

Leo J. Bub
Senior Counsel

Southwestern Bell Telephone
One Bell Center
Room 3518
St. Louis, Missouri 63101
Phone 314 235-2508
Fax 314 247-0014
E-Mail lb7809@momail.sbc.com



March 13, 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

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 Brief.

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

Very truly yours,

A handwritten signature in cursive script that reads "Leo J. Bub/TM".

Leo J. Bub

Enclosure

cc: Attorneys of Record

FILED²
MAR 13 2001
Missouri Public
Service Commission

TABLE OF CONTENTS

	<u>PAGE</u>
INTRODUCTION.....	1
I. It Would Be Inappropriate for the Commission to Radically Restructure the Industry by Adopting the Small LECs' Proposed New "Business Relationship.".....	2
(a) Existing Tariffs do not Require Adoption of the Small LECs' Proposed New "Business Relationship.".....	3
(b) The Intermediate Transport Function Provided by the Former PTCs is not Comparable to the Wholesale Interexchange Services IXCs Offer.....	6
(c) The Small LECs Have Objected to Being Financially Responsible for Another Carrier's Traffic on the Exact Same Grounds the Former PTCs are Asserting Here.....	9
(d) Southwestern Bell and the Other PTCs Cannot be Required to Offer a Service They Have Not Willingly Held Out.....	12
(e) Southwestern Bell-Kansas Did Not Refuse to Accept Toll Traffic From TCG that Was Originated by Other Carriers.....	14
II. There is No Need to Replace the Existing Originating Records System.....	17
(a) The Records Test Shows That the Existing Originating Records System is Fully Capable of Providing Appropriate Records to All Parties	17
(b) Isolated Human Errors Provide No Basis for Scrapping a System that Has Been Serving the Industry Well for Years.....	21
CONCLUSION.....	23

**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
REPLY BRIEF**

Southwestern Bell Telephone Company respectfully submits this Reply to certain positions and matters raised by the Missouri Independent Telephone Company Group ("MITG") and the Small Telephone Company Group ("STCG") (collectively, "the small LECs").¹

INTRODUCTION

Despite the Missouri Public Service Commission's establishment of this case to investigate four specific technical issues, the small LECs have focused instead on trying to change the industry "business relationship." They seek to require Fidelity, Southwestern Bell, Sprint and Verizon ("the former PTCs") to be financially responsible for nearly all traffic that passes through their networks and terminates in the small LECs' exchanges, even if the traffic belongs to another carrier.

The small LECs' demand is misplaced. The proposal is contrary to the provisions of dozens of interconnection agreements entered into pursuant to the Telecommunications Act of 1996 ("the Act"). Further, contrary to the MITG's claim, no existing tariff requirement compels this radical change. And what the small LECs propose cannot be squared with existing industry practices and relationships. Unlike interexchange carriers ("IXCs") that wholesale end-to-end

¹ This Reply does not address all issues raised in the small LEC's Initial Briefs as Southwestern Bell has already addressed them adequately in its own Initial Brief.

long distance services, the former PTCs do not voluntarily offer to terminate other carriers' calls. Rather, the former PTCs, pursuant to their access tariffs, only offer an intermediate transport function, a materially different function and one they are by law required to offer. Forcing the former PTCs to provide actual termination of upstream carriers' traffic and to be responsible for paying terminating compensation on that traffic to the small LECs would inappropriately force the former PTCs to provide a service they have not willingly held themselves out to offers and violate longstanding Missouri law.

The evidence in this case demonstrates that such a radical change is not necessary. Contrary to what the small LECs claim, the final results from the industry records test show that the originating records system is fully capable of providing the small LECs with appropriate records to identify and bill the originating responsible carrier. And it was undisputed that these records are the only ones capable of identifying the originating responsible carriers. The test also showed that the originating records system is auditable, and that the industry is capable and has the means of working together to ensure the continued integrity of the originating records system. Where the records test uncovered problems, the industry worked together and resolved nearly all of them. The former PTCs are fully committed to resolving the remaining issues, 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.

I. It Would Be Inappropriate for the Commission to Radically Restructure the Industry by Adopting the Small LECs' Proposed New "Business Relationship."

Aside from the fact that the small LEC's new "business relationship" is beyond the scope of this investigation, and not all necessary parties are before the Commission to effectuate

such a change in this case,² such a radical restructuring of the industry would be inappropriate. Southwestern Bell's Initial Brief set out its position on this issue and explained why the Commission should reject the small LECs' proposal.³ This Reply is limited to responding to additional arguments made by the small LECs in their Initial Briefs.

(a) Existing Tariffs do not Require Adoption of the Small LECs' Proposed New "Business Relationship."

In its Initial Brief, the Missouri Independent Telephone Group ("MITG") attempts to re-write history and the Oregon Farmer's Access Tariff (which nearly all the small LECs concur in). Apparently, MITG claims that the Oregon Farmer's Access Tariff currently entitles the small LECs to bill the former PTCs for all traffic that flows over the common trunk groups to the small LECs, and requires the former PTCs to pay for it, "regardless of the identity of the carrier originating the traffic and regardless of the nature of upstream relationships" between carriers. (MITG Initial Brief, p. 2). MITG claims that it is the former PTCs that "are advocating a change to the established terminating access compensation relationship." (MITG Initial Brief, p. 4). MITG tries to support its claim by pointing to how PTC-originated traffic was handled during the PTC Plan:

During the PTC Plan, the terminating PTC paid for this traffic. Following termination of the PTC Plan, and during the pendency of this docket, the PTCs unilaterally changed the system in use during the PTC Plan. The Commission did not sanction such a change. (MITG Initial Brief, p. 9).

MITG's revisionist claims are belied not only by the evidence, but also by the testimony of the STCG (which represents the majority of the small LECs in the state) -- and by MITG's own actions. During the PTC Plan, the small LECs billed intraLATA terminating access usage

² See, SWBT's Initial Brief, pp. 27-29; Initial Brief of Staff, pp. 1-2; Sprint's Post-Hearing Brief, pp. 2-3; Initial Brief of Verizon, pp. 1-2.

³ See, SWBT's Initial Brief, pp. 26-39.

based on a multiple of their originating access usage "terminating to originating" or "T/O" ratios, and each small LEC billed its PTC for those charges.⁴ But the change from billing based on T/O's to the current meet point billing arrangement was not done unilaterally, but by the entire industry. Instead of using T/Os, all agreed to use actual measured minutes going forward. (SWBT, Dunlap Rebuttal, p. 13). As the Commission will recall, the disagreement in both Case Nos. TO-97-217 and TO-99-254 was where that measurement should be made (i.e., the originating or terminating end) and what billing records should be used (i.e., Category 92 or Category 11 records). (SWBT, Dunlap Rebuttal, p. 13, fn. 2 and 3, quoting the issue statements in those cases).

The Commission's Report and Order in Case No. TO-99-254 clearly reflected the expectation that it would be the originating carrier, not the PTC in the middle that merely provided an intermediate transport function, that is the one responsible for paying compensation to the small LEC for terminating calls:

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 SC's end office switches, but an SC will not have information about the call's jurisdiction or the identification of the responsible carrier.⁵

As that order also reflects, the dispute at the time focused on whether the former PTCs should be financially responsible for the "residual traffic" where the originating responsible carrier could not be identified:

Many of the SCs argued that they should be able to measure terminating minutes at the terminating end office, and bill the carrier that delivered the traffic to the

⁴ E.g., if the ratio was 1:1, for each minute of the PTC's toll services used by end users in an SC exchange the SC's PTC was required to pay the SC for one minute of originating access and one minute of terminating access charges). (SWBT, Dunlap Direct, p. 4)

⁵ In the Matter of an Investigation Concerning the Primary Toll Carrier Plan and intraLATA Dialing Parity, Case No. TO-99-254, Report and Order, issued June 10, 1999 at p. 13 (emphasis added)

terminating tandem or end office for any discrepancy between the minutes showed on the originating records and the measured minutes. As noted above, prudent business practices dictate that the SCs move toward acquiring more information about, and authority to bill for, calls terminated to them. However, there is a fundamental inequity in this residual billing scheme: included in the minutes terminated to the SCs are some minutes of use for which the SCs are not entitled to be compensated. These include . . . calls that merely 'transit' the PTC's network.⁶

In fact, much of the impetus behind some of the small LECs' push in Case No. TO-99-254 for moving to FGD signaling protocol was their misinformed belief that FGD signaling would provide a terminating recording with the Carrier Identification Code ("CIC") of the originating carrier:

The parties submitted considerable testimony regarding the capabilities of Feature Group "C" (FGC) and Feature Group "D" (FGD) . . . A small number of the SCs argue strenuously that all calls terminated to their customers, whether from IXC's or LECs, should, or must, be terminated using FGD. This group believes that FGD will give them more of the information they need to perform accurate billing.⁷

What actually happened after the PTC Plan's elimination is shown by the action of the small LECs themselves in working with the former PTCs to make the administrative arrangements for meet point billing former PTC-originated toll, and in using those arrangements since April 2000. Although the Commission rejected the small LECs' "residual billing" proposal, it did adopt the small LEC proposal to require the former PTCs to provide Category 11 records: "However, the Commission will order the provision of standard "Category 11" records. This will provide the SCs better information about the calls terminated to them."⁸

⁶ Id., at p. 11 (emphasis added).

⁷ Case No. TO-99-254, Report and Order, p. 10. The Commission declined to order conversion to FGD based on its findings that "the evidence clearly demonstrates that FGD as presently configured will not provide all the information the SCs want about calls terminated to them." Id. at p. 11.

⁸ Case No. TO-99-254, Report and Order, p. 13.

The former PTCs implemented this order by working cooperatively with the small LECs -- including the MITG -- and their billing vendors to develop the records in a specific format that would be acceptable to the small LECs.⁹ Undisputed evidence shows that the small LECs have been successfully using these Category 11 records to bill terminating access to the former PTCs since April 2000. (SWBT, Hughes Rebuttal, p. 9; STCG, Schoonmaker T. 168). And they have been using them to bill the originating PTC even on calls that are transported across another PTC's network. Billing on such calls is being done on a meet point billing basis in accordance with standard industry guidelines. No changes to the Oregon Farmer's Access Tariff were either made or needed to accommodate meet point billing of PTC-originated toll traffic as that tariff (like the PTCs' tariffs) already contained meet point billing provisions. Upon conversion from T/O's to actual measurements, the small LECs simply began billing the former PTCs for this type of traffic on a meet point basis under authority that already existed in their own access tariffs. (STCG Schoonmaker, T. 123-126, 166-171). Accordingly, it is clear that the PTCs did not act unilaterally, but in accordance with the Commission's prior orders, existing tariffs, and the preferences of the small LECs themselves.

(b) The Intermediate Transport Function Provided by the Former PTCs is not Comparable to the Wholesale Interexchange Services IXCs Offer.

The small LECs request the Commission to impose on the former PTCs a "business model" they claim is used in the "competitive IXC carrier environment." To support this claim, they attempt to portray the functions the IXCs and former PTCs provide as comparable. They

⁹ Work began on these records in July 1999 and a preliminary agreement on the appropriate format was reached November 1999. Final approval was given by the small LECs in February 2000 and the PTCs then implemented the necessary programming changes. The former PTCs 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. (STCG Schoonmaker, T. 168; SWBT, Dunlap Direct, p. 5; Sprint, Cowdrey Rebuttal, p. 4).

assert that because the former PTCs' facilities (i.e., trunks) interconnect with theirs like the IXC's do, the former PTCs should also be financially responsible for all traffic (with certain limited exceptions) that terminates to a small LEC through this interconnection. (MITG Initial Brief, pp. 3, 6-7; STCG Initial Brief, pp. 13-14).

The small LECs' representation that these two very distinct functions are comparable is disingenuous at best. Essentially, the small LECs are trying to equate the resale of long distance service by IXC's with the provision of access services by LECs. As reflected in the parties' tariffs and longstanding industry practices, these are two entirely different functions.

In wholesaling long distance service to other carriers for resale, a facility-based IXC voluntarily enters into private resale agreements under which it not only contracts to carry the resellers' traffic across its own network, but also to terminate it on an end-to-end basis. (SWBT, Dunlap Direct, p. 20). To fulfill this contractual obligation, the facility-based IXC must purchase terminating access from all LECs on the terminating side of the call. As termination is a component of what the facility-based IXC offers, it must, in setting the wholesale price for this service, take into consideration the terminating access rates it will pay to the terminating LEC or LECs. These resale arrangements are very common in the industry and represent a separate wholesale line of business for facility-based IXCs. It is the means by which they are able to generate additional revenue from the excess capacity on their networks that they are not using to serve their own retail customers. (SWBT, Dunlap Direct, p. 20; Dunlap Rebuttal, p. 17).

The former PTCs, however, are in a very different position. Unlike facility-based IXCs that voluntarily elect to wholesale their long distance service, the former PTCs are only providing tariffed access to the local exchange. Like all LECs' access tariffs, the former PTCs' access tariffs offer termination to end-users located only within their own exchanges. In doing

so, they charge transport, local switching and carrier common line ("CCL") under their access tariffs. But if the call is destined for an end-user on another LEC's network, the former PTC only holds itself out and contracts through its access tariff to transport the call across its own network so the connecting carrier can reach the network of the terminating LEC. (SWBT, Dunlap Direct, pp. 20-21). For providing this function the former PTC only charges the transport element from its access tariff. (STCG Schoonmaker, T. 124).

Under standard meet point billing arrangements, each LEC involved in terminating a call separately bills for its portion of the network used. The former PTCs, pursuant to their access tariffs, only bill for the pieces of their own networks used in providing the transport function. And the terminating LECs, also pursuant to their own access tariffs, separately bill for the use of their networks. (SWBT, Dunlap Direct, pp. 20-21).

As the small companies acknowledged in this case, there has been a considerable industry effort expended at the national level at the Ordering and Billing Forum to establish these standard meet point billing procedures and these billing relationships. These standard relationships are reflected in existing provisions of all LECs' access service tariffs. (STCG Schoonmaker, T. 131). For example, Southwestern Bell's access tariff allows its transport facilities to be used on a meet point basis for terminating calls in another LEC's exchange only when there are coordinating meet point billing provisions in the terminating LEC's access tariff allowing the use of facilities in that LEC's exchange:

There is a clear specification in the Southwestern Bell access tariff that it offers to terminate services to these other companies' operating areas only when these business relationships are established under conditions where these other LECs will be, in the case of multiple bill option, willing to offer from their access service tariff the services provided in those companies' operating areas. (STCG Schoonmaker, T. 131 quoting from his Surrebuttal testimony in Case No. TC-96-112.)

These tariffs, all of which have been approved by the Commission, make clear that what the former PTCs are offering is simply a traditional access service, and not wholesale interexchange toll services like the IXC's offer.

The small LECs, in a further attempt to support treating the former PTCs like IXC's, state that when an IXC orders a facility (i.e., trunks) for terminating traffic to the small LECs, it is responsible for the paying terminating compensation on the traffic that terminates over the facility. They claim the former PTCs should be treated similarly. (STCG Initial Brief, pp. 13-14; MITG Initial Brief, p. 2) This claim is also misplaced. As MITG witness David Jones admitted, LECs do not place "orders" for the common trunk groups that run between them: "When it's a common trunk group, it's considered joint provisioning of that common trunk group." (MITG Jones, T. 260-261). The placing and sizing of such facilities between LECs occur through "mutual discussions" between the companies. (Id. at p. 261).

(c) The Small LECs Have Objected to Being Financially Responsible for Another Carrier's Traffic on the Exact Same Grounds the Former PTCs are Asserting Here.

The former PTCs' objection to being financially responsible for another carrier's traffic is the exact same objection the small LECs themselves recently made in Case No. TA-2001-139, the Mark Twain, et al. cellular termination service tariff case (the "Mark Twain case"). There, wireless carriers claimed that the small LECs owed reciprocal compensation on land to mobile calls from the small LECs' exchanges. The small LECs vehemently disagreed. They asserted that they had no compensation obligations to the wireless carriers because the vast majority¹⁰ of the land-to-mobile calls from their exchanges had to be placed as 1+ dialed toll calls, which was

¹⁰ The small LECs agreed that they did owe compensation to the wireless carriers in limited situations where they provided services such as MCA, EAS or optional calling plans that would allow their subscribers to place calls to wireless carriers. (STCG, Schoonmaker T. 161-162).

a service they did not offer. Rather, they stated that such calling services were provided by IXC's selected by individual end-users and it was the IXC's that owed terminating compensation, not the small LEC's. (STCG, Schoonmaker T. 158-159). The small LEC's explained that even though their facilities were being used to handle land-to-mobile calls, they were only providing an access service and to hold them responsible for paying compensation to the wireless carriers on this traffic would "contradict the regulatory reality of the traffic." (STCG, Schoonmaker T. 158-159, 162, emphasis added).

Under applicable tariffs and existing industry arrangements, the reality was that the small LEC's were only providing access to their local exchange facilities (in that case originating access), not toll services under which they contracted to actually complete the end-users' calls to the wireless carriers. To demonstrate this, the small LEC's explained that such calls were between IXC's and wireless carriers, not between the small LEC's and the wireless carriers. The small LEC's' end-users, through their presubscription choices, chose specific IXC's (i.e., their PIC'd carrier) to provide toll service. The IXC's, through their interexchange toll tariffs, contracted with their end-user customers to complete their calls to the wireless carriers. Under those tariffs, it was the IXC's that were entitled to receive the retail toll revenue for performing that function, not the small LEC's. (STCG, Schoonmaker T. 159-160). To fulfill their contractual tariff obligations to their end-user customers, the IXC's purchased access to and use of the small LEC's' local exchange facilities, which IXC's needed to originate their customers' toll calls. The IXC acquired these services from the small LEC's by contracting through the small LEC's' access tariffs. Pursuant to their access tariffs, the small LEC's were only being paid for the use of their own facilities. They were not being paid to actually complete the calls. On those land-to-mobile calls, the small LEC's demonstrated that under the "regulatory reality," the

IXCs were the originating responsible carriers and that they were willing and did take full responsibility for paying any terminating charges to the wireless carriers. (STCG, Schoonmaker T. 159-160).

Like the “regulatory reality” in the Mark Twain case, the “regulatory reality” here is that the former PTCs are also only providing traditional tariffed exchange access service (here, terminating access). They are not providing a long distance toll function under which they are offering to actually terminate their customer’s calls (either those of an end-user or another carrier). This “regulatory reality” can be clearly seen by examining a typical toll call placed by a former PTC toll subscriber to an end-user in a small LEC exchange, like a call placed by a Verizon toll customer in Warrenton to a person in Orchard Farm Telephone Company’s exchange (which Verizon routes through Southwestern Bell’s network):

- On that call, the customer chose Verizon to carry the call and Verizon is considered to be that customer’s PIC’d carrier for 1+ intraLATA toll dialing (STCG Schoonmaker, T. 121);
- Verizon collects the retail revenue from the end-user on the call (STCG Schoonmaker, T. 121-122);
- The end-user contracts with Verizon through Verizon’s toll tariff to get his or her toll call completed. The rates and other terms and conditions that apply to the call are those in Verizon’s intrastate intraLATA toll tariff (STCG Schoonmaker, T. 122);
- Verizon is the carrier that has the right to determine how its customer’s call is to be routed (it had the right to construct its own dedicated facilities to Orchard Farm or could choose to use interconnecting facilities of Southwestern Bell) (STCG Schoonmaker, T. 122-123);
- Southwestern Bell does not offer 1+ toll services in Verizon’s territory and it has no tariff authority to offer such service in Verizon’s territory (STCG Schoonmaker, T. 164);
- While some of Southwestern Bell’s facilities would be used to handle the call, Southwestern Bell would only be providing transport, which is a tariffed access service. Verizon contracts to use Southwestern Bell’s transport facilities through Southwestern Bell’s access tariff (STCG Schoonmaker, T. 124);

- Verizon's use of Southwestern Bell's and Orchard Farm's facilities is pursuant to Southwestern Bell and Orchard Farm's intrastate access tariffs, on file with and approved by the Commission, both of which call for Southwestern Bell and Orchard Farm to bill Verizon for the use of their respective facilities based on the ownership of those facilities on a meet point billing basis (STCG Schoonmaker, T. 123-124);
- Southwestern Bell only collects between 8/10th of a cent and 1-1/2 cent for the transport it provides. Orchard Farm would collect between 7-1/2 and 9 cents per minute (depending on whether the full or discounted CCL was applied) for actually terminating the call (STCG Schoonmaker, T. 124-126);
- Verizon is currently passing appropriate Category 11 records to Orchard Farm on these calls from which Orchard Farm can identify and bill Verizon (STCG Schoonmaker, T. 166-167).
- Verizon is willing to and does accept responsibility for paying the access charges on calls its customers make. Verizon does not dispute that it would owe Orchard Farm on this type of call (STCG, Schoonmaker T. 126-127). When Orchard Farm sends such meet point bills to Verizon, Verizon pays them (STCG, Schoonmaker T. 126).

Based on these facts, the "regulatory reality" is clear that such calls belong to and are the responsibility of the originating toll provider, not the carrier in the middle that is simply providing the tariffed intermediate transport function.

(d) Southwestern Bell and the Other PTCs Cannot be Required to Offer a Service They Have Not Willingly Held Out.

While the former PTCs are willing and have offered other carriers the use of transport facilities to carry those other carriers' calls across the former PTCs' networks, the PTCs have not and are not offering to terminate other calls in the small LECs' territory. As the former PTCs have not held themselves out to offer such an end-to-end service, they cannot be compelled to do so nor is it appropriate to require them to bear expenses that would be associated with such service.

Doing so would violate longstanding Missouri law. In State ex rel., Southwestern Bell Telephone Company v. Public Service Commission, 416 S.W.2d 109, 113 (Mo. banc, 1967) (the

"Bellflower" case), the Missouri Supreme Court held that the Commission is without power to order a telephone company to provide services in an area which it has not offered, professed or undertaken to serve. Citing Ozark Power & Water Company v. Public Service Commission of Missouri, 229 S.W.2d 782, 784 (Mo. 1921), the Court stated:

The public service commission law . . . confers upon the commission "power to order reasonable improvements and extensions of the works, wires, poles, pipes, lines, conduits, ducts and other reasonable devices, apparatus and property . . . This power, however, must be deemed to be one within constitutional limitations. So construed, it does not give the commission authority to compel relator to serve a territory not embraced within its profession of service. Such compulsion would be tantamount to an appropriation of relator's property to a public service to which it has not dedicated it - a taking of private property for public use without just compensation . . . For it notwithstanding relator is employing its plant and equipment in a public service, they still remain its private property, and the public may not assume the role of general manager and require such property to be used in a service to which the owner has not voluntarily dedicated it. (emphasis added, internal citation omitted).

To do otherwise, the Court ruled would violate both the Fourteenth Amendment to the Constitution to the United States and Section 10 Article I of the Constitution of Missouri. (Id. at p. 114).

The small LECs in the Mark Twain case relied on this same authority for the same proposition the former PTCs do here. They argued that to require them to pay terminating compensation on those land-to-mobile calls (when they were not the service provider for those calls) would "violate longstanding Missouri law" as set out in the Bellflower case. STCG, Schoonmaker T. 162). The small LECs' position was that they could neither be required to offer that 1+ toll calling nor be held financially responsible for terminating compensation on those calls:

Q. Let me restate it. Your clients' position was that since they hadn't offered the 1+ calling for their customers to call the wireless carriers, they couldn't be made to do so. Right?

A. Yes.

Q. And they couldn't be held financially responsible for those calls?

A. Yes.

Q. Now, Mr. Schoonmaker, isn't that exactly what your clients are trying to do to the former PTCs in this case, trying to make them financially responsible for another carrier's traffic?

A. There are certainly some similarities. (STCG, Schoonmaker T. 163).

(e) Southwestern Bell-Kansas Did Not Refuse to Accept Toll Traffic From TCG that Was Originated by Other Carriers.

Despite admittedly having not reviewed all relevant documents pertaining to an arbitration under the Act Southwestern Bell had with TCG in Kansas (MITG, Jones T. 241-243), MITG claimed that "the position SWB took for itself in Kansas is the precise opposite of the position SWB is taking in Missouri." (MITG, Jones Rebuttal, pp. 16-17). Even after being informed that the dispute concerned the exchange of local traffic and had nothing to do with interexchange toll traffic (which is the traffic at issue here), MITG in its Brief persists in its claim that Southwestern Bell in Kansas was unwilling to accept toll traffic from TCG that was originated by another carrier. (MITG Initial Brief, pp. 24-28).

It is obvious that MITG either still does not understand the nature of the dispute that occurred in Kansas, or is intentionally misrepresenting it. As Southwestern Bell witness Thomas Hughes explained in his Surrebuttal testimony, TCG was primarily seeking to preclude Southwestern Bell from establishing a direct interconnection with other carriers for the exchange of local traffic. On Southwestern Bell-originated local traffic to another CLEC, TCG wanted to force Southwestern Bell to subscribe to TCG's transiting service to reach other CLECs.¹¹ The

¹¹ Southwestern Bell objected to this because under the Act, it has the right to establish direct connections with other carriers as it believes appropriate. Southwestern Bell believes the small LECs in Missouri have the same right to seek direct interconnection with other LECs for the transport of local traffic. (SWBT, Hughes Rebuttal, pp. 8-9).

arbitration had nothing to do with interexchange toll traffic, which is the type of traffic at issue in this case. (SWBT, Hughes Surrebuttal, pp. 8-9).

And the record from the Kansas arbitration confirms this. Throughout the arbitration, TCG inappropriately attempted to raise several access charge compensation issues. In each instance, Southwestern Bell objected as they were not local interconnection issues. And each time, the Arbitrator consistently ruled that access related issues were beyond the scope of the arbitration. For example, as Reciprocal Compensation Issue 1, TCG sought to arbitrate the question of "What prices should apply to intraLATA toll calls terminated by parties over interconnection trunks?" Southwestern Bell opposed TCG's attempt to raise this issue and stated in its Post Hearing Brief:

Issue 1 is not an issue properly before the Arbitrator or the Commission in an arbitration of a local interconnection agreement. Issue 1 does not deal with the issue of reciprocal compensation for local traffic, but rather it is specifically concerned with intraLATA toll calls.¹²

And the Arbitrator agreed: "Based on the legal authority cited by SWBT and the current definition of the local service area the Arbitrator agrees with SWBT that this issue is not a proper subject for an Arbitration pursuant to 47 U.S.C. §§ 251 and 252 of the FTA."¹³

Similarly, TCG sought to inject into the arbitration as Network Issue 6 the issue "Are all IXCs required to interconnect with SWBT through provisions of the access tariff to get access to SWBT's customers?" Again, Southwestern Bell objected:

Issue 6 is not an issue properly before the Arbitrator or the Commission in an Arbitration of a local interconnection agreement under the Act. Issue 6 does not deal with an issue of interconnection for the exchange of local traffic, it is specifically concerned with switched access services. (Lockett-Direct, p. 6, Is.

¹² Post Hearing Brief of Southwestern Bell Telephone Company, filed July 12, 2000 in Kansas Corporation Commission Docket No. 00-TCGT-571-ARB at p. 20 (Exhibit 27) ("SWBT Kansas Post Hearing Brief").

¹³ Arbitrator's Order 5: Decision, filed August 7, 2000 in KCC Docket No. 00-TCGT-571-ARB at p. 15 (Exhibit 31) ("Kansas Arbitration Order").

06-08). To the extent TCG's proposals are inconsistent with federal or state access tariffs, the tariffs should control. (Lockett-Direct, p. 6, Is. 08-09).¹⁴

And again, the Arbitrator agreed: "The Arbitrator agrees with SWBT that 47 U.S.C. § 252 Arbitrations are limited to local interconnection issues and declines to address this issue."¹⁵

When the record from the Kansas arbitration (e.g., testimony, briefs and the arbitration award) is reviewed in its entirety, it is clear that the "pertinent parts" MITG has trotted out in this case (MITG Jones, T. 242) have nothing to do with the toll traffic and access compensation questions being raised here. The full Kansas record reveals that when the parties and the Arbitrator discussed "transit traffic," they were only referencing local traffic. The carriage of toll traffic across a tandem LEC's network for termination in another LEC's exchange -- which is properly called "transport" under traditional LEC access tariffs (STCG, Schoonmaker T. 124) -- was not subject to arbitration. (Exs. 27, 30 and 31). This is easily seen by the Arbitrator's rejection of TCG's attempt to avoid paying Southwestern Bell access charges on TCG's toll services (by claiming local reciprocal compensation rates applied because TCG intended to offer its customers a LATA-wide local calling scope). Holding that this was not an arbitrable local interconnection issue, the Arbitrator ruled that it was a matter controlled by Southwestern Bell's approved access tariffs.¹⁶

While there may have been a dispute over appropriate compensation, at no time did Southwestern Bell indicate it would refuse to transport TCG's interexchange toll traffic. To the contrary, Southwestern Bell indicated it was willing to provide tariffed transport services to TCG at approved tariff rates:

SWBT does not oppose TCG acting as an IXC or access tandem and from their switch transferring interexchange carrier traffic to SWBT (TR. p. 110 (Is. 08-10).

¹⁴ SWBT Kansas Post Hearing Brief, pp. 17-18.

¹⁵ Kansas Arbitration Order, p. 12.

¹⁶ Kansas Arbitration Order, pp. 13-15.

As with any IXC service, SWBT believes that it is an access service and not a local service subject to this arbitration. (Id. at Is. 10-12). The appropriate compensation for SWBT would be terminating access charges. (Id. at Is. 12-13). SWBT opposes any suggestion that when TCG acts on behalf of an IXC such as AT&T, carrying that IXC traffic, it becomes local traffic subject to reciprocal compensation for local traffic. (TR. p. 110, Is. 15-18).¹⁷

II. There is No Need to Replace the Existing Originating Records System.

(a) The Records Test Shows That the Existing Originating Records System is Fully Capable of Providing Appropriate Records to All Parties.

MITG and STCG claim that the records test shows serious flaws in the originating records system. (MITG Initial Brief, pp. 30-31; STCG Initial Brief, pp. 2-7). Southwestern Bell and the other PTCs, however, strongly disagree. While the initial comparisons of the originating records and the terminating records performed by the small companies did show material discrepancies in records, that was only the first part of the analysis under the test procedure. The second step was for the PTCs to examine the discrepancies initially identified.

The final report of the test shows the vast majority of the discrepancies have been explained. (Ex. 40). And all problems identified by the test have been corrected. (SWBT Initial Brief, pp. 21-23). As the small LECs have acknowledged, 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. (STCG Schoonmaker Surrebuttal, pp. 6-7; MITG Jones, T. 233). Although there were other errors found through the test (and corrected going forward), none were of the size of the Local Plus error. Once that traffic was accounted for, the differences narrowed considerably.

¹⁷ SWBT Kansas Post Hearing Brief, p. 18.

The results of Southwestern Bell's analysis of the calls from the one-hour period the parties agreed to study is set out below and followed by an explanation of what was found for each of the companies in the test that subtended a Southwestern Bell tandem:

COMPANY ¹⁸	% 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

BPS Telephone Company - The parties recorded 950 calls in the one-hour period, with 840 calls matched, leaving 110 calls returned to Southwestern Bell for matching. Of those 110 calls, Southwestern Bell was able to explain 69 calls (53 records were not made due to the Local Plus recording problem; 12 records were not made due to a translation error on an MCI trunk group (which as now been corrected); two records were for calls originated by other companies (which should have been provided to BPS by those other companies); and two calls were interstate intraLATA calls (for which no records are currently made)). As a result, 95.7% of the calls in the one-hour period have either been matched or explained. Southwestern Bell was unable to research 31 calls (3.3% of the total) because there was no originating number in the terminating recording. (Ex. 40, pp. 22-23 and Appendix 6).

Citizens Telephone Company - The parties recorded 259 calls during the one-hour test period with 240 matched, leaving 19 calls returned to Southwestern Bell for matching. Of those

¹⁸ 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)

19 calls Southwestern Bell was able to explain 17 calls (11 records were not made due to the Local Plus recording problem; two were for calls originated by other companies; and four calls were interstate intraLATA). As a result, 99.2% of the calls in the one-hour test were either matched or explained. Southwestern Bell was unable to research one call (.4% of the total) because there was no originating number in the terminating recording. (Ex. 40, pp. 23-24, Appendix 7).

Farber Telephone Company - The parties recorded 68 calls during the one-hour test period, with 61 calls, or 89.7%, matched, leaving seven unmatched calls. Southwestern Bell was unable to research these seven calls (10.3% of the total) because no originating number was provided in the terminating recordings. (Ex. 40, pp. 24-25, Appendix 8).

Kingdom Telephone Company -The parties recorded 238 calls during the one-hour test period, with 176 calls matched, leaving 62 calls returned to Southwestern Bell for matching. Of those 62 calls, Southwestern Bell was able to explain 48 calls (19 records were not made due to the Local Plus recording problem; 27 records were for calls originated by other companies; and two calls were interstate intraLATA). This results in 94.1% of the calls in the one-hour test period being matched or explained. Southwestern Bell was unable to research 11 calls (4.6% of the total) because no originating number was included in the terminating records. (Ex. 40, p. 25, Appendix 9).

KLM Telephone Company - The parties recorded 322 calls during the one-hour test period, with 320 calls or 99.4% being matched, leaving two calls returned to Southwestern Bell for matching. Southwestern Bell was unable to research these two calls (.6% of the total) because no originating number was provided in the terminating record. (Ex. 40, p. 26, Appendix 10).

Modern Telephone Company - The parties recorded 191 calls during the one-hour test period, with 184 calls being matched leaving seven calls returned to Southwestern Bell for matching. Of those seven calls, Southwestern Bell was able to explain one call (an interstate intraLATA call). This resulted in 96.9% of the total being matched or explained. Southwestern Bell was unable to research five calls (2.6% of the total) because no originating number was provided in the terminating records. (Ex. 40, p. 26, Appendix 11).

Northeast Missouri Rural Telephone Company ("NEMR") - The parties recorded 151 calls during the one-hour test period, with 58 calls being matched, leaving 93 calls returned to Southwestern Bell for matching. In studying the unmatched calls, Southwestern Bell found that it had properly recorded and provided an appropriate billing record to NEMR for all of these calls in the ordinary course of processing records. But in pulling copies of these actual records for the test, Southwestern Bell pulled an incomplete data set. Southwestern Bell supplied a supplemental data set to GVNW which accounted for 87 of the 93 unmatched calls. Of the remaining six unmatched calls, Southwestern Bell was able to explain three calls (one call with an originating number was able to be matched based on time of the call; one call was originated by another company; and one call was an interstate intraLATA call). This results in 98% of the total calls being either matched or explained. Southwestern Bell was unable to explain three calls (2% of the total) because no originating number was provided in the terminating record. (Ex. 40, pp. 27-28, Appendix 12).

Mid-Missouri Telephone Company - While Southwestern Bell was unable to perform a similar statistical analysis on what it found for Mid-Missouri, Southwestern Bell did research and explain nearly all of the discrepancies Mid-Missouri identified. Given Mid-Missouri's geographic proximity to Southwestern Bell's Ericsson switches, the translations errors that were

made in these switches accounted for the vast majority of the discrepancies Mid-Missouri identified.

Unidentified Traffic - During the test, Southwestern Bell found, and several terminating companies confirmed, that many calls being recorded at the terminating end often do not contain the telephone number of the end-user that placed the call (the originating number) or other information identifying that end-user's originating service provider. Without this information, it was very difficult to investigate what occurred and why no record was available. Until recently, Southwestern Bell had little capacity to further investigate such calls. Southwestern Bell has now deployed its Hewlett Packard Business Intelligence System (during the test, the system was not fully deployed and was only available on a limited study basis). This new system, which Sprint is also deploying, will help identify, as an audit tool the service provider that delivers calls without calling party number. This capability should enable Southwestern Bell and other carriers to more effectively monitor the traffic flowing through the network to help ensure that appropriate records are being passed and to detect recording problems if they occur in the future. (Ex. 40, pp. 32-33).

(b) Isolated Human Errors Provide No Basis for Scrapping a System that Has Been Serving the Industry Well for Years.

MITG and STCG attempt to portray the existing originating records system as rife with the potential for errors. And to support their claim, they point to mistakes Southwestern Bell made in recording some of its Local Plus traffic (that originating from its Ericsson switches) and two mistakes made during the test in gathering test data for the Northeast Missouri Rural ("NEMR") exchanges. (STCG Initial Brief, p. 5). While Southwestern Bell candidly acknowledged these mistakes (in fact it was Southwestern Bell that discovered and brought them

to everyone's attention) and regrets making them, such isolated mistakes provide no basis for scrapping a system that has served the industry well for over 12 years.

The originating records process used by Southwestern Bell to bill calls associated with over 2.5 million access lines each month in Missouri. Similar systems are also used by other LECs like Fidelity, Sprint, Spectrum and Verizon. It is obvious that the vast majority of cases, the originating records system which supports end-user toll billing and intercompany settlements does work. As Southwestern Bell's engineering witness Richard T. Scharfenberg testified, "any recording system, originating or terminating, occasionally will have errors that require correction but to declare . . . that the 'originating records process does not work' is unjustified." (SWBT, Scharfenberg Surrebuttal, pp. 2-3).

From a network perspective, the originating and terminating recording systems have the same degree of complexity and are subject to potential error from switch technicians and systems designers. While the former PTCs' systems may be larger to accommodate greater volumes, the degree of complexity of the terminating recording systems would be similar, which could lead to as great an incidence of error with the use of terminating systems. (SWBT, Scharfenberg Surrebuttal, pp. 1-2).

And in fact, the evidence shows that it was not just the former PTCs that made human errors. The small LECs made them as well. For example, the test data for Kingdom Telephone Company showed calls supported by originating records but missing terminating records. (STCG, Schoonmaker Rebuttal, pp. 6-7; Sprint, Cowdrey Direct, p. 5). Upon investigation of the discrepancy, Kingdom found that a specific parameter in its switch had been set for a particular number belonging to an Internet service provider which eliminated recording of calls

to that number. Kingdom corrected that parameter and the calls are now being appropriately recorded. (Ex. 40, p. 17).

KLM Telephone Company, due to human error, did not commence recording until shortly after 10:00 a.m. on the second day of the test, so their records do not include a full 48 hours worth of data. (STCG, Schoonmaker Direct, p. 9). Green Hills Telephone Company has been offering an interexchange calling plan from its exchanges into the Southwestern Bell-Kansas City, Carrollton and Chillicothe exchanges. (Ex. 35). It was aware when it implemented the service that it should be creating and passing records to Southwestern Bell so Southwestern Bell could bill terminating access. But it, through human error, neglected to do. (STCG, Schoonmaker T. 515-518, 521-523; Ex. 34). New London Telephone Company offered a similar optional calling plan from its exchange into Southwestern Bell's Hannibal exchange. (Ex. 36). New London should also have been providing records and paying terminating access to Southwestern Bell since August 1999 when New London's tariff was approved by the Commission. But New London similarly through human error neglected to do so. (STCG, Schoonmaker T. 519-520, 522-523).

As Southwestern Bell engineer Richard Scharfenberg testified, these errors, no matter who makes them "are unfortunate and need to be corrected as soon as they are discovered. However, the occasional occurrence of errors is not a reason to abandon the significant investments the tandem companies have made to deploy and maintain the existing records systems." (SWBT, Scharfenberg Surrebuttal, p. 2).

CONCLUSION

As Southwestern Bell set out in its Initial Brief, 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.

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.

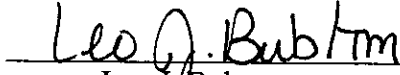
Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

BY Leo J. Bub / tm
PAUL G. LANE #27011
LEO J. BUB #34326
ANTHONY K. CONROY #35199
MIMI B. MACDONALD #37606
Attorneys for Southwestern Bell Telephone Company
One Bell Center, Room 3518
St. Louis, Missouri 63101
314-235-2508 (Telephone)
314-247-0014 (Facsimile)
leo.bub@sbc.com

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by first-class, postage prepaid, U.S. Mail on March 13, 2001.


Leo J. Bub

DAN JOYCE
MISSOURI PUBLIC SERVICE COMMISSION
PO BOX 360
JEFFERSON CITY, MO 65102

JAMES M. FISCHER
LARRY W. DORITY
FISCHER & DORITY
101 MADISON, SUITE 400
JEFFERSON CITY, MO 65101

MICHAEL F. DANDINO
OFFICE OF THE PUBLIC COUNSEL
PO BOX 7800
JEFFERSON CITY, MO 65102

CRAIG S. JOHNSON
ANDERECK, EVANS, MILNE, PEACE
& JOHNSON, LLC
PO BOX 1438
JEFFERSON CITY, MO 65102

WILLIAM R. ENGLAND, III
BRIAN T. MCCARTNEY
BRYDON, SWEARENGEN & ENGLAND
PO BOX 456
JEFFERSON CITY, MO 65102

PAUL GARDNER
GOLLER, GARDNER & FEATHER
131 HIGH STREET
JEFFERSON CITY, MO 65101

STEPHEN D. MINNIS
SPRINT MISSOURI, INC.
5454 W. 110TH STREET
10TH FLOOR
OVERLAND PARK, KS 66211