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January 20, 2004

**FILED**

JAN 20 2004

Secretary  
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P.O. Box 360  
Jefferson City, Missouri 65102

**Missouri Public  
Service Commission**

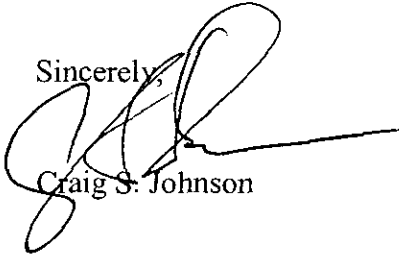
Re: Motion for Prehearing Conference, Hearing, Tariff Declaration  
Case No. TO-99-593

Dear Secretary:

Enclosed please find an original and eight copies of the MITG's Motion for Prehearing, Conference, Hearing, Tariff Declaration in the above referenced case. A copy has been sent to all attorneys of record.

Thank you for seeing this filed.

Sincerely,

  
Craig S. Johnson

CSJ:lw

Encl.

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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

**FILED**

**JAN 20 2004**

*Missouri Public  
Service Commission*

In the Matter of the Investigation                     )  
into Signaling Protocols, Call                         )  
Records, Trunking Arrangements,                     )       TO-99-593  
and Traffic Measurement.                                 )

**MOTION FOR PREHEARING CONFERENCE, HEARING, TARIFF  
DECLARATION**

The Missouri Independent Telephone Company Group (MITG) hereby moves the Commission to establish a prehearing conference for the parties to develop a procedural schedule culminating in a hearing and decision as to the following matters:

- a.       The necessity or advisability of different treatment for traffic placed on the "LEC to LEC" or Feature Group C (FGC) network than that afforded traffic placed on the "IXC" or Feature Group D (FGD) network for termination.
- b.       Declaration of the effect of small ILEC access tariff provisions providing that, when Feature Group D becomes available, Feature Group C will no longer be available.
- c.       Billing Record creation and exchange to be utilized for traffic placed upon the "LEC to LEC" or FGC network for termination.
- d.       Financial Responsibility to be utilized for traffic placed upon the "LEC to LEC" or "FGC network" for termination.

e. Compensation responsibilities for uncompensated "transit" traffic placed on the "LEC to LEC" FGC network for termination since the end of the Primary Toll Carrier Plan.

In support of this Motion, the MITG states as follows:

1. The 1996 Act's requirement of intraLATA toll dialing parity created the circumstances for considering the end of the Primary Toll Carrier Plan (PTC Plan).

Whereas 1+ intraLATA toll had previously been monopoly provided in Missouri via the PTC Plan, the Act contemplated that dialing parity and competition would be required of the intraLATA toll market, as well as the local markets.

2. "FGC" was the protocol provided in a monopoly or single toll carrier environment. During the term of the PTC Plan, the small ILEC access tariffs stated that its provisions were subject to the terms and conditions of the PTC Plan. The PTC Plan was essentially a monopoly-based intraLATA toll plan, with a single PTC originating intraLATA 1+ toll in any Missouri exchange. The PTC Plan was utilized by all Missouri ILECs, was specifically approved by the Commission, and had been in use for years preceding the 1996 Act.

3. "FGD" was the protocol provided in a competitive or multiple toll carrier environment. Small ILEC access tariffs stated that, once FGD was made available by the small ILEC, FGC would no longer be provided.

4. TO-99-254 was established by the Commission to consider modification, continuation, or termination of the PTC Plan in light of the requirements of the 1996 Act.

5. The "business relationship" mechanisms of the PTC Plan had special limitations for terminating traffic. Terminating traffic was not recorded or measured, it

was proportioned and paid based upon the volumes of originating intraLATA traffic. Under the PTC Plan, the PTC delivering terminating intraLATA toll traffic to the small ILEC paid that small ILEC for all terminating traffic, both that originated by the “delivering” PTC, as well as traffic originated by other PTCs and “transited” to the delivering PTC.

6. In contrast to the PTC Plan “FGC” systems, in the IXC market terminating traffic was recorded at the terminating access tandem. Billing records were made and exchanged. Financial responsibility for payment of terminating access was placed upon the interexchange carrier delivering the traffic to the terminating tandem.

7. As the scope of TO-99-254 included the possibility of termination of the PTC Plan, the small ILECs in that docket raised the issue of whether their access tariffs would require the “IXC” or “FGD” business relationships to be utilized for PTC’s interexchange traffic as it was then in use for IXC’s interexchange traffic.

8. In its June 21, 1999 Report and Order in TO-99-254, the Commission terminated to the PTC Plan. The Commission recognized the “FGC” versus “FGD” business relationship issues raised by the small ILECs, but deferred resolution of most of the issues raised to a new docket, this docket, TO-99-593. The Commission did decide in its June 21, 1999 Order to require the former PTCs to convert to the use of industry standard 11-01 records, a billing record format associated with FGD traffic, and to provide these records by April 1, 2000.

9. It has now been over 4 and ½ years since the creation of TO-99-593. The Commission has yet to resolve the issues for which this docket was initiated. As a result of the actions of former PTCs in “transiting” traffic to the small ILECs before the

resolution of TO-99-593, small ILECs have experienced failures to receive billing records, failure to receive identification of financially responsible carriers, and consequently failure to obtain terminating compensation without resort to litigation or the creation of new types of tariffs.

10. An overview of the history of TO-99-593 reveals the following:

- a. In January, 2001 the Commission conducted evidentiary hearing of the issues raised in TO-99-593.
- b. On December 13, 2001, the Commission entered an Order in TO-99-593 in which the Commission described the small ILEC position as an attempt to “change” the business relationship, which was “too drastic” a measure to take as a “first step”. The Commission instead directed implementation of OBF Issue 2056 as a solution to the issues which then had been pending for 2 and ½ years.
- c. Staff subsequently reported to the Commission that implementation of Issue 2056 was not a solution to the issues. The former PTCs who had persuaded the Commission to adopt Issue 2056 later asserted it was not applicable to former PTC traffic, the traffic originally at issue in this docket. No opportunity was provided to dispute the PTC change of position.
- d. On January 28, 2003, the Commission entered an Order in TO-99-593 accepting, without opportunity for hearing, the disputed conclusion that adoption of OBF Issue 2056 would not

resolve the issues of TO-99-593. The Commission instead directed Staff to proceed with drafting a rule the Commission hoped would provide a solution.

11. It is now January, 2004. Over 4 and ½ years since the creation of TO-99-593 have passed. Although Staff and the parties have participated in the drafting of a rule for the past year, the Commission has yet to publish the rule.

12. For the past 4 and ½ years, the small ILEC attempts to have these issues resolved in a more timely fashion have been frustrated by the characterization that the small ILECs were attempting to “change” some business relationship, or aspects thereof.

13. The MITG disagrees that matters constituting components of the “business relationship” are beyond the scope of this docket. Indeed, the matters for which this docket was created constitute essential aspects of intercarrier “business relationships”. The matters for which this docket was created cannot be separated from the “business relationship”. Indeed, the last draft of the rule Staff was drafting incorporated a very distinct “business relationship”, that being one of “originating responsibility”.

14. The MITG disagrees with those who claim that former PTCs are “required” to “transit” traffic on the FGC network, and that the “current” business relationship for such traffic is one of “originating responsibility”. There has been no such determination by this Commission. In adopting the PTC Plan the Commission previously rejected originating responsibility. Even if the Commission were to formally adopt “originating responsibility”, further work needs to be done with respect to determining the details of the “business relationship” between originating carriers and the

transit carriers, between the transit carriers and the terminating carriers, and between the originating carriers and terminating carriers.

15. As a result of the delay in addressing these issues in TO-99-593, the small ILECs have suffered from the lack of an enforceable business relationship as to traffic being placed on the "LEC to LEC" or "FGC" network. The MITG companies have uncompensated "transit" traffic which, despite their efforts to collect from former PTCs, CLECs, and wireless carriers, remains uncompensated.

16. Unless and until the Commission enters an Order, or adopts a rule, that establishes and determines all aspects of the business relationships between all carriers concerned with respect to traffic terminated to the small ILECs over the "LEC to LEC" or "FGC" network, compensation issues will persist into the future, as they have persisted these past 4 and ½ years while TO-99-593 has remained pending but unresolved.

Wherefore, the MITG respectfully requests that the Commission enter an Order directing another prehearing conference in this case be had to address the following topics or issues:

a. The necessity or advisability of different treatment for traffic placed on the "LEC to LEC" or Feature Group C (FGC) network than that afforded traffic placed on the "IXC" or Feature Group D (FGD) network for termination.

b. Declaration of the effect of small ILEC access tariff provisions providing that, when Feature Group D becomes available, Feature Group C will no longer be available.

c. Billing Record creation and exchange to be utilized for traffic placed upon the "LEC to LEC" or FGC network for termination.

d. Financial Responsibility to be utilized for traffic placed upon the "LEC to LEC" or "FGC network" for termination.

e. Compensation responsibilities for uncompensated "transit" traffic placed on the "LEC to LEC" FGC network for termination since the end of the Primary Toll Carrier Plan.

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PEACE & JOHNSON**

By:

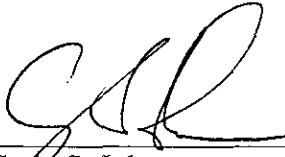


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**ATTORNEYS FOR MISSOURI  
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GROUP**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed, U. S. Mail, postage pre-paid, this 20th day of January, 2004, to all attorneys of record in this proceeding.

  
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Craig S. Johnson