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Missouri Public
Service Commission

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
301 West High Street, Floor 5A
Jefferson City, Missouri 65101

Re: Case No. TO-99-593

Dear Judge Roberts:

Enclosed for filing with the Commission in the above-referenced case is an original and eight copies of Southwestern Bell Telephone Company's Initial Brief.

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

Leo J. Bub /tm

Leo J. Bub

Enclosure

cc: Attorneys of Record

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

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

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
INITIAL BRIEF**

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**SOUTHWESTERN BELL TELEPHONE COMPANY'S
INITIAL BRIEF**

Southwestern Bell Telephone Company respectfully submits this Initial Brief in support of its position that no changes need to be imposed by the Missouri Public Service Commission in the signaling protocols, call records, trunking arrangements and traffic measurement procedures in use today between the local exchange carriers (LECs) in the State.

Rather, the concerns expressed by the small LECs in this case -- which all focus on their ability to get paid for the traffic they terminate -- are being addressed by the industry itself without Commission intervention. Significant progress has already been made. The small LECs should now have nearly all the records they will need on terminating traffic to enable them to bill the carrier who originated a call and is responsible for paying for its termination. And significant capital expenditures have been made to deploy systems that will produce records to fill any gaps that may exist today. The former Primary Toll Carriers ("PTCs") (i.e., Fidelity, Sprint, Southwestern Bell, and Verizon) are committed to resolving any perceived discrepancies in records. And until they are resolved, most of the former PTCs are willing to share the financial burden of any unidentified traffic that might pass through their respective networks.

EXECUTIVE SUMMARY

In recent years, the Commission has heard many cases between the former PTCs and the two small LEC groups in the State (i.e., the Missouri Independent Telephone Group, or "MITG,"

and the Small Telephone Company Group or "STCG"). Most involved intercompany compensation issues. And in all of these cases, the Commission consistently applied and followed the principle that it is the originating carrier (i.e., the carrier whose customer placed the call) that is responsible for compensating all downstream carriers involved in terminating its customers' calls. But the Commission did not just stop there. In balancing the interests of the parties, the Commission also where appropriate sought to make sure that the small LECs had access to appropriate records to bill the originating carrier responsible for the particular type of call at issue.

For example, on wireless traffic transiting a former PTC's network for termination to a small LEC exchange (either via tariff or a wireless interconnection agreement), the Commission required the transiting carrier to provide the terminating company a report (the "Cellular Transiting Usage Summary Report" or "CTUSR") identifying the originating wireless carrier and the traffic it sent so the terminating LEC could bill the wireless carrier for its use of the terminating LEC's network.¹ In reviewing the Interconnection Agreement between Dial U.S. and Southwestern Bell, the first CLEC agreement for Missouri, the Commission ruled that it was Dial U.S. that was responsible for making its own arrangements to compensate the carrier that terminated its traffic.² Similarly with Southwestern Bell's Local Plus® service, the Commission required the traditional access arrangement to apply and included the small LEC issues in its current Local Plus case to make sure the small LECs were receiving appropriate records for the Local Plus traffic they terminate.³ And in the last PTC case, the Commission stated that

¹ Case No. TT-98-524, Report and Order, issued December 23, 1997, p. 26.

² Case No. TO-96-440 (Dial U.S.), Report and Order, issued September 6, 1996, p. 7.

³ Case Nos. TT-98-351, Report and Order, issued September 17, 1998, p. 38; Case No. TO-2000-667, Order Recognizing Issues and Directing Filing of Procedural Schedule, issued August 22, 2000, p. 3.

"prudent business practices dictate that the [small LECs] move toward acquiring more information about, and authority to bill for, calls terminated to them."⁴

While the former PTCs have taken significant steps to provide the small LECs with such additional information to assist them in billing the originating responsible carrier, the small LECs have had a different agenda. The problem has been that they have not been interested in pursuing the responsible carrier who actually originated the traffic. Instead, their efforts have been focused on figuring out ways to force the former PTCs to pay for this traffic.

The small LECs' desire to pursue a different goal can easily be seen in this case. The Commission's Orders establishing this case and delineating the scope of the investigation made it abundantly clear that the industry was to investigate four things in this case: "signaling protocols, call records, trunk arrangements and traffic measurement."⁵ The small LECs, however, have sought to inject another issue into this case, one that the Commission has previously addressed and rejected. They claim the Commission should change the "business relationship" between them and the former PTCs. The small LECs want the Commission to make the former PTCs financially responsible for nearly all traffic that flows to the small LECs exchanges through a former PTCs tandem, even if it is another carrier's traffic.

This is even more than the small LECs sought in the prior PTC case, TO-99-254. There, they claimed the Commission should make the former PTCs pay for any difference between what the small LECs recorded at the terminating end and the records they received from other carriers -- what they called "unidentified" traffic or the "residual." Now, the small LECs want

⁴ Case No. TO-99-254, Report and Order, issued June 10, 1999, p. 13.

⁵ Case No. TO-99-254, Report and Order, p. 19, Ordering Para No. 7; Case No. TO-99-593, Order Directing Notice, issued June 15, 1995, p. 1.

the Commission to make the former PTCs pay for nearly everything, even if the responsible carrier has been identified and an appropriate record is available for them to bill from.

The small LECs' demand in this case runs counter to the Commission ruling in Case No. TO-99-254 and would seriously discourage interconnection between carriers, which is contrary to core policy goals of federal and state law. In Case No. TO-99-254, the Commission found the small LECs residual scheme "fundamentally inequitable" because it would improperly result in compensation for traffic they were not entitled to compensation from the PTCs on, including another carrier's traffic, which the Commission recognized "merely transited the PTCs network."⁶

Like the railroads, every telephone companies' lines do not go everywhere. To make the connections their customers want, telephone companies need to use other companies' lines. And in many instances, the lines of multiple carriers need to be used. Efficiency and public interest are clearly furthered by policies that favor this type of interconnection and the sharing of networks between carriers.

And in fact, the law requires it. Section 251(a) of the federal Telecommunications Act of 1996 ("the Act") requires all carriers to allow both direct and indirect interconnections with other carriers. Missouri laws also require telecommunications companies to interconnect their networks and carry another carriers' traffic. But like a rail company, a telecommunications carrier should not be financially responsible for terminating charges just because its lines allow the physical connection between two other companies. If it did, no carrier would want to allow its network to be used for interconnection.

⁶ Case No. TO-99-254, Report and Order, p. 13.

The only claim the small LECs make for such a radical restructuring of the industry is that the present records system is broken. While Southwestern Bell readily admits that it had a problem with some of its traffic (Local Plus from its Ericsson switches and OCA from its Marshall switch), that problem is not indicative of any ongoing systemic problem that would necessitate the Commission's completely revamping how the entire industry operates with regard to compensation. Shortly after the Local Plus problem was identified, it was corrected. Full financial settlements have been made with several carriers. And financial settlement offers have been out to the others for months. Southwestern Bell expects to complete these settlements soon. Based on the results from the Industry Records Test performed in this case, the Local Plus problem accounted for most of the discrepancies identified. And the majority of the other calls initially identified as discrepancies have also now been explained.

While the former PTCs oppose the small LECs' attempt to radically restructure the industry, the former PTCs have no opposition to working cooperatively with them to make sure they have all the records they need to bill for the traffic they terminate. The small LECs' concern about getting paid for what they terminate is an industry concern that all carriers understand and appreciate. And the evidence has shown that the former PTCs have acted on these concerns. The former PTCs have been willing and have worked with the small LECs to develop and provide settlement records the small LECs can use to bill and receive appropriate payment from the originating responsible carrier:

- Since divestiture, the former PTCs have been providing the small LECs with access usage records that they have used and still use to bill IXC's for interstate and intrastate traffic;
- Southwestern Bell for years has been providing the settlement reports for Feature Group A ("FGA") traffic;
- The former PTCs, pursuant to the Commission's directives, have been providing CTUSR reports for transited wireless traffic. Some of the small companies are

currently using these reports and the others have acknowledged to the Commission they can use them for billing wireless carriers;

- The former PTCs, pursuant to the Commission's Order in Case No. TO-99-254, worked cooperatively with the small LECs and their billing vendors to develop Category 11 Records in a format that was acceptable to the small LECs. Those records are now being used successfully by the small LECs to bill terminating compensation on intraLATA toll traffic;
- The former PTCs have been working with the small LECs to develop records the small LECs can use to identify and bill interstate intraLATA calls. This is one of the traffic types that today is not identified and cannot be billed. For Southwestern Bell to provide these records to the small companies, it had to get its switches in Kansas and its affiliate's switches in Illinois enabled to record the intraLATA traffic being sent into Missouri and to get a system to gather and process those records for distribution to the small companies. This new process began operating within Southwestern Bell on February 1, 2001;
- The former PTCs and the small LECs, in a spirit of full cooperation, conducted an extensive test of the existing record systems for the purpose of identifying and addressing any problems that may exist. A tremendous amount of effort by all carriers went into this test and the report prepared by the industry has been filed in this case. While most of the calls initially identified as discrepancies have been resolved, the report does show that there still are some remaining issues to resolve. The former PTCs are committed to pursuing those items to conclusion; and
- Southwestern Bell has committed significant capital resources to its deployment of the new Access 7 Business Intelligence System, which will provide the capability to monitor the interconnection traffic that comes into Southwestern Bell's network. Southwestern Bell is willing to share output of this new system with the small LECs and is currently working on developing a report like the CTUSR for interconnection traffic. This new summary report would, on a monthly basis, provide terminating LECs, the number of minutes a particular interconnected carrier sent through Southwestern Bell's network. As the small companies are able to bill the originating carrier from the CTUSR, they should also be able to bill from this new report. Sprint has begun to deploy the Access 7 System and is willing to share its output as well.

Neither Southwestern Bell nor any of the other former PTCs believe it is appropriate that the small LECs or any carrier should be left "holding the bag" on any unidentified traffic. As was evident from the hearing, the former PTCs worked diligently with the small LECs during the records test in this case to hunt down any discrepancies that were identified. The evidence has also shown that the PTCs have regularly performed such investigations for individual small

LECs in the past that have brought specific problems to the PTCs for resolution. As the former PTCs indicated at the hearing, they are fully willing to share the financial burden for any unidentified traffic that may exist until the industry has determined that any existing gap is narrowed to an acceptable level. For example, Southwestern Bell has suggested that the parties could begin sharing after some agree-upon threshold was met (to account for an acceptable margin of error) and it is willing to do so once its Access 7 Business Intelligence system is fully operational.

But it is wholly inappropriate for the small LECs to attempt to change the "business relationship" between the carriers to make the former PTCs financially responsible for another carrier's traffic, simply because it transited one of the former PTC's network. While the former PTCs are fully willing to work with the small LECs to make sure they have sufficient information to bill their access charges to the appropriate originating carrier, the Commission should not permit the small LECs to shift their own billing and collection responsibilities and their normal business risks of delinquencies and nonpayment to the former PTCs.

Accordingly, the Commission should find that no changes are needed to the existing signaling protocols, call records, trunking arrangements, and traffic measurements. It would, however, be appropriate for the Commission to direct the parties to continue working cooperatively on an industry basis to ensure that all carriers have adequate records with which to bill the originating responsible carrier.

BACKGROUND

Procedural History

In its Order eliminating the PTC Plan in Case No. TO-99-254, the Commission designated certain specific issues for investigation. In the ordering section of its Report and Order in that case, the Commission stated: "It is therefore ordered . . . that Case No. TO-99-593 is established to investigate signaling protocols, call records, trunking arrangements, and traffic measurement."⁷ The Commission explained that the issues it had designated were important issues that needed to be addressed as competition developed:

As discussed above, many of the issues the SCs⁸ raise are not directly tied to the implementation of ILDP⁹ or to the resolution of the PTC Plan. They are, nonetheless, important issues that will need to be addressed as competition develops. Accordingly, the Commission will establish a case to investigate signaling protocols, call records, trunking arrangements and traffic measurement.¹⁰

And in its June 15, 1999 Order Directing Notice in this case, the Commission issued a similar directive:

In a Report and Order issued June 10 in Case No. TO-99-254, et al., the Commission created this case to investigate the issues of signaling protocols, call records, trunking arrangements, and traffic measurement. Proper persons should be allowed 20 days from the issuance of this order to file an application to intervene. The Commission finds that notice of the application should be sent to all telecommunications companies in the State of Missouri.¹¹

The Law on Interconnection

Section 251(a)(1) of the Act requires all carriers to allow both direct and indirect interconnections with other carriers:

⁷ Id. at p. 19, Ordering Para. No. 7.

⁸ The small LECs were "secondary carriers" or "SCs" under the Primary Toll Carrier Plan.

⁹ "ILDP" refers to intraLATA dialing parity which allowed an end-user to select his or her own provider of intraLATA toll services.

¹⁰ Case No. TO-99-254, Report and Order, p. 17.

¹¹ Case No. TO-99-593, Order Directing Notice, p. 1.

SEC. 251. [47 U.S.C. 251] INTERCONNECTION

(a) GENERAL DUTY OF TELECOMMUNICATIONS CARRIERS. -

Each telecommunications carrier has the duty -

- (1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers;

This section obligates Southwestern Bell and the other former PTCs to interconnect with other carriers such as CLECs, wireless carriers and other LECs and permit them to use the former PTCs' networks to send calls to the small LECs and other carriers for termination.

Missouri law also requires telecommunications companies to interconnect their networks and carry other carriers' traffic. Section 392.240(3) RSMo (1994) requires the Commission to order interconnection between two or more carriers when such interconnection can reasonably be made and it would advance the public interest:

Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that a physical connection can reasonably be made between the lines of two or more telecommunications companies whose facilities can be made to form a continuous link of communication by the construction and maintenance of suitable connections for the transfer of messages or conversations, and that public convenience and necessity will be subserved thereby, or shall find that two or more telecommunications companies have failed to establish joint rates, tolls or charges for service by or over their facilities, and that joint rates, tolls or charges ought to be established, the commission may, by its order, require that such connection be made, except where the purpose of such connection is primarily to secure the transmission of local telecommunications service and the telecommunications be transmitted over such connection under such rules and regulations as the Commission may establish, and prescribe through lines and joint rates, tolls and charges to be made, and to be used, observed and enforce in the future. . . . (emphasis added)

And Section 392.200(6) RSMo (1994) requires interconnected carriers to accept and carry the other telecommunications carriers' traffic:

Every telecommunications company operating in this state shall receive, transmit and deliver, without discrimination or delay, the conversations and messages of every other telecommunications company with whose facilities a connection may have been made.

ISSUES PRESENTED TO THE COMMISSION

Issue 1 - Signaling Protocol: Is it necessary for the Commission to decide in this case what signaling protocols should be utilized for intrastate intraLATA traffic terminating over common trunks between the former PTCs and the former SCs?

No. All parties to this case have recognized that mandating a change in signaling protocols from Feature Group C (FGC) to Feature Group D (FGD) for terminating intrastate, intraLATA traffic would not address the billing and compensation issues the small companies are concerned with in this case. Undisputed evidence demonstrated that requiring a change of this magnitude would be extremely expensive. But there was no evidence that such a massive conversion would be beneficial or appropriate, either now or in the long run. Accordingly, it would be wholly inappropriate for the Commission to issue any formal policy statement in this case favoring such a mandatory network conversion in the future.

- (a) No party seeks a Commission Order requiring conversion of the network from FGC to FGD.

The STCG, which represents the vast majority of the small LECs in the State, has stated that it "is not necessary at this time for the Commission to make any final decisions as to the signaling protocols that must be used for intrastate intraLATA traffic terminating over the common trunks between the former Primary Toll Carriers ("PTCs") and the former Secondary Carriers ("SCs")." (See, STCG's Statement of Position, p. 1).

As Mr. Schoonmaker, who represented the STCG, explained:

We have recognized that the signaling messages for FGC and FGD terminating traffic are identical and that changing to FGD signaling for terminating traffic would not address the billing/compensation issues that we are most concerned with. Our proposal has, therefore, focused on the business relationships and billing and recording issues rather than on the signaling protocol. (STCG, Schoonmaker Direct, p. 23).

Similarly, 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. (MITG, Jones Rebuttal, p. 10).

Undisputed evidence shows that FGC is the standard signaling protocol used by the telephone industry across the nation for transmitting intraLATA toll calls between LECs. (SWBT, Scharfenberg Direct, p. 16). As all parties have indicated, there is no need for the Commission to attempt to change this standard in this case.

- (b) Requiring such major reconfiguration of the network would require significant expenditures, but would produce no benefits.

Uncontroverted evidence shows that the costs to convert the LEC-to-LEC network from FGC signaling to FGD signaling would be tremendous. Southwestern Bell alone would be forced to incur costs substantially in excess of \$18,600,000. And this estimate only includes the more readily identifiable expenditures such as the deployment of new switches in St. Louis, Springfield and Kansas City and the rehomings of intraLATA traffic to these switches. It does not include any building,¹² translations,¹³ trunk and facility rearrangements,¹⁴ or any new interoffice fiber optic systems¹⁵ that may be required to change from FGC to FGD. (SWBT, Scharfenberg Direct, pp. 15-16).

But if these major network modifications were made, no additional capabilities would be added to the network that would help address the concerns the small companies raised in this case. (STCG, Schoonmaker Direct, p. 23). As the evidence has shown, FGD signaling protocol is not superior to traditional FGC signaling. They are simply different standardized methods for the trunking and routing of an end-user's long distance toll calls. FGC is the name given to the signaling protocol that routes an end-user's call directly to the LEC tandem or end office serving

¹² If new switching systems are deployed, building modifications would be required which would include items such as asbestos abatement, building construction, and additions and/or rearrangement to power and air handling systems. (SWBT, Scharfenberg Direct, p. 13).

¹³ A full set of translations would be required for the new DMS 250 switching systems that would be deployed. And in each end office, a four-digit CIC code and Carrier Common Block would be required to route the originating calls using FGD signaling. The existing trunk groups and trunk group members in translations of the existing 1AESS, 5ESS, and DMS switching systems would have to be deleted and reestablished as FGD trunk groups. (*Id.* at p. 13).

¹⁴ Rehoming of trunks from switching systems without IXC software to switching systems that have the IXC capability would be required. (*Id.* at 13).

¹⁵ The required rehoming could exhaust existing interoffice facilities and necessitate the installation of new fiber optic systems and associated fiber regeneration stations. This could result in stranded investment in switching and interoffice facilities. Circuit layout and design records would also have to be made for all trunk groups that are added and/or rehomed to new switching systems or fiber optic interoffice facilities. (*Id.* at pp. 13-14).

a specific telephone number using the NPA-NXX (the area code and the first three digits of the seven-digit telephone number dialed by the customer). FGD is the name of the signaling protocol that was developed at divestiture to provide equal access to IXCs. Instead of routing calls directly to the LEC central office serving a specific telephone number, FGD signaling routes calls to the IXC selected by the customer, based on the IXC's carrier identification code (CIC). (SWBT, *Scharfenberg Direct*, p. 11).

While these signaling protocols were designed to fulfill different functions, the evidence has shown that the quality of access services being provided with FGC and FGD are essentially the same. And from a technical standpoint, the technology used to complete calls is the same. FGC and FGD signaling protocols are equal when used for their designed purpose and are not considered by the industry as separate networks or as discriminatory.¹⁶ (SWBT, *Scharfenberg Direct*, pp. 11-12, *Rebuttal*, p. 3). Even MITG witness Mr. Jones agreed that there is no functionality difference between the FGC and FGD trunks. (MITG, *Jones Rebuttal*, p. 10).

- (c) No basis exists for the Commission in this case to express a policy that in the long run all toll traffic should move to FGD signaling.

While all of the small LECs concur that no Commission action is necessary in this case on the FGC/FGD issue, the STCG has indicated that it "believes it is appropriate for the Commission to formally recognize, as a policy matter, that in the long run all interexchange traffic should be delivered with Feature Group D ("FGC") protocol." (STCG's *Statement of Position*, p. 1, *emphasis in original*).

Such a declaration of policy would be wholly inappropriate. First, after reviewing all the evidence in Case No. TO-99-254, the Commission reached exactly the opposite conclusion. There, the Commission stated:

¹⁶ The evidence presented shows that no IXC has proposed the elimination of FGC. In fact, AT&T's position on this very issue in the Final Report of the PTC Technical Committee, p. 21, in Case No. TO-97-217 was: "At this point it appears that FGC is an acceptable solution." In Case No. TO-99-254 (the Second PTC case), AT&T took no position on the issue. And in this case, AT&T has withdrawn. If any IXC perceived LECs' continued use of FGC to be discriminatory, they would be actively opposing it. (SWBT, *Scharfenberg Rebuttal*, pp. 3-4).

The evidence clearly demonstrates that FGD as presently configured will not provide all the information the SCs want about calls terminated to them 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.¹⁷

And second, there was absolutely no evidence presented in this proceeding that would support a conclusion that the telephone industry is moving, or even considering moving in this direction. In fact, all of the evidence was to the contrary. FGC is the national standard for handling LEC-to-LEC intraLATA toll traffic. There are no plans by the industry standards organizations to discontinue the use of FGC in the national network and it continues to be used by telephone companies throughout the country. (SWBT, Scharfenberg Rebuttal, p. 2). Accordingly, FGC signaling protocol, the current industry standard for LEC-originated intraLATA toll calls, should continue to be used until another standard is developed and made available by the switch manufacturers. (SWBT, Scharfenberg Direct, p. 16).

Issue 2 - 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?

LEC originated toll calls should be measured where the originating call is recorded for end-user billing. This method of recording is used by the industry throughout the country and is supported by switch vendors and standards organizations that address billing issues on a national basis. And it is the only method uniformly available to identify the carrier that originated the call.

While many of the small companies may have the capability to record calls at the terminating end, the Commission has already recognized that those recordings do not allow the identification of the responsible service provider for the call. As a result, incorrect billing would occur. Such terminating recordings are not considered standard by the industry. Until

¹⁷ Case No. TO-99-254, Report and Order, p. 11.

terminating recording of FGC calls is standardized by the industry and switch manufacturers, it should not be adopted for use in Missouri.

- (a) Significant investments have been made to create and maintain existing originating records system and it is fully capable of continuing to serve the industry in the future.

Each day, millions of intraLATA toll calls are made throughout the State by retail customers of the incumbent LEC toll providers (Fidelity, Southwestern Bell, Sprint, Spectra and Verizon). To administer end-user billing and intercompany compensation on this volume of calls, the larger LECs like Sprint, Southwestern Bell and Verizon have created and currently maintain large data processing systems. (The other LECs are assisted in this process by outside vendors.) (SWBT, Dunlap Direct, p. 2).

A tremendous amount of industry resources have been dedicated to developing and maintaining the present originating records system. This system was developed by the entire LEC industry (both large and small companies) to support transitioning the provision of toll services from an environment in which all toll service revenues and expenses were pooled and shared, to the present access-based environment. Representatives from the large and small companies (and their consultants) worked diligently for nearly a year to develop the system, reach agreement on the type of records to be created and exchanged, the specific record format and layout, and how settlements between the companies would occur. The parties also worked together to put appropriate processes in place within each company (and within their outside vendors) to support this system and to ensure that they would function across the companies. (SWBT, Dunlap Direct, pp. 6-7).

Since the current originating records system's developed over 12 years ago, it has been successfully handled over \$1 billion in billed revenue and intercompany compensation. As the

system depends on all parties creating and passing appropriate records, Southwestern Bell believes that it will continue to serve industry well in the future if all parties focus their efforts on maintaining and improving this commonly developed system, rather than trying to find reasons to scrap it. (SWBT, Dunlap Rebuttal, p. 4).

- (b) The originating records are the only records capable of identifying the originating responsible carrier.

Regardless of whether the originating record is produced totally in-house or by a vendor, all originating records correctly identify the originating responsible carrier. All LEC toll providers' originating records systems begin with a record created by the originating LEC's switch on each intraLATA toll call placed by its end-user. This record captures directly from the switch various information about the call, such as the date and time the call was placed, the call's duration, the calling party's telephone number, the called party's telephone number, and the type of call (e.g., direct dialed, operator handled, 800). (SWBT, Dunlap Direct, p. 3).

The LECs' data processing systems pull these records from each of the switches in their exchanges and convert these switch recordings into an exchange message record ("EMR"), which is the national standard record format used by LECs to generate end-user toll bills. The LECs' data processing systems then make copies of these EMR records into a 92-01 detailed record format. The 92-01 detail record contains information such as the date, length of the call (conversation time), originating and terminating NPA/NXX and traffic type. Between themselves, the LEC toll providers exchange records on a summary basis. They do this by summarizing the 92-01 detail records into 92-99 summary records (summarizing by originating toll center to each individual terminating end office in the LATA). When another LEC toll provider facilities are used on the call path to complete a toll call, the originating LEC forwards the appropriate 92-99 summary records to those other carriers. Using these summary records,

each carrier involved in handling the call bills terminating access charges to the originating LEC toll provider. (SWBT, Dunlap Direct, pp. 3-4). With respect to the toll calls placed by originating LEC toll providers to customers in small LEC exchanges, Category 11 Records (as directed by the Commission in Case No. TO-99-254) are used instead of 92-99 records. (SWBT, Dunlap Direct, p. 5).

Similar originating records systems are used for billing access on LEC-originated toll calls in the other Southwestern Bell states of Arkansas, Kansas, Oklahoma, and Texas; the Ameritech states of Illinois, Indiana, Michigan, Ohio and Wisconsin; the Pacific Bell states of California and Nevada; as well as in Alabama, Kentucky, New Mexico, North Carolina, Oregon, Pennsylvania, South Carolina, Virginia and Washington where GTE operated (now part of Verizon). (SWBT, Dunlap Surrebuttal, p. 6).

All of the former PTCs have continued to support the appropriateness of originating records for billing because they are the only records that correctly identify the originating company responsible for placing the traffic on the network and paying for the termination of that traffic. (Sprint, Cowdrey Direct, p. 3; SWBT, Dunlap Direct, pp. 5-6; Verizon, Allison Rebuttal, p. 3).

- (c) The terminating recordings proposed by the small LECs are inadequate because they would not identify the carrier that originated the call and is responsible for paying terminating compensation.

As the Commission has recognized, the terminating recordings proposed by the small LECs do not contain all the information necessary for proper billing of terminating access. The identification of the originating provider of the call, which is the party responsible for the payment of terminating access, is not identified on the record:

Much of the traffic that is terminated to the SCs is carried over common trunk groups. Although the PTCs deliver this traffic, they do not originate all of it.

Some of it is originated by other carriers upstream from the PTC, and it may be interstate or intrastate. Terminating traffic can be measured at almost all SCs' end office switches, but an SC will not have information about the call's jurisdiction or the identification of the responsible carrier.¹⁸

The small LECs claim that the terminating record they seek to use, a call code 119 AMA record, is a "standard record." While it is the standard record that is used for the billing of traffic carried by IXC's, it is not the industry standard record for intraLATA toll calls between LECs. (SWBT, Dunlap Direct, p. 13; Scharfenberg Direct, pp. 16-19). There is a fundamental difference between how this record is used in its standard industry application and how the small LECs propose to use it. IXC's who are billed by LECs using the call code 119 AMA record are directly interconnected to a LEC either at the LEC's end office or tandem through the use of a separate trunk group. The call code 119 AMA record is recorded at this end office or tandem connection and only identifies the trunk group that carried the call, not the specific originating provider of the call. (SWBT, Dunlap Direct, p. 14).

LEC-to-LEC toll traffic, however, is delivered for termination to a LEC exchange over a jointly provided common trunk group. These common trunk groups not only carry LEC traffic but the traffic of many other carriers, such as wireless carriers, CLECs, FGA carriers, and IXC's (in cases where the terminating LEC receives IXC traffic through another LEC's tandem) destined for termination to an end office company. If a call code 119 AMA record was to be made at the terminating end of this jointly provided common trunk group and used for access billing, it would mistakenly identify all traffic carried on this trunk group as belonging to the tandem owner. There are no means currently in place to be able to use this type of record to identify the true originating provider of the call for proper terminating access billing. (SWBT, Dunlap Direct, p. 14).

¹⁸ Case No. TO-99-254, Report and Order, p. 13.

- (d) The originating toll providers have an equal, if not greater interest in the accuracy of the existing originating record system.

All originating carriers have a significant interest in making sure that appropriate originating records created for every toll call originated by their own end users. The originating records that are supplied to terminating LECs are derived from the standard EMR records, which are the records used to generate end-user toll bills. If there is a problem in the creation or handling of these records, the originating carrier may not be receiving the appropriate amount of revenue for the toll services it is providing to its end users. (SWBT, Dunlap Rebuttal, p. 2).

In addition, each of the former PTCs receive the originating records from the other LEC toll providers in the State and depend on them -- just like the small LECs -- to bill their own terminating charges when another carrier's toll calls terminate in their exchanges. (The only difference is that the former PTCs receive these records in the Category 92 format, and most of the small companies receive them in the Category 11 format -- although some have elected to receive Category 92 records instead.) Thus, the former PTCs have the exact same interest on the receiving end as the small LECs. But because the former PTCs terminate substantially greater volumes of toll traffic for other carriers than do the small LECs, the former PTCs have an even greater interest. In the first ten months of 2000, the other LEC toll providers (Fidelity, Spectra, Sprint and Verizon) billed Southwestern Bell in excess of \$27 million for toll calls placed by Southwestern Bell customers that terminated in their exchanges. And Southwestern Bell has billed these companies in excess of \$3.7 million for toll calls their customers placed that terminated in Southwestern Bell exchanges during the same period (the small LECs in total billed Southwestern Bell approximately \$9 million) during the same period. All this billing was accomplished through the existing originating records system. (SWBT, Dunlap Rebuttal, p. 3).

- (e) Adequate safeguards exist to ensure the integrity of the existing originating records system.

The industry in Missouri currently has the capability and means to maintain the integrity of the existing originating records system. The system is audible and has been successfully audited, most recently by Sprint, which has a far greater financial interest in the output of the system than any of the small LECs (since Sprint terminates a substantially larger volume of intraLATA toll calls). (Sprint, Cowdrey T. 394-407).

During the early years of the PTC Plan, the PTCs (primarily Southwestern Bell) audited each other and the secondary carriers on an annual basis to ensure that appropriate records were being created and appropriate settlements made between the companies. These audits usually consisted of internal data reviews as well as onsite visits to the other companies. During the course of these audits, various problems or issues would be identified and corrected. While these audits often were a lot of work, the process was viewed as healthy as it always led to improvements within the systems. As time went on and a greater comfort level was achieved with the system, onsite audits became less frequent, but internal data reviews continued. And even though there was no formal schedule for performing audits, any party had the right to request an audit. (SWBT, Dunlap Direct, p. 7). Southwestern Bell continues to support efforts to improve existing systems to minimize errors. It similarly supports and would participate in periodic audits to ensure the integrity of industry systems and to detect any errors that might occur. (SWBT, Hughes Surrebuttal, p. 3).

The former PTC have also been willing to work on an informal basis with any other company that believed it was not receiving the appropriate amount of records or compensation. (Verizon, Allison T. 628). For example, in 1999, Citizens Telephone Company expressed a concern about the amount of originating PTC records it was receiving. To address that concern,

Southwestern Bell conducted a record test in which Citizens captured traffic data for a one-hour period on May 27, 1999 on its end and shared that specific data with Southwestern Bell.

Southwestern Bell then spent hundreds of hours researching those calls to determine whether a record should have been created in each instance, and if so, whether one was indeed created and passed. Of the 365 call records presented to Southwestern Bell, it was able to reconcile within seven calls, which at the time satisfied this investigation. On a day-to-day basis, Southwestern Bell has also worked with many companies, such as Farber and Kingdom Telephone Companies, to resolve specific issues relating to originating records. In each case, Southwestern Bell was able to resolve the concern that was brought to it. (SWBT, Dunlap Direct, p. 8).

And in this case, the entire LEC industry reviewed the originating records systems. During the technical workshops held in this case on January 19, and February 22, 2000, the small LECs expressed a concern that they were not receiving the appropriate amount of records on the traffic they were terminating and proposed conducting an industry-wide records test. The former PTCs readily agreed to work with them to develop and conduct a large scale test because the former PTCs believed it would help the industry identify any problems that might have developed within the current system so that they could be corrected. It was agreed that the industry would undertake a records test to reconcile any differences in the originating records provided by originating toll providers to what was recorded by ten terminating companies that were selected to represent a cross section of the State. (There were some from each LATA. Some were single exchange companies. Others were multiple exchange companies. Some homed off Sprint's tandems, some off Verizon's tandems and others off Southwestern Bell's tandems.) The capture of records for the test was conducted for a 48-hour period from July 16-

17, 2000. Within that period, an hours worth of traffic was selected by the small carriers for in-depth analysis by all parties. (SWBT, Dunlap Direct, pp. 8-9).

The report by the industry on the final results of this records test was filed by the parties at the end of the hearing in this case. (Exhibit 40). While the report shows that for the most part that the discrepancies in records have been identified, there still remained some areas for further investigation. The former PTCs are fully committed to working with the small LECs to also bring these remaining issues to resolution. (SWBT, Hughes Rebuttal, p. 3; T. 70; Sprint, Cowdrey T. 485-486, 500; Verizon, T. 80)

- (f) Isolated billing problems do not justify dismantling a system that has been successfully serving the industry for over 12 years.

The only basis the small companies have for scrapping the existing originating records system is their claim that the present system is broken. While Southwestern Bell readily admits that it had a problem with its Local Plus traffic from its Ericsson switches in Missouri, that problem is not indicative of any ongoing systematic problem that would necessitate the replacement of the existing system.

Despite this translation error, LECs in the State were getting appropriate records on the vast majority of Southwestern Bell's toll traffic. That is because Southwestern Bell's translation error occurred only in its Ericsson switches, which serve approximately 83,000 access lines out of an approximate total access line count of 2.6 million (approximately 3.2% of Southwestern Bell's access lines). (SWBT, Dunlap Rebuttal, p. 12). The majority of Southwestern Bell's switches were not impacted by this isolated programming mistake. (SWBT Dunlap Direct, p. 12).

Upon discovery, Southwestern Bell immediately researched the problem, disclosed it to the industry, and corrected it in a responsible manner.¹⁹ Southwestern Bell accepted full financial responsibility for its mistake and offered complete settlement to all impacted carriers. (SWBT, Hughes Surrebuttal, p. 2). Complete financial settlements have been concluded with Sprint (Sprint, Cowdrey T. 418-420), and several other carriers. Southwestern Bell expects to complete settlements with the remaining carriers soon. (SWBT, Dunlap Rebuttal, p. 20). But the occurrence of such an isolated mistake does not mean that the current billing and compensation process does not work. Rather, the manner in which the problem was handled shows that the existing system and relationship between the parties works and is capable of handling occasional recording or billing problems. (SWBT, Hughes Surrebuttal, pp. 2-3; Dunlap Direct, pp. 9-12).

Throughout the years, recording or processing errors were occasionally made, both by large tandem companies and small subtending LECs alike. But regardless of who made the errors, upon discovery, the errors were corrected and appropriate financial settlement adjustments made. In the telecommunications industry in Missouri, that has always been expected and historically been the general practice. (SWBT, Dunlap Rebuttal, p. 4). Like errors that have occurred in the past, the errors that caused problems with some of Southwestern Bell's Local Plus and OCA traffic were not defects in the originating records systems. Rather, they were human errors made by company employees in performing isolated network switch translations. Southwestern Bell very much regrets these errors and immediately corrected them.

¹⁹ Southwestern Bell's correspondence to other carriers describing what it found and how it proposed to handle the problem was attached to Southwestern Bell witness Joyce L. Dunlap's Direct Testimony as Schedule 2-1 through 2-4.

But these mistakes hardly justify dismantling a system that has been successfully used by the industry for over 12 years. (SWBT, Dunlap Rebuttal, p. 7).

- (g) Permitting the small LECs to bill from terminating records would inappropriately cause originating LECs to maintain dual systems to process access charge payments.

Aside from the fundamental deficiencies inherent with the use of terminating records, this proposal would also impose additional costs on all of the originating LECs as they would be forced to maintain dual systems to handle the payment of terminating compensation on their traffic. Verizon, Sprint, Fidelity, Spectra, Southwestern Bell and CLECs providing intraLATA toll would be required to develop and maintain new systems to accept, process and audit bills for terminating access charges based on terminating records, while keeping the current originating records systems in place. Use and maintenance of two systems for terminating access billing is an inefficient use of companies' resources, especially when the proposed method based on terminating records cannot accurately bill the proper originating parties. (SWBT, Dunlap Rebuttal, p. 9).

Issue 3 - Call Records: What call records should be utilized for intrastate intraLATA traffic terminating over the common trunk groups between the former PTCs and the former SCs?

This issue has already been decided by the Commission when it ruled that the former PTCs were to supply the small LECs with their choice of the record format for the traffic terminating to their exchanges, either Category 92 Records or Category 11 Records. The small companies have been successfully utilizing these records since and there is no reason they cannot continue to be used in the future.

- (a) The Commission has already decided that Category 11 Records were to be used for intraLATA toll traffic terminating to the small LECs.

The issue of what call records should be utilized for intrastate intraLATA traffic terminating over the common trunk groups between the former PTCs and the small LECs has already been decided in Case No. TO-99-254. There, the Commission ruled that the former PTCs were to supply the small LECs with their choice of the record format for the traffic terminating to their exchanges either Category 92 Records or Category 11 Records:

. . . That, after April 1, 2000, any local exchange company may request that it be provided, without compensation, either industry standard Category 11-01 or 92-01 records for any calls terminated to it for which originating records are created and passed.²⁰

- (b) The former PTCs produced the Category 11 Records in compliance with the Commission's Order and the small LECs have been successfully using them since April 2000.

Although there was a significant cost to the former PTCs to develop systems to convert its 92-99 records into Category 11 records, the former PTCs did not appeal the Commission's ruling. Rather, they complied with the Commission's directives. To do so, each of the former PTCs was required to implement programming changes in their processing systems to reformat the 92-01 records into a Category 11 format. In developing these new Category 11 records, the former PTCs worked cooperatively with the small LECs and their billing vendors to develop the record in a specific format that would be acceptable to the small LECs. The industry began discussions on the format of these records in July 1999 and reached preliminary agreement on the appropriate format for the record in November 1999. Final approval for the format was given in February 2000. The former PTCs then implemented the necessary programming changes and began providing the Category 11 records in the agreed upon format to the small LECs in April 2000 as required by the Commission's Order. (SWBT, Dunlap Direct, p. 5; Sprint, Cowdrey Rebuttal, p. 4).

The former PTCs have been producing Category 11 records since April 2000 and the small LECs have been successfully using them to bill terminating access to Southwestern Bell, and the other former PTCs. (SWBT, Hughes Rebuttal, p. 9).

Issue 4 - Trunking Arrangements: What changes, if any, should be made to the existing common trunking arrangements between the former PTCs and the former SCs?

There are no changes that need to be made in trunking arrangements between the former PTCs and the small LECs. The network can continue to operate as it has since the elimination of the PTC Plan. LECs should not be required to segregate MCA or other types of traffic over separate trunk groups as this would be wasteful and inefficient.

- (a) Establishing separate trunk groups for MCA or other types of traffic would be costly and inefficient.

Southwestern Bell opposes the implementation of separate trunk groups for MCA or other types of traffic. Currently, traffic terminating into many small end offices is handled on a single common trunk group. These large trunk groups are more efficient than several small trunk groups carrying the same load. (SWBT, Scharfenberg Direct, p. 19).

For example, an end office served with a common group of 100 trunks would have the capability to handle a load of 3,029 hundred call seconds ("CCS"). If this trunk group is split into ten separate trunk groups, it would take 160 trunks to handle the same load. In this example, the trunk requirement would increase by 60%. If this trunk group is split into four separate trunk groups, it would take 124 trunks, resulting in a 24% increase in trunk requirements. The implementation of separate trunk groups would be extremely inefficient and costly to implement. A 60% increase in trunk requirements could exhaust some existing switching systems and transmission facilities. (SWBT, Scharfenberg Direct, pp. 19-20).

²⁰ Case No. TO-99-254, Report and Order, p. 18.

- (b) Implementing separate trunk groups could also negatively impact customer service.

With smaller trunk groups, the quality of service can be impacted by trunk outages and calling peaks. For example, if a single trunk experiences a maintenance problem in a group of 100 trunks, the lost call carrying capacity (the capacity of the last member in the group) would be approximately 1% of its capacity. If a single trunk experiences a maintenance problem in a groups of ten trunks, the lost call carrying capacity would be approximately 15%. This potential loss in capacity would have a negative impact on customer service during periods of high calling (busy hour and peak calling). Because of the possible impact on customer service, the unnecessary implementation of inefficient trunk groups should be avoided. (SWBT, Scharfenberg Direct, p. 20).

Based on the efficiencies of large trunk groups and the possible negative impact on customer service, the Commission should order no changes in trunking arrangements for Missouri. Instead, the Commission should allow the continued use of the current combined trunk groups for interLATA, intraLATA, CLEC and wireless traffic. (SWBT, Scharfenberg Direct, p. 21).

Issue 5 - Business Relationships: What business relationships should be utilized for payment for intrastate intraLATA traffic terminating over the common trunks between the former PTCs and the former SCs.

SWBT has objected to the attempt to raise this issue because it was not identified by the Commission as appropriate for investigation and not all necessary parties are present to adjudicate the issue in this case.

If the Commission decides to consider the issue, it should reject the small LECs' proposal as it is even more inequitable than what they sought in the prior PTC case. Not only would the proposed "business relationship" completely overturn established industry precedent (under

which the carrier whose customer placed the call is responsible for compensating other carriers involved in completing the call), it would also discourage the interconnection between carriers in contravention of federal and state law.

Rather than abandoning the significant investments that have been made to deploy and maintain the existing records system, the Commission should direct the parties in this case to focus their efforts on improving and maintaining the existing system for the benefit of all carriers in the industry.

(a) The “Business Relationship” is beyond the scope of this case.

When the Commission established this case, it by order designated certain very specific issues for investigation. In its Order eliminating the PTC Plan in Case No. TO-99-254, the Commission stated: “It is therefore ordered . . . that Case No. TO-99-593 is established to investigate signaling protocols, call records, trunking arrangements, and traffic measurement.”²¹

The Commission reiterated its directive in its June 15, 1999 Order Directing Notice in this case:

In a Report and Order issued June 10 in Case No. TO-99-254, et al., the Commission created this case to investigate the issues of signaling protocols, call records, trunking arrangements, and traffic measurement. Proper persons should be allowed 20 days from the issuance of this order to file an application to intervene. The Commission finds that notice of the application should be sent to all telecommunications companies in the State of Missouri.²²

At no time, however, did the Commission direct that the parties should investigate changing the “business relationship” between the parties or requiring larger tandem LECs like Fidelity, Sprint, SWBT or Verizon (the former “PTCs”) to be financially responsible for paying for the termination of another carrier’s traffic. As Staff indicated, when the Commission ordered “that this case be established, it did not identify business relationships as an issue that the parties should address in this case.” (Staff’s Statement of Positions on the Issues, p. 2).

²¹ Id. at p. 19, Ordering Para. No. 7.

²² Case No. TO-99-593, Order Directing Notice, p. 1.

(b) Not all necessary parties are in this case to restructure the "business relationship."

Even though the "business relationship" issue was never designated as an issue for investigation in this case, it has been suggested that the Commission should nevertheless address it because all LECs are represented in this case and it would be more efficient to do so. (STCG, Schoonmaker T. 37-38; MITG, Jones T. 327).

While such an approach may have some superficial appeal, it is fundamentally inappropriate and would unfairly prejudice the former PTCs. Because upstream carriers are not parties to this case, such an approach subjects the former PTCs to liability for an upstream carrier's traffic with no means of recovery from that carrier, which is the one that actually originated the call and is responsible for paying for its termination.

The former PTCs' transport charges are only designed to recover the PTC's own cost to carry calls across its own network, not the facility costs of the terminating carriers. (SWBT, Hughes Surrebuttal, pp. 7-8; STCG, Schoonmaker T. 125). What the former PTCs collect falls far short of the high terminating access charges the small LECs would impose on the former PTCs. Even the small LECs do not dispute that the transport charges the former PTCs collect from the originating carriers are insufficient to cover the small LECs' charges. For example, Southwestern Bell's charges are \$.007 per minute -- less than a penny (SWBT, Hughes Surrebuttal, p. 8) -- and the small LEC's terminating access charges range from 4 to 12 cents per minute. Mid-Missouri's rate is slightly over 12 cents per minute. (MITG, Jones T. 266).

Under both the former PTCs' and the small LECs' existing access tariffs, such terminating charges are to be recovered from the originating carrier on a meet point billing basis (i.e., both the former PTC whose tandem the call passed through and the terminating LEC directly bill the originating carrier for the portion of their networks used in handling the call and at their respective tariff rates). This is exactly what happens today (e.g., on a call from a Verizon customer in Warrenton that is switched Southwestern Bell's St. Louis tandem and transported to the Orchard Farm Telephone Company's exchange) (STCG, Schoonmaker T. 123, 124). Similarly, all of the interconnection agreements Southwestern Bell, Sprint and Verizon have with

CLECs follow this same principle. They each require the CLEC to be responsible for compensating all other carriers involved in handling the traffic its customers originate. (Sprint, Cowdrey T. 484; SWBT, Hughes Rebuttal, pp. 5-7; Verizon, Allison T. 646)

Neither existing tariffs nor carrier interconnection agreements provide a mechanism for the former PTCs to be reimbursed for the charges the small LECs seek to have imposed. While the small LECs have conceded that it would be inappropriate to force the former PTCs to bear this additional expense without a mechanism of recovery for it, the small LECs new "business arrangement" does not address how such recovery could occur. (MITG, Jones T. 263).

Such traffic could potentially be originated by CLECs or wireless carriers. But there are no CLECs in the case. (While at one point Birch Telecom and AT&T were parties, they have withdrawn.²³) Neither are there any wireless carriers. And neither is Spectra, which (through its acquisition of a very large number of GTE exchanges) is now the fourth largest LEC in the State and which is also currently sending traffic through the former PTCs' tandems to the small LECs and providing them the appropriate Category 11 Records.

Undertaking such a comprehensive restructuring of the "business relationship" between all carriers in the state cannot be accomplished without the inclusion of these necessary parties. As a result, it would be improper for the Commission to entertain, much less impose the small LECs' new "business relationship" in this case, as the Commission would have no means of providing a reimbursement mechanism to the former PTCs on charges for which another carrier is responsible.

- (c) The Commission has already determined that it is inappropriate to force one carrier to be financially responsible for another carrier's traffic.

The small LECs proposed "business arrangement" would completely overturn long established industry precedent under which the originating carrier -- the carrier whose customer placed the call -- is responsible for securing all the necessary facilities to complete its customer's

²³ See, AT&T of the Southwest, Inc.'s Notice of Withdrawal, filed December 1, 2000; and Birch Telecom's Notice of Withdrawal, filed December 11, 2000.

call and for compensating other carriers when those carriers' facilities are used to handle that call. Essentially, the small LECs seek to overturn this traditional structure and make the former PTCs responsible for calls placed by other carriers' customers, simply because those calls transited the former PTCs' facilities. (SWBT, Hughes Rebuttal, p. 2).

The Commission has rejected this approach in Case No. TO-99-254. There the small LECs sought an order from the Commission requiring the PTCs to pay them for any discrepancy between the minutes shown on originating records that were provided and what the small LECs recorded themselves at the terminating end. The Commission specifically rejected this proposal. Among the reasons for rejecting it was that it would make the PTCs financially responsible for other carriers' traffic that merely transited the PTCs' network:

. . . 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 possible Feature Group A traffic and calls that merely 'transit' the PTCs' network. Adopting this scheme would guarantee that some SCs will be overcompensated when there is little evidence that they are under compensated under the present scheme.²⁴

The small LECs' proposal in this case is even more inequitable than what they proposed and the Commission rejected in the prior PTC case. Now the small LECs are asking for more than just the perceived residual. They are seeking to hold the former PTCs responsible for nearly all traffic flowing to them, even when the traffic is identified as being originated by another carrier and appropriate billing records are available (the only exception is for wireless, FGA, interstate intraLATA, and MCA traffic). Accordingly, the Commission should reject the small LECs' new proposal as well.

²⁴ Case No. TO-99-254, Report and Order, p. 13 (emphasis added).

- (d) The small LECs new "business arrangement" would overturn long established industry precedent requiring the originating carrier to be responsible for compensating downstream carriers whose facilities are used to handle the call.

The principle confirmed by the Commission in the prior PTC case that the originating carrier is responsible for the expenses incurred in terminating its own customers' calls is not new. Rather, it has been the standard practice that has existed in the industry for years.

This traditional arrangement recognizes that it is the originating telecommunications carrier (e.g., IXC, LEC, wireless carrier), that has made a business decision to offer service to its customers. It recognizes that the originating carrier is the service provider selected by the customer. The originating telecommunications carrier is the one that determines how its customers' calls are to be routed. It is the one that determines the rate the customers must pay for this service. And it is the one that actually receives the revenue from the customer for the service provided. Accordingly, it has been the originating carrier that is the one responsible for paying any charges associated with terminating its customer's call. (SWBT, Hughes Rebuttal, p. 4).

This traditional arrangement, for example, can be seen in the access tariffs of all LECs in the State (including the small LECs in this case) which call for meet point billing. These tariffs require each LEC involved in terminating a call to bill for their respective pieces of their networks used in handling the call. And each LEC is required to bill the originating carrier. These access tariffs do not permit the terminating company to bill its former PTC which provides the tandem function for traffic the former PTC's customers did not originate. Rather, they require the originating carrier to be billed for its own traffic. These tariffs were approved by the Commission and have been in effect for over 12 years. (Their interstate access tariffs, which also require meet point billing, have been in effect for approximately 16 years). This practice is not unique to Missouri, but is common throughout the industry. (SWBT, Dunlap Direct, p. 19).

The Commission made a similar determination in ruling on how CLECs interconnect with incumbent LECs. In the Dial U.S. interconnection case, which was the first in the State, the

Commission specifically examined this transit of traffic and determined that Dial U.S. must make its own arrangements to terminate its own traffic.

When Dial U.S. becomes a facility-based provider or a mixed-mode provider of basic local exchange service, then it must make arrangements with other LECs, such as Choctaw, to terminate calls to the other LECs' customers. Dial U.S. is prohibited by the agreement from sending to SWB traffic that is 'destined for the network of a third party unless and until compensation arrangements acceptable to Dial U.S. and the third party have been reached. (Interconnection Agreement at 15.XIIIA). The Commission finds that this provision protects other LECs and remove a potential for discrimination from the agreement. The agreement, therefore, does not discriminate against Choctaw.²⁵

Southwestern Bell and the other former PTCs followed this precedent in negotiating all subsequent interconnection agreements with CLECs. At this point, all of the interconnection agreements Southwestern Bell, Verizon and Sprint have with the various CLECs that operate in the State contain similar provisions making the originating carrier responsible for paying compensation to all carriers that are involved in terminating those CLEC calls. (SWBT, Dunlap Direct, p. 18).

The Commission also made a similar determination when it examined interconnected wireless traffic. In reviewing Southwestern Bell's revised Wireless Carrier Interconnection Service tariff, the Commission found that the wireless carriers were primarily liable for bearing the expenses to terminate their own traffic.²⁶ Under the arrangement approved by the Commission, Southwestern Bell was to bill wireless carriers for its piece of the network which the wireless carrier uses to transit its calls, and the terminating carrier was to bill the wireless carriers for the use of its network in terminating the call. (SWBT, Dunlap Direct, pp. 18-19).

²⁵ Case No. TO-96-440, Report and Order, issued September 6, 1996, p. 7.

²⁶ Case No. TT-97-524, Report and Order, p. 21.

- (e) Imposing a requirement to pay for another carrier's traffic would discourage interconnection between carriers.

Not only would the small LECs' demand in this case run counter to the Commission ruling in Case No. TO-99-254, it would also seriously discourage interconnection between carriers, which is contrary to core policy goals of federal and state law.

Like the railroads, every telephone companies' lines do not go everywhere. To make the connections their customers want, telephone companies need to use other companies' lines. Southwestern Bell's network has been in place for years and extends to nearly every other telephone company in the State (in cases where Southwestern Bell does not directly connect with a particular telephone company, Southwestern Bell connects with another tandem company, like Sprint or Verizon, that serves the smaller company). Thus, by establishing a direct connection with Southwestern Bell, other carriers can indirectly reach all other telephone companies in the LATA. The alternative would be for the other carriers to physically build their networks to all other carriers operating in the State, which the originating carriers have indicated would be inefficient for them. Efficiency and public interest are clearly furthered by policies that favor this type of interconnection and the sharing of networks between carriers. (SWBT, Hughes Rebuttal, p. 4; Sprint, Cowdrey Rebuttal, pp. 5-6).

And in fact, the law requires it. Section 251(a) of the Act requires all carriers to allow both direct and indirect interconnections with other carriers:

SEC. 251. [47 U.S.C. 251] INTERCONNECTION

- (a) GENERAL DUTY OF TELECOMMUNICATIONS CARRIERS. -
Each telecommunications carrier has the duty -

- (1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers;

This section obligates the former PTCs (and all other telecommunications carriers) to interconnect with other carriers such as CLECs, wireless carriers and other LECs and permit them to use the former PTCs' networks to send calls to other carriers for termination.

Essentially, the former PTCs perform this function by switching and transporting the call from

the originating carrier's network to the terminating carrier's network. (SWBT, Hughes Rebuttal, pp. 4-5; Sprint, Cowdrey T. 412).

Missouri laws also require telecommunications companies to interconnect their networks. Section 392.240(3) RSMo (1994) requires the Commission to order interconnection between two carriers when such interconnection can reasonably be made and it would advance the public interest:

Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that a physical connection can reasonably be made between the lines of two or more telecommunications companies whose facilities can be made to form a continuous link of communication by the construction and maintenance of suitable connections for the transfer of messages or conversations, and that public convenience and necessity will be subserved thereby, or shall find that two or more telecommunications companies have failed to establish joint rates, tolls or charges for service by or over their facilities, and that joint rates, tolls or charges ought to be established, the commission may, by its order, require that such connection be made, except for the purpose of such connections is primarily to secure the transmission of local telecommunications service and the telecommunications be transmitted over such connection under such rules and regulations as the Commission may establish and prescribe through lines and joint rates, tolls and charges to be made, and to be used, observed and enforce in the future. . . . (emphasis added)

And Section 392.200(6) RSMo (1994) requires interconnected carriers to accept and carry the other's traffic:

Every telecommunications company operating in this state shall receive, transmit and deliver, without discrimination or delay, the conversations and messages of every other telecommunications company with whose facilities a connection may have been made.

Under these laws, the former PTCs are like a railroad geographically located between two other rail companies. The railroad in the middle must let other companies use its tracks to reach the other companies' rail network.²⁷ But the railroad in the middle is not financially responsible for any terminating charges just because its tracks allow the physical connection between two

²⁷ E.g., if the Union Pacific wants to send a boxcar of corn from Jefferson City to Clarksville, Missouri, the St. Louis Terminal Railroad must allow the Union Pacific to send its boxcar over the Terminal Railroad's tracks in St. Louis for switching to the Burlington Northern network that serves Clarksville).

other companies. Rather, it is the originating carrier (e.g., the Union Pacific) that must as a responsible carrier pay the other rail companies (the Terminal and the Burlington Northern Railroads) for the use of their track. While tandem LECs like the PTCs are similarly required to allow other carriers to use their networks to reach the network of another carrier, the law imposes no requirement on tandem companies to pay for another carrier's traffic. If it did, no carrier would want to allow its network to be used for interconnection.

- (f) The small LECs should not be permitted to shift their billing and collection responsibilities and their normal business risks to the former PTCs.

Essentially, the small LECs are asking the Commission to require the former PTCs to pay terminating access charges on all traffic (with certain exceptions) that passes to the small LECs through a former PTC's tandem, even if the traffic was originated by another carrier upstream.

The reason the small LECs seek to have the Commission impose such an arrangement on the former PTCs is that it would greatly simplify the small LECs' own operations. In order to collect its tariffed access charges on the traffic they terminate under the traditional arrangement, the small LECs must individually bill each carrier whose customer sent calls to end-users in the small LECs' exchanges. Such billing must be done on a monthly basis. While some of the small LECs perform this function in-house, many contract with and pay outside billing vendors to do much of this work. This billing and collection function is an ordinary expense of the provision of exchange access service by a telephone company. These expenses, which they need to incur in order to get paid for the services they provide, are generally covered by the rates the small LECs charge. (STCG, Schoonmaker T. 169-171).

But under the small LECs' new "business relationship" proposal, they would only have to render one bill to one carrier -- their former PTC -- for the traffic at issue. In addition to being administratively much simpler for the small LEC, their proposal would also shift to the former PTCs their own normal business risk of delinquencies or non-payment by other carriers that for whatever reason cannot meet their financial obligations. By instead billing all of the traffic to the former PTCs, which are all large, well established companies, the small LECs seek to

position themselves to be virtually guaranteed payment for all of the traffic, with minimal effort. And under their proposal, the small LECs do not propose to compensate the former PTCs for assuming these additional duties (STCG, Schoonmaker T. 177).

The former PTCs are neither willing nor are being compensated to take on these responsibilities and risks. The Commission should deny the small LECs attempt to force them on the former PTCs.

- (g) There is no justification for imposing the small LECs' proposed new "business arrangement."

The only claim the small LECs make for such a radical restructuring of the industry is that the present originating records system is broken. While Southwestern Bell has readily admitted that it had a problem with some of its traffic (Local Plus from its Ericsson switches and OCA from its Marshall switch) that problem is not indicative of any ongoing systemic problem that would necessitate the Commission's completely revamping how the entire industry operates with regard to compensation. Shortly after the Local Plus problem was identified all carriers were notified of the problem and it was corrected. Full financial settlements have been made with several carriers. And financial settlement offers have been out to the others for months. Southwestern Bell expects to complete these settlements soon. Based on the results from the Network Test performed in this case, the Local Plus problem accounted for most of the discrepancies identified. And the majority of the other calls initially identified as discrepancies have also now been explained. (Exhibit 40).

But to the extent any remaining discrepancy in records exists, the industry has the means and the desire to resolve them. While the former PTCs oppose the small LECs' attempt to radically restructure the industry, the former PTCs have no opposition to working cooperatively with them to make sure they have all the records they need to bill for the traffic they terminate. The small LECs' concern about getting paid for what they terminate is an industry concern that all carriers understand and appreciate. And the evidence has shown that the former PTCs have acted on these concerns. For example, the former PTCs have worked with the small LECs to

develop and provide settlement records the small LECs can use to bill and receive appropriate payment from the originating responsible carrier for all traffic types that flow to them:

- Since divestiture, the former PTCs have been providing the small LECs with access usage records that they have used and still use to bill IXC's for interstate and intrastate traffic (SWBT, Dunlap Direct, p. 22; Dunlap Surrebuttal, p. 11);
- Southwestern Bell for years has been providing the settlement reports for Feature Group A ("FGA") traffic (SWBT Dunlap Direct, p. 22; Dunlap Rebuttal, pp. 10-11);
- The former PTCs, pursuant to the Commission's directives, have been providing CTUSR reports for transited wireless traffic. Some of the small companies are currently billing from these reports and the rest have acknowledged to the Commission they can use them as well (SWBT, Dunlap Direct, p. 21; Dunlap Rebuttal, p. 11; Sprint, Cowdrey T. 434-436);
- The former PTCs, pursuant to the Commission's Order in Case No. TO-99-254, worked cooperatively with the small LECs and their billing vendors to develop Category 11 Records in a format that was acceptable to the small LECs. Those records are now being used successfully by the small LECs to bill terminating compensation on intraLATA toll traffic (SWBT, Dunlap Direct, pp. 4-5, 21, 23);
- The former PTCs have been working with the small LECs to develop records the small LECs can use to identify and bill interstate intraLATA calls. This is one of the traffic types that today is not identified and cannot be billed. For Southwestern Bell to provide these records to the small companies, it had to get its switches in Kansas and its affiliate's switches in Illinois enabled to record the intraLATA traffic being sent into Missouri and to get a system to gather and process those records for distribution to the small companies. This new process began operating within Southwestern Bell on February 1, 2001 (SWBT, Dunlap Rebuttal, p. 11);
- The former PTCs and the small LECs, in a spirit of full cooperation, conducted an extensive test of the existing record systems for the purpose of identifying and addressing any problems that may exist. A tremendous amount of effort by all carriers went into this test and the report prepared by the industry has been filed in this case. While most of the calls initially identified as discrepancies have been resolved, the report does show that there still are some remaining issues to resolve. The former PTCs are committed to pursuing those items to conclusion (SWBT, Dunlap Direct, pp. 8-12; Rebuttal, pp. 607; Exhibit 40); and
- Southwestern Bell has committed significant capital resources (\$26 million) to its deployment of the new Business Intelligence System, which will provide the capability to monitor the interconnection traffic that comes into Southwestern Bell's network. Southwestern Bell is willing to share output of this new system with the small LECs and is currently working on developing a report like the CTUSR for

interconnection traffic. This new summary report would, on a monthly basis, provide terminating LECs, the number of minutes a particular interconnected carrier sent through Southwestern Bell's network. As the small companies are able to bill the originating carrier from the CTUSR, they should be able to bill from this new report as well. (SWBT, Hughes Rebuttal, pp. 10-11; T. 598). Sprint has also purchased this system and is deploying it in Missouri. (Sprint, Cowdrey T. 418). Sprint also plans to share its output with other carriers. (Sprint, Cowdrey T. 438).

Neither Southwestern Bell nor any of the other former PTCs believe it is appropriate that the small LECs or any carrier should be left "holding the bag" on any unidentified traffic. As was evident from the hearing, the former PTCs worked diligently with the small LECs during the records test in this case to hunt down any discrepancies that were identified. The evidence has also shown that the PTCs have regularly performed such investigations for individual small LECs in the past that have brought specific problems to the PTCs for resolution. (SWBT, Dunlap Direct, p. 8; Dunlap T. 743).

As most of the former PTCs indicated at the hearing, they are not only committed to resolving any perceived discrepancies in records, but they are also fully willing to share the financial burden for a portion of any unidentified traffic. For example, Sprint has proposed splitting the difference 50/50 (Sprint, Cowdrey T. 458, 479-480). Southwestern Bell indicated that it would support sharing after a certain threshold (that would allow an acceptable margin of error). It also indicated that it would first like to have its Access 7 Business Intelligence system fully operational (by the end of the second or third quarter of this year). (SWBT, Hughes T. 595-597). Verizon indicated that sharing is an option that could be presented (although it believed the issue was more properly addressed through the National Ordering and Billing Forum). (Verizon, Allison T. 645).

Accordingly, the Commission should find that no changes are needed to the existing industry business relationship. It would, however, be appropriate for the Commission to direct

the parties to continue working cooperatively on an industry basis to ensure that all carriers have adequate records with which to bill the originating responsible carrier.

Issue 6 - Call Blocking - What procedure or arrangement, if any, should be utilized to prevent non-compensated intrastate intraLATA traffic from continuing to terminate over the common trunks between the former PTCs and the former SC?

The issue of call blocking is beyond the scope of issues the Commission designated for investigation in this case. In addition, the blocking the small LECs propose is inconsistent with all carriers' obligations under federal and state law. However, if blocking is to be required, the carrier seeking the blocking should be required to bear the costs incurred from its request and to indemnify the carrier performing the blocking.

(a) Blocking is beyond the scope of this investigation.

Southwestern Bell has objected to the small LECs' attempt to raise call blocking issues in this proceeding. The Commission initiated this case to investigate "signaling protocols, call records, trunk arrangements and traffic measurement."²⁸ It did not direct the parties to investigate call blocking. Accordingly, the Commission should reject the small LECs' attempt to inject this additional issue into this proceeding.

(b) The small LECs' attempt to obtain authority to require another carrier to block a third carriers traffic is inconsistent with federal and state law.

Every telecommunications carrier has an obligation under Section 251(a)(1) of the Act to allow indirect interconnection and to permit other carriers to use its network to reach the network of other carriers. Similarly, State law requires every telecommunications company in the State to accept and carry, without discrimination to delay the traffic of every other telecommunications company with whose facilities a connection may have been made.²⁹ Given these legal obligations, Southwestern Bell believes that without a specific order from the Commission, it does not have authority to block transiting traffic at the request of a terminating carrier when it is having a dispute with the originating carrier. (SWBT, Hughes Rebuttal, p. 11).

²⁸ Case No. TO-99-254, Report and Order, pp. 17-19; Case No. TO-99-593, Order Directing Notice, p. 1).

²⁹ Section 392.200(6) RSMo (1994)

If the terminating LEC is not being compensated for an originating carrier's calls, ultimately blocking may be appropriate. However, it should be a last resort, as customers of both the originating carrier and the terminating LEC would be adversely affected by having the traffic blocked. Requiring a specific Commission order would help ensure that blocking was justified under the circumstances. (SWBT, Hughes Rebuttal, p. 13).

- (c) If blocking is to be required, the carrier seeking the blocking should be required to pay the cost incurred in blocking and to indemnify the carrier performing the blocking.

If the former PTCs are directed by Commission order to block a particular carrier's traffic, cost recovery is not only appropriate, but essential. The transport rates charged by Southwestern Bell and the other former PTCs were designed to recover the cost of providing the transport function. They do not cover any of the costs a former PTC would incur in modifying its network to block a particular originating carrier's traffic to a particular terminating carrier's exchanges. SWBT and the other PTCs currently have no means to recover these costs. (SWBT, Hughes Rebuttal, p; 12).

Performing the work to block another carrier's traffic is not part of Southwestern Bell's normal mode of operation. It takes Southwestern Bell's resources away from other activities such as central office conversions, NPA relief, large customer requests for services such as Plexar®, and establishing interconnection trunks for CLECs. If as SWBT's technicians would be taken away from their normal productive responsibilities to perform the work necessary to implement another carrier's blocking request, it is only appropriate that the requesting carrier be responsible for the cost it has caused through its blocking request. (SWBT, Hughes Rebuttal, pp. 12-13).

There would be real and concrete costs to comply with a small LEC's blocking request. The cost of performing the blocking work would depend on the number of central offices that would require translation of work, as well as a number of NXXs which must be entered into the system. Southwestern Bell believes that a rate of \$30.93 for the first half hour and \$21.32 for

each additional half hour would be appropriate. If this work is performed on an overtime basis, then appropriate overtime rates would apply.³⁰ (SWBT, Hughes Rebuttal, p. 13).

In addition, the former PTCs have serious concerns with incurring liability to the originating carrier for cutting off its traffic. Southwestern Bell and the other former PTCs would not be in a position to know the status of the relationship between the terminating LEC and the originating provider or whether there was appropriate grounds for stopping the flow of traffic. In addition to the need for a specific order from the Commission, the requesting carrier should be required to agree to indemnify the carrier performing the blocking against any liability that may arise from the blocking. (SWBT, Hughes Rebuttal, p. 11).

CONCLUSION

The concerns expressed by the small LECs in this case -- which all focus on their ability to get paid for the traffic they terminate -- can and are being addressed by the industry itself without Commission intervention. The small LECs should now have nearly all the records they will need on terminating traffic to enable them to bill the carrier who originated a call and is responsible for paying for its termination. And significant capital expenditures have been made to deploy systems that will produce records to fill any gaps that may exist today. The former PTCs are committed to resolving any perceived discrepancies in records. And until they are resolved, the former PTCs are willing to share the financial burden of any unidentified traffic that might pass through their respective networks.

³⁰ These rates come from the SWBT/AT&T Interconnection Agreement, UNE Appendix-Pricing.

Accordingly, no changes need to be imposed by the Commission in the signaling protocols, call records, trunking arrangements and traffic measurement procedures in use today between the LECs in the State.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by first-class, postage prepaid, U.S. Mail on March 1, 2001.


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