in its Report & Order in *GST Technologies, Inc. v. Kansas City Power & Light Co.*, Case No. EC-99-553, the Commission itself discussed the limited nature of its statutory authority to alter or otherwise modify contractual relationships of public utilities:

> The Public Service Commission "is purely a creature of statute" and its "powers are limited to those conferred by the [Missouri] statutes, either expressly, or by clear implication as necessary to carry out the powers specifically granted." State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission, 585 S.W.2d 41, 47 (Mo. banc 1979); State ex rel. City of West Plains v. Public Service Commission, 310 S.W.2d 925, 928 (Mo. banc 1958). While the Commission properly exercises "quasi judicial powers" that are "incidental and necessary to the proper discharge" of its administrative functions, its adjudicative authority is not plenary. State Tax Commission v. Administrative Hearing Commission, 641 S.W.2d 69, 75 (Mo. 1982), *quoting* Liechty v. Kansas City Bridge Co., 162 S.W.2d 275, 279 (Mo. 1942). "Agency adjudicative power extends only to the ascertainment of facts and the application of existing law thereto in order to resolve issues within the given area of agency expertise." State Tax Commission, *supra*.
>
> The Public Service Commission Act is a remedial statute and thus subject to liberal construction; however, "'neither convenience, expediency or necessity are proper matters for consideration in the determination of' whether or not an act of the commission is authorized by the statute." *Id., quoting* State ex rel. Kansas City v. Public Service Commission, 301 Mo. 179, 257 S.W. 462 (banc 1923). **The Commission is without authority to award money . . . ,** American Petroleum Exchange v. Public Service Commission, 172 S.W.2d 952, 955 (Mo. 1943), **or to alter, construe or enforce their special contract.** May Department Stores Co. v. Union Electric Light & Power Co., 341 Mo. 299, 107 S.W.2d 41, (Mo. 1937); Kansas City Power & Light Co. v. Midland Realty Co., 93 S.W.2d 954, 959 (Mo. 1936). **The Commission is authorized, after a hearing, to set just and reasonable prospective rates.** State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission, 585 S.W.2d 41, 48-49 (Mo. banc 1979).

(Report & Order, Case No. EC-99-553, pp. 22-23)(emphasis added)

In the current investigatory proceeding,[1] the small ILECs are not requesting that the Commission set just and reasonable prospective rates for any telecommunications service. Instead, the small ILECs are requesting that the Commission exercise a power that the Commission does not possess–the power to alter the business relationship and/or contracts among the various carriers in the industry. The Staff has recognized this fatal flaw in the small ILECs' proposal. (Staff Position Statement, p. 2) Staff witness Kuss has testified that he would have no objection if the various companies agreed to voluntarily modify their business arrangements. However, the Staff does not believe the Commission should order or mandate a change in the contractual or business relationships between those carriers, absent a voluntary agreement among the various affected telecommunications companies.[2] (Tr. 751-55; 771-72)

Even if the Commission had the statutory authority to resolve the business relationship issue that is being injected into this proceeding by the small ILECs, it would be unnecessary to address this issue in any detail since the Commission has already made its position known to the industry. In Case No. TO-99-254, the Commission rejected a similar proposal suggested by the small ILECs that the tandem companies be responsible for paying for any discrepancy between what the SCs recorded as terminating traffic and the records they received from the originating carriers. The

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[1]It should be noted that this proceeding is not an arbitration of an interconnection agreement, pursuant to the federal Telecommunications Act of 1996. Although the Commission has authority under the Act to arbitrate issues related to interconnection agreements, the Act does not expand the plenary authority of the Commission to alter, construe or enforce other contracts between telephone companies in Missouri. In addition, no party has requested an arbitration of contractual issues in this proceeding.

[2]For the record, Verizon hereby states that it does not agree to change the existing business relationship or otherwise become financially liable for any portion of traffic terminated by other telecommunications carriers on behalf of their customers.

Commission found that it was fundamentally inequitable for the former PTCs to be financially responsible to the former SCs for the "unidentified" or "residual" traffic:

> Many of the SCs argued that they should be able to measure terminating minutes at the terminating end office, and bill the carrier that delivered that traffic to the terminating tandem or end office for any discrepancy between the minutes shown on the originating records and the measured minutes. As noted above, prudent business practices dictate that the SCs move toward acquiring more information about, and authority to bill for, calls terminated to them. However, there is a fundamental inequity in this residual billing scheme: Included in the minutes terminated to the SCs are some minutes of use for which the SCs are not entitled to be compensated. These include MCA traffic delivered over common trunks, interstate intraLATA traffic, and possibly Feature Group A traffic and calls that merely "transit" the PTC's network. Adopting this scheme would guarantee that some SCs will be over-compensated when there is little evidence that they are under-compensated under the present scheme.

In this proceeding, the small ILECs have expanded their proposal by suggesting that Verizon and the other tandem owners should be responsible for paying for nearly all traffic flowing to the small ILECs, <u>even when the traffic is identified as being originated from another carrier</u>. Apparently, the only exceptions would include MCA traffic, interstate intraLATA traffic, Feature Group A traffic, and wireless traffic.[3] (Ex. No. 4, p. 4) As a result, Verizon would be responsible for virtually all traffic flowing over its tandem, <u>even if the traffic is identified as being originated from other carriers</u>. For the reasons discussed herein, the Commission should find this modified proposal to be even more inequitable than the proposal rejected in Case No. TO-99-254.

[3]For LECs not owning a tandem, the small ILECs would also exempt IXC traffic, including Feature Group B traffic. (*Id.*)

B. The IXC Business Model Advocated By The Small ILECs Should Not Be Used For IntraLATA Traffic Since The Tandem Companies, Unlike IXCs, Are Required By Law To Interconnect With and Transport All Traffic To Subtending Exchanges. As A Result, The IXCs Can Determine Whether To Carry Specific Traffic (or Content) On Their Trunks, But Local Exchange Carriers Can Not Lawfully Refuse To Transport Traffic On Their Common Trunks.

The small ILECs' justification for a mandated change in the current business relationship is based largely upon a false analogy with the interexchange companies' relationships with other carriers. MITG's Position Statement, at pages 4-5, explains this proposed business relationship as follows:

> IXC business model developed for the competitive interLATA market should also be adopted for the now competitive intraLATA market. The IXC (or IC under the small company access tariff) who ordered the facility for terminating traffic to a LEC should be responsible for all traffic terminating over that facility. Under this model, a terminating LEC with its own tandem measures the total terminating traffic and bills the IXC (IC) for this traffic. Under this model, a terminating LEC with an end office served by the tandem of a former PTC relies upon the terminating records created at the terminating tandem by the form PTC for billing IXC traffic terminating over the common trunk. LECs should not be required to rely on other carriers' records in a competitive environment.

The Commission should not adopt the small ILECs' proposal since the relationship between the former PTCs and the SCs is fundamentally different from the relationship that exists between interexchange carriers and their customers. Under Section 251(a)(1) of the federal Telecommunications Act of 1996, telecommunications carriers, such as Verizon, are obligated "to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers." In addition, Section 251(c)(2) establishes the additional obligations of Incumbent Local Exchange Carriers which include, *inter alia*, the "duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network–(A) for the transmission and routing of telephone exchange service and exchange access;

(B) at any technically feasible point within the carrier's network . . . " Verizon believes that the federal act obligates it to interconnect with other carriers (i.e. small ILECs, CLECs, and wireless carriers) and transit the calls (thereby providing telephone exchange service and exchange access) for termination to the small ILECs. Under this section, IXCs, CLECs and wireless carriers may interconnect with a Incumbent Local Exchange Company such as Verizon to deliver traffic to other LECs, including the small ILECs.

Interexchange carriers, on the other hand, have right to choose (or not to choose) to enter into contractual relationships to carry traffic on their trunks with their customers (including other IXCs, CLECs and wireless carriers). As explained by Sprint witness Cowdrey, an IXC, as a competitive company, can refuse to offer its end-to-end service to other companies. (Ex No. 18, p. 7) Incumbent local exchange carriers, however, can not refuse to terminate traffic except for network security or bad debt reasons.[4] In addition, IXC can choose to offer end-to-end service to their IXC customers. (*Id.*) However, LECs' access tariffs clearly state that they are only charging for and obligated to transport the terminating call to the meet point. (*Id.*) These legal distinctions between the obligations of interexchange and local exchange carriers are compelling reasons to reject the small ILECs' proposal to require the former PTCs to adopt the IXC "business relationship" model for LEC-to-LEC traffic. Since the legal obligations to transport the traffic to subtending exchanges is fundamentally different from an IXC's voluntarily choice to carry traffic of other carriers, it makes no sense to impose upon the ILECs the same "business relationship" that exists for IXCs.

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[4]It may also be permissible for an ILEC to refuse to terminate traffic for a non-paying third-party carrier, pursuant to a lawful Commission order directing the ILEC to block such traffic. *See* ORDER GRANTING REQUEST FOR PRELIMINARY RELIEF, *Southwestern Bell Telephone Co. v. Mid-Missouri Telephone Co.*, Case No. TC-2001-20 (July 18, 2000).

C. The Business Relationship Advocated By the Small ILECs Would Improperly Shift The Risk of Non-Payment Of Terminating Access Charges By Other Carriers To The Former PTCs Without Compensation.

The small ILECs' proposal also resurrects a feature of the PTC Plan that was advantageous to the small ILECs under the old PTC Plan. Prior to the advent of the new competitive world, the former PTCs served as one-stop "collection agents" for the SCs. It was a simpler world for the SCs before the advent of intraLATA competition since they were paid by the PTCs for their share of the settlement of access charges for intraLATA traffic. In effect, the former PTCs served as a clearinghouse for the settlement of access charges for the small ILECs. However, the telecommunications world has changed, and the Commission has determined "that the PTC plan is incompatible with competition." (Report & Order, Case No. TO-99-254, pp. 4-5) It would also be incompatible with competition for the Commission to order the former PTCs to now serve as a "collection agent" for the small ILECs, and or worse, as a "guarantor" for the payment of access charges by other third-party carriers that terminate traffic to the small ILEC exchanges.

Under the small ILECs' proposal, the former PTCs would be forced by the Commission to take the financial risk on behalf of the small ILECs for payment of terminating access charges by other carriers that use the common trunks to terminate their traffic. This financial risk would also be mandated for the former PTCs without any additional compensation for rendering this significant service for the small ILECs. The Commission should decline to adopt this throw-back to an earlier era when substantial competition in the intraLATA marketplace did not exist. It is simply incompatible with a competitive environment for the Commission to mandate that the former PTCs serve as a collection agent or otherwise guarantee the payment of terminating access charges by third-party carriers to the small ILECs.

D. The Small ILEC's Proposal Is Unnecessary Since The Telecommunications Industry Has Adopted New National Standards Through Its Ordering And Billing Forum (OBF) For Certain Recording And Settlement Procedures Which Will Facilitate The Resolution Of The Issues Raised By The Small ILECs In This Proceeding.

Verizon witness Kathryn Allison discussed the recent adoption of new national industry standards by the Ordering and Billing Forum for the telecommunications industry which are expected to improve the current record exchange and bill validation process among the various types of carriers (*e.g.* ILECs, CLECs, IXCs, and wireless carriers). Ms. Allison outlined the OBF's new standards (i.e. OBF Issue 2056) which have been formally adopted by the OBF and will be implemented in the next 18-24 months as follows:

> Today there is a meet point process for access (IXC) usage, in which industry standard Category 11-01 records are exchanged between LECs. This existing process is outlined in the OBF's Multiple Exchange Carrier Access Billing (MECAB) Guide. Issue 2056 proposes changes to the MECAB process that would streamline the record exchange and include a local and intraLATA meet point record exchange process. Issue 2056, when accepted and implemented, would provide guidelines and a consistent, industry-standard process for meet point or meet point-like record exchanges and billing processes for facility-based LECs, CLECs, and wireless providers for access, local and intraLATA toll usage.
>
> Issue 2056 was originally submitted to OBF in November 1999 and received final approval on November 8, 2000. Time Warner, Bell South, SBC, Qwest, Verizon Midwest, AT&T (CLEC), Sprint (CLEC & ILEC), and Sprint Spectrum are just a few of the providers that worked on this issue and are members of OBF.
>
> Issue 2056 specifies that each provider will be responsible for recording its own usage, both originating and terminating. This will enable the LECs to bill terminating usage as well as perform bill validation. If a LEC does not have the ability to record its own usage, Issue 2056 contains a process by which the provider can obtain copies of records from the originating, transiting or terminating provider.

During the hearings, Ms. Allison elaborated upon the enhancements that will result from the adoption of Issue 2056. (Tr. 655-59) She testified that the Issue 2056 standards will overlay the existing records exchange process. Both originating and terminating records will be made and used to verify that the proper billing for traffic is occurring among the various carriers. In addition, the new standards mandate that any of the carriers that handle a call will be permitted to request records from other carriers involved in that call to help identify the traffic and ensure that the call is being properly billed. (Tr. 656-57)

The billing process for CLEC traffic, for example, will be enhanced by the adoption of OBF Issue 2056, and should help to resolve billing and recording concerns raised by the small ILECs in this proceeding related to CLEC traffic. The recording and billing process will be modified as follows under the new standards:

For CLEC traffic, Verizon uses the existing industry standard category 11-01 record exchange. The CLEC trunk group is established as meet point, so that Verizon provides an 11-01 record to LEC end offices behind a Verizon tandem for all CLEC-originated traffic. This enables the subtending LEC to bill the originating CLEC for terminating charges. If the originating number is missing from the record, the CLEC meet point trunk is translated to insert the CLEC's Carrier Identification Code (CIC), which is populated in the 11-01 record. Another record, an 11-50 record, is returned to Verizon from the terminating LEC so that Verizon can bill a transiting charge to the originating CLEC.(Ex. No. 20, pp. 3-4)(Tr. 615)

However, under the new OBF 2056 standards, both the terminating office owner and the tandem owner will be in a position to properly bill the CLEC for their respective access and transiting charges. (*Id.*) It will no longer be necessary for the tandem owner to wait for the return of the Category 11-50 records for the billing process to be completed. (Tr. 656) Both the terminating end office owner and the tandem company will be able to bill their respective charges using the Category 11-01 originating records which will include the CIC codes.

As explained by Ms. Allison, the adoption of OBF 2056 will also help all companies involved in the traffic to ferret out any problems that may result in the measurement and billing process. (Tr. 657) The new standards gives all of the companies along the call route the ability to go to any other carrier involved in the call and request records to help identify the traffic and the appropriate company to be billed for the traffic. OBF 2056 has been included in the MECAB documents and will constitute national standards and guidelines for billing. (*Id.*) It will give both the terminating company and the tandem owner the ability to make terminating records that will be used for bill validation purposes. As a result, although the billing will continue to be based upon originating records, as it is today, there will be additional terminating records to compare to the originating records. (Tr. 657-58)

Verizon believes that the adoption of Issue 2056 by the industry will largely resolve the intraLATA, local and inter-tandem switching compensation issues in this docket by filling in any gaps in the existing record exchange procedures. It is therefore unnecessary for the Commission to adopt a Missouri-specific plan or order a change in the business relationship between the former PTCs and the small ILECs in this proceeding.

E. The Small ILECs' Proposal To Change The Business Relationship Is Unnecessary Since The Records Test Demonstrated That There Was Little, If Any, Discrepancy Between Verizon's Originating Records and The Small ILECs Terminating Records.

Although the Missouri Record Exchange Test conducted in this proceeding may have initially raised some questions on a statewide basis, Verizon believes that those questions have now been answered. Verizon also believes that the Missouri Record Exchange Test also validated the process that has been used by Verizon for the measurement and recording of its traffic. For example, the records tests demonstrated a virtually perfect match between the Verizon records and the records of Mid-Missouri Telephone Company:

[Fischer]: Is it fair to say that at least for Verizon and Mid-Missouri Telephone Company and the recent records test that was completed, they we matched records quite well between our two companies?

[Jones]: Quite well probably wouldn't be appropriate. I think exact would be appropriate.

(Tr. 238)(emphasis added)

In addition, Verizon found no significant differences between the originating records it provided and those recorded by other terminating companies. Fewer than 3% of the total unmatched terminating records were identified as originating from a Verizon end office. The test results also show that many of those unmatched records were unanswered calls that should not have been recorded. (Ex No. 20, p. 2) Verizon's experience and analysis of the results of the records test are contained in the Missouri Record Exchange Test–Final Report, Ex No. 40, pp. 33-38. As explained in the Final Report, Verizon believes that 32 of 35 "unmatched" calls between Verizon and Peace Valley should not have been included in the records test since they were incomplete (i.e. unanswered) calls. (*Id.* at 38)(Tr. 102-10) In addition, of the remaining unmatched calls between Verizon and Northeast Missouri, Modern and Kingdom Telephone Company that were initially studied in the records test, only a small handful (*i.e.* Northeast Missouri-1, and Kingdom-3) remained "unmatched" at the conclusion of the study. (Ex No. 40, pp. 37-38)

Based upon the results of the Missouri Records Exchange Test, Verizon would submit that its own measurement and recording system is working extremely well.[5] In addition, Verizon

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[5]Verizon's policy regarding inter-tandem switching of traffic has also been a factor in the minimal recording and measurement problems on its system. (Tr. 661-62) Verizon's policy, which is supported in its CLEC and wireless interconnection agreements, is that the tandem

believes that other problems that were identified throughout the state (*e.g.*, Local Plus traffic translations) have been satisfactorily addressed (Ex No. 11, pp. 9-11; Ex No. 12, p. 7), and do not provide an appropriate rationale for dismantling a system that has worked well for over twelve years, or for discarding the existing business relationship between the former PTCs and the small ILECs in this proceeding. To the extent there remains any concern regarding the recording and measurement processes in Missouri, however, Verizon believes that the adoption of OBF Issue 2056 on a national basis will further improve and enhance these processes and help to resolve any recording and measurement problems in the future.[6]

For all of the foregoing reasons, Verizon would respectfully request that, if the Commission chooses to address this issue at all, that the Commission deny the small ILECs' proposal to change the business relationship between the former PTCs, former SCs, and other carriers, including CLECs and wireless providers.

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connection provides access only to the end offices subtending the tandem of connection. It is the responsibility of the CLEC or wireless provider to connect at every tandem in the LATA. Verizon will only provide inter-tandem trunking of intraLATA toll traffic if the CLEC or wireless provider fully participates in the IntraLATA Terminating Access Compensation (ITAC) process. (Ex No. 20, p. 4; Tr. 661-62) As a result of this policy, intercompany compensation issues have been minimized since the identity of the traffic is not lost, due to inter-tandem switching.

[6]Southwestern Bell and Sprint witnesses have also explained the enhancements that will result in their companies' systems by the adoption of the Hewlett-Packard/Agilent AcceSS7 Business Intelligence system. (Ex No. 10, p. 10; Ex No. 14, p. 24; Ex No. 19, p. 5) This system may be used to allow the ILECs in Missouri to determine if calls being terminated to an end office are also flowing through the billing and compensation systems. (Ex No. 14, p. 25)

II. Signaling Protocols. Is it necessary for the Commission to decide in this case what signaling protocols should be utilized for intrastate intraLATA traffic terminating over the common trunks between the former PTCs and the former SCs?

There is no disagreement among the parties on this issue that needs to be resolved by the Commission at this time. (*See* Position Statements of Staff, STCG, MITG, Southwestern Bell, Sprint and Verizon). In addition, the Commission has already considered this issue and determined that it was not necessary to mandate the use of Feature Group D signaling protocols for intrastate intraLATA traffic terminating over the common trunks between the former PTCs and the former SCs. In Case No. TO-99-254, the Commission held:

> Second, there is evidence that by mandating the use of FGD and refusing to terminate calls passed using FGC, some SCs would not be able to complete all calls made to their customers. If the LECs do not convert to FGD, calls made to SC customers (for those few SCs that would demand FGD) would simply not be completed, and the calling customer would possibly get a message that the call could not be completed as dialed.
>
> Third, the evidence clearly demonstrates that FGD as presently configured will not provide all the information the SCs want about calls terminated to them.
>
> Fourth, the evidence shows that work is being done to improve FGC; there was not similar testimony with respect to FGD. Requiring a conversion to FGD may be a wasted investment, since FGC may in the future be enhanced to allow the SCs to capture the information they want. Currently neither FGC or FGD provide all the information sought, and it seems more likely that eventually FGC will provide more of it than FGD.
>
> Finally, there is little concrete evidence about the cost of converting the LEC to LEC network to FGD, but what evidence there is certainly suggests that the cost will be great. The Commission will not order the industry to embark on a massive project to convert to another standard, at an unknown cost, to achieve uncertain benefits and possibly cause tangible harm to customers trying to place calls.

(Report & Order, Case No. TO-99-254, pp. 6-7)

Since there is no longer any controversy among the parties related to the use of Feature Group C and Feature Group D signaling protocols in this case, the Commission should decline to address this issue again.

III. Traffic Measurement. How and where should intrastate intraLATA traffic terminating over the common trunks between the former PTCs and the former SCs be measured for purposes of terminating compensation?

As explained in Verizon's Position Statement, for traffic that originates with an ILEC and transits an ILEC tandem, the originating ILEC should produce the appropriate 92 record or Category 11 billing record to be provided to all parties on the call route. (Position Statement of Verizon, pp. 2-3)

For traffic that originates with a CLEC or a wireless provider that transits the ILEC tandem, the terminating ILEC, in the absence of an originating billing record from the CLEC or wireless provider, may request a billing record from the transiting ILEC tandem owner. The adoption of OBF Issue 2056 by the Missouri telecommunications industry would accomplish this process. Until such time as OBF Issue 2056 is implemented, Verizon will continue to submit the Cellular usage summary report for wireless originated traffic. (*Id.*)

Verizon has no objection to the small ILECs or other carriers recording and measuring terminating traffic at the terminating LEC's end office or tandem. As Staff has pointed out, measurement of traffic at multiple points may provide additional data that may be useful if billing disputes subsequently arise. (Staff Position Statement, p. 1) In addition, Verizon believes that the small ILECs' desire to record and measure their own terminating traffic at the terminating LEC's end office or tandem is consistent with the new national standards adopted by the OBF Issue 2056. Verizon does not believe, however, that it is appropriate or necessary to change <u>the current method of billing for terminating access</u>. LEC originated toll calls should be measured for billing purposes at the originating end of the call. This is the standard industry method and the only method uniformly available to identify the carrier that originated the call. (Ex No. 4, pp. 18-19; Ex No. 11, pp. 13-15; Ex. No. 12, p. 13) Any discrepancies that are found between the originating measurement and the terminating measurement should be resolved using the national procedures developed by the OBF.

IV. Call Records. What call records should be utilized for intrastate intraLATA traffic terminating over the common trunks between the former PTCs and the former SCs?

At present, there is not an industry standard for terminating switch recording on a common trunk group, for purposes of the billing of intrastate, intraLATA traffic. The industry standard for recording is an originating 006 call record which is converted into a 92 billing record (or Category 11 billing record in Missouri) for billing purposes. The use of the 119 terminating call record is only appropriate for the billing of access on a dedicated trunk group. Consequently, Verizon recommends the use of originating call records for billing purposes for intrastate, intraLATA traffic generally. The adoption of OBF Issue 2056 will fill in any gaps in the existing record exchange process.

Verizon would also note that the Commission has already addressed this issue in Case No. TO-99-254. In that proceeding, at the request of the small ILECs, the Commission ordered that the former PTCs should supply the former SCs with Category 11 Records:

> However, the Commission will order the provision of standard "Category 11" records. This will provide the SCs better information about calls terminated to them. . . . Although the SCs generate Category 92-99 records for calls they originate to pass to the PTCs, they do not currently receive them. The PTCs propose to provide Category 92-99 records which would require the SCs to develop a system to bill using these records, or require the SCs to convert them to Category 11 records. 11-01 records are an industry standard, and all of the SCs currently use them. They are the records used in the carrier access billing system. The Commission finds that

> requiring the PTCs to provide industry standard 11-01 records is in the public interest, and will order these records to be provided by April 1, 2000.

(Report and Order, Case No. TO-99-254, p. 14)

Having modified their respective billing systems to comply with the Commission order in Case No. TO-99-254, Verizon and the former PTCs believe it would not be appropriate to order a different record be produced for the small ILECs with their own tandems, as is apparently being requested by some small ILECs in this proceeding. The former PTCs have made the system changes in order to implement the Category 11 record-keeping process requested by the former SC s in Case No. TO-99-254, and Verizon believes that Category 11 records should continue to be used for both tandem and non-tandem small ILECs.

V. Trunking Arrangements. What changes, if any, should be made to the existing common trunking arrangements between the former PTCs and the former Scs?

Verizon does not believe that any changes need to be made in the existing common trunking arrangements between the former PTCs and the former SCs. The Commission should not order that the former PTCs segregate MCA or other types of traffic over separate trunk groups since this segregation would be wasteful and inefficient. (Ex No. 14, pp. 19-21; Ex. No. 16, pp. 3-4). If any party desires to discuss whether trunking changes should be made related to the MCA traffic, then it would be more appropriate to consider this technical issue within the context of the discussions of the MCA Industry Task Force that has been created by the Commission in Case No. TO-99-483.

VI. Call Blocking. What procedure or arrangement, if any, should be utilized to prevent noncompensated intrastate intraLATA traffic from continuing to terminate over the common trunks between the former PTCs and the former SCs?

Since the Commission did not identify this issue in its order when it created this docket to investigate "signaling protocols, call records, trunking arrangements, and traffic measurement," Verizon believes that the call blocking issue is beyond the scope of issues to be reviewed in this case. As a result, the Commission should decline to address this matter at this time.

The small ILECs, however, have proposed that they be permitted to require that the former PTCs block any noncompensated intrastate intraLATA traffic being transported to the small ILEC exchanges. From Verizon's perspective, in addition to possible legal infirmities, *infra*, call blocking is not a practical solution to the problem of third-party carriers placing traffic on the network for which they do not compensate the small ILEC. To effectively block traffic, Verizon would have to block traffic for all carriers, or allow all carriers' traffic to pass. To selectively block traffic of only nonpaying carriers would require a manual tracking process that would be costly, time consuming and subject to errors. (Ex No. 20, pp. 10-11)

Perhaps more importantly, call blocking has legal flaws to be considered. Under Section 251(a)(1) of the Telecommunications Act of 1996 ("Act"), each telecommunications carrier has the duty to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers. The small ILECs' call blocking proposal may contravene this obligation.

The small ILECs' blocking proposal goes much further than what is traditionally found in telephone company tariffs, including Verizon's Missouri tariff. Such tariffs customarily give a carrier authority itself to disconnect or block the calls of one of its customers in accordance with the provisions of that tariff and the Commission's rules. However, the small ILECs' proposal is a substantial departure from this traditional industry practice. The small ILECs' proposal apparently would give themselves carte blanche authority to require the former PTCs to block traffic (without any prior Commission review of the interruption of service). Given the mandate of Section 251(a)(1) of the Act, a demand by a terminating small ILEC is not sufficient authority for blocking by a former PTC in cases where the terminating small ILEC is having a dispute with the originating carrier.

Moreover, requiring a former PTC to block on a small ILEC's behalf may subject the former PTC to legal claims from third parties. At a minimum, if a small ILEC is to be given a right to require a former PTC to do its blocking, the small ILEC should be required to hold the former PTC harmless through an indemnification agreement. In addition, the small ILEC should be required to compensate the former PTC for the cost of blocking the traffic.

Finally, there is no evidence in this record to suggest that the former PTCs have any authority within their own tariffs that would support an order to block traffic of third-party carriers at the request of the small ILECs. While Verizon's interconnection agreements with third-party carriers require that the third-party carrier compensate the terminating small ILECs, there is nothing in this record that would indicate that Verizon has any lawful authority to block their traffic if the third-party carrier does not pay the small ILECs. Even if that authority existed, it would place Verizon and other former PTCs in the inappropriate role of being a "collection agent" for the small ILECs.

VI. CONCLUSION

For the foregoing reasons, Verizon respectfully requests that the Commission issue its Report and Order consistent with the recommendations and conclusions contained in this Initial Brief. Specifically, the Commission should conclude:

1. That the "business relationship" between the former PTCs, SCs, and other carriers not parties to this proceeding, is beyond the jurisdiction of the Commission;

2. If, however, the Commission decides it has jurisdiction to address this business relationship issue, then the Commission should decline to adopt the proposal of the small ILECs, or otherwise order that the former PTCs serve as "collection agents" or "guarantors" for the payment of terminating access charges by third-party carriers to the small ILECs;

3. That there is no disagreement among the parties on the Feature Group C versus Feature Group D signaling protocol issue that needs to be resolved at this time;

4. That for traffic that originates with an ILEC and transits an ILEC tandem, the originating ILEC should produce the appropriate 92 record or Category 11 billing record to be provided to all parties on the call route. For traffic that originates with a CLEC or a wireless provider that transits the ILEC tandem, the terminating ILEC, in the absence of an originating billing record from the CLEC or wireless provider, may request a billing record from the transiting ILEC tandem owner. The adoption of OBF Issue 2056 by the Missouri telecommunications industry would accomplish this process;

5. That no changes need to be made in the existing common trunking arrangements between the former PTCs and the former SCs;

6. That the call blocking issue is beyond the scope of issues to be reviewed in this case, and it is not a practical solution to the problem of third-party carriers placing traffic on the network for which no compensation is paid to the small ILECs.

Respectfully submitted,

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