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Missouri Public
Service Commission

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 650
P O. Box 360
Jefferson City, Missouri 65101

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

Dear Judge Roberts:

Please accept for filing with the Commission an original and eight (8) copies of Sprint's Post-Hearing Brief in the above-entitled matter.

If you have any questions or comments, please do not hesitate to call me at (913) 624-6425.

Sincerely,

Stephen D. Minnis
Stephen D. Minnis *by Denis Bergmeyer*

SDM:mkj

cc: All Parties of Record

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

In the Matter of the Investigation into the)
Signaling Protocols, Call Records,)
Trunking Arrangements, and Traffic)
Measurement)

Case No. TO-99-593

SPRINT'S POST-HEARING BRIEF

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SPRINT'S POST-HEARING BRIEF

Comes now Sprint-Missouri, Inc. and Sprint Communications Company, L.P. (collectively "Sprint") and hereby files its post-hearing brief in the above captioned matter as follows:

I. INTRODUCTION

The case before the Missouri Public Service Commission ("Commission") is one of risks and incentives. Both sides to this matter are faced with risks and the key is to balance these risks and create equal incentives for both sides.

The Small Telephone Company Group ("STCG") and the Missouri Independent Telephone Group ("MITG"), collectively "the small LECs", have proposed to eliminate all risks associated with providing terminating service and create a structure where there is no incentive for them to correct any records problems that may exist. The former Primary Toll Carriers (PTCs) - Southwestern Bell Telephone Company ("SWBT"), Verizon and Sprint - propose solutions that will eliminate the need for regulatory oversight and will balance the parties' risks and incentives.

The controversy in this matter surrounds the termination of traffic to the small LECs and whether they are receiving compensation for terminating all the traffic. The parties engaged in a major record study to detail the difference, if any, between certain originating minutes and terminating small LEC recorded minutes. Although much effort was put forth in this study, several questions remain unanswered and the evidence suggests that not all the information has been gathered.

The small LECs are requesting an order that is contrary not only to the Commission's own precedent, but also contrary to plans in other states by requiring payments to be made based on terminating records instead of originating records.

The small LECs ask the Commission to change the business relationship set forth in the PTC case, Docket No. TO-99-254, orders. In that case, the small LECs requested that the former PTCs pay the difference between the terminating and originating records. This Commission rejected that request then and should reject that request now.

If the Commission does decide to issue an Order adjusting the business relationship between the small LECs and the former PTCs, then it should balance the risks for both parties and have the small LEC responsible for one-half of any unidentified traffic and the former PTCs responsible for the other half.

II. SCOPE OF THE HEARING

The small LECs have inexplicably expanded the scope of these proceedings by asking the Commission to modify their business relationship with the former PTCs. They then argue that the Commission should ignore its own order - much like the small LECs did - merely because all the parties are assembled.

This Commission initiated this docket in the final Report and Order in the PTC case, TO-99-254 stating "that Case No. TO-99-593 is established to investigate signaling protocols, call records, trunking arrangements and traffic measurement." No mention was made by the Commission of any intention to investigate the business relationship between the former PTCs and the small LECs.

The small LECs, having lost this argument before the Commission in TO-99-254, and after the Commission did not include the business relationship issues in its list of issues to be reviewed in this docket, moved forward anyway in their attempt to once again change the Commission's mind.

This Commission should not fall for this blatant disregard for its earlier orders and grant the small LECs' request for a new business relationship. This issue has been reviewed previously by the Commission and the small LECs have gone beyond the scope of this proceeding. The small LECs should not be rewarded for this explicit contravention of the Commission's wishes.

For this reason alone, the small LECs' requests should be denied.

But there is a more fundamental reason for denying the small LECs' request. Because the small LECs went beyond the scope of this proceeding, it is extremely likely that other parties will be impacted by a decision to change the business relationship and those parties are not parties to this case. If the Commission were to bless the small LECs' plan, tariffs and interconnection agreements would need to be modified.¹ Many of the parties impacted by such a large undertaking by the former PTCs are not present in this case and could be prejudiced by that type of ruling - a ruling that could not have been reasonably anticipated from the TO-99-254 Report and Order.

Therefore, due to the fact that this issue has already been decided and that to modify the earlier decision could prejudice parties not present in this docket, the Commission should deny the small LECS' proposal.

¹ Hughes Cross, TR pp. 592-600.

III. THE SMALL LEC BUSINESS PLAN

Even though it is beyond the ordered-scope of this docket, the small LECs nonetheless propose a change in the business relationship with the former PTCs.

Pursuant to the Order in the PTC docket, a small LEC is compensated for terminating traffic based on records of the former PTC as captured in the former PTC's originating end office. This method of billing is not only consistent with the Order in the PTC docket, but is also consistent with other states. In fact, no evidence was presented that any other state allows a business relationship similar to the small LECs suggestion in this case.²

The small LECs in this docket have recommended a new method of recovering terminating traffic. Under the small LECs' proposal, the terminating LEC has the right to bill terminating compensation based on the terminating LEC's measurement of total terminating usage. The terminating LEC will then subtract minutes of use from recordings provided by other companies, including:

- (a) Interstate FGA on IBIS;
- (b) interstate intraLATA;
- (c) IXC traffic, including FGB;
- (d) MCA traffic;
- (e) intraLATA wireless.

Under this plan, the former PTC will be responsible for all of the residual (unidentified) traffic volume remaining after subtraction of items (a)-(e), payable at intrastate terminating access rates.³

² See Cowdrey Cross-x, p. 473 - Mr. Cowdrey explains that he is aware that Washington, Oregon, Texas, Kansas, Missouri and others rely upon originating records, not terminating records.

³ See Jones Direct, Ex. 4, p.4.

The small LECs' proposal does not subtract the Category 11 records from its calculations in the proposed business plan. These are the records for which the Commission ordered in TO-99-254 and objected to by the former PTCs. The small LECs again choose to ignore another portion of the PTC order in their proposal and do not account for the costs incurred by the former PTCs when they transitioned to Category 11 records.

What the small LECs are asking is that the tandem providers become the collection agent on behalf of the small LECs for each carrier that terminates traffic to it, even if the traffic routes through another former PTC's network. 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.⁴ Even though this may be the case, the small LECs would still have Sprint compensate them for this termination without Sprint having an opportunity to recover this loss.

The small LECs' business plan also calls for the former PTCs to pay the intrastate terminating access rate for the residual traffic.⁵ This is the highest terminating rate that the small LECs charge and it will be charged on all the unknown traffic whether it is intraLATA, local, interMTA or even interstate.⁶

As stated above, this business relationship is different from the one ordered in the previous PTC case and is unique to the state of Missouri. No other state has a similar method of compensating terminating traffic.⁷

⁴ Cowdrey Rebuttal, Ex. 18, p. 7., See Also, Cowdrey Cross-x, TR p. 441.

⁵ Jones Direct, Ex. 4, p. 4.

⁶ Interstate traffic could be in this mix, which would raise the question of whether the Commission has the authority to approve a rate for interstate traffic.

⁷ See Cowdrey Cross-x, p. 473.

IV. THE SMALL LECs' BUSINESS PLAN IS PLAN IS FLAWED

The small LECs' proposed change in the business plan is flawed in many ways. Initially, the small LECs ask the Commission to assume that their records are accurate and can be relied upon. Secondly, the small LECs do not provide for a method to recover the cost of implementing this business plan. Third, the small LECs' plan provides risk and incentives for only one party - the former PTCs. Finally, new systems for capturing traffic have made the small LECs' proposal premature.

A. The Commission Cannot Assume That the Small LECs Terminating Records are Accurate

The basic premise the small LECs must prove, even before making the argument for the change in the business relationship, is that the former PTC's records are not accurate and, therefore, the small LECs' terminating records which are inherently accurate must be used. The evidence, however, does not support the small LECs proposition.

One of the key conclusions of the record test conducted in this docket is that there is more work to do in order to accurately capture traffic.

An example of this can be found in the Rockport Records Examples submitted as Exhibit 25. The first example on this exhibit shows a matched record of a call to the Rockport terminating exchange of 2,141 seconds, or approximately 35 minutes. Within this same call period, there were unmatched records of 24 seconds, 24 seconds, 12 seconds, 190 seconds, 23 seconds, 27 seconds and 18 seconds.⁸ There was no apparent explanation for these unmatched records, but a question of whether these might be "ring-

⁸ Ex. 25.

no-answer” calls was thought of as a possibility.⁹ Ring-no-answer calls should not be captured, showed as unmatched records, and then charged back to the former PTCs.

Verizon also complains of this problem.¹⁰ The reaction of the small LECs is that they need to look into it.¹¹ This is the same group that wants the Commission to accept their terminating records as gospel and used for compensation purposes.

The evidence suggests that at this point, neither set of records is completely accurate. Thus, until the parties can continue to work together to find accuracy it would be premature to make major changes in the business relationship.

B. The Small LECs Proposal Does not Adequately Compensate the Former PTCs

The small LECs' proposed business plan does not adequately compensate the former PTCs for the losses incurred with its implementation.

The small LECs' plan, in essence, requires the former PTCs to be a collection agency for unidentified traffic. Under this proposal, the former PTCs would pay any difference in claimed traffic to the small LECs and the former PTCs would then be on their own to attempt to collect this amount.

Currently, the former PTCs do charge a minimal rate for a telecommunications company to traverse the former PTCs tandem before terminating in the small LEC territory. This rate, however, would not cover the cost of the services involved under the new plan. Additional costs are incurred under this proposed plan. Mr. Hughes, of SWBT, articulated four areas in which the former PTC would incur costs if the small LECs' plan is implemented. Mr. Hughes states as follows:

⁹ See TR pp. 205-206.

¹⁰ See TR pp. 103-110.

¹¹ See TR p. 106.

The first one is in the business relationship concept. We would be the responsible party for all the traffic that goes across our tandem that terminates to the third-party ILEC. That certainly has a cost to it. Not sure today what the cost would be, but it's clearly a greater cost than just of those calls that our end-users originate.

The second area where there would be cost is in our systems. We're not set up today to bill based upon terminating records. And if we go to that approach, we would have to modify our billing system to ensure that we could collect monies from customers, in this case, carriers whose retail end-users originated the call, and they're the ones that have retail relationship with the end-user.

The third area is we would have to update our tariffs. There would be a cost associated with that. How big that would be probably depends on how much controversy would be associated with updating those tariffs.

And the forth area is we would have to update all of our interconnection agreements. We have over 100. Some of them are being negotiated as we speak. Others have lives that will go on for years. In the case of the proposed M2A, once it's approved at this Commission and the FCC, it will have a life of four years. So it's possible we may not be able to get out from underneath some of those agreements and recover our costs from this for quite a lengthy period of time.¹²

The small LECs have not indicated in this plan if they will reimburse for these additional costs or if a new tandem rate is the better method of recovery. Under either scenario, the proposed plan does not currently call for reimbursing the former PTCs for the added costs.

C. The Small LECs' Plan Does Not Allow for a Balancing of Risks and Incentives

The small LECs' plan places all the risk on the former PTCs and provides no incentive for the small LECs to work toward accurate records. From the small LECs' perspective, it is beneficial under their plan not to have records identified. If records are

¹² Hughes cross, TR pp.598-599.

unidentified, the small LECs are compensated at the highest rate possible – the intraLATA access termination rate – no matter what the traffic might be. This provides no incentive for the small LECs to work with the former PTCs to resolve record conflicts, and may even provide an incentive to continue billing for ring-no-answers if that is occurring. Only if both sets of parties have incentives to resolve record anomalies will accurate records be obtained.

D. New Methods of Capturing Records Made Small LECs' Proposal Premature

The evidence presented at the hearing regarding Sprint and SWBT's implementation of the Hewlett Packard AcceSS7 system and the industry's acceptance of Issue 2056 of the Ordering and Billing Forum renders much of the small LECs' concerns mooted and their recommendations premature.

The new HP AcceSS7 system will be implemented by Sprint in Missouri this year. This system will be used to validate Sprint's billing to ensure it receives all the needed billing records from responsible originating carriers.¹³

Both Sprint and SWBT are confident that the HP AcceSS7 system will more accurately identify traffic and significantly close any gap of unidentified records.¹⁴

In addition to the implementation of the AcceSS7 system, the telecommunications industry has proposed new standards for certain recording and billing settlement procedures between companies, referred to as Issue 2056 in the Ordering and Billing Forum (OBF). Once adopted, it is believed that Issue 2056 would solve the intraLATA,

¹³ Cowdrey Surrebuttal, Ex. 19, p. 5.

¹⁴ See Hughes TR pp. 596-597.

local and inter-Tandem switching compensation issues by filling in any gaps in the existing record exchange procedures.¹⁵

Both the AcceSS7 and OBF Issue 2056 are to be implemented this year. It is premature to wipe out a business relationship previously ordered by the Commission without seeing if these new enhancements will alleviate the small LECs' concerns.

V. RECOMMENDATION

Sprint recommends the Commission maintain the status quo in this matter. There is oftentimes, because of the time and effort inherent in a hearing such as this, a feeling that a change is required and the Commission must decide the degree of change. Sprint requests the Commission not fall into that trap.

The business relationship currently existing is the relationship ordered by this Commission less than two years ago, and is similar to relationships that exist in other states. Further, the evidence does not suggest that the records are accurate enough to dictate a change in the current business relationship.

The parties are still working through determining the records' accuracy. SWBT and Sprint are each implementing a new system called AcceSS7 which will provide more accurate records.

In addition, the OBF process is to be implemented within the year and will also provide more accurate records.

It would be premature to rush into a changed business relationship – to do something out of the ordinary – without determining if these systems will work. It would

¹⁵ Allison Rebuttal, Ex. 20, p. 5.

seem much more prudent to continue the process of identifying traffic in order for all parties to be properly compensated.

If the Commission does choose to modify the current business relationship, Sprint suggests a balancing of risks and incentives between the parties.

An approval in which the former PTCs and the small LECs split 50/50 the difference between the originating records and the terminating records provides incentives for both parties to resolve any records mistakes or misidentification that may occur. Although some of the small LECs do not object to the proposal, they have suggested other calculations, such as one based on the proportionate share of revenues.¹⁶ Due to the relative size of a certain CLEC and SWBT, Sprint or Verizon, the breakdown would be much closer to a 100/0 than the 50/50 split as suggested by Sprint. In other words, the impact of a split based on revenues does not provide the impact or incentive a 50/50 split would.

Any change in the business relationship must also be changed throughout the stream of traffic.

Sprint is often a prisoner to the same unidentified traffic as the small LECs.¹⁷ The Sprint tandem receives not only traffic directly from carriers, but also receives traffic from the SWBT tandem. If the traffic from the SWBT tandem is unidentified coming into the Sprint tandem, Sprint will pass it to the small LEC switch, but will still not be able to identify it. Therefore, if the Commission requires Sprint to pay the small LEC for unidentified traffic then SWBT must also pay Sprint for the unidentified traffic passed

¹⁶ TR pp135-137.

¹⁷ Cowdrey Cross TR p. 441.

from the SWBT tandem to the Sprint tandem. This would provide for a consistent business relationship for the entire stream of traffic.

VI. CONCLUSION

Sprint, therefore, requests the Commission maintain the current business relationship between the former PTCs and the small LECs put into place by the PTC plan. If the Commission determines that a new plan should be used, Sprint suggests a relationship calling for an even split of the residential traffic between the small LECs and the former PTCs. Sprint also recommends that this business relationship exist up the entire stream of the traffic thus protecting Sprint from unidentified traffic that may be passed on by SWBT.

Respectfully submitted,
SPRINT MISSOURI, INC.

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CERTIFICATE OF SERVICE

I HEREBY certify that copies of the foregoing document were served on this 1 day of March, 2001 via U.S. Mail, first class postage prepaid, to each of the following parties:

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