

**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 )  
a Waiver of Certain Requirements of 4 CSR )      **Case No. TE-2006-0053**  
29.040 (4). )**

**Reply in Opposition to Joint Motion to Dismiss**

Comes now the MITG Companies<sup>1</sup> and submit the following in Reply in Opposition to the January 20, 2006 Joint Motion of Staff and AT&T Missouri to dismiss this proceeding.

1.      The basis of Staff and AT&T Missouri’s Joint Motion is the conclusion that the Enhanced Record Exchange Rule “does not require that CPN be included on intercompany records used to bill wireless carriers”.
2.      The basis of the Joint Motion is erroneous. The Enhanced Record Exchange Rule does require CPN to be included in billing records AT&T Missouri must provide terminating LECs for wireless traffic it transits.
3.      This proceeding was initiated by AT&T Missouri based upon its conclusion that the ERE *did* require CPN in wireless billing records.<sup>2</sup> There has been no Commission Order interpreting the ERE as not requiring CPN in wireless billing records. The only Commission Order speaking to this subject decided that CPN was required.

---

<sup>1</sup> Alma Communications Company d/b/a Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company (O’Telco), MoKAN DIAL Inc., and Northeast Missouri Rural Telephone Company.

<sup>2</sup> See the July 14, 2005 SBC Application for Variance filed in TX-2003-0301.

4. The statement in Staff’s Cole County Circuit Court Brief that “the Commission now believes that neither a category 11-01-XX record nor a Missouri specific category 11-01-XX record must contain CPN for wireless-originated calls” does not rise to the level of a Commission “interpretation”.

5. The Commission acts through rules or orders. The Commission does not act by statements of belief or opinions expressed in pleadings.

6. The June 15, 2005 Order of Rulemaking in TX-2003-0301 adopting the ERE stated that CPN is required, and any carrier wanting to be excluded from this requirement must petition the Commission:

“We thus determine that transiting carriers shall include the CPN as part of the category 11-01-XX records created for wireless-originated traffic occurring over the LEC-to-LEC network. If any carrier determines that it cannot or should not include the originating CPN of wireless callers in the Category 11-01-XX billing record, it is free to petition the commission to be excluded from that aspect of our rule. Based on the comments and the record before us, we see no reason to exclude wireless CPN from the billing records generated by transiting carriers.”<sup>3</sup>

7. In this Order, the Commission determined CPN was necessary to enable terminating LECs to identify the company responsible for compensation, to assess and collect the appropriate rate, and that the CPN requirement was particularly important in the “originating responsibility system incorporated into the Missouri LEC-to-LEC network business relationship.”<sup>4</sup>

---

<sup>3</sup> 30 Mo Register 1389.

<sup>4</sup> 30 Mo Register 1378, 1387.

The Commission also found that industry switches were capable of capturing and passing CPN, and that such a requirement was consistent with the terms of SBC's M2A.<sup>5</sup> The Commission found that there was a simple unwillingness to pass CPN, not an inability to do so.<sup>6</sup> The Commission ruled that permitting SBC to transport traffic without CPN denies terminating LECs necessary billing information, and that requiring transmission of this information is nothing more than what has previously required by the FCC, and as required by SBC's M2A, section 2.1.<sup>7</sup> The Commission further found that SBC's action in removing CPN from wireless call records when creating 11-01 billing records rendered the billing record as a non-industry standard record, and rejected SBC's position that such a "stripped" record complied with the Telcordia Technologies document SBC produced at hearing.<sup>8</sup> The Commission concluded that SBC had shown no credible evidence the wireless traffic billing record should be different than the wireline traffic billing record.<sup>9</sup>

8. The adopted Missouri rule is titled the *Enhanced Record Exchange Rule*". Wireless traffic for which SBC billing records were deficient prior to the rule. Without CPN wireless billing records will not be "enhanced".

9. CPN should have been provided by SBC in wireless billing records over 5 years ago. In the Commission's Order of June 10, 1999 in T0-99-254, in the Matter of an Investigation Concerning the Primary Toll Carrier Plan and IntraLATA Dialing Parity,

---

<sup>5</sup> 30 Mo Register 1376.

<sup>6</sup> 30 Mo register 1378.

<sup>7</sup> 30 Mo Register 1387.

<sup>8</sup> 30 Mo Register 1388-1389.

<sup>9</sup> 30 Mo Register 1389.

the Commission ordered SBC to provide terminating LECs with *industry standard 11-01 records by April 1, 2000*, and that any cost to SBC was dwarfed by the windfall it received due to termination of the PTC Plan. This Commission has found that “industry standard” 11-01s do include CPN.<sup>10</sup>

10. Staff and SBC’s Motion contradicts prior Commission Orders. It would result in maintaining a status quo of deficient records the ERE intended to correct. It would result in contradiction of the rights of terminating LECs to receive industry standard billing records, which right terminating LECs received 5 years ago. SBC’s quid pro quo for the obligation to create industry standard billing records was the savings of millions of dollars annually since termination of the PTC Plan in 1999. Staff and SBC’s motion is in contravention to the Commission’s June 10, 1999 Order in TO-99-254. It would result in a waste of much of the effort expended in the past several years to replacing the PTC business arrangement with a workable arrangement.

11. There is no reasonable explanation as to why would SBC wants to prevent the rural ILEC terminating transited wireless traffic from receiving CPN. There is no reasonable explanation as to why SBC continues to advocate for the exclusion of available CPN in billing records. Before the FCC, SBC advocates for the *inclusion* of CPN.<sup>11</sup>

---

<sup>10</sup> 30 Mo Register 1387-1389.

<sup>11</sup> On November 10, 2006, the United States Telecom Association filed an ex parte notice with the Federal Communications Commission in CC Docket No. 01-92, *Developing a Unified Intercarrier Compensation Regime*. SBC Communications was part of the USTA team taking part in the ex parte meeting, and SBC was a co-sponsor of the ex parte notice. The topic of the ex parte was proposed steps to reduce phantom traffic by requiring the delivery of signaling information to tandem providers and terminating carriers which facilitates the creation of accurate billing records, identification of parties responsible for payment, and the appropriate rating of calls. USTA proposed a

12. The Motion to Dismiss should be denied, and a prehearing conference scheduled to establish a procedural schedule for a hearing on the variance SBC requested herein.

WHEREFORE, the MITG requests that the Motion to Dismiss be denied, and that a prehearing conference be scheduled forthwith with direction for the parties to submit a procedural schedule for hearing and resolution of the Variance requested by SBC in this case.

/csj/  
Craig S. Johnson, Atty.  
Mo Bar # 28179  
1648-A East Elm St.  
Jefferson City, MO 65101  
(573) 632-1900  
(573) 634-6018 (fax)  
[craig@csjohnsonlaw.com](mailto:craig@csjohnsonlaw.com)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading was mailed to the attorneys of record in this proceeding by placing a copy of same in the United States Mail, postage prepaid, this 27th day of January, 2006.

/csj/  
Craig S. Johnson

---

rule for the FCC's consideration, which rule would require every originating provider to include the telephone number of the end user originated the call in the CPN parameter, and that this CPN be transmitted to facilitate correct intercarrier compensation billing.