

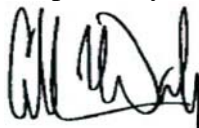
**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of a Proposed Amendment to)
4 CSR 240-32.190, Standards for Providing) **File No. TX-2011-0071**
Caller Identification Blocking Service)

STAFF COMMENTS

COMES NOW the Staff of the Missouri Public Service Commission and respectfully submits the Comments of Mr. John VanEschen in this rulemaking matter.

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 12th day of January, 2011.



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Comments of the Staff of the Missouri Public Service Commission

This proposed rulemaking simply deletes the following sentence from the existing rule, "...No telecommunications company shall knowingly provide per-line blocking to any other entity or person." The Staff of the Missouri Public Service Commission (Staff) supports the proposed rulemaking; however, Staff notes a potential conflict in a separate rule, 4 CSR 240-29.060(2), and will be proposing revisions to that rule in the near future. These comments provide background information about the rule targeted in this rulemaking, Staff's rationale for supporting this rulemaking and Staff's comments related to 4 CSR 240-29.060(2). .

Background Information on the Existing Rule

The Commission's Caller ID policies originate from the Commission's decision for Case No. TR-93-123.¹ In addressing blocking options the Commission determined free per-call blocking should be provided to all callers; however, it also determined per-line blocking should be limited to law enforcement and domestic violence intervention agencies along with the employees of those agencies, upon request. At that time the Commission did receive requests for broader availability of per-line blocking; however, the Commission stated, "...Per-line blocking would detract substantially from the service and the Commission finds insufficient evidence to require more blocking options than those proposed by SWB." The Commission later upheld this policy by dismissing a complainant's per-line blocking request in Case No. TC-97-80.²

The Commission established rules regarding Caller ID blocking provisions in Case No. TX-2004-0206. This rulemaking codified the Commission's policy decisions from Case No. TR-93-123 and remain in effect today.³ During the rulemaking process, the Commission received feedback that it should not establish the per-line blocking restriction within its rules. For instance, AT&T Communications of the Southwest, Inc.

¹ Report and Order for Case No. TR-93-123, *In the matter of Southwestern Bell Telephone Company tariff introducing "Caller ID Service", a new service*; issued March 18, 1993.

² Order Granting Motion to Dismiss for Case No. TC-97-80, *Gerald W. Masters, Complainant, vs. Southwestern Bell Telephone Company, Respondent*; issued March 7, 1997.

³ These rules originally went into effect on an emergency basis on October 6, 2003 and later permanent rules became effective March 30, 2004.

(AT&T) opposed the per-line block restriction.⁴ The Commission's Order of Rulemaking took note of this opposition by stating, "...AT&T said that although its own present tariff contains restrictions like those in the proposed rule, it believes that, in a competitive marketplace, it should be free to offer products that differentiate it from its competitors, so that its customers can have a choice of options and services. AT&T also said that this limitation on per-line blocking would increase its cost of doing business." In response to AT&T's comments the Commission stated, "...Allowing telecommunications companies to provide per-line blocking to others would dilute the value of the service and is not advisable."

Support for Approving This Rulemaking

This rulemaking should have minimal, if any, impact on companies.⁵ Approving this rulemaking does not require a company to expand per-line blocking availability. Companies can simply maintain the status quo or have the discretion to expand per-line blocking availability, including how it might be offered to the general public.⁶

Consumer reaction to this rulemaking may be mixed. Caller ID subscribers may not like the prospect of wider availability of per-line blocking because it may allow more entities to simply block caller information. On the other hand, some consumers appear to have a strong desire for per-line blocking. For instance, over the years consumers have contacted the Missouri Commission regarding their desire for per line blocking.⁷ Approving this rulemaking will allow companies to decide whether they want to try and address such consumer desires.

Staff sees no reason to maintain the current restriction preventing companies from offering per-line blocking to the general public. The primary rationale provided in the Commission's original Order of Rulemaking for maintaining the current restriction is expanding per-line blocking to others will dilute the value of the Caller ID service. In Staff's attempt to explain the Commission's per-line blocking restriction to consumers, most consumers appear dissatisfied with this reasoning.

⁴ These prior comments were made by AT&T Communications of the Southwest, Inc. a competitive local exchange carrier and should not be confused with AT&T Missouri, Inc. the incumbent local exchange carrier.

⁵ A draft of this rulemaking was previously circulated to the Missouri Telecommunications Industry Association whereby feedback was solicited; however, no feedback was received.

⁶ Companies will still be required to provide free per-line blocking to law enforcement and domestic violence agencies and their employees upon request; however, this rulemaking allows a company to expand per-line blocking availability. For instance, some companies may opt to charge the public a fee if they subscribe to per-line blocking or perhaps require a customer to subscribe to a package of services in order to obtain per-line blocking service. In contrast, other companies might offer per-line blocking for free.

⁷ Staff has not attempted to quantify these contacts; however, every year the Missouri Commission receives some inquiries on the customer's desire for per-line blocking. These contacts typically are from customers subscribing to non-published number service or unlisted number service who do not want to dial "*67" on each call in order to not reveal their telephone number to the called party.

The Commission's justification also seems outdated from the perspective of how other local voice service providers offer Caller ID service. For example, many wireless and interconnected VoIP providers automatically bundle Caller ID service with the company's basic service. In addition, most wireless carriers indicate per-line blocking is available for customers. For example, Verizon Wireless and Northwest Missouri Cellular offer free per line blocking. T-Mobile, Sprint and AT&T Wireless do not offer per-line blocking, but company officials admit certain phones can be programmed to provide the service. Such offerings weaken the Commission's previously stated justification for the per-line blocking restriction.

Staff's Comments Related to 4 CSR 240-29.060(2)

It has recently been brought to Staff's attention that if the Commission approves the proposed rulemaking then there will be a conflict in 4 CSR 240-29.060(2). This provision is contained in the Commission's Enhanced Records Exchange rules and is currently worded as follows:

(2) All originating carriers shall permit per-line blocking only for authorized federal, state, and local law enforcement agencies and private, nonprofit, tax-exempt domestic violence intervention agencies, and the employees of each who have a need for such blocking. When receiving a request for per-line blocking, each telecommunications company shall determine whether the request has been made by an authorized law enforcement or domestic violence intervention agency. Only after verification that a per-line blocking request satisfies this rule requirement may a telecommunications company enable per-line blocking.

Legal counsel advises revisions can only be made to rules identified in a pending rulemaking. If a party proposes a revision to a rule which is not identified in the pending rulemaking then the rule revision can only be accomplished through a separate rulemaking. Therefore Staff recommends the Commission promulgate another rulemaking to rescind this provision. Staff will be following Commission procedures to initiate the rulemaking process. Rescinding 4 CSR 240-29.060(2) will ensure greater clarity and consistency within the Commission's rules. Legal counsel also advises that the Commission cannot unilaterally waive or forbear from enforcing a rule for all companies. Therefore until 4 CSR 240-29.060(2) is rescinded, a company wishing to expand per-line blocking should be allowed to do so; however, the company should submit a waiver request of 4 CSR 240-29.060(2). Obtaining a waiver of this particular rule should be very simple and streamlined.⁸

⁸ One easy way for any company to obtain a waiver of 4 CSR 240-29.060(2) might be for the company to solely use the tariff filing process. For example, Staff anticipates a company will make a tariff filing if the company desires to expand per-line blocking. In the same tariff filing the company could simultaneously reflect a waiver of 4 CSR 240-29.060(2) since all waivers granted to a company are typically identified in a company's tariff.

In conclusion, Staff recommends the Commission approve this rulemaking. The Commission should simplify its rules and eliminate the per-line blocking restriction. Ultimately, companies should have the flexibility to determine whether to expand the availability of per-line blocking.

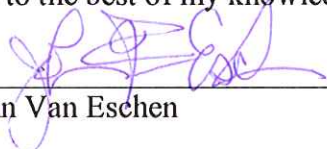
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AFFIDAVIT OF John Van Eschen

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

John Van Eschen, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that he has participated in preparing these comments. Any facts therein are true and correct to the best of my knowledge and belief.



John Van Eschen

Subscribed and affirmed before me this 10th day of January 2011





NOTARY PUBLIC