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March 1, 2001

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
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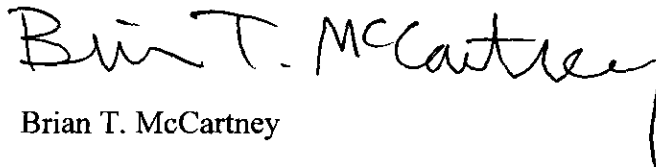
Re: Case No. TO-99-593 (Network Case)

Dear Mr. Roberts:

Enclosed for filing please find an original and eight copies of the Initial Brief of the Small Telephone Company. This filing has been mailed or hand-delivered this date to all counsel of record.

I thank you for your attention to and cooperation in this matter.

Sincerely,


Brian T. McCartney

BTM/da
Enclosure
cc: Parties of Record

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Missouri Public
Service Commission

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Missouri Public
Service Commission

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

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

Case No. TO-99-593

INITIAL BRIEF OF
THE SMALL TELEPHONE COMPANY GROUP

I. INTRODUCTION

In this case, the Small Telephone Company Group¹ (STCG) proposes that the business relationships between Missouri's small local exchange companies (LECs) and the former Primary Toll Carriers (PTCs) be changed to reflect the competitive environment. The most appropriate and reasonable business relationship in a competitive environment is to have companies bill from their own records. This is the same model that is used for competitive interexchange carriers (IXCs) such as AT&T, Sprint Long Distance, and WorldCom. Now that the PTC Plan has been terminated, Southwestern Bell Telephone Company (SWBT) and the other former PTCs are all

¹ For the purposes of this case, the Small Telephone Company Group consists of: ALLTEL Missouri, Inc., 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, 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, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company.

providing interexchange service and should be treated similar to the other interexchange carriers. The business model proposed by the small companies is more efficient, more equitable, and it provides the proper incentives for all of the companies involved.

The originating records system no longer makes sense in a competitive environment. It is cumbersome, ripe for errors at many places in the system, and it just does not make good business sense. The originating records system gives the former PTCs a competitive advantage over the traditional IXCs such as AT&T, Sprint Long Distance, and MCI/WorldCom by allowing the former PTCs to offer "transiting" service to small company exchanges at a fraction of the cost that the traditional IXCs charge for terminating service to those exchanges. The originating records system places the small companies at a distinct disadvantage by: (1) making the small companies bear all 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.

The results of the industry's network records test indicate that the originating records system is seriously flawed. Moreover, the current system does not provide appropriate incentives for the tandem switch companies (SWBT, Sprint, and Verizon) to provide correct originating records, and this flaw has had serious impacts on Missouri's small companies. The small companies' experience over the past two years clearly shows that the current system is not providing the appropriate records for terminating LECs to bill for all of the terminating traffic. Further, since there is no financial penalty when a tandem company does not provide accurate and timely records, there is little or no incentive for the tandem company to exercise the necessary

diligence and see that recordings are made correctly, reports are issued and passed to all carriers on a timely basis, and problems are corrected.

For example, the Local Plus recording problem clearly demonstrates the inherent problems with an originating records system. An error of major proportions was made, and appropriate records were not created for a period of many months. 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 being conducted in this case.

Given the inherent shortcomings in the existing system, the Commission should adopt the STCG's proposal to use terminating recordings. The use of terminating recordings is the most appropriate solution for a competitive environment. However, should the Commission opt to develop some sharing of responsibility for unidentified terminating traffic, the STCG believes that holding the former PTCs responsible for the majority of unidentified traffic is far more appropriate than Sprint's 50/50 proposal. Making the former PTCs responsible for the vast majority of unidentified traffic more accurately reflects the differences in size between the companies and provides both sides with equal incentives to identify the traffic.

II. THE MISSOURI RECORD EXCHANGE (OR "NETWORK") TEST

During the technical workshops in this case, the LECs agreed to conduct a network test to compare originating and terminating recordings for a number of companies for a limited time period. The purpose of the network test was to identify any differences in originating and terminating recordings and attempt to isolate the reasons for such differences. The test

parameters were developed jointly by the parties, and test data was captured for a 48 hour period on July 16 and 17, 2000. This data was analyzed by the parties, and a final report was prepared and filed with the Commission. *See* Late-filed Exhibit 40.

The initial results of the Network Test confirmed the STCG's concerns about the use of originating records as the basis of compensation for terminating traffic. For the nine small companies analyzed by STCG witness Schoonmaker, only 74.6% of the terminating records had matches from the originating records. On an individual company basis, the percentage of matched terminating records ranged from a low of 41.1% to a high of 99.7%. These results clearly demonstrated that the originating records being produced by the former PTCs were not providing an accurate and complete portrayal of the total amount of traffic terminating to the small companies. (Schoonmaker Direct, Ex. 1, p. 10)

One of the most significant discrepancies revealed by the network test was SWBT's Local Plus recording problem. 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 some exchanges near Knob Noster in December, 1998 and in the remainder of the exchanges in June, 1999, the Local Plus recording problem was not identified until August and September, 2000. The total amount of SWBT's unrecorded Local Plus traffic will equate 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 a system that relies on originating records being recorded and processed by a wide variety of systems and

switches.² It is also a lesson in the serious impacts the current system can have on small companies such as Mid-Missouri Telephone Company, which was not being compensated for more than 50% of the traffic it was terminating. (Schoonmaker Direct, Ex. 1, p. 12-14; Jones Surrebuttal, Ex. 6, p. 24)

The network test also revealed other problems with SWBT's records systems. Two specific examples are SWBT's translations error with an MCI/WorldCom trunk group to BPS Telephone Company ("BPS") and SWBT's problems with extracting records for Northeast Missouri Rural Telephone Company ("Northeast") for the network test. In the Final Report on the network test, SWBT admits that it did not create some records for BPS "due to an MCI translations error." (Late Filed Ex. 40, p. 23) SWBT also concedes that it "pulled an incomplete data set" of Northeast's records for the network test. (See Late Filed Ex. 40, p. 27) These errors highlight another inherent flaw in the originating records system. With an originating records system, these kind of errors are always a possibility because SWBT and the other originating records providers have multiple systems and record sources that record, organize, manage, and process these records.

For example, there are systems for wireless traffic, interexchange carrier traffic, intraLATA traffic, interstate intraLATA traffic, Local Plus traffic, and Feature Group A traffic. Each of these systems requires certain instructions to be properly placed in multiple switches and

² Indeed, even small companies are not immune from the errors and omissions inherent in an originating record environment as was evidenced by Green Hills Telephone Company's problems in providing originating records to SWBT for Green Hills' "Local Reach" traffic that terminated to certain SWBT exchanges. Unlike SWBT, however, Green Hills had created the appropriate records for customer billing purposes and was thus able to accurately account for the past terminating traffic.

switch types around the state. In addition, each of the systems has internal instructions or tables dealing with hundreds of NPA-NXX codes around the state in order to properly summarize and direct records to the appropriate company. SWBT's error in extracting the proper records for Northeast shows the kind of mistakes that can be made in just one of these systems that would cause records to be missing. (Schoonmaker Direct, Ex. 1, pp. 13-14)

The network test produced some very important information. First, the network test clearly established that the terminating companies have the capability to record terminating records in the same detail that calls are recorded at the originating end (i.e. with the originating and terminating numbers, connect time, and conversation time). Thus, any doubt about the terminating companies' capability to measure traffic has been laid to rest. Second, the network test demonstrated that there are ongoing and significant differences between the originating records provided by the former PTCs and the terminating records which are and/or can be recorded at the terminating location. As a result, there continues to be a significant amount of traffic for which the terminating companies are not receiving compensation.

The network test shows that significant errors can be and have been made at various points in the originating recording process. The Local Plus recording problem highlights the former PTCs' lack of capability and willingness to detect and resolve recording problems, even those of significant size. Although the participating small companies' initial results were provided to the PTCs in September, the PTCs were still working to identify unmatched calls for the one-hour period up until the hearing in January and, despite their concerted efforts, differences still exist.

In sum, the network test provides clear evidence of a need to change the current business

relationship so that the parties creating the originating records have a real incentive to improve their record creation processes.

III. ISSUES FOR COMMISSION DECISION

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?

It is not necessary at this time for the Commission to make any final decisions as to the signaling protocols that must be used for intrastate intraLATA traffic terminating over the common trunks between the former PTCs and the former Secondary Carriers ("SCs"). The STCG's proposal in this case focuses on business relationships and recording issues rather than on signaling protocols.

However, the STCG believes that Feature Group C ("FGC") signaling should be eliminated at some point in the future. Virtually all the small companies' access tariffs specifically indicate that FGC will no longer be available when Feature Group D ("FGD") signaling is implemented. In fact, the Commission recently recognized that, "[a]s an intraLATA IXC, competing for business with other IXCs, SWBT must comply with the Respondents' tariffs by using FGD."³ The Commission's Staff recently stated "that the migration from FGC to FGD

³ *Southwestern Bell Telephone Company's Complaint Against Mid-Missouri Telephone Company for Blocking Southwestern Bell's 800 MaxiMizer Traffic and Request for an Order Requiring Mid-Missouri to Restore the Connection*, Case No. TC-2000-325, *Report and Order*, issued Sept. 26, 2000.

should be encouraged wherever possible.”⁴

IntraLATA presubscription and FGD have been implemented statewide, so it would appear that FGC should be eliminated. Although the STCG is not asking the Commission to take any specific action related to the FGC issue at this time, it would, nevertheless, be appropriate for the Commission to formally recognize, as a policy matter, that in the long run *all* interexchange traffic should be delivered using the FGD signaling protocol.

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?

LECs terminating interexchange traffic should have the right to make their own measurement of the use of their facilities. This is the most efficient and equitable method of traffic measurement in a competitive environment. LECs should be allowed to measure the total traffic terminating over the common trunk group at their tandem or end office and then deduct from that usage certain types of industry standard billing records based on originating records received by the LEC. It is necessary to exclude the following traffic because of the contractual and business relationships that have been established in the interstate jurisdiction or under the direction of this Commission.⁵

⁴ *In the Matter of ALLTEL Missouri, Inc.'s Proposed Tariff to Allow IXC Traffic to Utilize the Feature Group C Network*, Case No. TT-2000-268, *Order Approving Stipulation and Agreement*, issued Aug. 8, 2000.

⁵ See Schoonmaker Direct, Ex. 1, p. 19

Deductions made by all companies:

- a.) **Interstate intraLATA records.** Interstate intraLATA traffic is subject to federal jurisdiction, so records received for this traffic would be subtracted from the total and billed at interstate rates.
- b.) **Reported FGA traffic.** Contractual relationships related to Feature Group A (FGA) were initially established by the Federal Communications Commission (FCC), and the STCG does not propose a change to those relationships. For end office companies, there are federally-established procedures and practices for meet point billing for traffic terminating from IXCs. The STCG proposes to continue following those procedures, subtracting from the total traffic the reported interexchange FGA traffic and billing that under current procedures.
- c.) **Reported wireless traffic.** Reported wireless traffic, such as that reported on Cellular Transiting Usage Summary Reports ("CTUSRs") would be subtracted from the total measured on the trunk(s) and billed to the appropriate wireless carrier.
- d.) **Metropolitan Calling Area (MCA) traffic.** This adjustment is applicable only to those companies who participate in the MCA plan to recognize that terminating MCA traffic is treated on a "bill and keep" basis pursuant to Commission order. (i.e. no terminating compensation is due for that traffic)

There are three feasible ways to deal with MCA traffic. The first is also the simplest: terminating MCA traffic could be separated onto a distinct trunk group so that it would not be included in the common trunk group's measured traffic. In this case, there would be no need for a subtraction. (This is already taking place with some MCA traffic at the present time.) A second possibility would be for the terminating company to identify the MCA traffic by the originating number received with the individual calls, summarize the MCA traffic, and delete it from the total. (However, this may not always be possible.) Finally, it may be possible to identify the percentage of MCA traffic of the total by using periodic studies of a short duration to develop a factor that would be applied to the monthly totals.

Deductions made only by companies recording at end offices:

- e.) **IXC Traffic.** LECs with end offices served by the access tandem of a former PTC would subtract interexchange carrier (IXC) traffic in addition to the traffic detailed above. For LECs with their own access tandem, this traffic should not be delivered over the common trunk group so there would be no appropriate subtraction.

After these subtractions are made from the total terminating recording, LECs would then bill the remaining amount of traffic to the tandem company which is terminating traffic over the common trunk. The remaining amount would reflect the terminating Feature Group C traffic that the tandem company is sending over the trunk group, plus any of the other types of traffic for which appropriate records have not been supplied to make a subtraction. Those LECs that choose not to implement additional recording capabilities and make changes to billing systems may opt to continue accepting the former PTCs' originating records for billing purposes. (Schoonmaker Direct, Ex. 1, pp. 18-21)

The evidence in this case shows that the sum (of the originating records received by the small companies) does not always equal the whole (of the traffic terminating to the small companies), and the STCG's proposal is designed to ensure that the small companies are compensated for *all* of the compensable traffic that terminates to their exchanges. Also, the STCG's proposal is consistent with recent decisions in other jurisdictions regarding the use of terminating records in a competitive environment. For example, the Public Utility Commission of Texas recently stated:

The Commission acknowledges that the lack of agreement of the parties with respect to billing issues extends to the national level. *Moreover, the Commission notes that the common practice in our economy is to generally rely upon the records of the party that remits a service (e.g. the terminating carrier) and submits a bill to the recipient of that service (e.g., the originating carrier).* Therefore, the Commission concludes that, where technically feasible, the terminating carrier's records shall be used to bill originating carriers (excluding transiting carriers) for reciprocal compensation, unless both the originating and terminating carriers agree to use originating records. The Commission further concludes that where a terminating carrier is not technically capable of billing the originating carrier (excluding transiting carriers) through the use of terminating records, the terminating carrier shall use any method agreed upon between the parties. *The Commission*

finds that the use of terminating records among the parties to bill for reciprocal compensation is a more efficient and less burdensome method to track the exchange of traffic. Terminating records impose less cost upon the terminating carriers than the previous regulatory scheme that used SWBT's 92/99 originating records to bill for reciprocal compensation.

The Commission notes SWBT's concerns regarding transiting traffic and concludes that terminating carriers shall be required to directly bill third parties that originate calls and send traffic over SWBT's network. Transiting carriers shall bill the originating carrier using terminating or originating records based upon existing contract terms between the originating and transiting carrier.⁶

Thus, the STCG's proposal is consistent with decisions in other jurisdictions as well as being the best suited to ensure that the small companies are compensated for the traffic that terminates to their exchanges.

3. Call Records. What call records should be utilized for intrastate intraLATA traffic terminating over the common trunks between the former PTCs and the former SCs?

Industry standard call code 199 Automatic Message Accounting (AMA) records would be used at the terminating switch to record the traffic terminating over the common trunk groups between the former PTCs and the small companies. These are the same call records that are currently in use for recording IXC (including former PTC) traffic. Originating records transmitted and used for the deductions discussed above would be based on current reporting methods. The AG655-001 through AG655-004 reports should continue to be used to report interstate and intrastate FGA traffic. Until individual call detail records can be developed, CTUSRs should continue to be used to report wireless traffic. Category 11 records should continue to be used to

⁶ *Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecommunications Act of 1996*, Public Utility Commission of Texas – Docket No. 21982, *Arbitration Award*, p. 59

record IXC usage to non-tandem LECs. The STCG believes that Category 11 records should also be used to report interstate intraLATA traffic; however, this is an interstate issue and the Commission cannot require these records.

4. Trunking Arrangements. What changes, if any, should be made to the existing common trunking arrangements between the former PTCs and the former SCs?

Where feasible, it may be appropriate to separately trunk traffic for which the LECs agree that there is no compensation. For example, intercompany compensation for MCA service is handled on a "bill-and-keep" basis. Because no compensation is exchanged between LECs for MCA traffic, it would be appropriate to place MCA traffic on separate trunks. MCA traffic between SWBT and some of the six small companies participating in the MCA plan is already being carried on separate trunk groups. In fact, SWBT and Sprint reported in the technical committee meetings held during 1998 that all of the MCA traffic they interchange in the Kansas City area was carried on separate trunk groups. Thus, implementing separate trunk groups in a few additional instances where such trunk groups have not yet been implemented is in line with current industry practice and will not cause any significant change in overall network efficiency. (Schoonmaker Rebuttal, p. 13)

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?

A. The current business relationships between the small companies, the former PTCs, and the other IXC

The business relationship that is currently being used for intraLATA LEC-to-LEC traffic is unique in requiring the identification of the originating carrier. In the access environment for competitive IXCs such as AT&T, Sprint Long Distance, and MCI/WorldCom, the IXC responsible for paying for terminating traffic is the IXC that terminates the traffic, not the IXC or other carrier that originated the traffic. The traffic terminated by AT&T, Sprint Long Distance, and MCI/WorldCom does not include just traffic originated by those carriers. Rather, it may include traffic originated by dozens, even hundreds of IXCs; it may include traffic originated by wireless carriers both from within and outside the Major Trading Area (MTA); it may include traffic originated by competitive local exchange carrier (CLEC) customers both from within and outside the local access and transport area (LATA). Regardless of who originated the traffic, the IXC is responsible for all traffic terminated over that trunk group in the IXC terminating environment. Traffic is measured by the LEC receiving the traffic, and the LEC identifies the carrier responsible for paying terminating access based on the trunk group and the carrier responsible for the trunk group. (Schoonmaker Rebuttal, Ex. 2, pp. 3, 10)

B. The STCG's Proposal

The STCG proposes that the small companies should be allowed to use the same business model that was developed in the competitive IXC carrier environment. Specifically, the carrier

who orders the facility (i.e. trunks) for terminating traffic to a tandem switch should be responsible for the terminating cost of the traffic that terminates over that facility. Under this model, the terminating LEC would measure the total traffic terminating over the facility, subtract certain types of non-billable traffic, and bill the remainder to the terminating carrier.

In a competitive environment, *all* interexchange carriers, including the former PTCs, should be required to use this business arrangement. Those carriers that choose to order terminating facilities are acting to terminate calls from their own network, and they provide wholesale arrangements to terminate traffic for other carriers who do not want to order their own terminating facilities to certain locations. The former PTCs should be allowed to “establish an appropriate rate to support that kind of wholesale relationship, as the interexchange carriers have done.” (Tr. 150-51; *see also* Schoonmaker Direct, Ex. 1, p. 18)

C. The STCG's Proposal is the Best Business Model

The STCG's proposal is the best business model for traffic terminating both to tandem switch locations and end office locations for a number of reasons. First, in the terminating recording system, all the measurements are taken at one location – the location where the trunk group enters the terminating switch and the records are accumulated in total. This makes it a much simpler system because all recordings are made at one place – where they enter the small companies' network. The STCG's system ensures that *the sum* of the various types of traffic being sent over the former PTCs' FGC trunk groups equals *the whole* of the total amount of compensable traffic that is being terminated to the small companies. Under the STCG's proposal,

usage is measured at the entrance of the company's facilities much like any other business (*e.g.* a concert hall, a movie theater, or a grocery store check-out line).

A second reason that the STCG's proposed business model is superior is that terminating records provide better information for some types of traffic. For example, a large portion of terminating records include both the originating and terminating numbers which can be used to determine the jurisdiction of these calls. Thus, terminating records provide better capabilities for determining the jurisdiction of wireless calls than CTUSR reports because CTUSR reports provide no indication of jurisdiction. (Schoonmaker Rebuttal, Ex. 2, pp. 4-5)

Third, in a competitive environment, business arrangements and systems should be designed to minimize errors and to place the responsibility for errors that do occur upon the party most likely to be responsible for the errors and the most able to correct them. Errors will be less likely to occur if the former PTCs bear the financial responsibility related to their errors. The small companies' proposal gives the tandem company owners who are supposed to supply these records the financial incentive to do so since they will be paying if the records are missing. (Schoonmaker Direct, Ex. 1, p. 13; Surrebuttal, Ex. 3, p. 2) Conversely, the originating records system gives the former PTCs absolutely no incentive to create correct records and send them to the small companies because they have no financial benefit to do so, and in some cases they may have to pay more if they send the records to the small companies. Even Sprint witness Cowdrey recognizes the inequity of the current originating records system:

Yeah. I think today we've [the former PTCs] got a zero percent liability and the small companies have 100 percent of the risk.

(Tr. 467)

D. The Current Originating Records System is Inherently Flawed

The small companies should not be forced to rely on the former PTCs' records in a competitive environment. The drawbacks of such a system were clearly illustrated by SWBT's failure to record Local Plus traffic. The question of SWBT's ability to accurately record non-standard dialed (non 1+ dialed) interexchange traffic was first raised when Sprint audited SWBT in the mid-1990's,⁷ and the issue of SWBT's ability to correctly record Local Plus traffic was raised again in the hearings regarding the adoption of Local Plus service.⁸ During that case, the small companies specifically raised the issue because Local Plus was to be implemented using a dialing pattern other than a 1+ pattern which normally triggers the recording process for access purposes in central office switches. At that time, SWBT's witnesses assured the Commission and the small companies that it would make the correct switch translations so that Local Plus could be recorded properly and proper compensation could be rendered.

The small companies have continued to stress the importance of SWBT being able to properly record and report Local Plus traffic. Because of the close attention given to this issue in the various Local Plus cases,⁹ it is surprising that SWBT was not more careful in implementing

⁷ Tr. 394-5, 451-2 (cross-examination of Sprint witness Cowdrey)

⁸ See e.g. Case No. TT-98-351 (*Southwestern Bell Telephone Company tariff revisions designed to introduce a LATA-wide Extended Area Service called Local Plus, and a one-way Community Optional Service*) at Tr. 83-6 (cross-examination of SWBT witness Myers) and 304-6 (cross-examination of SWBT witness Reiter)

⁹ *Id.*; see also Case No. TT-99-191 (*Southwestern Bell Telephone Company tariff to introduce Local Plus Service*); Case No. TT-2000-258 (*Southwestern Bell Telephone Company's proposed tariff to introduce a discount on the Local Plus monthly rate*); Case No. TO-2000-667 (*Investigation into the effective availability for resale of Southwestern Bell Telephone*

the service to make sure that no problems occurred. Yet problems did occur, despite SWBT's efforts, which only serves to highlight the inherent problems with an originating record system. Although Local Plus was implemented in some exchanges near Knob Noster in December, 1998 and in the remainder of the exchanges in June, 1999, the recording problem was not identified until August and September, 2000. (Schoonmaker Direct, Ex. 1, pp. 14-15)

SWBT's failure to create accurate records has had a major impact on many of the small companies. For example, only about 50% of Mid-Missouri Telephone Company's terminating traffic was being reflected in the originating records that Mid-Missouri received. Mid-Missouri had individual discussions with SWBT about these problems, but no resolution could be reached. Eventually, Mid-Missouri informed SWBT that it would terminate SWBT's service if the problem was not resolved. In response, SWBT filed a complaint against Mid-Missouri to prevent Mid-Missouri from shutting off the trunks. An emergency hearing was held before the Commission, and, at that time, SWBT expressed its belief that the problem was being caused by traffic from carriers other than SWBT. Only after the network test was conducted the following week and SWBT began to review internally the results of that test did SWBT finally discover the real source of the problem: SWBT's own failure to properly record Local Plus traffic. (Ex. 1, pp. 15-16)

Mr. Jones' firsthand description of his experiences with the originating records arrangement puts the problem in vivid perspective:

Company's Local Plus Service by interexchange companies and facilities-based competitive local exchange companies)

For over 6 months I constantly attempted to convince SWBT that it was not delivering the appropriate billing records to Mid-Missouri. I had reason to believe, from the outset, the problem was in SWBT's systems for Local Plus traffic. I got absolutely nowhere. Mr. Al Peters of SWBT and Mr. Paul Cooper of SWBT both affirmatively told me the problem traffic was IXC traffic that CLECs were "laundering" through their connections with SWBT. SWBT then sued Mid-Missouri to prevent it from disconnecting the trunks which were causing a 50% loss of terminating compensation. In that suit SWBT again said it was paying for all of its traffic. It was only during the industry test conducted in July that SWBT actually discovered its problems.

After SWBT admitted it had created the problem, it took Mid-Missouri another 5 months to obtain the compensation SWBT agreed it owed. Even then SWBT attempted to extract what I felt were inappropriate concessions from Mid-Missouri before SWBT would pay what it agreed it owed. . . . I can assure the Commission that the process a small LEC must undergo in order to track down and discover if a mistake has occurred upstream is not an easy one.

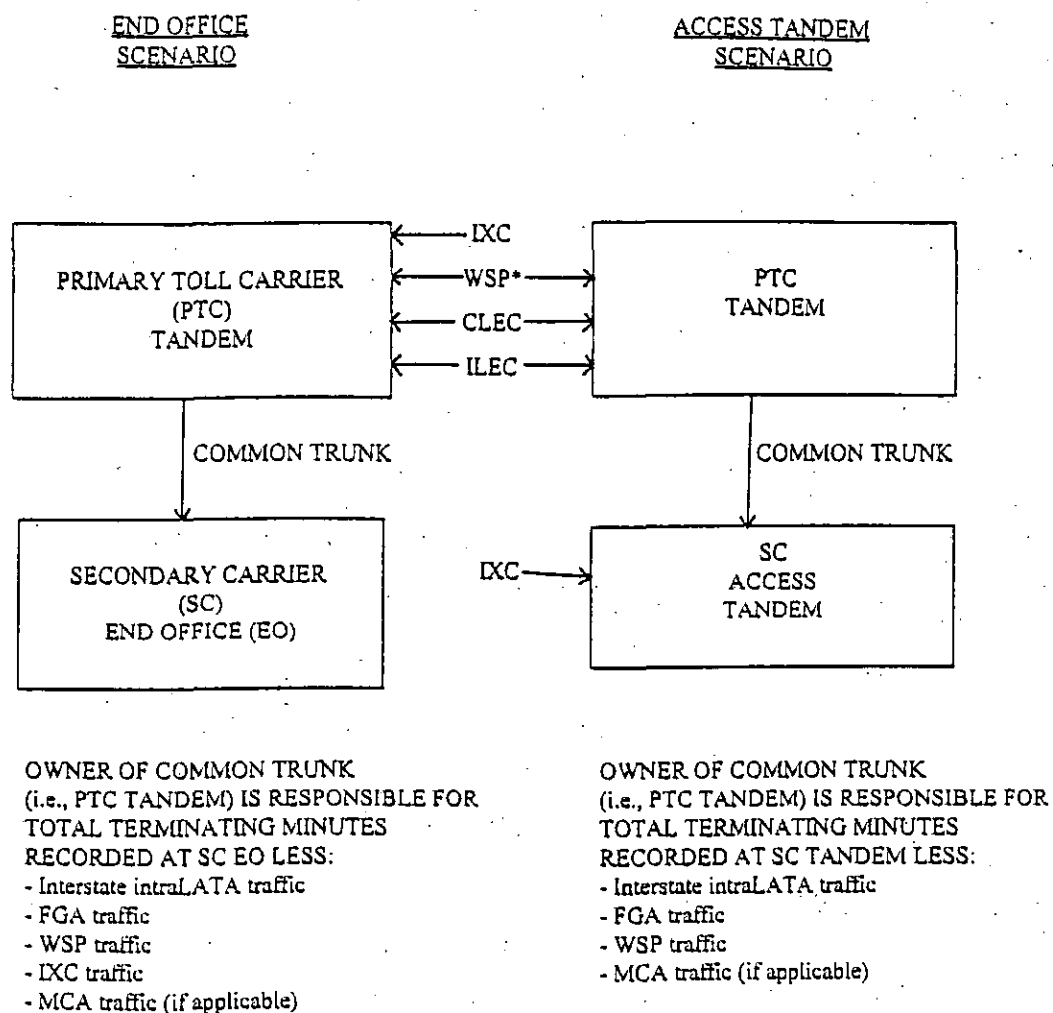
(Jones Surrebuttal, Ex. 6, p. 24)

In a competitive environment, the small companies should not be placed at the mercy of the former PTCs, especially when it is the former PTCs that are responsible for placing this traffic on the small companies' networks. The Commission should place no faith in the current system in light of the fact that it took the former PTCs almost four months to reconcile just one hour of the network test to a level that still does not fully account for the discrepancies. The Commission should adopt the STCG's proposed business relationship because it is the best suited for Missouri now that the PTC Plan has ended and the companies are operating in a competitive environment.

E. The STCG's Proposal is Not That Different

Because the STCG's proposal recognizes and uses originating records from a number of sources, it is not as drastic a change in the business relationship as the PTCs would have this Commission believe. Rather, the only change is that the former PTCs will be responsible for three

types of traffic that they allow onto the network for termination to the small companies' exchanges: (1) Competitive Local Exchange Carrier (CLEC) traffic; (2) other Incumbent Local Exchange Carrier (ILEC) traffic (primarily from the former PTCs); and (3) unidentified traffic (i.e. traffic for which an appropriate originating record is not created). (See Tr. pp. 457-460) This is diagrammed in the STCG's Ex. 23 reproduced below:



*WSP - Wireless Service Provider

In fact, the STCG's proposal is not that different than what the former PTCs did during the PTC Plan's eleven years since the former PTCs were responsible for compensating the small companies for all the CLEC and other ILEC terminating traffic.

F. The STCG's Proposal is the Most Efficient and Equitable

The STCG's proposal is the most efficient and equitable business model. The IXC business model that is currently in use in Missouri and nationwide demonstrates that it is more efficient and less burdensome for the party with direct connections and established billing relationships to bear the responsibility for traffic that is carried over its facilities and ends up at the small companies' exchanges. The former PTCs are one step further upstream, and it only makes sense that they should bear the responsibility for traffic which they allow on their networks that is destined for the small companies. (See Tr. 441) Likewise, it is more fair to let the party that is remitting a service (the small companies) submit a bill to the party that benefits from the service (the originating carriers and the former PTCs) based on the records created by the remitting carrier. It is only reasonable to hold the carrier that lets traffic onto the network and sends it to another carrier responsible for that traffic.

In contrast, SWBT's proposal is unfair on its face. Essentially, SWBT's proposal forces the small companies to bear 100% of the risk for any mistakes that SWBT makes in recording and reporting its own traffic, as well as 100% of the risk for any traffic that SWBT lets on the network which is unidentifiable by the time it reaches the small companies. Even after the network test has clearly shown that the originating records system is flawed, SWBT's proposal says to the small companies, "If there is a problem, it is *your* problem." When it comes to

unidentifiable traffic, SWBT's proposal would leave the small companies to try and chase down the unidentified traffic that SWBT "transits" to the small companies, even though SWBT is best positioned to identify this traffic through its direct connection and established billing relationships with the other carriers sending traffic to the small companies' networks (along with SWBT's highly touted "Hewlett-Packard Business Intelligence System"). If SWBT were responsible for the unidentified traffic that it terminated to Mid-Missouri, it is logical to speculate that SWBT would have found its Local Plus problem much sooner. It is also reasonable to assume that the two parties involved would not have had to bring the issue before the Commission.

6. **Call Blocking.** What procedure or arrangement, if any, should be utilized to prevent noncompensated intrastate intraLATA traffic from continuing to terminate over the common trunks between the former PTCs and the former SCs?

Hopefully, call blocking of noncompensated intrastate intraLATA traffic will occur only in rare circumstances once an appropriate business relationship is established between the former PTCs and SCs. However, because of the common trunk group, the small companies may not be able to effectuate such blocking by themselves. Therefore, it may be necessary for the small companies to request the former PTCs that are responsible for the common trunk to block inappropriate traffic.

The Commission addressed the issue of blocking for small companies earlier this year in Case No. TT-2001-139,¹⁰ where the Commission noted that the Telecommunications Act of 1996

¹⁰ *In the Matter of Mark Twain Rural Telephone Company's Proposed Tariff to Introduce Its Wireless Termination Service*, Case No. TT-2001-139, *Report and Order*, issued Feb. 8, 2001.

does not prohibit blocking the traffic of a carrier that violates tariff provisions and fails to pay for the termination of their traffic. The Commission explained:

With respect to SWBT, at least, the traffic-blocking provision can be viewed as simply a request that SWBT enforce the provisions of its own tariff, because the wireless-originated traffic at issue in this case is violative of SWBT's own tariff. The originating CMRS carriers do not, as SWBT's tariff expressly requires, have existing agreements with the terminating small LECs.¹¹

The STCG recognizes that blocking is a serious matter, and the STCG understands that specific contractual procedures must be followed before any blocking may occur:

[B]locking . . . is implemented and is done today and it's not something that's done lightly. If the individual company does it today, whether it's Mid-Missouri or Kingdom with a tandem or Southwestern Bell, that does not require a Commission order. There are provisions in either the contracts or the tariffs that outline the procedure to notify the company with plenty of time to try and resolve the differences. And it doesn't get implemented very often. And typically by the time it is, somebody is significantly in arrears on their bill . . .

(Tr. 143) The STCG agrees that the former PTCs should be allowed to charge a reasonable fee for this service, and the STCG believes that any such fee should be fixed a minimal charge rather than a time and materials type of rate.

Alternatively, the Commission may choose to adopt a secondary liability and indemnity relationship, as the Commission did in Case No. TT-97-524, when other carriers do not pay for their service. Under this relationship, the former PTC should be secondarily liable to the former

¹¹ *Id.* at p. 43

SC for noncompensated traffic. Upon payment to the former SC, the former PTC would have indemnity rights against the non-paying carrier.

IV. OTHER ISSUES

1. Sprint's 50/50 Split

It is significant that of the former PTCs, Sprint at least concedes that it is unfair that the current system makes the small companies bear 100% of risk for the former PTCs' recording errors.¹² As a result, Sprint proposes a 50/50 split of responsibility for unidentified traffic, claiming that such a split would provide "equal incentive to small LECs and the former PTCs to investigate and capture all traffic." (Tr. 75) However, this proposal is flawed in a number of respects. First of all, it does not take into account the huge size differences between the small LECs and the former PTCs. The smaller the company, the less able the company is to absorb losses. For example, a \$100,000 difference in revenue might equate to nearly 10% of a small company's revenues, while the same amount would equate to substantially less than 0.01% of SWBT's revenues.

Second, Sprint's proposed 50/50 split does nothing to solve the incentive problems. A 50/50 split provides no incentive for large carriers to track down their own recording problems since they will be responsible for only half of any unidentified traffic. For example, if SWBT has another Local Plus recording problem, it would only be held responsible for 50% of its Local Plus traffic for which it fails to create proper records. In essence, SWBT would be getting a 50% discount on the termination of its traffic:

¹² See Tr. 467

Q. If you implement the [50/50] proposal and if you assume that all of that traffic is made up of, in that case, PTC-originated traffic, specifically Local Plus, what is the practical effect on the – first of all, on the PTC and then on you as the receiving company?

A. Essentially, the PTC would be receiving a 50 percent discount in their cost to terminate traffic to us.

Q. And, conversely, what's the effect on you?

A. In – I mean, we'd be receiving 50 percent reduction in our access that we bill as far as the rate.

Q. What incentive would the PTC have under that 50/50 arrangement to ferret out and identify who's responsible for that unidentified traffic?

A. None.

(Jones Tr. 328-29) (*See also* Larsen at Tr. 384, noting that the 50/50 split “has at least the appearance of an incentive for a carrier not to report minutes on an originating response – or the originating records that form the basis for the billing under the Southwestern Bell position. The carrier would be motivated to withhold those records knowing full well they would receive an automatic 50 percent discount.”)

If the Commission does choose to adopt some type of shared responsibility plan, the Commission should adopt a shared responsibility plan that is based upon a ratio of the intrastate or total revenues received by the two involved companies as discussed by Mr. Schoonmaker during questioning by Commissioner Drainer. (Tr. 136-38) A “revenue ratio” plan would provide more equal incentives to the parties to find a resolution to the problem since both have the same percentage of their revenues at risk.

Alternatively, the Commission may wish to consider a plan like the one used in Kansas where SWBT is held responsible for any difference in unidentified traffic that exceeds 2 percent each month. (See Hughes, Tr. 565) If the difference for the month is 3%, then SWBT will reimburse a Kansas small company for 1%. If the difference for the month is 50%, then SWBT will reimburse a Kansas small company for 48%. The Kansas plan takes into account the vast differences in size between the former PTCs and the small LECs, and it also provides the former PTCs with the proper incentive to identify the traffic.

Finally, although the idea of shared responsibility has some appeal on its surface, the Commission should remember that the small companies have done nothing to place this unidentified traffic on the network or to add to the problem. In addition, the small companies are the least able to identify this traffic because it simply shows up at a small company's doorstep, via the former PTCs, without any type of information that would allow the small companies to identify the originating carrier and bill that carrier for the call.

2. Ordering and Billing Forum (OBF) Issue 2056

Verizon argues that compensation issues will be solved by Ordering and Billing Forum (OBF) Issue 2056 "once adopted by the industry,"¹³ but OBF has not been adopted by or even fully presented to Missouri's telecommunications industry. Thus, OBF 2056 is not a solution that can address the immediate problems of the originating records system, and it is unclear if it will ever do so. In fact, OBF 2056 does not appear to affect the termination of intraLATA toll and the billing and measurement of that traffic. (Tr. 112) OBF 2056 is an unclear and unproven

¹³ Allison Rebuttal, Ex. 20, p. 5

proposal that is simply too new to really be used as a basis for any decision in this case. (Tr. 140; *see also* Tr. 507) Finally, even in the event that if OBF 2056 is eventually adopted in Missouri, it would complement rather than conflict with the STCG's proposal:

Q. 2056 could overlay a change in the business relationship, couldn't it, and help to provide you with the assurance and ability to get the necessary records from us, the small companies, even if we change the business relationship?

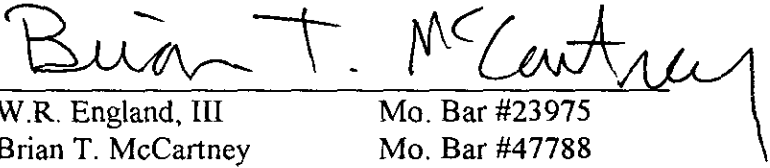
A. That's one possibility of many.

(Tr. 627)

V. CONCLUSION

The Commission should adopt the STCG's terminating records method proposed in this case. The network test has demonstrated that terminating recordings are accurate and reliable and that the originating record system in use has been and continues to be unreliable. The network test has clearly shown that the originating record system does not provide terminating companies with records for all of the traffic they are terminating. There is still a significant amount of terminating traffic for which no originating records are being created, and the small companies are not receiving compensation for their unidentified traffic. In a competitive environment, the Commission should place all interexchange carriers on equal footing and prevent the small companies from bearing the risk for the former PTC's recording mistakes and the unidentified traffic that the former PTCs allow onto the network.

Respectfully submitted,



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Certificate of Service

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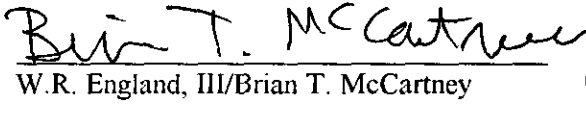
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