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June 21, 2001

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

FILED²
JUN 21 2001
Missouri Public
Service Commission

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 Reply to MITG and STCG.

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

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

FILED²
JUN 21 2001

Missouri Public
Service Commission

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

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
REPLY TO MITG AND STCG**

Southwestern Bell Telephone Company respectfully submits this Reply to correct misstatements of fact and briefly respond to various claims made by the Missouri Independent Telephone Group ("MITG") and the Small Telephone Company Group ("STCG").

1. The Expanded Scope of This Case. Both MITG and STCG go to great lengths to try to convince the Commission that this case only concerns "unique interconnection existing between the former PTCs and former SCs,"¹ and that participation by other carriers is unnecessary. For example, STCG claims that "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."²

But as can be seen in their own briefs, MITG and STCG are seeking quite a bit more with their proposed new "business relationship." They are not just seeking the right to use their own records. And they are not just seeking to require the former PTCs to be responsible for any discrepancies in records currently being. Rather, they are asking the Commission to make the former PTCs financially responsible for nearly all traffic that flows to the small LECs through a

¹ MITG Initial Brief, p. 2.

² STCG Comments, p. 1.

former PTC's tandem, even if it is another carrier's traffic, and even if the responsible carrier has been identified and an appropriate record is available for them to bill from.³

MITG goes even farther claiming that the result of this docket will not have an impact on other telecommunications carriers, existing access tariffs, existing interconnection agreements or future interconnection agreements:

The result of this docket will not directly impact other telecommunications carriers. It simply makes no difference if other carriers participate or do not participate. After enactment of the Telecommunications Act of 1996, business relationships with these other carriers are determined either by access tariffs or by approved interconnection agreements (IA). No order in this docket is going to change existing access tariffs. No order in this docket will predetermine the terms of any future IA. No order in this docket will change the terms of an existing IA.⁴

None of these unsupported claims are correct. As one of the small companies' own witnesses acknowledged during the hearing, LEC access tariffs, which have been in existence since the mid 1980's, all call for terminating access charges to be billed to the originating carrier on a meet point billed basis when more than one LEC is involved in terminating a toll call.⁵ For example, on a toll call originated by one carrier that passes through Southwestern Bell's tandem and terminates in a small company exchange, both the small company and Southwestern Bell bill terminating access charges to the originating carrier. This arrangement is known throughout the industry as meet point billing because each carrier bills for its own facilities up to the meet point with another carrier. This compensation mechanism was established at the nation level at the Ordering and Billing Forum and is reflected in the small LECs' access tariffs and the former PTCs' access tariffs⁶ (as well as those of Spectra's the fourth largest LEC in the State which is not present in this case). Like the incumbent LEC access tariffs, the interconnection agreements

³ See, e.g. STCG Comments, pp. 5-6, 14-15.

⁴ MITG Reply Comments, p. 2.

⁵ STCG, Schoonmaker T. 123-124. See also, SWBT, Dunlap Direct, pp. 19-21.

⁶ STCG, Schoonmaker T. 123-124, 131.

the former PTCs have with all of the CLECs that operate in the state also make the originating carrier responsible for paying terminating compensation on its customers' calls.

As is evident from the small LECs' own testimony in this case, changing the business relationship to make the former PTCs financially responsible for other carriers' traffic flowing through the former PTCs' tandems will completely revamp the longstanding intercompany compensation mechanisms reflected not only in all LEC access tariffs, but also in Commission-approved CLEC interconnection agreements, which were patterned on this standard industry arrangement.

2. The Absence of Necessary Parties. In attempting to respond to the due process concerns Southwestern Bell and Sprint expressed in their Comments, STCG claims that the Commission "should not be fooled by the former PTCs' new found concern for the rights of CLECs and other communications carriers."⁷

STCG has got it backwards. While the Commission of course should be concerned about the due process rights of CLECs and other telecommunications carriers in the state that are not present in this case, Southwestern Bell and Sprint's concerns focused on their own due process rights if these nonparties were not bound to the results of this case.

As the U.S. District Court in the Three Rivers Telephone case made clear, tandem LECs like the former PTCs have no choice but to allow other carriers to pass their traffic through the former PTCs networks to reach the small companies, as "national mandatory interconnection policy" requires them to accept such traffic and allow it to transit their networks.⁸ To hold the former PTCs financially responsible for other carriers' traffic without simultaneously binding

⁷ STCG Response, p. 7.

⁸ Three Rivers Telephone Cooperative, Inc., et al. v. US West Communications, Inc., Case No. CV-99-080-GF-RFC, Slip Op. at p. 5 (D. Mont December 11, 2000) (a copy of this Opinion was appended as Attachment 1 to SWBT's June 6, 2001 Comments).

those originating carriers to the new intercompany compensation scheme proposed by the small LECs would put the former PTCs in an untenable position of being unable to obtain reimbursement from those carriers since the applicable tariffs and interconnection agreements of all carriers involved (e.g., the originating CLEC, the former PTC in the middle, and the terminating small LEC) call for the originating carrier to pay its own terminating charges.

MITG and STCG also surprisingly make the claim that since the Commission does not allow them to intervene as a party in CLEC arbitrations under the federal Telecommunications Act, there should not be a problem with CLECs being absent in this case.⁹

MITG and STCG obviously misunderstand the difference between these two types of proceedings. As the Commission explained in the recent AT&T/SWBT arbitration, "the interconnection agreement is a contract between two private parties and there is no reason why strangers to that contract ought to be permitted involvement in its formation. As with any contract between private commercial entities, third parties may appropriately become involved at a later time."¹⁰ But barring outside parties from the arbitration does not exclude them from the process. As is the Commission's practice - - which began with the Dial US Agreement, the first interconnection agreement in the State - - the Commission upon receipt of an interconnection agreement, provides notice to all IXC's and LEC's in the state that the agreement has been filed with the Commission for approval and allows 20 days for anyone to request a hearing.¹¹ Contrary to MITG's claim, it and the STCG were permitted to participate without intervention in the proceeding the Commission conducted to review the Dial US agreement.¹²

⁹ MITG Reply Comments, pp. 4-6; STCG Comments pp.9-10.

¹⁰ Case No. TO-2001-455, Order Denying Intervention, p. 3, issued May 7, 2001.

¹¹ See, e.g., Case No. TO-2001-576, Order Directing Notice and Making SWBT a Party, p. 2, issued April 20, 2001.

¹² Case No. TO-96-440, Order Making Interconnection Agreement Public, Establishing Procedural Schedule, and Granting Participation without Intervention, issued June 26, 1996.

3. The Existing Inter-company Compensation Arrangement is not Discriminatory.

With no basis in fact or law, STCG claims that “traditional IXC’s such as AT&T Long Distance and MCI/WorldCom already use the business model proposed by the small companies in this case,” and that “the PTCs just want to avoid playing by the same rules that the other IXC’s must follow.”¹³

MITG and STCG’s characterizations grossly misrepresent what is actually occurring and is a disingenuous attempt to confuse the Commission by comparing the resale of long distance service by IXC’s with the provision of access services by LECs, which are two entirely different things. Southwestern Bell would note that:

- When the former PTCs provide interexchange toll services to their end-users, they pay terminating access charges to the small LECs that terminate those calls just like IXC’s do. Although the small companies claim that the existing inter-company compensation arrangement somehow gives the former PTCs “an anticompetitive advantage over the other traditional IXC’s,”¹⁴ the Commission should be aware that no IXC has ever advanced such a claim. If such a claim were true, AT&T, the largest interexchange carrier in the nation, would have advanced it in this case. Instead, it withdrew. Similarly, Sprint, which is affiliated with the third largest interexchange carrier in the nation, also would have raised it if it were a true concern. It too did not. In fact, Sprint supports the continuation of the longstanding intercompany arrangement.
- MITG and STCG’s claim that the existing inter-company compensation arrangement in Missouri discriminates against traditional IXC’s is further belied by the fact that it is the common practice not only in Missouri but also throughout the country.¹⁵ The fact that the existing intercompany compensation method in use here is not unique to Missouri can be seen in the recent order from the U.S. District Court in the Three Rivers Telephone case. There, small independent LECs sued U.S. West for terminating access charges on calls originated by other carriers that transited U.S. West’s network. In holding that U.S. West had no obligation to pay the access charges for other long distance carriers whose calls traverse U.S. West’s facilities, the court rules that “if U.S. West is not the end-user’s long distance carrier and therefore lacks the ability to receive any compensation through billing for that call, no benefit accrues to U.S. West for which it should be asked to pay charges to an independent local exchange company.”¹⁶

¹³ STCG Comments, p. 8.

¹⁴ STCG Comments, p. 6.

¹⁵ SWBT, Dunlap Direct, p. 19.

¹⁶ Three Rivers Telephone, supra at pp. 3, 5.

- STCG claims the former PTCs should be financially responsible for other carriers' traffic not simply because it "transits" SWBT's network," but because "the traffic at issue is delivered by SWBT over facilities that SWBT has ordered from the small companies."¹⁷ As can be seen from the testimony of one of these small companies' own witnesses, this claim is incorrect. MITG witness David Jones admitted that LECs do not place "orders" for the common trunk groups that run between them: "when its a common trunk group, its considered joint provisioning of that common trunk group."¹⁸ The placing and sizing of such facilities between LECs occur through "mutual discussions" between the companies.¹⁹

4. There are No "Ongoing and Substantial" Discrepancies in Records. STCG

misstates the record in its claim that the results of the Network Test demonstrate that the former PTCs' records are inaccurate. Specifically, STCG claims:

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.²⁰

Contrary to STCG's claim, the Network Test did not demonstrate any "ongoing and substantial discrepancies." Rather, the evidence showed that most of the record problems the small LECs encountered were the result of an isolated translation error Southwestern Bell made in programming some of its switches (the Ericssons) to handle Local Plus® traffic in some of its exchanges. And the small LECs' witnesses acknowledged this fact.²¹ The majority of Southwestern Bell's switches were not impacted by this isolated programming mistake as these Ericsson switches only serve approximately 3.2% of Southwestern Bell's total access lines.²² As the Commission is aware, Southwestern Bell discovered its error during the course of the records

¹⁷ STCG Comments, p. 15 (emphasis added).

¹⁸ MITG, Jones Tr. 260-261.

¹⁹ Id. at p. 261.

²⁰ STCG Response, p. 4 (emphasis added).

²¹ STCG, Schoonmaker Surrebuttal, pp. 6-7; MITG, Jones Tr. 223.

²² SWBT, Dunlap Direct, p. 12.

test and was the one that brought forward its mistake to all impacted parties and Commission Staff as soon as it made the discovery.²³

In an apparent attempt to characterize this recording problem as “ongoing,” STCG fails to disclose to the Commission that after the Ericsson problem was identified, the translation errors were corrected thereby resolving the problem on a going forward basis.²⁴ Southwestern Bell also accepted full financial responsibility for its mistake and appropriate retroactive settlements were made to all LECs that were impacted.²⁵

In apparent attempt to make the discrepancies identified during the Network Test appear as substantial as possible, STCG points to page 12 of the report from the Network Test (Exhibit 40) and claims:

For the nine small companies analyzed by STCG witness Schoonmaker, *less than 75% of the terminating calls had matches from the originating records* on an individual company basis, the percentage of matched records was **as low as 41.1%**. 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.²⁶

In citing these figures, STCG fails to disclose two things to the Commission: First that it was taken from a summary of the initial data analysis performed by its consultant and that its consultant later revised those results. As the small companies consultant explained in the Final Report:

In the course of reconciling the test results, revised counts of matched messages related to three major items were identified to GVNW after the initial results were provided as will be explained hereafter. These were the Ericsson switch problem, the Northeast Missouri test record extraction problem and the additional Sprint messages for RockPort that were found and transmitted by Sprint.²⁷

²³ SWBT, Dunlap Direct, Schs. 2-1 through 2-4.

²⁴ *Id.*

²⁵ SWBT, Hughes Surrebuttal, p. 2; SWBT, Dunlap Rebuttal, p. 20; Sprint, Cowdrey Tr. 418-420.

²⁶ STCG Response, p. 3 (emphasis in original footnotes citing to Exhibit 40, p. 12 omitted).

²⁷ Ex. 40, p. 30.

The small companies' consultant then provided two additional tables showing an update of the study results for the full 48-hour test, and the one-hour test period that reflected the additional messages that were identified. These results are set out in Table III and IV at pp. 14-15 of the Final Report. For the 48-hour period, the revised initial match stood at 82.8% of terminating calls matched for the nine companies; and an 86.5% match of terminating calls during the one-hour test period.

Second, STCG fails to disclose to the Commission that this initial matching was only the first part of the analysis performed by the industry under the test procedure. The second step was for the former PTCs to examine the discrepancies identified. The Final Report of the test shows that the vast majority of the discrepancies have been explained.²⁸ All problems identified by the test have been corrected.²⁹ And the small LECs have acknowledged that most of the discrepancies were the result of Southwestern Bell's translations error in its Ericsson switches which caused some of its Local Plus traffic to be incorrectly recorded.³⁰

The results of Southwestern Bell's analysis of the calls from the one-hour period (set out in the Final Report at p. 30) is reproduced below and provides a more accurate picture of the findings from the industry test:

²⁸ Ex. 40, pp. 22-33, 36-38 and 40-42.

²⁹ See, SWBT Initial Brief, pp. 21-23 for an explanation of the actions Southwestern Bell took.

³⁰ STCG, Schoonmaker Surrebuttal, pp. 6-7; MITG, Jones Tr. 233.

COMPANY³¹	% MATCHED OR EXPLAINED	% UNABLE TO RESEARCH
BPS	95.7	3.3
Citizens	99.2	.4
Farber	89.7	10.3
Kingdom	94.1	4.6
KLM	99.4	.6
Modern	96.9	2.6
NEMR	98.0	2.0

As this chart reflects, the vast majority of discrepancies from the one-hour period the parties agreed to study have either been matched or explained. Those that Southwestern Bell was unable to research in most instances were because there was no originating number in the terminating recording.³²

To Southwestern Bell's knowledge, there should no longer be any material discrepancy in the originating records being provided to the terminating companies that would substantiate STCG's claim that there are "ongoing and substantial discrepancies." Certainly the current record before the Commission does not substantiate such a claim. However, if the Commission is concerned that there still may be problems with the existing records system, Southwestern Bell would recommend that the Commission direct the parties to conduct another test to determine whether any unaddressed problems remain. Southwestern Bell submits that such a test would show that the current systems are functioning properly. Any remaining record discrepancy would certainly not rise to the order of magnitude necessitating a wholesale scrapping of the existing system and radical restructuring of the industry.

³¹ Southwestern Bell was unable to perform a similar statistical analysis for Mid-Missouri Telephone because Mid-Missouri did not provide the total number of calls recorded for the one-hour period, nor how many calls for that period matched. (Ex. 40, p. 28)

³² Ex. 40, pp. 22-33.

As the Commission is aware, Southwestern Bell and the other former PTCs support the small LECs' contention that they are entitled to be compensated for the traffic they terminate in their exchanges, and that such compensation should be paid by the appropriate originating carrier. Southwestern Bell continues to recommend that the Commission direct the parties to work together to develop an industry plan to ensure that all carriers receive appropriate records and compensation for the traffic they each terminate.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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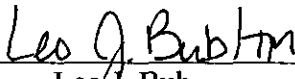
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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by first-class, postage prepaid, U.S. Mail on June 21, 2001.


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