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	)	Case No. TX-2003-0301
Process to Identify the Origin of IntraLATA	)	
Calls Terminated by Local Exchange Carriers	)	

THE SMALL TELEPHONE COMPANY GROUP'S
COMMENTS ON PROPOSED ENHANCED RECORD EXCHANGE RULE

I. INTRODUCTION

The Small Telephone Company Group ("STCG")[1] has fully participated in the cases and industry meetings that led up to the publication of the proposed Enhanced Record Exchange ("ERE") Rule, and the STCG now offers the following background information and comments. First, the STCG will first provide a brief history of the Commission proceedings that gave rise to the proposed ERE rule. Second, the STCG will address the problem of unidentified traffic and the drawbacks of the present situation where small carriers bear 100% of the risk for unidentified traffic. Finally, the STCG will highlight the positive aspects of the proposed ERE rule and suggest certain areas where the ERE rule could be improved.

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[1] BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Mo., Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Fidelity Telephone Company, Goodman Telephone Company, Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo Telephone Company, Kingdom Telephone Company, KLM Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, McDonald County Telephone Company, Mark Twain Rural Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Peace Valley Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company

II. HISTORICAL BACKGROUND

A. The Primary Toll Carrier (PTC) Plan

On October 23, 1987, the Commission issued a *Report and Order* which adopted an industry proposal for a Primary Toll Carrier ("PTC") Plan to replace the intraLATA toll pool.[2] At the outset of the PTC Plan, five Missouri incumbent local exchange carriers (ILECs) served as Primary Toll Carriers ("PTCs") and were responsible for providing intraLATA toll service to the other Missouri ILECs that served as Secondary Carriers ("SCs").[3] Under this arrangement, the PTC delivering terminating intraLATA toll traffic to an SC access tandem or end office was responsible for compensating the SC for all traffic so delivered, regardless of whether the delivering PTC also originated the traffic. SCs were compensated for terminating traffic through terminating to originating ("T/O") ratios.

The PTC Plan lasted for over eleven years, but it became problematic for a number of reasons. First, legal and technical challenges arose after the Telecommunications Act of 1996 ("the Act") mandated intraLATA toll dialing parity (i.e. choice of intraLATA toll carriers).[4] Second, the PTCs sought the end of the PTC Plan for financial reasons. For example, Southwestern Bell testified that it lost approximately $18 million during 1998 by providing intraLATA toll to secondary carriers in Missouri.[5] The Commission initiated a series of cases to investigate the PTC Plan, and the Commission issued a *Report and*

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[2] *In the Matter of the Investigation in WATS Resale by Hotels/Motels*, Case No. TO-84-222, *Report and Order*, issued Oct. 23, 1987. At that time, the Commission found that the PTC Plan "meets the concerns of parties concerning control of network facilities, and promotes the efficient design of the Missouri toll network by placing responsibility with those LECs who own the toll complexes." *Id*. at p. 9.

[3] The five Missouri ILECs were SBC Missouri f/k/a Southwestern Bell Telephone Company, Sprint Missouri Inc., Contel, GTE Midwest (now CenturyTel/Spectra), and Fidelity Telephone Company. During the term of the PTC Plan, two of the original PTCs merged (i.e. Contel and GTE) with GTE surviving.

[4] *See* 47 U.S.C. §251(b)(3).

[5] *See* Southwestern Bell witness Gerdes Direct, Ex. 28, Schedule 3, *In the Matter of the Investigation*

Order in Case No. TO-99-254 on June 10, 1999 finding that the PTC Plan was incompatible with competition and intraLATA dialing parity. Accordingly, the Commission ordered the end of the PTC Plan and the implementation of intraLATA dialing parity.

The PTC Plan's elimination relieved SWBT of the obligation to pay approximately $18 million each year to the SCs.[6] The elimination of PTC Plan also led to the abrupt transformation from the T/O ratio arrangement to the use of actual terminating usage, but it left open a number of questions about the business relationship between the former PTCs and the former SCs. The primary unresolved issues were: (1) the question of responsibility for traffic originated by other carriers but "transited" over the former PTCs' facilities before terminating to the former SCs, and (2) the problem of unidentified, unreported, and uncompensated traffic delivered by the former PTCs to the former SCs.

B. Case No. TO-99-593 and the Network Test

When the Commission ordered the end of the PTC Plan, it recognized concerns raised by the STCG about the "business relationship" to be utilized for terminating traffic delivered by former PTCs in a competitive intraLATA environment. Specifically, the Commission noted concerns about signaling protocols (i.e. the continued use of Feature Group C (FGC) signaling protocol in a competitive environment), the potential for disparities in compensated versus recorded terminating traffic resulting from originating records, and

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Concerning the Primary Toll Carrier Plan, Case No. TO-99-254.

[6] *Id*. Other former PTCs also experienced substantial savings. For example, Sprint testified that it lost approximately $600,000 per year in provisioning toll to SC exchanges. *In the Matter of an Investigation Concerning the Continuation or Modification of the Primary Toll Carrier Plan*, Case No. TO-97-217, *Report and Order*, issued Mar. 12, 1998, p. 12. The Commission recognized that the former PTCs would realize substantial savings when it eliminated the PTC Plan. For example, the Commission observed, "Any additional expense [the provision of standard "Category 11" records] will cause the PTCs is dwarfed by the elimination of the revenue losses they assert they are suffering under the PTC plan." *In the Matter of an Investigation of the Primary Toll Carrier Plan*, Case No. TO-99-254, *Report and Order*, issued June 10, 1999, p. 14.

concerns regarding the use of different business relationships for intraLATA traffic delivered by former PTCs as opposed to intraLATA traffic delivered by other interexchange carriers (IXCs). Accordingly, on June 19, 1999, the Commission established Case No. TO-99-593 to investigate “signaling protocols, call records, trunking arrangements and traffic measurement.”[7]

On July 16-17, 2000, the parties conducted a Network Test where the terminating usage recorded by a group of small companies was compared with the originating records provided by the former PTCs. The initial results of the Network Test confirmed the STCG’s concerns about the use of originating records. For the nine small companies analyzed, less than 76% of the terminating records had matches from the originating records. Stated another way, the originating records (which the small companies use to bill terminating access) only captured 75% of the total traffic terminating to the small companies. The other 25% of the terminating traffic was “unidentified” (i.e. the originating carrier was unknown) and thus unbillable. On an individual company basis, the percentage of matched records was as low as 41.1%. These results demonstrated that the originating records being produced and/or passed by the former PTCs were not providing an accurate and complete picture of the total amount of traffic terminating to the small companies.

[7] *In the Matter of the Investigation Concerning the Primary Toll Carrier Plan*, Case No. TO-99-254, *Report and Order*, p. 19.

One of the most significant discrepancies revealed by the Network Test was SWBT's Local Plus recording problem.[8] As a result of the Network Test, SWBT discovered that it was not recording Local Plus traffic in a number of its switches and exchanges around the state. Although Local Plus was implemented in December of 1998, the Local Plus recording problem was not identified until August of 2000, shortly after the Network Test. SWBT's unrecorded Local Plus traffic amounted to several hundred thousand dollars of access revenue to various LECs throughout the state.

SWBT's Local Plus recording problem illustrates the serious shortcomings of the originating records system. It is also a lesson in the serious impacts the current system can have on small companies. For example, Mid-Missouri Telephone Company was not being compensated for more than 50% of the traffic it was terminating. In short, the evidence in Case No. TO-99-593 demonstrated that the sum of the parts (i.e. the originating records received by the small companies) does not equal the whole (i.e. the traffic terminating to the small companies). Even after correction for SBC's Local Plus problems, the Network Test established that the former SCs were receiving records for fewer total minutes than they were actually terminating.

C. Ordering and Billing Forum (OBF) Issue No. 2056

In response to the problems revealed by the Network Test, various parties proposed solutions, including a proposal by the small companies for a new "business relationship" and Verizon's (formerly GTE) proposal to adopt Ordering and Billing Forum (OBF) Issue No. 2056. On December 13, 2001, the Commission issued an order directing the

[8] Although this problem was pointed out to SWBT, SWBT was unable to identify and correct it in a timely manner. In fact, the problem was identified only as a result of the coincidence that the Network Test was

implementation OBF Issue No. 2056 in hopes of reducing the number of billing discrepancies and making it easier to resolve such discrepancies when they do arise.[9] Unfortunately, OBF Issue 2056 did not resolve the issues, and the Commission and the industry subsequently recognized this fact.[10]

D. Enhanced Records Exchange (ERE) Rule

On January 28, 2003, the Commission directed its Staff to proceed with drafting a rule to address the objectives it had previously sought to achieve through the adoption of OBF Issue 2056:

> Issue 2056, when implemented, will streamline record exchanges and provide a local and intraLATA meet-point record exchange process. It will set up a consistent meet-point (or similar) process for records exchanges for facilities-based LECs, CLECs, and wireless carriers covering access, local, and intraLATA usage. It specifies that each provider will be responsible for recording its own originating and terminating usage, allowing LECs to bill terminating usage and/or do bill validation. Issue 2056 provides that any carrier that handles a call can get records from any other carrier handling the call, and so may make it easier to track down discrepancies and identify the appropriate carrier to bill. A terminating LEC will be able to request records from all carriers back to the one originating the call to ensure that it can bill the proper carrier for termination.

Staff worked diligently to draft a rule that achieves these objectives and sought comments from the industry. The STCG provided comments to Staff during the drafting process, and the STCG appreciates Staff's efforts and the opportunity for input and participation.

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being conducted in Case No. TO-99-593.

[9] Ironically, the main proponent of OBF Issue No. 2056 – Verizon Midwest (formerly GTE) – sold its Missouri exchanges and is no longer doing business in Missouri.

[10] *In the Matter of the Investigation into Signaling Protocols, Call Records, Trunking Arrangements and Traffic Measurement*, Case No. TO-99-593, *Order Denying Motion*, issued Jan. 28, 2003; *see also* Staff's May 7, 2002 Status Report on the Implementation of OBF Issue No. 2056, and Staff's August 7, 2002 Report as to the Efficacy of Issue 2056 in Reducing Billing Discrepancies.

III. THE PROBLEM WITH ORIGINATING RECORDS AND UNIDENTIFIED TRAFFIC.

The STCG's concerns regarding "originating records" and "originating carrier" compensation have been well documented over the last five years. Testimony and network tests demonstrate that small LECs have suffered the loss of compensation on material amounts of traffic. For example, the Network Test in Case No. TO-99-593 and subsequent studies show that the small companies are not compensated for some of the traffic being delivered by the former PTCs.

There is no dispute that the STCG received unidentified and uncompensated traffic from the former PTCs. Unidentified and uncompensated traffic continues to be delivered by the former PTCs. The STCG member companies presently bear 100% of the risk for such traffic. The former PTCs have been held financially harmless for this traffic, so they have no incentive to address the problem. The proposed ERE rule is a first step towards solving this problem and assuring that the small companies receive compensation for all of the compensable traffic they terminate.

The STCG companies should not be forced to bear the risk for the former PTCs' recording mistakes and the unidentified traffic the former PTCs allow on the network. The originating records system places the small companies at a distinct disadvantage by: (1) making the small companies bear 100% of the risk for the former PTCs' recording mistakes, as well as any unidentified traffic that the former PTCs allow to be placed on the network; and (2) requiring the small companies to locate "upstream" carriers and establish contractual or tariff and billing relationships with those carriers even though the small companies have no direct relationship with them.

IV. STCG COMMENTS ON PROPOSED RULE

The STCG believes that the Commission's proposed ERE Rule is a first step towards resolution of a problem that is long overdue, but there are still improvements that could be made to the proposed ERE Rule. The STCG's comments will first focus on the positive aspects of the proposed rule and then address the areas that could be improved.

A. Positive Aspects of the Proposed ERE Rule

As a threshold matter, the Commission's proposed ERE Rule will provide a set of "rules of the road" for all carriers to create and pass records in a post-PTC environment. This is an important step forward. There are a number of other specific provisions in the proposed rule that will also provide clarity and reduce the possibility for unidentified and unbillable traffic being delivered to the STCG member companies.

1. InterLATA and InterMTA Traffic

The proposed ERE rule prohibits interLATA wireline traffic and interMTA wireless traffic from being placed on the LEC-to-LEC (FGC) network. *See* 4 CSR 240-29.010 and 29.030(3). The STCG supports this limitation on the LEC-to-LEC network as it will prevent additional types of traffic from being delivered that may be unidentified and unbillable.[11]

[11] The proposed ERE Rule prohibits the transmission of interLATA wireline and interstate/interMTA traffic over the "LEC-to-LEC" network, and the Rule requires that such traffic must originate and terminate with the use of an interexchange carrier point of presence. 4 CSR 240-29.010(1). The STCG is concerned that Missouri's largest ILEC, SBC Missouri, has plans to use the LEC-to-LEC network for its intrastate, interLATA traffic without the use of an interexchange carrier's point of presence to originate or terminate the traffic.
SBC Missouri's network presently connects all of SBC's tandems. An increase in traffic over the "LEC-to-LEC" network is only likely to compound the likelihood of further problems with uncompensated and unidentified traffic, as demonstrated by SBC's failure to produce records for Local Plus traffic. The STCG is concerned that this definition may allow SBC Missouri to circumvent the rule, and the STCG believes that the proposed ERE Rule should be clarified to prevent SBC Missouri from delivering intrastate interLATA traffic as FGC protocol.

2. IXC Traffic and Feature Group D Network

The proposed ERE Rule specifically provides that it will not alter or change "the record creation, record exchange, or billing processes currently in place for traffic carried by interexchange carriers using feature groups A, B, or D protocols." 4 CSR 240-29.030(6). The STCG supports this clarification.

3. Delivery of Originating Caller Identification

The proposed ERE Rule requires the delivery of originating caller identification ("Caller ID") by both the originating and transiting carrier. *See* 4 CSR 240-29.040(1),(2), and (6). The STCG supports this requirement because it will increase all carriers' ability to track and account for traffic delivered over the LEC-to-LEC (FGC) network. It will also ensure that customers who subscribe to Caller ID service will receive more calling party numbers, thus making the service more valuable and reducing customer complaints.

4. Industry Standard Record Format

The proposed ERE Rule requires the use of industry standard category 11-01-XX records when requested by a terminating carrier. 4 CSR 240-29.040(3),(4), and (5). This requirement is consistent with the Commission's prior order in Case No. TO-99-254 which states:

> [T]he Commission will order the provision of standard "Category 11" records. This will provide the SCs better information about calls terminated to them. Any additional expense this will cause the PTCs is dwarfed by the elimination of the revenue losses they assert they are suffering under the PTC plan.[12]

[12] *In the Matter of an Investigation of the Primary Toll Carrier Plan*, Case No. TO-99-254, *Report and Order*, issued June 10, 1999, p. 14.

Category 11-01-XX records will facilitate billing for traffic delivered to the STCG member companies by the former PTCs, and the STCG supports this provision in the rule.

5. Terminating Records and Terminating Billing

Terminating carriers may utilize information received from originating and/or transiting carriers to prepare category 11-01-XX records to generate bills for the originating carrier under the proposed ERE Rule. 4 CSR 240-29.080(1). This provision is consistent with standard billing practices where service providers generate bills for the use of their services, and the STCG member companies support this provision.

6. Separate Trunk Groups

Terminating carriers may elect to establish separate trunk groups for interexchange carrier (IXC) and LEC-to-LEC traffic under the proposed ERE Rule. 4 CSR 240-29.050(1). This choice is particularly appropriate in a competitive environment, and the STCG supports this provision in the proposed ERE Rule.

7. Timely Exchange of Records and Payments

The proposed ERE Rule requires the timely provision of records and payments to terminating carriers. 4 CSR 240-29.090(1) and (2). This provision is appropriate and consistent with common business practices, and the STCG supports this portion of the proposed ERE Rule.

8. Dispute Resolution Process

The Commission's proposed ERE Rule establishes a dispute resolution procedure to resolve objections to invoices received from terminating carriers. 4 CSR 240-29.100. The STCG supports the concept of a dispute resolution procedure to facilitate expeditious resolution of billing disputes and discrepancies.

9. Blocking Procedures

The proposed ERE Rule establishes parameters and procedures for transiting carriers to block traffic of originating carriers that fail to comply with the Commission's ERE Rule. 4 CSR 240-29.120. The proposed ERE Rule specifically observes that originating carriers may use alternative options to deliver traffic. The STCG supports the blocking provision as an appropriate and necessary enforcement mechanism when carriers fail to pay for their traffic, provide appropriate records, or deliver originating caller identification to the transiting carrier.

10. Audit Provisions

The proposed ERE Rule establishes parameters and procedures for the audit of intercompany billing records. 4 CSR 240-29.160. This provision will allow carriers to audit the records and processes which contain the information required by the ERE Rule. The STCG supports this provision in the proposed rule.

B. Proposed Revisions to ERE Rule

1. Feature Group A, B, and D Protocols

The proposed ERE Rule provides that "no carrier shall terminate traffic on the LEC-to-LEC network when such traffic was originated by or with the use of Feature Group A, B, or D protocol trunking arrangements." 4 CSR 240-29.030(4). In many cases, there is only one trunk group connecting a small company end office to a tandem switch (i.e. a common trunk group). This common trunk group carries FGC (LEC-to-LEC) traffic and FGD (IXC) traffic. It is therefore not uncommon for traffic to originate via FGD protocol and terminate via FGD protocol on the LEC-to-LEC network. The important distinction is that such FGD traffic does not terminate as FGC traffic, and the STCG would therefore suggest that the proposed ERE Rule language at 4 CSR 240-29.030(4) be revised as follows:

> No carrier shall terminate traffic on the LEC-to-LEC network ***as Feature Group C traffic*** when such traffic was originated by or with the use of feature group A, B or D protocol trunking arrangements.

This revision takes into account the fact that FGD traffic does terminate over the LEC-to-LEC network, and it preserves the proposed ERE Rule's intent to prevent such traffic from terminating as FGC traffic.

2. Residual Billing

The proposed ERE Rule does not address the inherent problem of inappropriate incentives for the former PTCs. Under the present arrangement, the STCG member companies bear 100% of the risk for unidentified and uncompensated traffic that is delivered by the former PTCs. Thus, the former PTCs have no liability for (and therefore no incentive to address) the problem of unidentified and uncompensated traffic that is delivered to the STCG member companies.

The proposed ERE Rule as written does provide a dispute resolution process to address this issue, but it should include a provision to address residual billing. The STCG proposes adding the following subsection to the proposed ERE Rule at 4 CSR 240-29.090:

> ***(4) A terminating carrier that is not able or elects not to create industry standard category 11-01-xx records at its end office(s) or tandem switch may nevertheless record total telecommunications traffic terminating to***

> ***its end office or tandem switch. If total telecommunications traffic terminating to its end office(s) or tandem switch exceeds the sum of all terminating telecommunications traffic as shown on the industry standard category 11-01-xx records (i.e. unidentified traffic), then the terminating carrier may submit an invoice to the directly connected tandem switch owner for this unidentified traffic. The directly connected tandem switch owner shall be responsible for paying the terminating carrier for this unidentified traffic to the extent the directly connected tandem switch owner cannot provide, to the terminating carrier, within sixty (60) days of receipt of the invoice, industry standard category 11-01-xx records for such unidentified traffic.***

This residual billing provision will address the incentives problem and provide the STCG companies with an appropriate procedure for relief in the event that unidentified and uncompensated traffic continues to flow over the LEC-to-LEC network.

Other state commissions have imposed similar residual billing obligations on large Bell Operating Companies. For example, the Michigan Public Service Commission imposed a similar residual billing obligation on Ameritech/Michigan Bell (now part of SBC):

> The language to which Ameritech objects is intended to require the party that accepts intraLATA toll traffic for delivery to the other party to bear the responsibility for failing to identify the originating carrier. Ameritech Michgan's objections are without merit. ***Climax cannot bill the originating carrier if it does not have the identification information that it requires***.

The delivering carrier is in a superior position to identify the originating carrier.[13]

The same reasoning applies in Missouri, and the STCG urges the Commission to include a residual billing provision in the ERE Rule.

3. Blocking Provisions

The proposed ERE Rule contains necessary provisions for blocking unidentified and uncompensated traffic, but it is inappropriate to make terminating carriers bear the cost for blocking unidentified and uncompensated traffic, particularly where the originating or transiting carrier has acted in a manner contrary to the rules. It is more appropriate for the originating and/or transiting carrier to bear the cost of blocking the unidentified and uncompensated traffic that they place on the LEC-to-LEC network. Therefore, the STCG proposes the following revisions to the proposed ERE Rule:

> 29.130(10). If an originating carrier and/or traffic aggregator file(s) a formal complaint, the terminating carrier and originating tandem carrier shall cease blocking preparations, pending the commission's decision. In all instances of blocking requests by a terminating carrier, the costs associated with blocking shall be borne ***initially*** by the terminating carrier, even if blocking is ultimately not implemented***. As a general rule, unless the commission determines otherwise, the terminating carrier shall be entitled to recover its costs of blocking from the originating carrier***. The obligation

[13] *In the Matter of the Petition of Climax Telephone Company for Arbitration of Interconnection Rates, Terms, and Conditions with Michigan Bell Telephone Company d/b/a Ameritech Michigan*, Case No. U-11340, 1997 Mich PSC LEXIS 180, *Order Adopting Arbitration Agreement*, issued June 25, 1997 at *18 (emphasis added).

to establish an escrow account will also cease, pending further direction from the commission.

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29.140(7). If the transiting carrier files a formal complaint, the terminating carrier will cease blocking, pending the commission's decision. **[~~In all instances of blocking by a terminating carrier, the costs associated with blocking shall be borne by the terminating carrier, even if blocking is ultimately not implemented~~.]** ***As a general rule, unless the Commission determines otherwise, the costs associated with blocking shall be borne by the transiting carrier, even if blocking is ultimately not implemented.***

These revisions will provide a more equitable allocation of blocking costs between those carriers that are responsible for placing unidentified and uncompensated traffic on the LEC-to-LEC network (i.e. the originating and transiting carriers) and those companies that receive the traffic.

4. Subsequent Review and Sunset Provision

The efficacy of the proposed ERE Rule should be examined in the future to ensure that it is eliminating unidentified and uncompensated traffic from the LEC-to-LEC network. This review should be accomplished within three years in order to ensure that the proposed ERE Rule is actually working. The STCG proposes that the following sunset provision be added as a new section 4 CSR 240-29.170:

These rules shall expire three (3) years after the date of their implementation unless the commission determines after notice to all affected telecommunications companies and opportunity for hearing that these rules have achieved their stated goals and specifically that unidentified and uncompensated traffic transiting/transporting and/or terminating on the LEC-to-LEC network has been eliminated.

This sunset provision will provide for a Commission review of the proposed ERE Rule's effectiveness in eliminating unidentified and uncompensated traffic.

V. CONCLUSION

Although the Commission's proposed ERE Rule is a good first step towards resolving the problem of unidentified and uncompensated traffic on the LEC-to-LEC network, the STCG's proposed modifications would do more to ensure that the problem of unidentified and uncompensated traffic is resolved.

Respectfully submitted,

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