

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 SBC Missouri, for)	
a Waiver of Certain Requirements of 4 CSR)	Case No. TE-2006-0053
29.040 (4).)	

Motion for Rehearing of May 23, 2006 Order Clarifying Rule

Comes now the MITG, pursuant to §386.500 RSMo, and request that the Commission's May 23, 2006 Order Clarifying Rule ("Order") be reheard, reconsidered, and set aside as being unlawful, unjust, and unreasonable on the following grounds:

Summary

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 operating company number (OCN) in positions 167 through 170 instead of a CIC in positions 46-49."

By 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 to OCN, and CIC, the Rule on its face as a matter of law requires CPN in a Missouri-Specific 11-01 billing record.

Specifics

1. The Order purports to “clarify” that 4 CSR 240-29.040(4) (“Rule”) does not require the inclusion of CPN in Missouri-Specific category 11 records for wireless calls.
2. The Order states that the question of whether the Rule requires CPN “turns on an almost pure question of law”. The Order then quotes the Rule. The Order then recites the definition of a “Missouri-Specific” Category 11 record found in 4 CSR 240-29.020(5).
3. As recited in the Order, the Rule’s definition of a “Missouri-Specific is as follows:

“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 Missouri Public Service Commission (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 (2) digits of this record are “11”. This type of call record is identical to a category 11-01-XX records except that it contains an originating operating company number (OCN) in positions 167 through 170 instead of a CIC in positions 46-49.”
4. According to the plain language of this rule, which is unambiguous on its face thereby not requiring interpretation, the only deviation permitted between a category 11-01-XX billing record and a Missouri-specific 11-01-XX billing record is the substitution of OCN for CIC.

5. At hearing the undisputed testimony of all witnesses was that the category 11-01-XX billing record does contain CPN for both landline-originated and wireless-originated traffic. The excerpts from the record confirming this are set forth by footnote:¹

¹ Exhibit 8, August 11, 2005 Staff Recommendation, Appendix A, Staff Response to Discussion Item Eight:

“Moreover, all other category 11-01-XX records do contain location indicators for the CPN, except for wireless-originated calls.” traffic traversing the LEC-to-LEC network, except for those calls originated by wireless service providers.”

Exhibit 8, August 11, 2005 Staff Recommendation, Appendix A, Staff Response to Discussion Item Two:

“However, the Staff notes that, unlike category 11-01-XX billing records for landline callers, current category 11-01-XX information does not include CPN for wireless-originated calls.”

Testimony of Staff Witness William Voight:

“Industry Standard Category 11-01-XX billing records for IXC traffic do contain the “From Number” in bit positions 15 to 24 of the billing record. The “From Number” is exactly the same as “CPN” for wireless-originated calls. Presence of wireless-originated CPN in billing records of IXC traffic is evident from the Schedules of both Mr. Schoonmaker and Mr. Read. The presence of a “From Number” in the billing records for wireless-originated calls is also self evident from depositions taken, and access tariffs referenced in, Case No. TT-2004-0542.” Exhibit 7, Voight Rebuttal, pp. 3-4.

Transcript, page 293-294:

Q. So when I stated I think for purposes of opening statement and maybe in some of my questioning yesterday that wireless CPN is delivered to the terminating office in the billing records for wireless-originated calls that are terminated to the tandem by an IXC, as far as you know, that's a truthful statement, correct?

A. Yes.

Q. Okay. The only difference is that if that wireless-originated call is terminated to the tandem by a wireless carrier, then CPN apparently is not captured and not sent down to the terminating company in the billing record?

A. That's correct. It's a matter of the recording tandem pulling out, if you will, that piece of information from the signaling system 7 bitstream. In the first example with IXCs, the machine is programmed to do so. In the second example with the direct wireless connection on the LEC network, it's programmed not to do so.

Transcript, page 294-295:

Q. Is it fair to say that staff -- well, let me make it more specific. That you were not aware of the fact that those wireless 1101 records that Bell was now creating did not contain CPN until Mr. Johnson and I brought that to your attention in the early fall of '04?

A. Yes, that is correct. And thank you for pointing out the October 29th, 2004 e-mail from Mr. Johnson to the commissioners that staff was copied on. Excuse me, to Leo Bub that the -- from Craig Johnson to Leo Bub that the staff was copied on. My testimony --

I'd forgotten about that e-mail when I wrote my testimony. I did make the statement that we didn't find out about it until the public comments at the public hearing, which would have been roughly February of 2005, but after Mr. Schoonmaker's testimony in his case in which he attached a copy of that e-mail from Mr. Johnson to Leo Bub, I do now recall that that was first brought to our attention on October 29th, 2004.

Q. Well, and the point I want to get at here is, is it fair to say that at the time that you first learned, whenever that was, that wireless -- or that the AT&T wireless records did not contain CPN, is it fair to say that you were surprised?

A. That's completely accurate, yes, I was surprised.

Q. Is it fair to say that you would, at that point in time, would have assumed that those records would have contained CPN just like other 1101 records contained CPN?

A. Yes, that is fair.

Testimony of ATT Witness Chris Read:

Transcript page 105-108:

Q. You indicated in response to a question from Mr. Krueger -- excuse me a second, that the category 1101 record for interexchange traffic includes the CPN, did you not?

A. Yes.

Q. Would you also agree with me that to the extent the interexchange carrier delivers wireless-originated traffic to the AT&T tandem, that that 1101 record will also capture and contain the CPN of the wireless call?

A. Well, it's not accurate that it's delivered to the tandem. It's delivered to a trunk group and it's delivered to a Feature Group D trunk group, and in that case, yes, anything delivered to that trunk group will have CPN.

Q. Okay. So just to be clear, if the IXC traffic that comes over that trunk group contains wireless-originated traffic as well as landline-originated traffic and to the extent CPN is sent through the system with those calls, AT&T will capture that for both wireless and wireline and include it in the 1101 record?

A. That's my understanding. Mr. Constable is really a network witness, but that is -- that is my understanding as long as it comes across that trunk group.

Q. I want to ask sort of the same series of questions with respect to CLEC records. Again, it's my understanding you create an 1101 industry standard record for CLEC traffic that's -- and I apologize for being inartful, I say delivered to the tandem, you say delivered to a trunk at the tandem; is that right?

A. Well, and it's good to make that distinction, but yes. Yes, we do receive CLEC traffic.

Q. Okay. And you also include CPN in the 1101 industry standard record for CLEC traffic, correct?

A. Well, the industry standard record that is delivered from a wireline CLEC customer, that, yes, I know that we do that.

.....

Q. Mr. Read, what other types of traffic other than IXC, CLEC and wireless that you know of comes to the AT&T tandem and for which you create 1101 records?

A. To my knowledge, that's it. There may be other carriers, but to my knowledge, that encompasses what we do.

6. As set forth above, the undisputed evidence in the record was that the category 11-01-XX billing record does contain CPN for both landline-originated and wireless-originated traffic.

7. As the category 11-01-XX record, as defined by the Rule, only permits the Missouri-Specific 11-01-XX billing record to deviate with respect to substituting an OCN for a CIC, 4 CSR 240-29.020(5), on its face, without ambiguity, requires the Missouri-Specific 11-01-XX billing record to contain CPN.

WHEREFORE, on the basis of the foregoing, the MITG respectfully requests that the Order be reheard, reconsidered, set aside as being unlawful, unjust, and unreasonable,

Q. Is it fair to say, then, that it is the wireless -- it is only the wireless-originated traffic that is brought to your tandem by a wireless carrier where the 1101 record does not include CPN information?

A. Yes, that's true.

.....

Testimony of ATT Witness Jason Constable:

Transcript 194-195:

Q. Now, can you tell me what the difference is between the wireless calls that go through your network versus say CLEC telephone calls -- a telephone call coming through your system --

A. Sure.

Q. -- in terms of record exchange?

A. Right. I'd be happy to do that. We bill based upon -- it all starts with the trunk group. We assign an AMA record to each trunk group so if a long distance carrier for their trunk groups -- we assign like a call code 119 and that generates an access record. We're always gonna build an access record for it. That call has CPN in it. For a CLEC trunk group, most of their calls are gonna be local in nature. So those calls, we generate like a call code 720 for a local interconnection billing record. And those calls will also have CPN in them.

.....

Transcript pages 204-205:

A. Now, if we have an IXC trunk group, and this is what the FCC case was about, we had a call -- a trunk group set up for an IXC that's set up to bill a terminating access AMA record and wireless traffic is coming through that. On those types of calls, we do generate CPN and the IXC buys that out of the tariff. They buy that Feature Group D trunk out of the tariff and in the tariff it says that you have to pass CPN and when we get the CPN we're gonna use that to determine the jurisdiction.

and that a new Order requiring CPN in Missouri-Specific 11-01-XX billing records be issued.

/csj/
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading was electronically mailed to the attorneys of record in this proceeding this 26th day of May, 2006.

/csj/
Craig S. Johnson