

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

In the Matter of a Possible Amendment       )  
to Section 4 CSR 240-29.040.                       )

Case No. TX-2006-0444

**The Small Telephone Company Group's Motion to Strike  
AT&T Missouri's Reply to MITG and STCG's Comments  
or, in the alternative, STCG's Response to  
AT&T Missouri's Reply to MITG and STCG's Comments**

**Motion to Strike AT&T Missouri's Reply**

Comes now the Small Telephone Company Group ("STCG") and for its Motion to Strike AT&T Missouri's Reply to MITG and STCG's Comments states to the Missouri Public Service Commission ("Commission") as follows:

1. On May 24, 2006, the Commission issued a Notice Opening New Case, Inviting Comments and Issuing Protective Order in which it posed six (6) questions to interested parties and invited them to file comments regarding whether the Commission should amend 4 CSR 240-29.040 to require that Calling Party Number ("CPN") be included in Category 11 billing records for wireless-originated calls exchanged between telecommunications carriers.

2. In a later Order Establishing Deadline for Submission of Information, the Commission established a deadline of July 7 to receive these Comments. This case was established solely to receive comments on the questions posed by the Commission in order to assist the Commission in its decision regarding whether or not to amend the rule to require CPN in the Category 11 billing records. There was no provision in either order for the filing of "Reply Comments." On July 7, several parties including AT&T Missouri, the Missouri Independent Telephone Group

("MITG") and the STCG filed comments in the case.

3. On July 17, AT&T Missouri filed its Reply to MITG and STCG's Comments in which it re-visited the arguments presented in its prior case requesting a waiver of 4 CSR 240-29.040(4), Case No. TE-2006-0053. This argument is totally inappropriate in this proceeding which was established in order to receive one round of comments on discrete Commission questions. Therefore, AT&T Missouri's Reply should be struck in its entirety.

#### **Response to AT&T Missouri's Reply**

In the alternative, if the Commission accepts AT&T Missouri's Reply to the STCG comments, the STCG requests the Commission to accept the following response.

4. It is disengenuous, at best, for AT&T Missouri to argue that because of roaming, "CPN cannot be used to appropriately jurisdictionalize the calls wireless carriers terminate to the LEC network" (AT&T Missouri Reply, p.1), when it has told the Federal Communications Commission ("FCC") in proceedings before that body that CPN for wireless calls is necessary in order to bill for wireless traffic. AT&T Missouri has filed public pleadings with the FCC in which it states that it is entitled to rely upon the billing information CPN provides in billing for wireless traffic.<sup>1</sup> In that case SBC (now AT&T Missouri) characterized the provision of ANI

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<sup>1</sup>*In the Matter of SBC Communications Inc. Petition for Declaratory Ruling Concerning Terminating Switched Access Charges for Wireless-Originated Calls*, FCC WCB Docket No. 04-424, filed November 12, 2004. SBC filed a petition for declaratory judgment with the FCC in which it relied upon the inclusion of CPN. The FCC request was the result of a referral from the United States District Court of the Eastern District of Missouri. There was litigation in the Eastern District between SBC and Global Crossings. The issue at the heart of the litigation was whether interexchange carriers delivering wireless traffic to SBC were obliged to provide the originating telephone number of the calling party. The originating telephone number is referred to as ANI (automatic number identification), or as CPN (calling party number). SBC asked the FCC to declare that, in the absence of accurate and reliable information as to originating caller location, SBC's access tariffs permitted SBC to use the telephone number of the calling party to

(recognized by the ERE rule as another term for CPN) in order to determine call jurisdiction as a “standard industry practice” for years:

Because long distance carriers provide no other information to local carriers as to the geographic location of wireless subscribers who place or receive telephone calls, **it has been standard industry practice for years to use calling and called party telephone numbers to determine the jurisdiction of, and thus appropriate access charges for, wireless originated calls.**<sup>2</sup>

Additionally, in August of 2005, SBC filed a Notice of Ex Parte in FCC Docket No. 01-92 in which it discussed SBC’s position on phantom traffic and a proposed solution. In this filing, SBC urged the FCC to establish rules requiring adequate and appropriate call signaling. SBC further stated that carriers required call detail information to bill usage-based charges to other carriers and that to bill the correct rate a carrier must know the jurisdiction of the call derived from the calling and called party numbers. SBC suggested that the proposed rule include a provision requiring that, where technically feasible, originating carriers *shall transmit* calling party number and transmitting carriers *shall transmit* calling party number information as received.<sup>3</sup> Yet before this Commission, AT&T Missouri continues to state that Category 11 records for wireless originated calls without CPN are wholly adequate. Thus, AT&T Missouri’s position in this case is in direct contradiction to its position before the FCC in a case where it feels that CPN is necessary for its own use.

Moreover, this Commission has specifically found that CPN is appropriate for

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ascertain the jurisdiction of the call.

<sup>2</sup>*SBC’s Petition for Declaratory Ruling*, Docket No. WCB 04-424, p. iv (emphasis added).

<sup>3</sup>*Notice of Ex Parte, Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, August 11, 2005 (emphasis added).

jurisdictionalizing wireless calls in cases involving the development of jurisdictional factors for purposes of billing access charges on inter-MTA traffic. In *BPS Telephone Company, et al. v. Voicestream Wireless Corporation et al.*, TC-2002-1077 (January 27, 2005) the Commission found that CPN information used by Mark Twain Rural Telephone Company to perform a traffic study to determine that 70% of the traffic from T-Mobile callers that terminated to the Mark Twain exchanges was interMTA was sufficient to determine jurisdiction, and *In the Matter of the Petition of Alma Telephone Company for Arbitration of Unresolved Issues Pertaining to a Section 251(b)(5) Agreement with T-Mobile USA, Inc.*, IO-2005-0468 (October 6, 2005) the Commission stated, "The BPS decision is guidance for the Commission's accepting the validity of the studies that Chariton Valley, Mid-Missouri and Northeast submitted. The Commission accepted the methodology of an NPA-NXX study to ascertain traffic jurisdiction."

5. AT&T Missouri states that neither the MITG or STCG have provided any evidence of financial losses caused by the lack of CPN in the Category 11 records for wireless calls. The STCG was candid with the Commission in stating that the financial loss cannot be determined. The STCG is put in the Catch-22 position of being asked to prove a loss that it must have the CPN to prove. The STCG has no way of knowing how much traffic would be subject to access compensation if the companies had proper records to identify it.

6. AT&T Missouri's argument that the costs outweigh the benefits is wrong, and, at best, that issue is one to be addressed after a full airing of all the issues, including the fiscal impacts. Any consideration of the fiscal impact should include a comparison of the costs of providing the CPN in the billing records with the \$18,000,000 in annual savings AT&T Missouri has enjoyed since the Commission eliminated the PTC Plan. As the MITG and STCG have pointed out

before, the Commission ordered that Category 11 records be provided to the terminating carriers in Case No. TO-99-254 et al. on June 10, 1999.<sup>4</sup> Commission rules define Category 11 records as including CPN, and it was not until AT&T Missouri began providing the records that did not include CPN in the fall of 2004 that either the companies or the Commission were made aware that AT&T Missouri did not intend to provide CPN. Now, AT&T Missouri argues that the savings from 1999 is not relevant to the dispute regarding CPN, but it was clear in the Commission's order that the Commission intended for AT&T Missouri and the other PTCs to provide standard Category 11 records.<sup>5</sup> The Commission stated, "Any additional expense this will cause the PTCs is dwarfed by the elimination of the revenue losses they assert they are suffering under the PTC plan."<sup>6</sup>

Wherefore, the STCG respectfully requests that the Commission strike AT&T Missouri's Reply to MITG and STCG's Comments as an inappropriate filing or, in the alternative, that the Commission accept and consider the STCG's Response to AT&T Missouri's Reply.

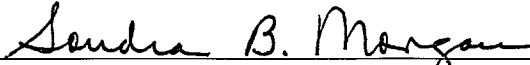
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<sup>4</sup>*In the Matter of an Investigation Concerning the Primary Toll Carrier Plan and IntraLATA Dialing Parity*, 8 Mo. P.S.C. 3d 176 (June 10, 1999).

<sup>5</sup>At that time, all Category 11 records contained CPN, including those for wireless originated traffic.

<sup>6</sup>*Id.* at 183.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent electronically, by U.S. Mail, postage prepaid, or hand-delivered on this 24th day of July, 2006, to the following parties:

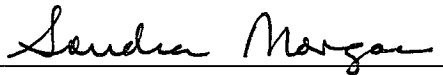
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