

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

In the Matter of the Tariffs to Reduce Access)
Rates of Local Telecommunications Companies) File No. TT-2012-
Pursuant to Federal Communications Commission)
Report and Order FCC 11-161)

MOTION TO OPEN CASE

COMES NOW the Staff of the Missouri Public Service Commission and for its Motion to Open Case states:

1. On November 18, 2011, the Federal Communications Commission (“FCC”) issued a Report and Order and Further Notice of Proposed Rulemaking in several dockets, including CC Docket No. 01-92, In the Matter of Developing an Unified Intercarrier Compensation Regime, denominated FCC 11-161 (“the FCC’s Order”), which states, in pertinent part:

764. In this Order, we explicitly supersede the traditional access charge regime and, subject to the transition mechanism we outline below, regulate terminating access traffic in accordance with the section 251(b)(5) framework. [...]We find it appropriate to bring all traffic within the section 251(b)(5) regime at this time [...]Doing so is key to advancing our goals of encouraging migration to modern, all IP networks; eliminating arbitrage and competitive distortions; and eliminating [...] disparate intercarrier compensation rates and payments... Even though the transition process detailed below is limited to terminating switched access traffic and certain transport traffic, we make clear that the legal authority to adopt the bill-and-keep methodology described herein applies to all intercarrier compensation traffic. ...

* * *

771. We conclude that we have statutory authority to establish bill-and-keep as a default compensation mechanism with respect to interstate traffic subject to section 251(b)(5). Section 201 has long conferred authority on the Commission to regulate interstate communications to ensure that “charges, practices, classifications, and regulations” are “just and reasonable” and not unreasonably discriminatory. ...

772. [...]We conclude that we have authority, independent of our traditional interstate rate-setting authority in section 201, to establish bill-

and-keep as the default compensation arrangement for all traffic subject to section 251(b)(5), including intrastate traffic. ... Thus, “[w]ith regard to the matters addressed by the 1996 Act,” Congress “unquestionably” “has taken the regulation of local telecommunications competition away from the States,” and, as the Supreme Court has held, “the administration of the new *federal* regime is to be guided by federal-agency regulations.” ...

* * *

790. ...[A] uniform, national framework for the transition of intercarrier compensation to bill-and-keep, ...best advances our policy goals.... [S]tates will not set the transition for intrastate rates under this approach.... [States] will continue to oversee the tariffing of intrastate rate reductions during the transition period as well as interconnection negotiations and arbitrations pursuant to sections 251 and 252, and will have responsibility for determining the network “edge” for purposes of bill-and-keep.

* * *

792. ... [A] uniform national transition and recovery framework, to be implemented in partnership with the states, will achieve the benefits ... as quickly as possible. ... [O]ur approach will reduce the potential for arbitrage that could result from a widening gap between intrastate and interstate rates if the Commission were to initially reduce interstate rates only...

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794. ... [C]hallenges remain that could impede our comprehensive reform efforts absent a uniform, national transition. ... [S]tates have taken a variety of approaches to reform. In some states, ... intrastate access rate levels [are at] parity with interstate levels. In other states, ... rates remain above interstate levels. ... [S]ome state commissions lack authority to address intrastate access reform, and we are concerned that many states will be unable to complete reforms in a timely manner or will otherwise decline to act. Indeed, the Missouri Commission endorsed a section 251(b)(5) approach because “states should not be allowed to delay access reform.” ...

* * *

798. ... [I]n this section we set out a default transition path for terminating end office switching and certain transport rate elements to begin that process. We also [cap] all interstate rate elements as of the effective date of the rules adopted pursuant to this Order, and ... terminating intrastate rates for all carriers. ... [T]his transition will help minimize disruption to consumers and service providers by giving parties time, certainty, and stability as they adjust to an IP world and a new compensation regime.

* * *

801. ... [W]e conclude that a six-year transition for price cap carriers and competitive [local exchange telecommunications companies] LECs that

benchmark to price cap carrier rates and a nine-year transition for rate-of-return carriers and competitive LECs that benchmark to rate-of-return carrier rates to transition rates to bill-and-keep strikes an appropriate balance....

Figure 9¹

Intercarrier Compensation Reform Timeline		
Effective Date	For Price Cap Carriers and CLECs that benchmark access rates to price cap carriers	For Rate-of-Return Carriers and CLECs that benchmark access rates to rate-of-return carriers
* * *	* * *	* * *
July 1, 2012	Intrastate terminating switched end office and transport rates, originating and terminating dedicated transport, and reciprocal compensation rates, if above the carrier's interstate access rate, are reduced by 50 percent of the differential between the rate and the carrier's interstate access rate.	Intrastate terminating switched end office and transport rates, originating and terminating dedicated transport, and reciprocal compensation rates, if above the carrier's interstate access rate, are reduced by 50 percent of the differential between the rate and the carrier's interstate access rate.
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807. ... Because we retain the CLEC benchmark rule during the transition, we allow competitive LECs an extra 15 days from the effective date of the tariff to which a competitive LEC is benchmarking to make its filing(s). We emphasize that the rates that are filed by the competitive LEC must comply with the applicable benchmarking rate. ...

* * *

813. ... [S]tate oversight of the transition process is necessary to ensure that carriers comply with the transition timing and intrastate access charge reductions outlined above. Under our framework, rates for intrastate access traffic will remain in intrastate tariffs. As a result, ... state commissions should monitor compliance with our rate transition; review how carriers reduce rates...; and guard against attempts to raise capped intercarrier compensation rates, as well as unanticipated types of

¹ The actual, expected transition plan is described in 47 CFR §51.907 Transition of price cap carrier access charges, 47 CFR §51.909 Transition of rate-of-return carrier access charges and §51.911 Transition of competitive carrier reciprocal compensation and access charges. (FCC 11-161, Appendix A at pp. 507-514)

gamesmanship. **Consistent with states' existing authority, therefore, states could require carriers to provide additional information and/or refile intrastate access tariffs that do not follow the framework or rules adopted in this Order.** Moreover, state commissions will continue to review and approve interconnection agreements and associated reciprocal compensation rates to ensure that they are consistent with the new federal framework and transition. Thus, we will be working in partnership with states to monitor carriers' compliance with our rules, thereby ensuring that consumers throughout the country will realize the tremendous benefits of ICC reform. [Footnotes removed; emphasis added]

2. In order to accomplish this review of the tariff filings to alter the rates in compliance with the FCC's Order, the Staff is of the opinion that the normal 30-day tariff filing process will be inadequate. Currently, interstate LEC tariffs may contain different rate components made of different elements than LEC intrastate tariffs. For instance, many LECs have a common carrier line element in their intrastate access rates, but this same element is not a component of interstate access rates. The Staff is advised that many of the local exchange telecommunications companies that are required to file revised tariff sheets to comply with the FCC's Order will not simply reduce intrastate access rate elements but will also restructure intrastate access service to more closely align with their interstate tariff rate structure.

3. To accommodate this extensive review, and consistent with the FCC's rules at 47 CFR §51.907, §51.909 and §51.911, the Staff proposes the following process:

a. That the Commission open a single case file in which all of the modified access tariffs shall be filed. Although they will retain separate tariff tracking numbers, for reasons set forth more fully below, the Staff requests that the Commission require that the tariffs and supporting documentation be filed in a single case.

b. That the Commission shall require any company offering switched access service through a tariff to submit a tariff filing to comply with the FCC's Order at least 60 days prior to the effective date of the proposed tariff revision.

c. That the Commission shall require any company submitting such a tariff filing to simultaneously provide supporting documentation demonstrating how the proposal complies with the FCC's Order. The supporting documentation shall be the requested information contained in the attached Excel spreadsheet; however, a company is encouraged to provide any additional information to further demonstrate and clarify the company's compliance with the FCC's Order.² A company should file and mark supporting documentation as "Proprietary."

d. Such supporting documentation shall be attested under oath to be true, by either the tariff administrator or the counsel filing the revised tariff.

e. Such supporting document shall be available to other Parties pursuant to 4 CSR 240-2.135(5).

f. If the company files more than one document in the case file, such subsequent filing shall be marked as "in response to" the first filing, so that all of that company's filings are linked in EFIS.

g. That the tariff filing shall include no other tariff revisions than the modifications necessary to set forth the rates for transitional intrastate access service to comply with the FCC's Order. Any other rate adjustments or tariff revisions to adjust local end-user rates, universal service subsidies or others, even if they are required

² If companies have any questions concerning the spreadsheet or any of the other supporting documentation, they should contact William (Bill) Voight at 573-751-4227.

under the same Order, will be filed separately under a tracking number only, as regular 30-day tariffs.

h. If the Staff or any other Party in the case believes that the tariff revisions are improper and files a request to suspend the tariff filing, then that suspension will result in a new contested case with a new case file number.

4. The Staff requests that the Commission issue an Order on or before April 1, 2012, requiring any incumbent or competitive local exchange company offering switched access service through a tariff to submit a tariff filing to comply with the FCC's Order at least 60 days prior to the effective date of the proposed tariff revision.

WHEREFORE, the Staff requests the Commission to issue an Order that (1) opens a case file, (2) orders companies to provide the requested tariff revisions and documentation, (3) reminds companies to appropriately mark confidential information, (4) requires the proposed tariff filings to be made at least 60 days prior to the effective date and (5) is issued on or before April 1, 2012.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 23rd day of March, 2012.

A handwritten signature in black ink, appearing to be "All Daily", written in a cursive style.