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February 2, 2004

FILED

FEB 0 2 2004

Missouri Public Service Commission

Secretary
Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

Re: MITG Reply to Opposition of Staff and SBC to Motion for Prehearing Conference, Hearing, Tariff Declaration
Case No. TO-99-593

Dear Secretary:

Enclosed please find an original and eight copies of the MITG Reply to Opposition of Staff and SBC to Motion for Prehearing Conference, Hearing, Tariff Declaration in the above referenced case. A copy has been sent to all attorneys of record.

Thank you for seeing this filed.

Sincerely,

Craig S. Johnson

CSJ:lw

Encl.

CC: Public Service Commission
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STATE OF MISSOURI

PUBLIC SERVICE COMMISSION

In the Matter of the Investigation into Signaling Protocols, Call Records, Trunking Arrangements, and Traffic Measurement.	))))	TO-99-593

MITG REPLY TO OPPOSITION OF STAFF AND SBC TO MOTION FOR PREHEARING CONFERENCE, HEARING, TARIFF DECLARATION

1. On January 20, 2004, the MITG filed a Motion for Prehearing Conference, Hearing, and Tariff Declaration as to: (a) the necessity or advisability of different treatment for traffic placed on the "LEC to LEC" or Feature Group C (FGC) network than that afforded traffic placed on the "IXC" or Feature Group D (FGD) network for termination; (b) a declaration of the effect of small ILEC access tariff provisions providing that, when Feature Group D becomes available, Feature Group C will no longer be available; (c) the billing record ceation and exchange to be utilized for traffic placed upon the "LEC to LEC" or FGC network for termination; (d) the financial responsibility to be utilized for traffic placed upon the "LEC to LEC" or "FGC network" for termination; and (e) the compensation responsibilities for uncompensated "transit" traffic placed on the "LEC to LEC" FGC network for termination since the end of the Primary Toll Carrier Plan.

2. On January 30, SBC and Staff filed opposition to the MITG Motion. SBC characterized the MITG motion as "nothing more than another application for rehearing" of the Commission's December 31, 2001 Order Denying Rehearing. Staff

provided a more fair rendition of the history of uncertainty surrounding the purpose of TO-99-593. Staff opposed the MITG Motion principally on the grounds of an expected rulemaking proceeding. This Reply to such opposition will address why the granting of said Motion is appropriate.

3. Small rural ILECs have essentially two main sources of revenue, local customer revenue, and revenue received from other carriers, "intercarrier revenue". Small rural ILECs have an insufficient customer to provide most revenues from local sources. Intercarrier revenues constitute a very significant portion of small ILEC revenues. Intercarrier revenue is essential to providing services and rates in parity with those of larger ILECs serving more urban service areas. Intercarrier revenue is an essential component of the structures underlying the principles implementing universal service.

4. Over six years ago, the small ILECs identified the type of signaling, trunking arrangements, traffic measurement and recording, billing records, and financial responsibility for terminating traffic they believed their tariffs called for. Small ILECs identified these matters in order to avoid compensation uncertainty after termination of the PTC Plan. These matters were not timely resolved. As a consequence, small ILEC intercarrier revenues have been in continual contention since termination of the PTC Plan in 1999. Small ILECs have had to contend with uncompensated traffic "transited" to them. Small ILECs have been forced to attempt to obtain compensation for such "transiting" traffic through the institution of complaints, intervention in interconnection agreement proceedings, new tariffs, and appeals.

5. In contrast, originating compensation relationship was decided over three years ago by the Commission's September 26, 2000 Report and Order in TC-2000-325, et al.. At pages 8-11 or that Order, the Commission held:

> "Under the PTC plan, all intraLATA interexchange calls from the Respondent's exchanges were required to be carried by SWBT. When the PTC plan was eliminated, the origination of interexchange traffic in the exchanges of the Respondents was opened to competition. The customers of Respondents were required, for the first time, to choose an intraLATA interexchange carrier. SWBT was, and is free to choose to compete to provide interexchange service to Respondents' customers, but it has chosen not to enter that competition. **If SWBT does wish to compete to provide interexchange service to Respondent's customers, it may do so by complying with the Respondents' lawful tariffs, as do all other carriers that wish to originate interexchange intraLATA toll traffic within the exchanges served by the Respondents**....The **Respondents' tariffs require that such service be provided over FGD, not FGC."**
>
> "The Respondents' tariffs would require SWBT to submit an Access Service Request, or Access Order and pay a modest fee. SWBT is also required to provide the Respondents with certain billing information, including a Carrier Identification Code (CIC). **The Respondents' tariffs require that such service be provided over FGD, not FGC**. SWBT asserts that it is unable to order access over FGD because it does not have access to the required Carrier Identification Code, and will have difficulty obtaining the use of a CIC. **When using FGC, as SWBT was allowed to do under the PTC Plan, no CIC was necessary as SWBT was responsible for all IntraLATA toll calls. With the elimination of the PTC Plan that is no longer true. ... The fact that SWBT may have problems obtaining the use of a CIC does not allow it to ignore the Respondents' identification requirements**."
>
> "SWBT also asserts that it should be allowed to continue to use FGC because it is a LEC, not an IXC, and FGC was created as a pathway for traffic from one LEC to another. SWBT is, of course, a LEC. However, **when the PTC plan was eliminated, SWBT's relationship to the Respondents was changed. For the purpose of originating intraLATA interexchange traffic, SWBT is now essentially just another intraLATA IXC, which may, if its chooses to comply with the Respondents' respective tariffs, originate traffic in the Respondents' exchanges. As an intraLATA IXC, competing for business with other IXCs, SWBT must comply with the Respondents' tariffs by using FGD**."
>
> "...the **Respondents were within their rights when they acted to prevent SWBT from continuing to originate MaxiMizer 800 traffic in their exchanges using FGC**."

(emphasis added)

6. Terminating compensation issues have been raised, but not decided. They were first raised in TO-97-217, then in TO-99-254[1], then in a January, 2001 hearing in this docket, TO-99-593. The Commission on December 13, 2001 directed implementation of OBF Issue 2056. A year later, on January 28, 2003, the Commission abandoned OBF Issue 2056 as a possible solution, and directed Staff to begin a rulemaking.

7. The small company access tariff, Oregon Farmers Mutual Tel. Co. P.S.C. Mo. No. 6, Access Service, 2nd Revised Sheet 82, Section 6.3.3 (A)(1) contains the following:

> "Feature Group C switching is provided at an end office switch unless Feature Group D end office switching is provided in the same office. When FGD switching is available, FGC switching will not be provided."

See Attachment 1. Feature Group D end office switching has been provided since the termination of the PTC Plan commensurate with the implementation of intraLATA dialing parity and equal carrier access.

8. The first docket in which the Commission considered termination of the PTC Plan, and the terminating compensation relationship that would succeed the PTC Plan, was TO-97-217. The record before the Commission established that the components of terminating compensation constituting the "business relationship" had been placed in issue by the small ILECs. See Attachment 2.

---

[1] The Commission's June 10, 1999 Order in TO-99-524 did direct the use of industry standard category 11-0-01 billing records for terminating traffic. An industry standard 11-01 is a terminating usage record recorded at the terminating access tandem.

9. The March 12, 1998 Report and Order in TO-97-217 deferred the business relationship issues to a technical committee. In the subsequent technical committee phase of TO-97-217, the small companies submitted testimony at hearing in 1998. See Attachment 3.

10. On September 11, 1998, the Cole County Circuit Court reversed the Commission's decision in TO-97-217, and remanded the matter with directions to conduct a new evidentiary hearing. This decision was not appealed by the Commission. The Commission did not further address the technical committee evidence submitted in TO-97-217, but instead created T0-99-524 to reconsider continuation or termination of the PTC Plan.

11. In TO-99-254 the small ILECs again teed up these business relationship issues. See Attachment 4.

12. The Commission's June 10, 1999 Report and Order in TO-99-524 discussed the components of the FGD tariff and "business relationship" issues, although it failed to decide all of them Instead the Order directed that TO-99-593 would be established to investigate "signaling protocols, call records, trunking arrangements and traffic measurement".

That Order, at pages 7-10 recognized the considerable testimony regarding FGC and FGD, recognized the tariff called for FGD, and recognized the SC fears that continued utilization of FGC could result uncompensated terminating traffic, discussed the issues presented with respect to terminating traffic measurement, and discussed the small company business relationship they felt was required by FGD.

This Order did direct that "industry standard" 11-01 billing records be used.

13. This docket, TO-99-593, was established as directed by the Report and Order in TO-99-254. Progress of the docket was delayed in order to conduct a "network test" to measure the validity of small company concerns that not transiting to the FGD business relationship would expose them to uncompensated terminating traffic. There was no need for a network test if TO-99-593 was not going to address business relationships.

14. When TO-99-593 was ready for hearing in January of 2001, the small company submissions once again submitted the components of the "business relationship". See Attachment 5.

15. Hearing in TO-99-593 was conducted January of 2001. On May 17, 2001 the Commission directed additional notice to non-parties concerning the business relationship issues.

16. Instead of deciding the issues the small companies had consistently raised in TO-97-217, TO-99-593, and TO-99-524, the Commission by Order of December 13, 2001 directed implementation of OBF Issue 2056.

17. Due to misrepresentation by the former PTCs as to the scope of traffic subject to OBF Issue 2056, the Commission by Order of January 28, 2003 abandoned OBF Issue 2056.

18. The parties have been involved in discussing a rulemaking for the last year. Although some claim the "business relationship" is not an issue to be decided, the rule draft is incorporating decisions, made without hearing, as to the signaling, trunking arrangements, traffic measurement and recording, billing records, and financial responsibility components of the "business relationship".

19. Staff's current rule draft, among other things, would impose an "originating carrier financial responsibility", would provide for originating carriers measuring their own usage, would provide for the creation of originating records, would provide for terminating LECs to use originating records made by originating or transit carriers for billing traffic termination, and would expand this "originating responsibility business relationship" to interLATA traffic which to date has not been questioned as being subject to FGD access tariff provisions.

20. The current draft of the rule is not only deciding these items in contravention to the FGD tariff language, it apparently would extend the FGC relationship to present FGD traffic.

21. SBC is currently allowing CLECs in 5 states, including Missouri, to record their own terminating traffic, and bill from their own terminating records. See Attachment 6. The direction of Staff's current rule draft makes little sense, as it affords small ILECs a less enforceable terminating compensation relationship than SBC is affording CLECs.

22. The draft rule presents other concerns for small ILECs as well:

a. SBC would not be required to block UNE-P CLEC traffic (which comprises the only CLEC traffic SBC has reported);

b. the prior draft's prohibition against interMTA wireless traffic being placed on the FGC network has been changed to a prohibition against only "interstate interMTA" wireless traffic;

c. the prior draft's imposition of an obligation on the originating tandem carrier to to ensure 11-01 records for transited traffic would not apply to former PTC traffic, providing them with an unfair advantage;

d. the rule would provide small ILECs who operate end offices only with the ability to obtain separate trunks for IXC traffic, but it would deny this ability to small ILECs have have access tandems of their own, in addition to end offices, which makes little sense.

23. Even if the rulemaking to be timely commenced, it would take several months before the rule would become prospectively effective. It will not resolve past unresolved compensation issues for terminating traffic. A hearing and decision should be conducted.

24. In summary, the MITG Motion for Prehearing Conference, Hearing, and Tariff Declaration should be granted.

Respectfully submitted,

ANDERECK, EVANS, MILNE PEACE & JOHNSON

By: ______________________

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ATTORNEYS FOR MISSOURI INDEPENDENT TELEPHONE GROUP

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed, U. S. Mail, postage pre-paid, this 2nd day of February, 2004, to all attorneys of record in this proceeding.

Craig S. Johnson

Attachment 1

6. Switched Access Service (Cont'd)

6.3 Provision and Description of Switched Access Service Feature Groups (Cont'd)

6.3.2 Feature Group B (FGB) (Cont'd)

(B) Testing Capabilities

FGB is provided, in the terminating direction where equipment is available, with seven digit access to balance (100 type) test line, milliwatt (102 type) test line, nonsynchronous or synchronous test line, automatic transmission measuring (105 type) test line, data transmission (107 type) test line, loop around test line, short circuit test line and open circuit test line. Additional testing services are available as set forth in Section 9. following for FGB.

6.3.3 Feature Group C (FGC)

(A) Description

(1) FGC is provided at all Telephone Company end office switches. It is provided to the customer (i.e., provider of MTS) on a direct trunk basis or via Telephone Company designated access tandem switches. Originating FGC Access is available to all customers when used to provide the Interim NXX (N) Translation optional features or 800 Data Base Access Service. Terminating FGC access is available to all customers other than providers of MTS and WATS when such access is used in conjunction with the provision of the Interim NXX Translation optional feature or 800 Data Base Access, but only for purposes (N) of testing. Feature Group C switching is provided at an end office switch unless Feature Group D end office switching is provided in the same office. When FGD switching is available, FGC switching will not be provided.

(2) FGC is provided as trunk side switching. The switch trunk equipment is provided with answer and disconnect supervisory signaling. Wink start start-pulsing signals are provided in all offices where available. In those offices where wink start start-pulsing signals are not available, immediate dial pulse signaling is provided. When FGC with SS7 Signal (C) is provided, no inband signaling is provided. (N)

(D)

Attachment 2, Excerpts from Small Company Position/Evidence in TO-97-217

Ex 1, the Hearing Memorandum contained the following agreed issues and MMG (now the MITG) position statements:

Issue III. If the PTC Plan is continued, what modifications should be made to the current PTC Plan?

Issue IV.D. If the PTC Plan is eliminated, should Feature Group C signaling also be eliminated?

Issue IV.G. If the PTC Plan is eliminated, should terminating to originating (T/O) ratios also be eliminated such that all LECs will be required to bill terminating access charges on the basis of actual terminating minutes?

MMG Position Statement:

"The PTC Plan should be modified to migrate from feature group C access services to feature group D access services prior to the implementation of presubscription in order to provide competing toll carriers with a competitively neutral environment compatible with intraLATA toll competition."

Feature group C signaling is designed for a noncompetitive environment. Feature group D is designed for a competitive environment, and is currently used in exchanges converted to interLATA equal access. Retention of feature group C in a presubscribed environment would put IXCs at a competitive disadvantage to ILECs providing toll. Feature group C does not allow the SC end office to measure, record, and bill for the interexchange traffic terminating to that exchange, which should not be tolerated in a competitive environment. Feature group C also dictates the use of a T/O factor, which attempts to measure terminating minutes of access use based upon a ratio to actually measured originating use, which should not be tolerated in a competitive environment."

All LECs, not just PTCs, should be require to record and bill actual terminating minutes of use as measured off the trunk.." (underlining added for emphasis)

Testimony of the small ILEC witnesses in TO-97-217:

Ex 31, Jones Direct, p 36: Feature Group C protocols should be eliminated in favor of Feature Group D, which will also enable all companies to record and bill for all actual minutes of use instead of relying upon terminating ratios.

Ex 32, Jones Rebuttal, pp. 16-17: Dialing parity in the intraLATA market requires FGD just as it did in the interLATA market. PTC suggestion do retain FGC would create competitive advantage for them, as opposed to being competitively neutral. FGD was developed to allow the types of business relationships a competitive environment requires. FGC does not allow SCs to record terminating traffic. PTCs are able to terminate traffic they don't pay for. FGD allows the SC to measure traffic to assure that the interconnecting carriers cannot terminate traffic without paying for it.

Ex 34, Schoonmaker Direct, pp. 9-10, 40- 44: FGC used between PTCs and SCs. FGD established at divestiture to facilitate the capability of measurement of terminating traffic from a carre3r at the terminating end of a trunk group. Where presubscription is implemented, those end offices no longer offer FGC to interexchange carriers. In introducing intraLATA presubscription, STCG assumes FGC will be terminated FGD will used. After modification or termination of PTC Plan, changes should be made in SC terminating access traffic to eliminate T/O ratios in favor of actual terminating traffic. Business relationship structures were also discussed.

Ex 36, Schoonmaker Surrebuttal, pp. 7-9, 13-14: With implementation of intraLATA presubscription, LECs will have to terminate FGC signaling to be in compliance with their tariffs. The SWBT, Sprint/United, and Oregon Farmer's tariffs all state "When FGD switching is available, FGC switching will not be provided." The GTE tariff is similar but with some greater latitude stating that "When FGD is available, FGC will be discontinued as soon as the conversion to FGD can be arranged." Thus, to be in compliance with their own tariffs, the LECs will have to eliminate FGC signaling when they implement intraLATA presubscription. The present system whereby terminating compensation is based upon originating recordings will have to modified.

Attachment 3, Excerpts from Small Company Position/Evidence in Technical Committee Phase of TO-97-217

In its prefiled testimony, the MMG asserted the FGD requirement and the business structure or business relationship issues: In Ex 8, the Direct Testimony of William Biere, pages 6, 12-13, 24-27, the MMG ILDP required the use of FGD and the elimination of FGC for carriers that chose to continue doing business in MMG exchanges. In particular pages 24-27 explained why the MMG takes its position regarding the elimination of FGC in favor of FGD. The issue was also addressed in Mr. Biere's rebuttal, Ex 10, p. 10-11.

In his surrebuttal, Ex 11, pp. 3, 6-15, Mr. Biere explained the confusion between FGD "interconnection protocols" and the FGD "terminating compensation relationship". Mr. Biere there went on to predict what would happen if the Commission allowed continuation of the FGC by the former PTCs, citing opportunities for misreporting or theft

Attachment 4, Excerpts from Small Company Position/Evidence in TO-99-524

Issue List:

3. **If the PTC Plan is to be modified or eliminated:**
    a. **Network Issues**
        1. **What signaling protocol should be employed (i.e., FGD, FGD, etc.)?**
        2. **What, if any, changes in trunking arrangements should be made?**
        3. **Should all LECs be required to continue to use the LEC-to-LEC FGC interconnections?**
    b. **Actual Terminating Usage**
        1. **How and where should actual terminating intraLATA intrastate LEC-to-LEC traffic be measured?**
        2. **In those situations, if any, where actual terminating intraLATA intrastate LEC-to-LEC traffic is measured at the origination of the traffic, what records should be provided to identify this traffic for billing purposes?**
        3. **If terminating usage is to be measured at the originating end, who is responsible fort the disparity, if any, in traffic that is actually terminated (as measured by the terminating end office) and the traffic as shown by the originating records?**

MMG Position:

The Commission should require that equal access FGD eventually be employed for all carriers in a competitively neutral equal access intraLATA toll environment. The Commission should not allow indefinite retention of FGC interconnections, as this protocol would result in toll carrier advantage and SC terminating compensation disadvantage.

SCs should be free to establish the terms of interconnection they deem appropriate to apply to carriers who desire to originate or terminate traffic to them after ILP implementation. SCs should not be forced to accept the structure of existing terminating trunking relationships. These interconnections have performed satisfactorily in a monopoly environment. They have not performed satisfactorily since SWB has been placing new forms of traffic on the network. These interconnections will not perform satisfactorily in the future as more carriers place more types of traffic on the network..

The common trunks should eventually be replaced by separate trunks. Until FGD and/or separate trunking is established, the PTC should be responsible to pay the LEC for the residual or difference between the total traffic termination to the LEC and that billed to carriers.

SCs should be free to establish the terms of interconnection they will require of carriers who desire to originate or terminate traffic with the SC exchanges. Approved and lawful SC access tariffs have provided this for years. It would be inappropriate to force SCs to continue to use monopoly-designed interconnections in an equal access carrier environment. Any carrier who chooses not to interconnect with SCs on an equal carrier access basis is free to contract with a carrier that is so interconnected in order to terminate traffic. If PTCs or CLECs choose and are allowed to continue to provide FGC interconnection, their choice should not limit the right of SCs to require FGD interconnection.

Ultimately actual terminating usage should be measured by the terminating LEC at its end office or tandem serving the end office. During any interim period, if any, that the Commission allows retention of the LEC to LEC FGC interconnection protocols to exist on the terminating end of the traffic, the PTC should be responsible to pay the LEC for the residual or difference between the total traffic terminated to the LEC and that billed to carriers based upon originating records.

During any transitional or interim period prior to measurement of actual terminating traffic by the terminating LEC, the industry standard category 11 records should be provided to identify actual terminating traffic from measurements made at the originating end of the call.

It is the PTCs who are unable and/or unwilling to convert their facilities to provide the information needed to record actual terminating traffic at the terminating end of the call. Continuation of the limitations of the monopoly-designed network places SCs at risk of not being properly compensated for terminating traffic. Until the network is corrected to eliminate this risk, the PTC should be responsible to pay the terminating LEC the difference or residual between total terminating usage measured at the terminating end of the calls and the amount billed based upon traffic volumes measured at the originating end of the calls. Establishing such an obligation during any approved transitional period will provide the PTCs with the necessary incentive to implement facility upgrades in an expedient manner. In turn this will allow the appropriate terminating business relationship to be established for the intraLATA jurisdiction.

MMG prefiled testimony:

In Ex 8, the Direct Testimony of William Biere, pages 6, 12-13, 24-27, the MMG ILDP required the use of FGD and the elimination of FGC for carriers that chose to continue doing business in MMG exchanges. In particular pages 24-27 explained why the MMG takes its position regarding the elimination of FGC in favor of FGD. The issue was also addressed in Mr. Biere's rebuttal, Ex 10, p. 10-11.

In his surrebuttal, Ex 11, pp. 3, 6-15, Mr. Biere explained the confusion between FGD "interconnection protocols" and the FGD "terminating compensation relationship". Mr. Biere there went on to predict what would happen if the Commission allowed continuation of the FGC by the former PTCs, citing opportunities for misreporting or theft.

Also placed into evidence at hearing in TO-99-254 were the tariffs of SWBT, GTE, and Sprint, which all called for the elimination of FGC when FGD was provided. See Exs 78, 86, and 89.

The June 4, 1999 post hearing brief of the MMG in TO-99-254 continued to assert the FGC elimination and terminating business compensation structures required. See pages 4 and 20-42, which went into some depth in explaining the policy reasons underlying the FGD terminating compensation structures contained in the MMG tariffs requiring the elimination of FGC.

Attachment 5, Excerpts from Small Company Position/Evidence in TO-99-593, January, 2001 Hearing

Issue List:

1. Signaling Protocols. Is it necessary for the Commission to decide in this case what signaling protocols should be utilized for intrastate intraLATA traffic terminating over the common trunks between the former PTCs and the former SCs?

2. Traffic Measurement. How and where should intrastate intraLATA traffic terminating over the common trunks between the former PTCs and the former SCs be measured for purposes of terminating compensation?

5. Business Relationships. What business relationship should be utilized for payment for intrastate intraLATA traffic terminating over the common trunks between the former PTCs and the former SCs?

MITG Position:

It is not necessary at this time for the Commission to make any decisions as to what signaling protocols should be used for intrastate intraLATA traffic terminating over the common trunks. The small company terminating compensation proposal can be applied with the signaling protocol currently in use. The MITG believes that the Commission should recognize that in the long run all intrastate intraLATA traffic should be transmitted utilizing Feature Group D signaling protocols, the protocol designed for equal carrier access in a presubscribed carrier environment, as the access tariff of the former SCs currently requires.

Local Exchange Carriers (LECs) terminating interexchange traffic should have the right to make their own measurement of use of their facilities. The recording should be made at the terminating LEC's end office or tandem, as set forth in their access tariffs. An originating records system attempts to measure terminating traffic at the originating side of the call. The overriding defect of an originating record system is that it provides the ability for carriers not to report terminating traffic. It puts the responsibility to record with carriers that have financial incentive not to pay. The end result can be intentional or inadvertent confiscation of use of the terminating LEC's facilities. The terminating LEC has limited ability to correct this confiscation. A secondary defect of the originating record system is that it places intermediate transport providers in control of systems used to measure, record, and exchange billing records and revenue assurance. The use of an originating record system thereby disadvantages terminating LECs in what should be a competitively neutral environment.

The IXC business model developed for the competitive interLATA market should also be adopted for the now competitive intraLATA market. The IXC (or IC under the small company access tariff) who ordered the facility for terminating traffic to a LEC should be responsible for all traffic terminating over that facility. Under this model, a terminating LEC with its own tandem measures the total terminating traffic and bills the IXC (IC) for this traffic. Under this model, a terminating LEC with an end office served by the tandem of a former PTC relies upon the terminating records created at the terminating tandem by the former PTC for billing IXC traffic terminating over the common trunk. LECs should not be required to rely on other carriers' records in a competitive environment.

This IXC model is the most appropriate for a competitive intraLATA market. It provides all IXCs with equal carrier access. It does not create competitive advantage for former PTCs over other IXCs. It does not place former PTCs in control of systems used to measure, record, and exchange billing records and revenue assurance. It does not result in confiscation of use of terminating facilities. The IXC model places the responsibility on the former PTCs to either pay or provide the appropriate IXC billing record for all traffic placed on the common trunk. It does not relegate the terminating LEC into the untenable position of attempting to collect for uncompensated traffic with no identifying carrier information with which to identify the responsible carrier from among a myriad of carriers with whom the LEC has not established a business relationship with.

Compensation relationships should be based upon direct interconnections. The former PTCs are not required to, and do not themselves accept "transit" traffic. The former PTCs insist upon compensation relationships with IXCs, wireless carriers, and CLECs constructed over a direct connection. When a former PTC agrees with a third party carrier to place traffic on the common trunk that terminates to a former SC, the former PTC should be responsible for this use of its direct connection, just as occurs in the interLATA model for IXC traffic.

Former SCs are not required to accept transit traffic. They should have the same freedom to reject compensation relationships built upon indirect interconnection. There is no requirement that compels former SCs to accept "transited" traffic. There is no requirement that they attempt to bill and collect from carriers other than the former PTC responsible for ordering the common trunk. While they may agree to do so in a voluntary arrangement with all three (or more) carriers involved, they are not required to do so.

MITG Evidence:

Testimony of David Jones and Kent Larsen, Exs 4, 5, 6, 7, and 8 placed the FGD tariff, and the terminating end office switching compensation structures called for by the tariff, in evidence. That testimony also showed that there were significant amounts of unreported traffic, thus substantiating the need for the compensation structure called for by the FGD tariff.

Attachment 6

Accessible

Date: **September 24, 2003** Number: **CLEC03-346**

Effective Date: **December 1, 2003** Category: **Other**

Subject: **(BILLING) Transition of Billing to Terminating Recordings**

Related Letters: **N/A** Attachment: **N/A**

States Impacted: **SBC Southwest Region 5-State**

Issuing SBC ILECS: **SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and SBC Texas (collectively referred to for purposes of this Accessible Letter as "SBC Southwest Region 5-State")**

Response Deadline: **November 1, 2003** Contact: **Account Manager**

Conference Call/Meeting: **N/A**

Arbitration awards in the states of Kansas and Texas in 2000 mandated that SBC Southwest Region 5-State develop the capability to bill IntraLATA LEC Network traffic using terminating recordings. This process is now in place with the creation of switch recordings for all terminating and transiting Local Exchange Carrier ("LEC") Network traffic.

Competitive Local Exchange Carrier (CLEC) Interconnection Agreements with SBC Southwest Region 5-State require the exchange of originating records using the Category 92 record format for compensation purposes. Preliminary reviews of the data exchange process with CLECs have been performed and some patterns relating to this process have been identified as follows:

(1) Certain CLECs correctly and timely exchange Category 92 records
(2) Certain CLECs exchange Category 92 records on a sporadic basis
(3) Certain CLECs either never have or have ceased exchange of Category 92 records

SBC Southwest Region 5-State desires to move all CLECs to terminating record billing by December 1, 2003. This would require that both companies using terminating recordings to generate bills. If the CLEC does not have the technical ability to correctly generate bills from terminating recordings, SBC Southwest Region 5-State will continue to provide the appropriate Category 92 records to allow billing by the CLEC. As stated above, the desire is to move to using terminating recordings for billings with all CLECs. It is recognized that many CLEC Interconnection Agreements allows the use of the Category 92 method of data exchange. Therefore, your company must elect to use terminating recordings by notifying your Account Team in writing no later that November 1, 2003 of your decision to commence using terminating recordings for billing beginning on December 1, 2003. The decision by the CLEC to cease the exchange of Category 92 records with SBC Southwest Region 5-State and replace it with terminating recordings does not in any way relieve the obligation of the CLEC to exchange data with other LECs.

For CLECs that fall within the descriptions of patterns (2) and (3) above and who decide to continue the use of Category 92 records for data exchange rather than terminating records, it would be expected that process improvements occur by November 1, 2003 to move to the correct and timely exchange of Category 92 records.

If you have questions regarding this information please contact your Account Team.