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June 15, 2001

FILED[2]

JUN 15 2001

Missouri Public Service Commission

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

Re: Case No. TO-99-593

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter, please find an original and eight copies of The Small Telephone Company Group's Response to the Comments of SWBT and Sprint.

Please see that this filing is brought to the attention of the appropriate Commission personnel. Copies of the enclosed document are being provided to counsel of record. I thank you in advance for your cooperation in this matter.

Sincerely,

Brian T. McCartney

Brian T. McCartney

BTM/lar
Enclosure
cc: Counsel of Record
Judge Lewis Mills

FILED[2]
JUN 1 5 2001
Missouri Public
Service Commission

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

THE SMALL TELEPHONE COMPANY GROUP'S RESPONSE TO THE COMMENTS OF SWBT AND SPRINT

COMES NOW the Small Telephone Company Group ("STCG"), pursuant to 4 CSR 240-2.080(16), and offers these comments in reply to the comments of Southwestern Bell Telephone Company ("SWBT") and Sprint Missouri, Inc ("Sprint").

INTRODUCTION

1. In a competitive environment, no carrier should be forced to rely on the records of another carrier in order to receive compensation. This is especially true when both recent history and the results of the Network Test demonstrate that the former PTCs' originating records are inaccurate and ripe for error. This case boils down to the fact that, in a competitive environment, Missouri's small companies should be allowed to use their own records to receive compensation for the services that they provide. Now that the PTC Plan has ended and all of the former PTCs are now providing or are poised to begin providing interLATA toll services, they should be required to use the same system that is used in the competitive interexchange toll environment by the traditional long distance carriers such as AT&T and MCI/WorldCom. The business model proposed by the STCG is the most efficient, the most equitable, and provides the proper incentives for all of the companies involved. The originating records system is the last vestige of the PTC Plan, and the former PTCs have delayed its elimination for over two years. It is now time for the Commission to put this last holdover from the PTC Plan to rest.

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HISTORICAL BACKGROUND

2. **The PTC Plan** On June 10, 1999, the Commission issued a *Report and Order* in Case No. TO-99-254 finding that the Primary Toll Carrier (PTC) Plan[1] was incompatible with competition. Accordingly, the Commission ordered the elimination of the PTC Plan. The Commission's *Report and Order* also ordered that this case (TO-99-593) be opened to address the small companies' concerns about missing records and unidentified traffic.

3. The Commission's *Report and Order* establishing this case recognized the small companies' concerns about the recording and reporting of traffic with an originating records system in a competitive environment, and the Commission noted "some preliminary analysis from which one might conclude that there is a discrepancy between the terminating minutes measured by a few SCs and those minutes as reported by the PTCs."[2] Also, the Commission specifically recognized the small companies' concerns about "***a lack of business relationships with upstream carriers***."[3] The Commission's *Report and Order* stated that the issues raised by the small companies were:

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[1] The Primary Toll Carrier ("PTC") Plan was established by the Commission in 1987 in Case Nos. TO-84-222 et al. Under the PTC Plan, all 1+ or 0+ intraLATA toll calls were completed by one of four incumbent local exchange companies ("ILECs") designated as Primary Toll Carriers. All other ILECs, including the STCG member companies, were designated as Secondary Carriers or SCs. The PTC Plan required each SC to deliver all 0+ or 1+ intraLATA toll calls to the tandem switch of the PTC which served the SC's central office. For over ten years, the PTCs completed all such calls, paid associated expenses, and retained all of the toll revenues associated with these calls, including the toll revenues paid by customers residing in the telephone exchanges served by the SCs.

[2] *In the Matter of an Investigation Concerning the Primary Toll Carrier Plan and IntraLATA Dialing Parity*, Case No. TO-99-254, et al., *Report and Order*, issued June 10, 1999, pp. 10-11

[3] *Id.* at p. 11 (emphasis added)

> ***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.[4]

Thus, contrary to the assertions of the former PTCs, the Commission's identification of signaling protocols, call records, trunking arrangements and traffic measurement was descriptive rather than limiting. Moreover, the Commission's underlying reason for examining these technical matters was to address the small companies' concerns about missing and unidentified traffic.

THE NETWORK TEST

4. On July 16-17, 2000, the parties conducted a Network Test to compare originating and terminating recordings for a number of companies. The results of the Network Test confirmed the STCG's concerns about the use of originating records as the basis of compensation for terminating traffic. For the nine small companies analyzed by STCG witness Schoonmaker, ***less than 75% of the terminating calls had matches from the originating records.***[5] On an individual company basis, the percentage of matched records was ***as low as 41.1%.***[6] The results of the Network Test clearly demonstrate that the originating records being produced by the former PTCs are not providing an accurate and complete portrayal of the total amount of traffic terminating to the small companies.

5. **<u>SWBT's Local Plus recording problem</u>** The Network Test also revealed that SWBT was not recording Local Plus traffic in a number of its switches and exchanges around the

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[4] *Id.* at p. 17 (emphasis added)

[5] Ex. 40, p. 12

[6] *Id.*

state. Although Local Plus was implemented in December of 1998, SWBT's Local Plus recording problem was not identified until August of 2000. SWBT's unrecorded Local Plus traffic amounted to several hundred thousand dollars of access revenue to various small companies throughout the state. SWBT's Local Plus recording problem illustrates the serious shortcomings of the PTCs' originating records system. It is also a lesson in the serious impacts the originating records system can have on small companies such as Mid-Missouri Telephone Company, which was ***not being compensated for more than 50% of the traffic it was terminating for the former PTCs***.

6. **The results of the Network Test** The Network Test produced some very important information. First, the Network Test clearly established that the terminating companies have the capability to record terminating records in the same detail that calls are recorded at the originating end (i.e. with the originating and terminating numbers, connect time, and conversation time). Thus, any doubt about the terminating companies' capability to measure traffic has been laid to rest. Second, the Network Test demonstrated that there are ongoing and substantial discrepancies between the terminating minutes measured by the small companies and the records that they receive (or fail to receive) from the former PTCs. As a result, there continues to be a significant amount of traffic for which the small companies are not receiving compensation. Finally, the network test revealed the former PTCs' inability to completely reconcile even ***one hour of traffic*** (after many months of effort) between the former PTCs and a small subset of the STCG member companies.

THE SMALL COMPANIES' PROPOSAL

7. To address the inherent problems with the originating records system in a competitive environment, the small companies propose that they be allowed to use their own terminating records. This proposal is clearly within the scope of an investigation into "call records" and "traffic measurement" that the Commission initially referenced when it opened this case.

8. Furthermore, the small companies' proposed business relationship would hold the former PTCs responsible for three types of traffic that they deliver to the small companies' exchanges: (1) Competitive Local Exchange Carrier (CLEC) traffic; (2) other Incumbent Local Exchange Carrier (ILEC) traffic (primarily from the former PTCs); and (3) unidentified traffic (i.e. traffic for which an appropriate originating record is not created). Under this proposal, the former PTCs will be responsible for traffic that they allow on the network and deliver to the small companies for termination, ***just as the other traditional IXCs such as AT&T and MCI/WorldCom are held responsible today***. Although the former PTCs try to portray this as a fundamental change, this is no different that the former PTCs' prior responsibilities. Under the PTC Plan, the former PTCs were held responsible for this traffic, and this case was established to consider the obligations of the former PTCs and Secondary Carriers (SCs) with regard to this traffic in a post-PTC environment. Therefore, the STCG's proposed business relationship is clearly within the scope of this case.

9. The small companies' proposal is the most efficient and equitable business model for a competitive environment. This model is currently used by traditional IXCs such as AT&T and MCI both in Missouri and nationwide because it is more efficient and less burdensome for the

party with direct connections and established billing relationships to bear the responsibility for traffic that is carried over its facilities and ends up at the small companies' exchanges. In a competitive environment, the former PTCs must bear some responsibility for the traffic which they allow on their networks and deliver to the small companies for termination.

10. There are many reasons why the former PTCs must begin playing by the same rules as the rest of Missouri's IXCs. First, ending the originating records system will assure that the former PTCs are not given an anti-competitive advantage over the other traditional IXCs. Second, ending the originating records system and adopting the STCG's proposal will assure that the small companies are not unfairly prejudiced as a result of the former PTCs' interconnection agreements which allow CLECs and other carriers to "transit" traffic and have it delivered to the small companies without paying for termination. Finally, the evidence shows that the small companies are not being compensated for all of the compensable traffic that is being delivered by the former PTCs. Adopting the STCG's proposal will solve this problem and assure that the small companies receive compensation for *all* of the compensable traffic that they terminate.

SPRINT AND SWBT'S COMMENTS

11. On May 17, 2001, the Commission issued its *Order Directing Additional Notice* in Case No. TO-99-593 allowing an additional intervention period and inviting comment on the issues raised in the case. On or about June 6, 2001, Sprint and Southwestern Bell responded with comments. Although Sprint and SWBT's comments simply re-argue their positions in the case, a number of Sprint and SWBT's comments warrant response.

12. **Due Process** Both Sprint and SWBT restate their "due process" arguments,[7] but

[7] Sprint's Comments, p. 2; SWBT's Comments, p. 5

this is just a smokescreen tactic to further delay the elimination of the originating records system. The Commission should not be fooled by the former PTCs' newfound concern for the rights of CLECs and other telecommunications carriers. First, Sprint and SWBT do not have the legal standing to assert the rights of others. Second, as a more practical matter, Sprint and SWBT do not have the right to speak for the position of non-parties to the case. Third, Sprint and SWBT's comments are belied by the fact that only three CLECs have applied to intervene after the Commission's most recent notice, and none of those CLECs opposed the STCG's proposed business model. In fact, two of those CLECs, Green Hills and Mark Twain, supported the STCG's proposal.

A. **Notice** On June 15, 1999, over two years ago, the Commission issued its *Order Directing Notice* about this case to all telecommunications companies certificated to do business in the state of Missouri. Interested parties were given the opportunity to intervene until July 6, 1999. Although AT&T (both the CLEC and IXC) and Birch Telecom (CLEC) intervened, both of these parties later withdrew. On May 17, 2001, the Commission again issued an *Order Directing Additional Notice* giving interested parties another opportunity to intervene. Only three CLECs chose to do so, and none of them opposed the STCG's proposal. In fact, two of the CLECs supported the STCG's proposed business arrangement. At worst, the fact that only one other CLEC has bothered to intervene indicates that Missouri's CLECs are not that concerned about this case. More likely, it suggests that the other CLECs, like Green Hills and Mark Twain, may think that the small companies' proposal is a good one and that: (1) the former PTCs should have to play by the same rules as all of the other competitive carriers in Missouri; and (2) CLECs have no more interest in receiving "uncompensable" and "unidentified" traffic than the small companies do. Again, even after the second notice, ***the only CLECs to file comments in response to the Commission's Order <u>support</u> the STCG's proposal.***

B. **<u>Additional Notice to CLECs from the Commission's Staff</u>** In addition to the two notices about this case that were issued by the Commission, the Commission's Staff sent a letter to each of Missouri's CLECs that invited them to participate in the Network Test. (See Ex. 40, p. 4 and Appendix 2) Fewer than half of the CLECs responded to Staff's letter, and most of them replied that "they did not originate calls on the LEC-to-LEC FGC network and would not participate in the test." (Ex. 40, p. 5) Thus, the record indicates that those CLECs that did respond to Staff's notification: (1) did not originate calls on the FGC network at issue in this case; and (2) were not interested in participating in this case or the Network Test. It also shows that ***Missouri's CLECs, along with all of Missouri's other telecommunications companies, have had <u>three notices</u> about this case.*** How much more notice is necessary?

C. **<u>Interexchange Carriers (IXCs)</u>** Although AT&T (the IXC) intervened in the case earlier, AT&T has since withdrawn from the case. As the Commission is well aware, traditional IXCs such as AT&T Long Distance and MCI/WorldCom already use the business model proposed by the small companies in this case. Specifically, the traditional IXCs pay for all of the traffic that they deliver over their connection with the small companies, and they charge a wholesale rate to other carriers which covers their costs associated with this arrangement. Because these other carriers already use the arrangement proposed by the STCG, it is unlikely that the traditional IXCs would intervene and support the PTCs' anti-competitive arrangement that differs from that required of the traditional IXCs. Again, the PTCs just want to avoid playing by the same rules that the other IXCs must follow.

D. **Wireless Carriers** Sprint's comments express concern about the due process rights of "wireless providers who are not certified by the state."[8] Apparently, Sprint misunderstands the STCG's proposal and the small company wireless tariffs that were recently approved by the Commission in Case No. TT-2001-139.[9] As a threshold matter, wireless carrier traffic is expressly excluded from the small companies' proposal.[10] Moreover, as a practical matter, wireless traffic is already addressed by the small companies' wireless termination tariffs approved by the Commission in Case No. TT-2001-139. The wireless tariff case also demonstrates that the wireless carriers are not bashful about intervening in Commission cases when they feel that their rights may be affected. Finally, as Sprint itself alludes, wireless carriers are not within the Commission's jurisdiction, so the Commission has no authority to join wireless carriers as parties to this proceeding

E. **SWBT cannot have it both ways**. SWBT now claims that this case (involving the relationship between SWBT and the small companies) cannot be resolved without the mandatory inclusion of CLECs,[11] but this argument is totally inconsistent with its position in cases involving the relationship between SWBT and CLECs. For example, in Case No. TO-2001-455 (AT&T/SWBT Interconnection Arbitration), SWBT vigorously opposed an application for intervention by a group of small companies. SWBT said that the small companies had no place in

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[8] Sprint's Comments, pp. 2-3

[9] *In the Matter of Mark Twain Rural Telephone Company's Proposed Tariff to Introduce Its Wireless Termination Service*, Case No. TT-2001-139, *Report and Order*, issued Feb. 8, 2001

[10] Schoonmaker, Ex. 1, p. 6

[11] SWBT's Comments, p. 7

developing the interconnection agreements between CLECs and SWBT, even though the terms and conditions of such interconnection agreements directly address and affect traffic being sent to the small companies. The Commission accepted SWBT's argument and denied the small companies' request to intervene, finding that they were not proper parties to the case. Thus, even though the rights of the small companies are affected by SWBT's arbitrated interconnection agreements with CLECs, SWBT has successfully excluded the small companies from participating and protecting their rights in these cases. Yet now that this case has been heard and briefed, SWBT claims that CLECs are necessary parties. Why should the Commission allow SWBT to exclude the small companies from SWBT/CLEC cases, yet demand that CLECs become involved in SWBT/small company cases? The answer is simple – it shouldn't. The Commission should apply the same reasoning as it followed in its *Report and Order* in Case No. TO-2001-455 (issued just last week) and reject SWBT's attempt to have it both ways.

F. **Sprint and SWBT's own due process** Sprint and SWBT have argued vigorously against the small companies' proposal during the hearing and in their briefs. They cannot now claim that they need another hearing. Sprint and SWBT's arguments about the "due process" of non-parties to this case are simply a transparent attempt to protect their own interest by further delaying the elimination of the anti-competitive originating records system. This case has been going on for over two years, and the Commission has issued notice regarding the case twice. All of Missouri's certificated telecommunications were also notified of the Network Test by the Commission's Staff. There has been more than sufficient notice in this case. The former PTCs have been able to stall the elimination of the originating records system for over two years since the Commission issued its order eliminating the PTC Plan and establishing this case. The

Commission should now issue its order eliminating the last remnant of the PTC Plan (the flawed originating records system) and adopt the STCG's proposal (which is the same model used by the other competitive IXCs in Missouri).

13. **<u>Additional Cost</u>** Sprint complains that the STCG's proposal could result in additional costs,[12] but this argument cannot withstand even casual scrutiny. First of all, neither Sprint nor any of the other former PTCs have offered any evidence of such additional costs. Second, in a competitive environment the small companies must be compensated for all of the traffic that they receive from the former PTCs. Sprint should not be allowed to terminate traffic to the small companies for free. Finally, the elimination of the PTC plan resulted in major (post-price cap) cost savings to the former PTCs. For example, SWBT's own evidence in the PTC case revealed that ***SWBT will save more than $18 million a year*** after the elimination of the PTC Plan. Because SWBT and the other former PTCs had elected price cap status before the PTC Plan was ended, SWBT and the other former PTCs were not required to make any revenue-neutral adjustment to their rates. Thus, the elimination of the PTC Plan has resulted in a major (post-price cap) cost savings to the former PTCs, and they should not be heard to complain about any minimal costs which would be required to ensure the small companies are compensated for the traffic that they receive from the former PTCs.

14. **<u>Accuracy of the Records</u>** Sprint states that terminating records are "inaccurate and questionable,"[13] and Sprint suggests that the STCG's proposal to use terminating records

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[12] Sprint's Comments, p. 3

[13] Sprint's Comments, p. 3

would be "unreliable."[14] Similarly, Sprint boasts, without any explanation, that modifications to the PTCs' systems "have been shown to be adequate."[15] But all of the evidence in this case indicates just the opposite. The Network Test demonstrated that the small companies' terminating records are accurate, while the former PTCs' originating records are fraught with error. The originating records system is not providing the small companies with adequate billing records, and the evidence in this case demonstrates that in some cases the small companies are receiving less than 50% of the appropriate records from the former PTCs.

15. The Network Test demonstrated that the originating records system is: (1) not designed to catch major errors in the network, such as SWBT's Local Plus recording error; and (2) incapable of reconciling just one hour's worth of traffic for a handful of small companies, even after many months of effort. Staff recognizes the problems with the current arrangement,[16] and even Sprint concedes the inherent problems with an originating records system. Sprint's Initial Brief states, "In some instances, Sprint cannot correctly identify the originating carrier responsible for payment of terminating access charges on calls sent to Sprint from another PTC."[17] Again, it has been nearly one year since the Network Test was conducted, ***yet the former PTCs are unable to reconcile just one hour's worth of traffic that terminated to nine of the small companies.***[18]

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[14] *Id.*

[15] Sprint's Comments, p. 4

[16] Kuss Rebuttal, Ex. 22, p. 2

[17] Sprint's Initial Brief, p. 5

[18] *See* SWBT's Initial Brief, p. 21 ("[T]here still remained some areas for further investigation."); Sprint's Initial Brief, p. 10 ("The parties are still working though determining the records' accuracy."); and Sprint's Initial Brief, p. 1 ("[S]everal questions remain unanswered and

The error-prone and unreliable originating records system is inconsistent with a competitive environment, and the Commission should terminate it immediately.

16. **The 50/50 Proposal**. Sprint recognizes the inequity in forcing the small companies to bear all of the risk for the former PTCs' mistakes, but proposals such as Sprint's 50/50 sharing do not provide an appropriate balancing of the risk between the former PTCs and the small companies. First of all, Sprint's proposal does not take into account the huge size differences between small LECs and the former PTCs. For small companies, a $100,000 difference in revenue could amount to 10% of total revenues, while the same amount would equate to substantially less that 0.01% of SWBT's revenues.

17. **Incentives** Sprint's proposed 50/50 split provides no incentive for the former PTCs to track down their own recording problems or mistakes since they will be responsible for only half of any unidentified traffic. For example, if SWBT has another Local Plus recording problem, it would only be held responsible for 50% of its Local Plus traffic for which it fails to create proper records. In essence, SWBT would be getting a 50% discount on the termination of its own traffic.

18. **Revenue Ratio** If the Commission does choose to adopt some type of shared responsibility plan, then the Commission should adopt a shared responsibility plan that is based upon a ratio of the intrastate or total revenues received by the two involved companies as discussed by STCG witness Schoonmaker during the hearing. (*See* Tr. 136-38) A "revenue ratio" plan would provide more equal incentives to the parties to find a resolution to the problem

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the evidence suggests that not all the information has been gathered.")

since both have the same percentage of their revenues at risk.

19. **SWBT is Stalling**. SWBT claims that the former PTCs have "no opposition to working cooperatively with the small LECs to make sure that all terminating carriers have appropriate records needed to bill and secure appropriate compensation for the traffic they terminate."[19] But recent history demonstrates that SWBT has denied responsibility and filed complaints with the Commission rather than tracking down its own Local Plus recording error[20] or playing by the same rules that other interexchange carriers must follow.[21] The small companies have already expended more than two years' worth of time and expense on this case. SWBT is simply stalling in hopes of holding on to the anti-competitive originating records system a little longer. It has been more than two years since the Commission terminated the parts of the PTC Plan that the former PTCs didn't like, and it is now time for the Commission to finally terminate the last remnant of the plan (the originating records system) that the PTCs do like.

20. **Who should bear responsibility for their mistakes and the traffic that they allow on the network**? SWBT claims that it is "inappropriate to make the former PTCs financially responsible for another carrier's traffic, simply because it transited one of the former

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[19] SWBT Comments, p. 3

[20] *Southwestern Bell Telephone Company's complaint against Mid-Missouri Telephone Company (MMTC) concerning MMTC's plan to disconnect the LEC-to-LEC common trunk groups, and request for order prohibiting MMTC from disrupting customer traffic*, Case No. TC-2001-20, *Order Granting Request for Preliminary Relief*, issued July 18, 2000.

[21] *Southwestern Bell Telephone Company's Complaint Against Mid-Missouri Telephone Company for Blocking Southwestern Bell's 800 MaxiMizer Traffic and Request for an Order Requiring Mid-Missouri to Restore the Connection*, Case No. TC-2000-325, *Report and Order*, issued Sept. 26, 2000.

PTC's network."[22] This argument is misleading. The small companies do not seek compensation for traffic simply because it "transits" SWBT's network. Rather, the small companies seek compensation for traffic that SWBT delivers to the small companies over SWBT's connection with the small companies. The traffic at issue is traffic delivered by SWBT over facilities that SWBT has ordered from the small companies. The small companies simply want compensation from the carrier that delivers the call to their facilities for termination. This is the most efficient and equitable solution, and this is what the traditional IXCs such as AT&T, Sprint Long Distance, and MCI/WorldCom must do.

21. **Who should bear the risk?** The small companies should not be forced to bear the risk for the former PTCs' mistakes or for the unidentified traffic that the former PTCs allow onto their networks and deliver to the small companies for termination. The originating records system makes the small companies bear 100% of the risk for the former PTCs' mistakes, as well as any unidentified traffic delivered via SWBT's "transiting" arrangements. The former PTCs carry and deliver unidentified traffic to the small companies' facilities for termination. However, SWBT claims that it is someone else's traffic, and SWBT suggests that the small companies should look somewhere else for compensation. Under the Sprint and SWBT's proposed plan, the small companies are left "holding the bag" for: (1) the former PTCs' own errors; and (2) "unidentified" traffic that the former PTCs have allowed onto the network and delivered to the small companies for termination. The STCG's proposal simply places the risk where it belongs – on the carriers that allow "unidentified" traffic to flow over their networks – rather than on the carriers that get stuck with this unidentified traffic at the end of the line.

[22] SWBT's comments, p. 5

22. **Who is best positioned to police their own networks?**. SWBT claims that adopting the small companies' proposal would "unfairly subject the former PTCs to liability for upstream carriers' traffic with no means of recovery from them on the traffic they originated and sent through the former PTC's networks to the small LECs for termination."[23] But SWBT is not as helpless as it would have the Commission believe. First, SWBT has direct connections with these "upstream" carriers that "transit" this traffic. Second, SWBT's contracts and tariffs with these carriers give SWBT the right to block the traffic of those companies that fail to pay. Finally, SWBT has a "Hewlett-Packard Business Intelligence System" that, according to SWBT, will allow SWBT to identify all of this "unidentified" traffic.[24] The former PTCs have direct interconnections and business relationships with the carriers that use their "transiting" arrangement, and they are the best positioned to police their own networks.

23. Once again, SWBT is trying to shift attention away from the problem revealed by the evidence in this case. The truth is that the originating records system unfairly prejudices the small companies. The small companies are terminating traffic that is delivered to their exchanges by SWBT and the other former PTCs, yet they are not receiving compensation for some of that traffic. Efficiency and the public interest are clearly furthered by making the former PTCs responsible for the CLEC and unidentified traffic that they deliver to the small companies for termination. Therefore, it is time for the Commission to end the originating records component of the PTC Plan, just like the Commission terminated the rest of the PTC Plan.

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[23] SWBT comments, p. 6

[24] If the "HP" system will solve everything, as SWBT seems to believe, then why is SWBT so worried about taking responsibility for the traffic it delivers to the small companies?

24. **<u>All necessary parties are present</u>**. Sprint and SWBT suggest that not all of the necessary parties are present to adjudicate the relationship between the former PTCs and the former Secondary Carriers ("SCs") in this case, but this is not true. This case was opened to address the unique interconnection that exists between the PTCs and the former SCs, and all of the former PTCs and the former SCs are present in this case. The PTC Plan and the related contracts that were in place between these parties during the PTC Plan have ended, and the Commission must establish a new business arrangement to reflect Missouri's competitive environment.

25. **<u>SWBT's "transport" charges</u>**. SWBT complains that "the former PTCs' transport charges were designed to recover only their own costs to carry calls across their own networks, not the facility costs of the termination carriers."[25] But this is a problem of SWBT's own making. SWBT's "transiting" rates simply compound the problem with the originating records system. SWBT should establish a more appropriate rate that would support a wholesale relationship, just as Missouri's traditional IXCs such as AT&T and MCI/WorldCom have done.[26] Additionally, the indemnity provisions in SWBT's agreements and tariffs should give SWBT an avenue for recourse against CLECs and wireless carriers that don't pay, and SWBT can be expected to protect its rights under these provisions.

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[25] SWBT's comments, p. 6

[26] Tr. 150-51; *see also* Schoonmaker Direct, Ex. 1, p. 18

CONCLUSION

The Commission should reject Sprint and SWBT's suggestions to hold additional hearings in this case. It has been well over two years since the Commission terminated the PTC Plan and opened this case. The Commission has held a lengthy hearing, and the parties have thoroughly briefed the issues. The record is complete, and it clearly demonstrates that the present system is not providing all of the appropriate records for terminating traffic. It is now time for the Commission to issue a decision and end the anti-competitive and discriminatory originating records system. In a competitive environment, Missouri's small companies must be allowed to bill for all of the traffic that they terminate. The most appropriate and reasonable business relationship in a competitive environment is to have companies bill from their own records. This is the same model that is used for competitive interexchange carriers (IXCs) such as AT&T and MCI/WorldCom. Given the inherent shortcomings in the existing system, the Commission should adopt the STCG's proposal to use terminating recordings. The use of terminating recordings is the most appropriate solution for a competitive environment.

The Network Test demonstrated that terminating recordings are accurate and reliable and that the originating record system has been and continues to be unreliable. In a competitive environment: (1) all interexchange carriers should be placed on equal footing; and (2) the small companies should not be forced to bear the risk for the former PTCs' recording mistakes and the unidentified traffic that the former PTCs deliver to the small companies. The Commission should adopt the STCG's proposal and end the anti-competitive, discriminatory, and inherently flawed originating records system supported by the former PTCs.

Respectfully submitted,

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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was mailed or hand-delivered, this 15th day of June, 2001, to:

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