

ANDERECK, EVANS, MILNE, PEACE & JOHNSON, L.L.C.

ATTORNEYS AT LAW

EUGENE E. ANDERECK

TERRY M. EVANS

ERWIN L. MILNE

JACK PEACE

CRAIG S. JOHNSON

RODRIC A. WIDGER

GEORGE M. JOHNSON

BEVERLY J. FIGG

WILLIAM S. LEWIS

VICTOR S. SCOTT

COREY K. HERRON

700 EAST CAPITOL AVENUE
COL. DARWIN MARMADUKE HOUSE

P.O. BOX 1438

JEFFERSON CITY, MISSOURI 65102-1438

TELEPHONE 573-634-3422

FAX 573-634-7822

MATTHEW M. KROHN

LANETTE R. GOOCH

SHAWN BATTAGLER

ROB TROWBRIDGE

JOSEPH M. PAGE

LISA C. CHASE

DEIDRE D. JEWEL

JUDITH E. KOEHLER

ANDREW J. SPORLEDER

OF COUNSEL:

MARVIN L. SHARP

PATRICK A. BAUMHOER

GREGORY C. STOCKARD (1904-1993)

PHIL HAUCK (1924-1991)

November 13, 2001

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

FILED³

NOV 13 2001

Re: Case Nos. TO-99-593 and TC-2002-194

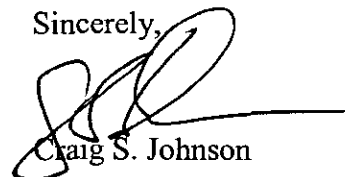
**Missouri Public
Service Commission**

Dear Judge Roberts:

Enclosed please find an original and eight (8) copies of Missouri Independent Telephone Group's Reply to Responses of Staff and Verizon in the above-referenced matters.

Thank you for seeing this filed.

Sincerely,



Craig S. Johnson

CSJ:tr

Enc.

cc: MITG Managers
Office of Public Counsel
PSC General Counsel
Leo Bub
Lisa Creighton Hendricks
Carl Lumley
Paul DeFord
William R. England, III
Bradley Kruse
Shiela Lumpe
Steve Gaw
Connie Murray
Kelvin L. Simmons

Trenton Office
9th And Washington
Trenton, Missouri 64683
660-359-2244
Fax 660-359-2116

Springfield Office
1111 S. Glenstone
P.O. Box 4929
Springfield, Missouri 65808
417-864-6401
Fax 417-864-4967

Princeton Office
207 North Washington
Princeton, Missouri 64673
660-748-2244
Fax 660-748-4405

Smithville Office
119 E. Main Street
P.O. Box. 654
Smithville, Missouri 64089
816-532-3895
Fax 816-532-3899

FILED³

NOV 13 2001

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Public
Service Commission

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

Case No. TO-99-593

Alma Telephone Company, et al.,)
)
Petitioners,)

vs.)

Case No. TC-2002-194

Southwestern Bell Telephone Company,)
et al.,)
)
Respondents.)

Petitioner MITG Reply to Responses of Staff and Verizon

Come now Petitioners and make this reply to the Responses of Staff and Verizon to
Petitioner's Motion to consolidate TC-2002-194 into To-99-593 for a supplemental hearing:

1. Staff opposes the consolidation request on the basis that TO-99-593 and TC-2002-194 lack commonality of facts and issues, that TO-99-593 is prospective only, that TC-2002-194 is retrospective only, and that TO-99-593 was created only to investigate various technical aspects of network arrangements for completing calls.

2. Verizon opposes the consolidation request on the basis that it would be inappropriate to add new parties to TO-99-593, which would slow its resolution.

3. Although the MITG's motion to consolidate was served upon all parties in both TC-2002-194 and TO-99-593, only Verizon and Staff have responded. Although the MITG

would prefer to await all parties' responses, if any, due to time constraints the MITG will now reply to Verizon and Staff.

4. Contrary to Staff's suggestion, there is commonality present here. The complaint contends that SWBT and the CLECs are sending this traffic, in violation of Commission Orders, prior to approved compensation arrangements. The complaint contends that they are sending this traffic on the same feature group C network with the same network limitations and deficiencies as are present in TO-99-593.

5. Contrary to Staff's assertions, there remains an issue in TO-99-593 as to whether "business relationships" are in dispute. Contrary to Verizon's assertions, there is a real and present concern that other carriers for whom SWBT transits traffic on the FGC network should be made parties. There may also be concern as to whether these CLECs should participate in considering OBF solutions. The Commission's August 29, 2001 Order Directing Filing opened the door to further considerations of the OBF Issue 2056. The Commission's May 27, 2001 Order Directing Additional Notice in TO-99-593 expressed concern regarding the addition of other parties whose traffic was being placed on the FGC network subject which was the subject of TO-99-593. That order listed three additional issues for which the notice was given. These issues included the business relationship issue as being opened for consideration.

6. The propriety of SWBT's use of the FGC network to transit traffic for termination to the MITG members is in fact an issue common both to TO-99-593 and TC-2002-194. TO-99-593 has been pending for years without resolution. Although the issues have pended, this has not stopped SWBT from placing the traffic of CMRS providers and CLECs over the same FGC facility that was under investigation in TO-99-593. While TO-99-593 awaits decision regarding

future use of the FGC network, SWBT and CLECs are putting traffic on the very network TO-99-593 was opened to investigate.

7. As the complaint in TC-2002-194 alleges, the action of SWBT since August of 2001 in placing CLEC traffic on the FGC network between Petitioners and SWBT does constitute new evidence justifying additional hearing. The hearing in January of 1991 could not have placed into evidence these unilateral actions of SWBT occurring 7 to 8 months after the hearing. The unilateral injection of a new type of traffic, without MITG consent, and in violation of Commission Orders stating that CLEC traffic was not to be passed at all without compensation arrangements being in place, constitutes a material change justifying reopening of the record in TO-99-593. It is now necessary to determine the signaling protocol capabilities and business relationships between SWBT, the MITG, and another class of carrier whose traffic is being placed on this network.

8. Consolidation of TC-2002-194 into TO-99-593 would allow a single docket to address common issues for all landline-originated traffic flowing over the FGC network. It would be an efficient utilization of the Commission's resources to have a single hearing, with all interested parties present or having the opportunity to participate. As the placement of CLEC traffic on this network in violation of prior Commission Orders does constitute a material new fact for which evidence could not have been introduced at the January, 2001 hearing, consolidating these cases for one more hearing would be most efficient for all parties concerned.

Relief requested and Jurisdiction for Consolidation

9. Wherefore, on the basis of the same jurisdiction cited by the Commission in establishing TO-99-593, on the basis of 4 CSR 240-2.110(3), and on the basis of 4 CSR 240-2.110(8), the MITG respectfully requests that TC-2002-194 be consolidated into TO-99-593 for

a single hearing and final Order disposing of all issues pending, both the unresolved issues pending in TO-99-593 as well as the new additional issues raised in TC-2002-194.

ANDERECK, EVANS, MILNE,
PEACE & JOHNSON, L.L.C.

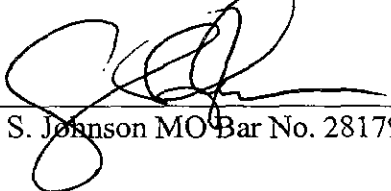
By 

Craig S. Johnson MO Bar No. 28179
The Col. Darwin Marmaduke House
700 East Capitol
Post Office Box 1438
Jefferson City, Missouri 65102
Telephone: (573) 634-3422
Facsimile: (573) 634-7822
Email: CJohnson@AEMPB.com

ATTORNEYS FOR MITG

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and accurate copy of the foregoing was mailed, via U.S. Mail, postage prepaid, this 13 day of November, 2001, to all attorneys of record in this proceeding.


Craig S. Johnson MO Bar No. 28179