

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

In the Matter of the Request of Southwestern)
Bell Telephone, L.P., d/b/a SBC Missouri, for) Case No. TE-2006-0053
A Waiver of Certain Requirements of 4 CSR)
29.040(4).)

AT&T MISSOURI'S RESPONSE TO MITG AND STCG

AT&T Missouri¹ respectfully submits this Response to the following representations in the January 27, 2006 reply from the MITG Companies and the January 30, 2006 Reply from the STCG Companies:

1. The claim that the ERE rule requires CPN in billing records for wireless calls.

MITG claims that the Enhanced Records Exchange (“ERE”) rule requires Calling Party Number (“CPN”) to be included in the Category 11-01-XX intercarrier billing records for wireless-originated calls. The rule itself, however, never did and does not contain this requirement.

Rather, all references to CPN in the rule speak to the transmission of CPN in real time with each call (which, e.g., enables Caller ID), and not as part of an intercompany billing record created and exchanged between companies many weeks after the calls had been made. This distinction is very clear from the Commission’s discussion of this portion of the proposed rule in its Order of Rulemaking.² It is the Carrier Identification Code (“CIC”) and the Operating Company Number (“OCN”) contained in the Category 11-01-XX record that is used to identify and bill the financially responsible carrier for terminating charges -- not CPN, which merely identifies the telephone number of the calling party.

¹ Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri will be referred to in this pleading at “AT&T Missouri.” It previously conducted business as “SBC Missouri.”

² Order of Rulemaking, Mo. Reg. Vol. 30, No. 12 (June 15, 2005) at p. 1387 (discussing the requirement that CPN “accompanied the telephone call through the call progression”) and at p. 1388 (finding that “there is simply no reason for the calls traversing the LEC-to-LEC network to lack CPN”).

CPN contributes nothing to the adequacy of the interim company billing records used to bill wireless carriers because it cannot be used to determine jurisdiction, the applicable rates, or who to bill for the call. As the Commission's Order of Rulemaking declares, it is impermissible for carriers to use CPN for jurisdictional purposes on the wireless-originated calls:

We also agree that calling party number (CPN), cannot in all instances be used to determine the proper jurisdiction of wireless calls. We caution all terminating carriers that any attempt to use an OCN or CPN to determine the proper jurisdiction of wireless telephone calls on the LEC-to-LEC network is not permissible under our local interconnection rules. We recognize this limitation contrasts with processes historically employed on the interexchange carrier network in which CPN is used to determine the jurisdiction of wireless calls. Again, we caution that our rules will not permit such practices on the LEC-to-LEC network.³

It was not until the Order of Rulemaking on 4 CSR 240-29.040(4) that the Commission for the first time issued the erroneous statement that CPN was to be included in the Category 11-01-XX intercompany billing record for wireless-originated calls.⁴ This one sentence statement in the Commission's Order of Rulemaking was solely based on the MITG's unsupported and erroneous claim made late in the rulemaking proceeding that "SBC strips off the CPN of the wireless-originated calls when it creates Category 11-01-XX billing records."⁵

MITG continues to advance such assertions here, despite knowing them to be incorrect. No carrier in the State has ever passed CPN with Category 11-01-XX billing records. AT&T Missouri has never been capable of including CPN in the Category 11-01-XX record for wireless-originated calls (and neither have other LECs). Contrary to MITG's claim, AT&T Missouri has not in other jurisdictions advocated inclusion of CPN in intercompany billing records for wireless-originated calls.

³ Id., pp. 1377-1378 (emphasis added).

⁴ Id., p. 1389.

⁵ Id., p. 1388.

AT&T Missouri does, however, support the general requirement that CPN be passed through the network with a call because it enables terminating carriers to provide retail Caller ID service. It is also important for the jurisdictionalization and rating of landline calls (but is not the case for billing wireless carriers). But that is far different than supporting the passage of CPN in connection with billing information that is exchanged weeks after the call is completed. CPN has never been passed in connection with these calls, is not used for billing, and would be extremely expensive (well over \$1 million) and time consuming to comply. MITG knows this, but persists in attempting to mislead the Commission.

2. The claim that the Commission cannot correct previous erroneous statements. In an apparent attempt to persuade the Commission to retract the representation it made to the Court concerning CPN on wireless calls, MITG claims the Brief recently filed with the Cole County Circuit Court in Case No. 05AC-CC00732 was a “Staff” Brief.⁶ This is incorrect. The brief was that of the Missouri Public Service Commission, the Respondent in that case. There, the Commission clarified to the Court that the provisions of the rule do not require inclusion of CPN in intercompany billing records. As long as the Commission’s representation to the Circuit Court is accurate, there is no need for the waiver and the Commission may accordingly dismiss this waiver proceeding.

STCG, in its Reply, claims that “the statement of the Commission’s counsel in their brief cannot be considered a written order or decision of the Commission, nor can such a statement invalidate the lawful order of the Commission issued in Case No. TX-2003-0301.”⁷ But STCG’s claim misses the mark entirely because the Commission is not dealing with the issuance of a new order. The Commission’s Notice of Proposed Rulemaking never proposed to require and the

⁶ MITG Reply, p. 2.

⁷ STCG Reply, p. 2.

final rule does not require CPN to be provided in the intercompany billing record for wireless calls. This confusion, which the Commission has sought to clarify, arose only as the result of an erroneous claim made during the proceeding that led the Commission to erroneously state CPN should be included in this type of record. The Commission is certainly allowed to correct previous misstatements that caused confusion and the Commission can and should dismiss on this basis.

3. The claim that prior orders required inclusion of CPN in wireless billing records. MITG points to the Commission's Report and Order in Case No. TO-99-254 and claims that "CPN should have been provided by SBC in wireless billing records over five years ago."⁸ The text of that Order, however, makes clear that records at issue there were for landline toll calls, not transiting wireless calls. Moreover, the Commission in an order issued six months earlier in Case No. TT-97-524 addressed records for wireless calls and required the provision the Cellular Transiting Usage Summary Report ("CTUSR"), which the Commission found was adequate for the small ILECs' use in billing terminating compensation to the responsible wireless carrier.⁹ (The CTUSR was also successfully audited by one of the small ILEC's CPA firm and the small ILECs themselves represented the CTUSR as "sufficient for billing" in contracts with the wireless carriers filed with the Commission.)¹⁰ Having fully addressed records for wireless calls

⁸ MITG Reply, pp. 3-4.

⁹ In the Report and Order in Case No. TO-99-254, the Commission in the third ordering clause ordered:

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

In the Matter of an Investigation Concerning the Primary Toll Carrier Plan and IntraLATA Dialing Parity, Case No. TO-99-254, et al., Report and Order, issued June 10, 1999, at p. 18. As the Commission is aware, originating records were only being passed on landline-originated toll calls, not wireless-originated calls.

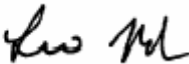
¹⁰ T. 86.

in an order issued six months earlier, the Commission certainly would not have countermanded itself in the TO-99-254 Order without mentioning its previous Order in Case No. TT-97-524.¹¹

WHEREFORE, AT&T Missouri respectfully requests the Commission to issue an order dismissing this case as moot.

Respectfully submitted,

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¹¹ In the Matter of Southwestern Bell Telephone Company's Tariff Filing to Revise its Wireless Carrier Interconnection Service Tariff, P.S.C. Mo-No. 40, Case No. TT-97-524, Report and Order, issued December 23, 1997 at p. 19.

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on January 30, 2006.



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