

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of a Proposed Rule to Require	)	
all Missouri Telecommunications Companies	)	Case No. TX-2003-0301
to Implement and Enhanced Record	)	
Exchange Process to Identify the Origin of	)	
IntraLATA Calls Terminated by Local	)	
Exchange Carriers.	)	

**SBC MISSOURI'S OPPOSITION TO  
MITG MOTION TO CONSOLIDATE**

SBC Missouri<sup>1</sup> respectfully opposes the Missouri Independent Telephone Group's ("MITG") March 21, 2003 Motion to Consolidate. MITG's Motion to Consolidate is yet another attempt to relitigate prior Missouri Public Service Commission decisions that are not to its liking. Nevertheless, because of the complexity of the issues surrounding the rule anticipated to be proposed by Staff, SBC Missouri would recommend a contested case type proceeding, so that the Commission has a full understanding of the issues prior to determining whether to adopt a rule.

1.     No Pending Issues Exist in Case No TO-99-593. In an attempt to justify its request to consolidate this rulemaking with the proceeding in Case No. TO-99-593, MITG claims that any rule proposed here will affect parties' rights concerning issues "pending" in Case No. TO-99-593. Specifically, MITG asserts that the issues of "what terminating telecommunications traffic signaling, trunking, billing records, and compensation systems and responsibilities would be used to replace those systems in use during the term of the primary toll carrier plan have been litigated but not yet resolved."<sup>2</sup>

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<sup>1</sup> Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, will be referred to in this pleading as "SBC Missouri" or "SBC."

<sup>2</sup> MITG's Motion, p. 2.

But contrary to MITG's assertions, there are no pending issues in Case No. TO-99-593:

- Traffic Signaling. The Commission in Case No. TO-99-254 specifically rejected MITG's demand to force all LECs in Missouri to convert from Feature Group C (FGC) to Feature Group D (FGD) signaling protocol.<sup>3</sup> And there was no signaling issue presented to the Commission for decision in Case No. TO-99-593.<sup>4</sup>
- Trunking. The Commission in Case No. TO-99-254 specifically rejected MITG's demand for trunk changes.<sup>5</sup> While trunking was specifically identified as an issue for investigation in Case No. TO-99-593, MITG and the other parties gave little attention to trunking arrangements (the only specific proposal for changes to occur in trunking arrangements was to move MCA traffic on to separate trunks, but that was only one of several alternatives proposed for dealing with MCA traffic). Instead, MITG and STCG focused their attention on trying to change the business relationship among carriers in the state.<sup>6</sup>
- Billing Records. The Commission in Case No. TO-99-254 ordered the former Primary Toll Carriers ("PTCs") to produce industry standard Category 11 records on the traffic they originated and sent to the MITG members and the other former Secondary Carriers ("SCs"). The former PTCs worked diligently with representatives of the former SCs to develop a Missouri-specific Category 11 record that accommodated technical issues within the former PTCs' network and that could be readily processed by the former SCs' existing billing systems. These records have been used by the LEC industry in Missouri for the last three years without incident.<sup>7</sup> In an effort to identify traffic not being captured by the current exchange of records, the Commission directed Staff to begin the rulemaking process to promulgate a rule to identify terminating traffic and the identity of the company responsible for paying terminating charges for that traffic.<sup>8</sup>

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<sup>3</sup> In the Matter of an Investigation Concerning the Primary Toll Carrier Plan and intraLATA Dialing Parity, Case No. TO-99-254, Report and Order, Issued June 10, 1999, at pp. 10-12.

<sup>4</sup> In Case No. TO-99-593, hearing issue 1 - Signaling Protocol asked "Is it necessary for the Commission to decide in this case what signaling protocols should be utilized for intrastate intraLATA traffic terminating over common trunk groups between the former PTCs and the former SCs?" All parties answered this question no. Specifically, MITG witness David Jones testified that the small companies are not suggesting that Southwestern Bell and the other former PTCs be forced to convert to FGD signaling protocols. See, MITG Jones Rebuttal, p. 10. STCG witness Robert Schoonmaker stated "we have recognized that the signaling messages for FGC and FGD terminating traffic are identical and that changing to FGD signaling for the terminating traffic would not address the billing/compensation issues that we are most concerned with." STCG, Schoonmaker Direct, p. 23.

<sup>5</sup> Report and Order, Case No. TO-99-254, pp. 12-13.

<sup>6</sup> See, Order Directing Implementation, Denying Motion to Consolidate, and Granting Intervention, Case No. TO-99-593, Issued December 13, 2001 at p. 2.

<sup>7</sup> Report and Order, Case No. TO-99-254, p. 14; See also, Staff's August 7, 2002 Report in case No. TO-99-593, p. 2.

<sup>8</sup> Order Directing Implementation, Denying Motion to Consolidate and Granting Intervention, Case No. TO-99-593, at pp. 1, 3-5; and Order Denying Motion, Case No. TO-99-593 at p. 3.

- Compensation Systems and Responsibilities. The Commission, both in Case Nos. TO-99-254 and TO-99-593, specifically rejected MITG's demand to change the business relationship between the parties to make tandem carriers like CenturyTel, SBC and Sprint financially responsible for another carrier's traffic merely because it transits their networks and flows to the small LECs.<sup>9</sup>

Just because a party refuses to accept the Commission's determinations and continues to raise the same issue does not mean that those issues are still pending.

In Case Nos. TO-99-254 and TO-99-593, the Commission repeatedly determined that the originating carrier should be responsible for compensating all downstream carriers for the use of their facilities in transiting and terminating its customer's call. This determination remains appropriate and is fully consistent with accepted industry standards as expressed by the FCC. In making the originating carrier financially responsible for its own traffic, the Commission has simply required the service provider to pay for the inputs it needs to provide service to its customer. This is no different than the business relationship that exists in any other industry.

This determination is also fully consistent with the industry standard as expressed by the FCC in its Unified Carrier Compensation docket. There, the FCC explained that it is the originating carrier -- the one who has the relationship with the calling party -- that is responsible for compensating all downstream carriers involved in completing the call:

Existing access charge rules and the majority of existing reciprocal compensation agreements require the calling party's carrier, whether LEC, IXC or CMRS, to compensate the called party's carrier for terminating the call. Hence, these interconnection regimes may be referred to as "calling-party's-network-pays" (or "CPNP"). Such CPNP arrangements, where the calling party's network pays to terminate a call, are clearly the dominant form of interconnection regulation in the United States and abroad.<sup>10</sup>

<sup>9</sup> Report and Order, Case No. TO-99-254, pp. 13-14; Order Directing Implementation, Denying Motion to Consolidate, and Granting Intervention, Case No. TO-99-593, pp. 3-5; Order Denying Motion, Case No. TO-99-593, pp. 1-3.

<sup>10</sup> In the Matter of Developing a Unified Carrier Compensation Regime, CC Docket No. 01-92, Notice of Proposed Rulemaking, released April 27, 2001, para. 9 ("Unified Carrier Compensation NPRM") (emphasis added).

In the Verizon-Virginia Arbitration with AT&T, Cox and WorldCom, the FCC's Common Carrier Bureau last summer reaffirmed the continued appropriateness of the calling party's network pays standard when it specifically rejected imposing financial liability on the transit carrier for expenses associated with traffic originated by other carriers.<sup>11</sup>

2. OBF 2056 Primarily Focuses on IXC Carried Calls. In an apparent attempt to have the Commission reconsider its January 28, 2002 Order Denying Motion,<sup>12</sup> MITG claims that the "issue of whether issue 2056 should have been applied to the traffic in question was never decided."<sup>13</sup>

MITG is incorrect. The Commission in its January 28, 2002 Order Denying Motion squarely decided that it was inappropriate to simply order the implementation of Issue 2056, relying on Staff's report that "Issue 2056, by itself, will not have any efficacy in resolving disputes over the billing of calls carried over the LEC-to-LEC network." Noting that Staff was drafting a rule that would achieve the Commission's objectives,<sup>14</sup> the Commission stated:

The Staff proposal is much more in line with the objectives the Commission intended to achieve when it ordered the implementation of issue 2056. The Commission will deny the STCG/MITG motion and direct Staff to proceed with drafting a rule.<sup>15</sup>

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<sup>11</sup> In the Matter of the Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon-Virginia Inc., and for Expedited Arbitration, et al., CC Docket No. 00-218, et al., Memorandum, Opinion and Order, released July 17, 2002 ("FCC Verizon-Virginia Arbitration Order").

<sup>12</sup> Order Denying Motion, Case No. TO-99-593, issued January 28, 2003 (denying STCG and MITG Motion to implement their business relationship proposal and directing Staff to continue drafting the proposed rule).

<sup>13</sup> MITG Motion, p. 5.

<sup>14</sup> Order Denying Motion, p. 3.

<sup>15</sup> Ibid.

MITG also claims that Staff's conclusion that implementation of OBF 2056 would not solve the problem was based on "the former PTCs' refusal to apply Issue 2056 to the traffic they placed on the 'LEC-to-LEC' network."<sup>16</sup> MITG is again incorrect. As Staff's August 7, 2002 Status Report makes clear, Staff's conclusion concerning the efficacy of Issue 2056 was based on its own analysis of Issue 2056:

**The Staff's Interpretation of the OBF's Resolution of Issue 2056.** . . . The Staff believes that the OBF's resolution of Issue 2056, *per se*, applies only to calls carried by IXC's, for a couple of reasons. First, Issue 2056 refers specifically to Category 11-01 Individual Call Records and Category 11-50 Summary Records. Category 11 records are used for calls carried by IXC's. They are not, however, customarily exchanged by large LEC's (including SWBT, Sprint, Verizon and ALLTEL) for calls carried over the LEC-to-LEC network. Relying on practices established during the former PTC Plan, these carriers customarily use Category 92 records instead. SWBT also requires exchange of Category 92 records with CLEC's that interconnect with SWBT. Pursuant to the Commissions order in the PTC case, the large LEC companies do provide Category 11-01 records (modified as described above) to the terminating end offices of other ILEC's in the state. And second, the MECAB document itself appears to recognize that LEC-to-LEC calls were not within the ambit of Issue 2056. For example, Section 6.5 MECAB 7 states: "While the industry recognized that settlement plans between LEC's are used, these are state or contract-specific and are not included in the MECAB guidelines."

The effect of the implementation of Issue 2056, then, is to allow the owner of the terminating tandem to bill the IXC for calls that the terminating tandem receives, based upon its own individual call records, without waiting for the terminating end office to send a summary record.<sup>17</sup>

3. Expanded Hearings. While it would be procedurally inappropriate to consolidate this rulemaking with Case No. TO-99-593, the Commission may want to consider expanded hearings in this rulemaking proceeding. SBC Missouri recommends such a process subject to strict guidelines limiting the issues to those identified by the Commission.

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<sup>16</sup> MITG Motion, p. 5.

<sup>17</sup> Staff's Report on the Efficacy of Issue 2056 in Reducing Billing Discrepancies or Reducing the Difficulty in Resolving Such Discrepancies, Case No. TO-99-593, filed August 7, 2002 at pp. 8-9.

As is very evident from the filings Staff has made in Case No. TO-99-593, Staff has expended considerable effort in working with the industry to develop a proposed rule to implement an enhanced record exchange. Staff has hosted four full industry forum/workshops, numerous industry conference calls and individual meetings with the various industry participants. While various industry participants (including SBC Missouri), will disagree with all or portions of Staff's proposed rule, Staff should nevertheless be commended for their efforts in digging deeply into this issue.

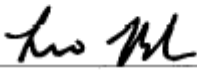
In promulgating a rule to implement an enhanced record exchange, the Commission would similarly benefit from a detailed analysis of this technical issue. Instead of the traditional rulemaking proceeding under which the Commission receives only written comments after a proposed rule is published, the Commission should order expanded hearings akin to a contested case, with the customary rounds of prefiled testimony, a hearing with cross-examination and questions from the bench, and full briefing.

If the Commission chooses to hold expanded hearings as part of this rulemaking, it should, however, issue strict ground rules to focus the proceeding on the objectives the Commission intends to achieve in implementing an enhanced record exchange. Specifically, the Commission should make clear that the purpose is not to further debate "business relationship" issues, but to develop a rule that would require the provision of records or other information that would allow transiting and terminating carriers to identify and bill the carrier that originated the call or placed it on the LEC-to-LEC network.

WHEREFORE, SBC Missouri respectfully requests the Commission to deny MITG's Motion to Consolidate this rulemaking proceeding with Case No. TO-99-593 and to adopt a schedule which calls for expanded hearings in this contested case proceeding.

Respectfully submitted,

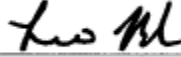
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**CERTIFICATE OF SERVICE**

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