

**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 AT&T Missouri, for)	Case No. TE-2006-0053
A Waiver of Certain Requirements of 4 CSR)	
29.040(4).)	

**AT&T MISSOURI'S SUGGESTIONS
IN OPPOSITION TO APPLICATIONS FOR REHEARING**

AT&T Missouri¹ respectfully submits these Suggestions in Opposition to the Missouri Independent Telephone Company Group (“MITG”)² and the Small Telephone Company Group (“STCG”)³ Applications for Rehearing of the Missouri Public Service Commission’s (“Commission’s”) May 23, 2006 Order Clarifying Rule. Neither the MITG nor the STCG have raised any grounds that would merit rehearing and the Commission should deny their Applications.

1. The Missouri-Specific Category 11 Record is Not at Issue Here.

MITG and STCG,⁴ for the first time in this proceeding, appear to claim that the Missouri-Specific Category 11 record is the billing record at issue here and that the Commission’s rule,

¹ Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, will be referred to in this pleading as “AT&T Missouri.” It previously conducted business as “SBC Missouri.”

² The MITG filed its Motion for Rehearing of the May 23, 2006 Order Clarifying Rule on May 26, 2006.

³ The STCG filed its Application for Rehearing on June 1, 2006. For ease of reference, both the MITG Motion and the STCG Application will be referenced to as “Applications.”

⁴ STCG has concurred in and adopted MITG’s Motion for Rehearing. STCG Application at p. 1

“on its face, without ambiguity,”⁵ requires the Missouri-specific 11-01-XX billing record to contain CPN.⁶

The Commission should reject these claims outright. First, as neither MITG nor STCG raised these arguments when the case was tried before the Commission, they should not be permitted to raise them for the first time now in an application for rehearing.

Second, MITG and STCG’s claims are inconsistent with the testimony of their own witness. The record makes clear that throughout this proceeding, MITG/STCG witness Mr. Schoonmaker focused on the industry standard Category 11 record as defined by the Ordering and Billing Forum (“OBF”) Exchange Message Interface (“EMI”) document for wireless terminating traffic - - not on the Missouri-Specific Category 11 record.⁷ MITG and STCG’s new claim that this case deals with Missouri-Specific Category 11 records simply cannot be squared with the testimony they filed in the case.

And third, MITG and STCG’s new claim is just plain wrong. The Category 11 records at issue here are those used for calls wireless carriers directly terminate to the LEC network and follow the format prescribed by the OBF EMI document. The Missouri-Specific Category 11, on the other hand, was developed for Feature Group C (“FGC”) landline toll traffic pursuant to the Commission’s Order eliminating the Primary Toll Carrier (“PTC”) Plan in Case No. TO-99-254:

⁵ MITG Motion for Rehearing, p. 5.

⁶ Specifically, MITG states:

The definition of a Missouri-Specific category 11 record states that this record is “identical to a category 11-01-XX record except that it contains an originating company number (OCN) in positions 167 through 170 instead of a CIC in positions 46-49.” By the use of the word “IDENTICAL,” the Rule plainly provides that, in all respects except OCN and CIC, the Missouri-Specific 11-01-XX billing record is to be the same as the existing 11-01-XX billing record. The undisputed evidence in this case, agreed to by all parties, is that the existing 11-01-XX record does include CPN, even for wireless traffic carried by an IXC. As the Missouri-Specific 11-01 is only permitted to deviate from the 11-01 with respect OCN, and CIC, the Rule on its face as a matter of law requires CPN in a Missouri-Specific 11-01 billing record. MITG Motion for Rehearing, p. 1.

⁷ See Ex. 9NP, Schoonmaker Direct, pp. 8-13 and Schedules RCS 2 through RCS 4; and Ex. 10NP, Schoonmaker Rebuttal, pp. 3-5.

A Missouri-Specific Category 11-01-XX Record is a mechanized individual call detail record for feature group C (FGC) traffic developed by the incumbent local exchange carriers in Missouri for intercompany settlements pursuant to the MoPSC Report and Order in Case No. TO-99-254. This record contains data transferred from a 92-01-XX mechanized call detail record. The first two digits in this record are “11.” This type of call record is identical to a category 11-01-XX record except that it contains an originating operating company number (OCN) in positions 167 through 170 instead of a CIC in positions 46 through 49.⁸

As the Commission is aware, the 92-01-XX mechanized call detail record referenced in this definition is the individual call detail record created for LEC-originated toll calls.⁹ At the time the Missouri-specific 11-01-XX billing record was created, carriers in Missouri, pursuant to the Commission’s Order in TT-97-524, were creating the Cellular Transiting Usage Summary Report (“CTUSR”) to bill intercompany compensation on wireless traffic.¹⁰ It was not until mid 2004 that AT&T Missouri began providing Category 11-01-XX records on wireless traffic, and when it did, it followed the industry standard 11-01-XX record for wireless traffic as specified in the OBF EMI document.¹¹

Finally, MITG and STCG improperly persist in attempting to confuse traffic that may have originated on a cell phone but terminated to the LEC network by an IXC with traffic terminated to the LEC network directly by a wireless carrier.¹² As undisputed evidence shows, these two types of traffic are very different, both from the technical and the regulatory perspectives. Wireless-originated IXC traffic is brought into the LEC network over FGD access trunk groups, which are specific types of trunks dedicated to IXCs.¹³ For such traffic, the

⁸ 4 CSR 240-29.020(5).

⁹ Ex. 9NP, Schoonmaker Direct, pp. 7-8.

¹⁰ Ex. 9NP, Schoonmaker Direct, pp. 6-8. Schoonmaker T. 361-362.

¹¹ Ex. 1NP, Read Direct, pp. 4-5.

¹² MITG and STCG state that “the undisputed evidence in this case, agreed to by all parties, is that the existing 11-01-XX record does include CPN, even for wireless traffic carried by an IXC.” MITG Motion for Rehearing, pp. 1, 5.

¹³ Schoonmaker T. 389, 391.

Telcordia Technologies GR-1504 standards require a Call Code 119 AMA record to be created by the switch for each call. On the other hand, traffic terminated to the LEC network directly by a wireless carrier is handled over specific types of trunk groups dedicated to wireless carrier traffic. For that type of traffic, the Telcordia GR-1504 requires a Call Code 66 AMA record.¹⁴

And from a regulatory perspective, these two types of traffic are different as well. Traffic IXCs terminate to the LEC network, even if originated on a cell phone (e.g., a cell phone call from Colorado Springs to Jefferson City), are all treated as long distance FGD calls and are subject to the applicable federal or state access tariffs.¹⁵ On the other hand, most calls directly terminated to the LEC network by wireless carriers are not billed under the access tariff.¹⁶ Rather, such traffic, in accordance with the federal Telecommunications Act, is handled under interconnection agreements,¹⁷ which apply specific FCC rules requiring intercompany compensation for wireless calls that originate and terminate within a Metropolitan Trading Area (“MTA”) to be paid at lower local reciprocal compensation rates.¹⁸ (And until April 25, MITG and STCG even had separate tariffs for traffic they terminated directly from wireless carriers.¹⁹)

2. The Commission’s Order Contains Adequate Findings of Fact and Conclusions of Law.

STCG claims that the Commission’s Order Clarifying Rule “fails to make adequate Findings of Fact and Conclusions of Law to support its decision that CPN is not required by the rule or in the Category 11 billing records for wireless calls.”²⁰ More specifically, STCG attempts

¹⁴ Constable T. 194-195.

¹⁵ Schoonmaker T. 389.

¹⁶ Schoonmaker T. 391.

¹⁷ Schoonmaker T. 393.

¹⁸ Schoonmaker T. 393-394.

¹⁹ Schoonmaker T. 395.

²⁰ STCG Application for Rehearing, p. 1.

to fault the Commission for not addressing the testimony of STCG and MITG witness Robert Schoonmaker “regarding what is required to be included in the industry-standard Category 11 billing records.”²¹

The Commission’s Order is not deficient and did not need to specifically reject Mr. Schoonmaker’s testimony concerning the composition of Category 11 billing records. By its Report and Order, the Commission clearly recognized that only AT&T Missouri witnesses Constable and Read had knowledge of whether or not it was standard industry practice to include CPN in the Category 11 record for calls wireless carriers directly terminate to the LEC network. In fact, Mr. Read has been a member of the OBF since 1997 and personally participated in the creation of the OBF EMI document for wireless traffic records and in the maintenance of those standards.²² MITG/STCG witness Schoonmaker, on the other hand, was not previously involved in the developed of OBF standards and testified that he did not know for certain whether CPN has ever been populated as a standard practice in Category 11 records for such traffic.²³

The courts have held that Sections 386.420.2 and 536.090 require Commission decisions or orders to be in writing, including findings of fact and conclusions of law.²⁴ More specifically, the court has explained that in order to provide for meaningful review, the Commission’s findings

must articulate the 'basic facts from which [the Commission] reached its ultimate conclusion regarding disposition of the case. While detailed factual summaries are not needed there, nevertheless, must be sufficient findings of fact to determine how the controlling issues were decided by the Commission.’²⁵

²¹ STCG Application for Rehearing, p. 2.

²² Ex. 2NP, Read Rebuttal, pp. 2-3.

²³ Schoonmaker, T. 314.

²⁴ State ex rel. Coffman v. Pub. Serv. Comm’n, 121 S.W.3d 534, 542 (Mo. App. 2003); AT & T Communications of the Southwest, Inc. v. Pub. Serv. Comm’n, 62 S.W.3d 545, 546-47 (Mo. App. 2001); State ex rel. Noranda Aluminum, Inc. v. Pub. Serv. Comm’n, 24 S.W.3d 243, 244-45 (Mo. App. 2000).

²⁵ State ex rel. Coffman, 121 S.W.3d at 542 (citations omitted).

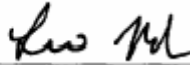
Here, the Commission's Order Clarifying Rule clearly makes a specific factual finding that "for wireless calls, it is not industry-standard practice to include the CPN in that field." And the Commission specifically identifies the testimony it credited to support that factual finding. This factual finding is certainly sufficient to enable a court on review to determine how the Commission decided the controlling issue in this case (i.e., whether Rule 20.040(4) requires inclusion of CPN as part of the Category 11 billing record for wireless calls).

WHEREFORE, AT&T Missouri respectfully requests the Commission to deny MITG and STCG's Applications for Rehearing of the Commission's May 23, 2006 Order Clarifying Rule.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.
d/b/a AT&T MISSOURI

BY

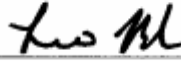


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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on June 5, 2006.



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