

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

In the Matter of a Proposed Rule to Require All Missouri)	
Telecommunications Companies to Implement an)	
Enhanced Record Exchange Process to Identify the)	<u>Case No. TX-2003-0301</u>
Origin of IntraLATA Calls Terminated by Local Exchange)	
Carriers.)	

CONCURRING OPINION OF COMMISSIONER CONNIE MURRAY

In its July 28, 2005 order, the Commission voted to deny Southwestern Bell Telephone Company, L.P. d/b/a SBC Missouri's ("SBC Missouri") application for rehearing in this rulemaking docket¹ but granted, in part, SBC Missouri's alternative request for a temporary waiver of the application of 4 CSR 240-5.040(4). I voted for the order because it grants SBC Missouri a small amount of relief while Commission Staff investigates the full impact of the rule requirements. I am convinced, however, that this rule, as well as the other enhanced record exchange rules, imposes excessive costs and unnecessary regulatory burdens on the Missouri telecommunications industry.

SBC Missouri requested the waiver of the provisions of 4 CSR 240-9.040(4) because it believes the company currently cannot comply with the Commission's requirements for implementation of the rule that calls for an incumbent local exchange carrier ("ILEC") to include the Calling Party Number ("CPN") in the Category 11-01-XX billing records for wireless-originated calls.² SBC Missouri argued that the tracking of the CPN is entirely unnecessary information because other data already captured by

¹ SBC Missouri's application for rehearing requested relief from several technical provisions of the rule. While I agree with SBC Missouri's allegations in its Application for Rehearing, I agree with the Commission's determination that a rehearing is inappropriate at this time. However, I do advocate that the Commission should rescind these rules.

² According to the language of the rule, this is to be done upon request of a terminating carrier and at no cost to the terminating carrier. See 4 CSR 240-29.040(4).

the company are sufficient for billing purposes. Industry standards do not require that the originating CPN be captured in the accounting records for wireless-originated calls. Rather, industry standards rely on the capture and recording of billing account numbers in the creation of billing records because this information is more reliable.³ I agree with SBC Missouri that the enhanced record exchange rules will impose unwarranted costs and unnecessary regulatory burdens on Missouri telecommunications companies.⁴

SBC Missouri also asserted in its request for a waiver that it currently is not technically feasible for its network switches to track and record the CPN. SBC Missouri asserted that it needed at least one year to investigate whether its 5 ESS tandem switches have the technical capacity required by the rule and to complete necessary changes to its record creation and billing systems to include the CPN in billing records. This is time-consuming and expensive work that could take even longer than a year to complete. If the Commission is unwilling to withdraw its requirement for CPN to be included in billing records, it should, at the very least, be willing to give SBC Missouri sufficient time to upgrade its network switches and to create and install the necessary software for its record creation and billing systems.

During the Commission's discussion of the order, the question of why SBC Missouri waited until now to bring up this concern was raised. The answer is that the proposed rule 4 CSR 240-29.040(4) says nothing about requiring CPN to be captured and included in the billing records for wireless traffic. Nothing in the testimony or

³ The CPN will not always indicate which wireless carrier actually originated the call because some wireless companies who have spare capacity contract to carry traffic for other wireless carriers. In addition, because of wireless number portability, the CPN originally assigned to one wireless carrier may no longer belong to that wireless carrier.

⁴ I would note that the fiscal impact for 4 CSR 240-29.040 stated that this rule would not cost private entities more than five hundred dollars in the aggregate for the life of the rule. As SBC Missouri has pointed out in its verified application – this conclusion is completely erroneous.

comments of Staff indicated that the CPN would be required. The CPN requirement is solely based on the Commission's response in the final Order of Rulemaking published in June 2005. SBC Missouri could not have addressed such a technical issue if it did not have sufficient notice of the Commission's intent. It was not until June 2005 that SBC Missouri finally had the opportunity to review this new requirement. Only then did SBC Missouri have reason to argue that the inclusion of the originating CPN will not enhance the usefulness of the record for billing purposes, as the CPN for wireless-originated calls is unreliable and can often result in erroneous billing. I believe SBC Missouri raised this issue in a timely manner after realizing how the Commission would enforce its rule.

Further, I believe the Commission should not have moved forward with finalizing these rules. The Federal Communications Commission ("FCC") is currently reviewing many of the issues that the enhanced record exchange rules attempt to address.⁵ Given this major development at the federal level, and the lack of evidence that any urgent problems exist, the Commission should wait until the FCC makes its final determination in these complex and controversial matters. Once the FCC issues its changes to the standards of intercarrier compensation, it is likely the Commission will have to amend these very rules. Given our rulemaking processes, this will be time-consuming and costly.


This Commission has the duty to balance the needs of the industry with the needs of consumers. It is not our duty to impose bureaucratic decisions on telecommunications carriers that will require unnecessary and costly investments.

⁵ In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, Further Notice of Proposed Rulemaking, released March 3, 2005.

These costs ultimately will be shouldered by the very consumers whose needs we are charged to consider in these decisions.

As more information comes to light, I remain convinced that the enhanced record exchange rules are over-burdensome and unnecessary and should be rescinded as soon as it is feasible under Chapter 536, RSMo.

Respectfully submitted,


Connie Murray, Commissioner

Dated at Jefferson City, Missouri
on this 3rd day of August, 2005.