Exhibit No. ____
Issue: Terminating Compensation
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: MITG
Date Prepared: December 20,, 2000

FILED[3]
DEC 2 0 2000
Missouri Public Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

In the Matter of the Investigation) into Signaling Protocols, Call) Records, Trunking Arrangements,) and Traffic Measurement.)	**Case No. TO-99-593**

REBUTTAL TESTIMONY

OF

DAVID JONES

Jefferson City, Missouri

December 20, 2000

Exhibit No. 5
Date 1-24-01 Case No. TO-99-593
Reporter TL

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AFFIDAVIT OF DAVID JONES

STATE OF MISSOURI)
) ss.
COUNTY OF Cole)

David Jones, of lawful age, on my oath states, that I have participated in the preparation of the foregoing testimony in question and answer form, consisting of 18 pages, to be presented in this case; that the answers in the foregoing testimony were given by me; that I have knowledge of the matters set forth in such answers; and that such matters are true to the best of my knowledge and belief.

David Jones

Subscribed and sworn to before me this 19th day of December, 2000.

Orna Mickelis
Notary Public

My Commission Expires:

ORNA MICKELIS
Notary Public - Notary Seal
STATE OF MISSOURI
Callaway County
My Commission Expires: Apr. 16, 2003

Q. **Please state your name, capacity, and business address.**

A. David L. Jones, President, Mid-Missouri Telephone Company, 215 Roe, Pilot Grove, Missouri, 65276.

Q. **Are you the same David Jones that prefiled direct testimony on behalf of the Missouri Independent Telephone Company Group in this proceeding?**

A. Yes.

Q. **What is the purpose of this rebuttal testimony?**

A. Three witnesses submitted direct testimony on behalf of the former PTCs: Joyce Dunlap, Robert Cowdrey, and Richard Scharfenberg. The purpose of this testimony is to respond to the direct testimony of Joyce Dunlap submitted on behalf of SWB. The direct testimony of Sprint witness Robert Cowdrey solely describes the July network test processes. There is no need to respond to his testimony, although I may mention it in passing. I will also discuss the direct testimony of Richard Scharfenberg.

Q. **Do you agree with SWB witness Joyce Dunlap that SWB's proposed originating record system is the accepted standard in the industry, and that a terminating record system is not appropriate in a competitive environment?**

A. No, I disagree. The standard for a competitive environment is the system used by IXCs in both the intraLATA and interLATA markets. This system has been in use since January 1, 1984.

In Missouri we used an originating record system solely for PTC Plan traffic. Under the terms of the Conceptual Framework, Missouri Intrastate IntraLATA Primary Carrier by Toll Center Plan as approved by the Commission in Case No. TO-84-222, the Commission approved the use of originating records. Secondary Carrier access tariffs stated that they were subject to the PTC Plan. See Section 1.3 of PSC Mo No. 6 1st Revised Sheet 11, attached as Schedule 1. With the full implementation of Pre-subscription complete it is appropriate to move to the same business relationship and network signaling in use by IXCs in the intraLATA and interLATA markets.

Allowing continued use of an originating record system is an unnecessary duplication of systems. Today all other IXCs use the "FGD" business relationship for both intraLATA and interLATA traffic. As the significance of the LATA boundaries subside, and more IXCs provide both interLATA and intraLATA service, small LECs should be able to avoid multiple systems by utilizing the FGD business model. Using a separate system limited to former PTC traffic does not make sense. Today those former PTCs are interexchange customers (ICs or IXCs) under the terms of the small company access tariffs.

The provisions of Section 2.6 of PSC Mo No. 6, Sheet 44.1., General Regulations of that tariff, attached as Schedule 2, states:

> "Interexchange Customer(s) (IC)
>
> Denotes any interexchange carrier (facility based or reseller) engaged for hire, which subscribes to the services offered under this Tariff to provide intrastate telecommunications services for its own use of for the use of its End Users. <u>For purposes of this tariff, Primary Toll Carriers are also included in this definition</u>." (emphasis mine)

Continued use of an originating record system would be anti-competitive in favoring SWB, GTE, and Sprint over the other IXCs. The originating record system allows SWB, GTE, and Sprint to deliver traffic of other carriers. SWB, GTE, and Sprint get paid to deliver this traffic, but would have no responsibility to pay for its termination to other LECs. This would give them a competitive advantage over the IXCs that are required to pay terminating compensation for the traffic of others. The originating record system is also anti-competitive because it would give SWB, GTE, and Sprint the ability to not report traffic thereby availing themselves of self-help remedies. Based upon the information presented in direct testimony by myself and Mr. Schoonmaker, this advantage currently produces a 25 % cost advantage overall.

The originating record system has its genesis in a non-competitive market, and was not designed for a competitive marketplace. The IXC business model should be used in the future, as presented by the Missouri Small Company Terminating Compensation Proposal.

Q. **With respect to an originating record system utilized to measure terminating traffic, is this a simple system to administer?**

A. No, it is much more complex than the terminating measurement system used for intraLATA and interLATA IXC traffic, where the terminating LEC simply bills the IXC responsible for the trunk for all terminating minutes. To be successful, an originating record system requires all originating carriers to implement systems for measuring, recording, and passing call records to all of the ILECs and CLECs operating in the state. In order to verify the proper operation of such a system, a multitude of carriers must cooperate and rely upon each other in reconciling traffic records. For example the July 2000 test participated in by only a few

ILECs was a very complex undertaking. Sprint witness Cowdrey's direct testimony explains these complexities in detail. I would note that even though the test was performed over 5 months ago, Sprint has yet to gather the records necessary for Rockport Telephone Company to perform reconciliation.

Q. **Do you know how many carriers in Missouri could potentially be involved in operating an originating records system?**

A. In data responses, SWB indicates it has approximately 66 interconnection agreements with CLECs and wireless carriers, and GTE indicated it had 30. Of course we also have Sprint, GTE, SWB, Fidelity, and there are at least 10 CLECs terminating traffic. While there will be overlap, there may well be 100 or more carriers involved in creating originating records and reconciling them with terminating measurements.

Q. **Does the Missouri Small Company Terminating Compensation Proposal set forth in you direct testimony and the testimony of Robert Schoonmaker accommodate the concerns SWB expresses?**

A. Yes. I believe the small company proposal accommodates those concerns, while at the same time assuring a proper transition to a competitive intraLATA business relationship for terminating access traffic. It does not require a change in the network, as Mr. Scharfenberg appears to assume. It allows continued use of the common trunks between the former PTCs and former SCs. The small company proposal allows continued use of billing arrangements already in use for certain types of traffic perhaps beyond the Commission's control. It allows the terminating LEC to be in charge of measuring other carriers' use of its facilities.

The small company proposal mirrors and extends the IXC interLATA and intraLATA terminating compensation business relationship to the former PTCs. This is consistent with our tariffs and prior decisions of the Commission. Finally, adoption of the small company proposal would avoid other carrier's in the state being forced to utilize SWB as a "gatekeeper" of connections, billing records, and revenue assurance.

Q. Would the small company proposal force the former PTCs to abandon the originating record system they currently use between themselves?

A. No. They can continue it between themselves if they desire

Q. With termination of the PTC Plan, is there a "LEC to LEC" relationship between the small LECs and former PTCs such as SWB?

A. No. The small company approved access tariffs define the former PTCs as interexchange customers or carriers (IXCs) who purchase terminating access just as all other IXCs do. As I stated in my direct testimony, Oregon Farmers PSC Mo No. 6 Sheets 44.1, 82, and 103.1 define the former PTCs as IXCs, indicate that the old FGC business relationship should be converted to a FGD business relationship, and that terminating traffic should be measured at the terminating end by the terminating company. NECA FCC Tariff 5, Pages 6-74 and 6-82 provide the same.

As the Commission stated in its September 26, 2000 Order in TC-2000-325, et. al., SWB is now another intraLATA IXC under the small company access tariffs, and must comply with our lawful access tariffs as any other IXC using our access service must.

Today the relationship of the former PTCs to the small LECs is an "IXC-to-LEC" relationship, not a "LEC-to-LEC" relationship.

Q. SWB continually references "LEC to LEC" traffic. Do the Missouri small companies exchange any LEC to LEC traffic?

A. No. Today the small LECs do not "exchange" interexchange traffic with IXCs, they only provide originating or terminating exchange access service pursuant to tariff. Interexchange traffic originating from small company exchanges is originated by IXCs. The former PTCs no longer originate interexchange traffic from small company exchanges. The small companies do perform a terminating exchange access function for former PTC traffic terminating in small company exchanges.

The terminating function the small companies perform for former PTC traffic is not an "exchange" of LEC to LEC traffic. With termination of the PTC Plan, there is no joint aspect of LEC to LEC traffic. Section 1.2 of the Oregon Farmers small company access tariff, PSC Mo No. 6, 1st Revised Sheet 11, attached as Schedule 1, provides:

> "The provision of such services by the Telephone Company as set forth in this tariff does not constitute a joint undertaking with the customer for the furnishing of any service."

Historically there was a joint aspect to LEC to LEC traffic. As Mr. Scharfenberg indicated, the FGC LEC to LEC system was implemented well before divestiture in 1983. The small companies and large companies used agreed meet points for interexchange facilities. These meet points were established in order to obtain the most efficient interconnection for interexchange traffic. Compensation was paid based upon the facilities provisioned by each company, even though the toll service was provisioned by former PTCs.

With implementation of intraLATA and interLATA presubscription, the joint aspect between the former PTCs and small companies no longer exists.

Q. Could you explain why the small company proposal would not require a change in the former PTC's networks, as Mr. Scharfenberg addressed in his direct testimony?

A. Perhaps this can best be demonstrated by Mid-Missouri's own experience. After the PTC Plan ended, Mid-Missouri began measuring terminating traffic on SWB's trunk. We discovered a huge discrepancy between that measurement and what SWB's originating record system was reporting. Efforts to resolve this discrepancy lasted from November of 1999 to December of 2000.

During this process Mid-Missouri's terminating recordings were used as the basis of periodic terminating traffic billings to SWB. Mid-Missouri's terminating recordings were also used as a basis to develop the compensation adjustments SWB paid to Mid-Missouri. That process was virtually identical to the small company proposal to measure total terminating traffic, subtract other traffic for which different billing arrangements exist, and bill he net residual to SWB. All of this was accomplished without requiring any change in SWB's network.

Q. Mr. Scharfenberg spends a considerable portion of his direct testimony discussing the propriety of forcing SWB to convert to FGD signaling protocols. Are the small companies suggesting this?

A. No. I agree with much of the technical discussion of FGC and FGD contained in Mr. Scharfenberg's testimony. Sometimes the FGC/FGD signaling standards get confused with the terminating compensation business relationship. It is quite common in the industry to use "FGD" to refer to the terminating compensation relationship used for interLATA traffic, and "FGC" to refer to the terminating compensation relationship in use during the PTC Plan for intraLATA traffic. Mr. Scharfenberg estimated it would cost SWB a great deal of money to convert its originating network to FGD signaling protocols. The small company proposal would not require this. Unfortunately the focus of his testimony, and SWB's position, is on the originating side of the network. This case has to do with the terminating side.

I agree with Mr. Scharfenberg that there is no functionality difference between the FGC and FGD trunks. They both use trunk side connections, they use SS7 or MF, both use digital or analog SPC, both accommodate 1+10 digit dialing, both use the same transmission facilities, both use tandem switching as needed, and have the same set up time and call blocking. The information each passes to the terminating LEC is the same. The only meaningful difference, for purposes of this discussion, is that in the interLATA environment a trunk group identifier is utilized to bill all traffic to the responsible IXC assigned to that trunk.. That is the mechanism making the IXC ordering an access trunk responsible for all traffic terminated on that trunk, regardless of the identity of the originating carrier. The small company proposal would do the same thing for the access trunks that were ordered by SWB, GTE, and Sprint. It can be done at no cost to them, as it does not require any change in their network.

In order to obtain the call information that SWB and Mid-Missouri have agreed was sufficiently reliable to agree on past-due compensation, Mid-Missouri simply turned on switch and software capabilities it previously had in use for interLATA traffic, and applied them to the intraLATA traffic. In effect, Mid-Missouri turned on FGD software for intraLATA terminating traffic from its terminating end, without any need for SWB to change anything. As a result Mid-Missouri received the same type of information from SWB over the "FGC" trunks that we receive from IXCs over their "FGD" trunks.

Q. **Ms. Dunlap suggests that the Commission has already decided terminating billing arrangements. Do you agree with her suggestion?**

A. No. The Commission's June 10, 1999 Order in TO-99-254 unfortunately discussed these issues under the notion that this was a FGC/FGD network signaling issue. Some of the blame for that lies with me, as I did not sufficiently present the distinction between FGD signaling and the FGD business relationship for terminating traffic. The Order made it clear that this docket would address billing for traffic terminating from the former PTCs to the small LECs. There was language in the Order indicating this docket would address capability to capture terminating billing information, accuracy of systems to be utilized for the billing of terminating traffic, discrepancies between total terminating traffic and that reported by an originating record system, trunking arrangments, and the subject of business relationships with connecting and upstream carriers.

I believe the Commission intended for this docket to include a review of the terminating business relationship. I also believe the former PTCs understood this as well. Otherwise there would have been no need to conduct the July records test to measure the accuracy of the originating records system.

Q. **In that Order the Commission indicated it was not inclined in June of 1999 to order a change in the business relationship, as there was little evidence of under-compensation using originating record systems. Has the information been further developed in that regard?**

A. Yes. As presented in the direct testimony of Robert Schoonmaker, and as presented in my direct testimony with respect to the Mid-Missouri situation, I believe there is now evidence of significant discrepancies.

Q. **Why is it important for small companies to be compensated for all minutes of use?**

A. Small companies have smaller customer bases than large companies, and smaller access volumes compared to access facility investment. As a result our access rates are higher than those of SWB. Our access rates are widely perceived as being too high. It is important for small companies to be compensated for all usage of their access facilities. Capturing terminating compensation for all usage will assure that these rates remain as low as possible.

Q. **In response to an earlier question, you mentioned the small companies' reluctance to being forced to accept SWB in the role of "gatekeeper". Could you elaborate on these concerns?**

A. It appears SWB is interested in assuring that wireless traffic, CLEC traffic, and intraLATA toll traffic originated by SWB, GTE, and Sprint is transported to the small LECs on the common trunk groups. SWB is also pushing for an originating record system for all such traffic. SWB is accomplishing this by having its tariffs and interconnection agreements include traffic SWB will transport to the small ILECs. SWB is taking on the role of gatekeeper for this traffic by addressing it in its interconnection agreements.

In my opinion this is an improper usurpation of small company interconnection agreement rights. We have the same interconnection rights as does SWB. It is inappropriate for SWB's interconnection and reciprocal compensation arrangements to include traffic destined for small companies. Traffic terminating to small companies is not traffic SWB is transporting and terminating to its competitor, and it is not traffic the competitor is transporting and terminating to SWB. As such, this traffic should not be addressed in SWB's interconnection agreements. SWB is not authorized by law or by the small companies to negotiate the interconnection terms for small companies.

By having its interconnection arrangements cover traffic to us as third parties, SWB precludes the development of interconnection agreements between CLECs and wireless carriers and the small companies. The result is that SWB opens our gate to traffic of CLECs and wireless carriers. As part of this process

SWB negotiates for these carrier to use originating records for traffic terminating to us. We have not been allowed to participate in those negotiations, even though they directly and adversely effect us.

Having opened our gate and attempting to saddle us with originating records on traffic that is not SWB's traffic, SWB then refuses to close this gate unless we file a complaint and obtain a Commission Order to block traffic for which compensation is not being paid. In addition SWB has taken the position they will only block if we pay them to close the gate that SWB opened without our permission. Finally, as mentioned by Ms. Dunlap and Mr. Scharfenberg in their direct testimonies, SWB has invested in a Hewlett-Packard revenue assurance system. SWB suggests that they will make this system available to us to use in conjunction with SS7 call information to determine the originating carrier. Of course SWB will only perform this gatekeeper function if we agree to pay for it.

Q. Please explain how the structure of the interconnection agreements of former PTCs including transiting traffic destined for small LECs operates to the detriment of the small LECs.

A. First, carriers having interconnection agreements with the former PTCs have direct interconnection over separate trunks. This gives the former PTCs the ability to measure all traffic, and block for non-payment. For traffic transited to small ILECs the small ILECs have no such ability, and the carriers interconnecting with the former PTCs know this.

Second, although the interconnection agreements state the carriers interconnecting with the former PTCs are not to send traffic terminating to third party LECs, the former PTCs have no mechanisms in place to enforce this. The traffic is flowing without approved agreements with the third party LECs.

Third, the interconnection agreements do not limit the CLECs and wireless carriers to delivering only local traffic. They allow them to deliver local and access traffic. Interconnection agreements are supposed to be confined to the exchange of local traffic. The former PTCs have no mechanisms in place to assure that only local traffic is terminated to third party LECs.

Fourth, the interconnection agreements do not limit the CLECs or wireless carriers to delivering only traffic that they themselves originate. It appears to me that the former PTCs are using the IXC business relationship compensation mechanism with these connecting carriers. They bill the delivering carrier for all terminating traffic delivered, regardless of the identity of upstream originating carriers. However for the small companies they insist that we bill upstream carriers, not the delivering carrier.

Fifth, the former PTCs do not record the transit traffic terminating to third party LECs, and state that this the responsibility of the originating carrier. However the third party LECs are not receiving billing records, and the former PTCs have no mechanism in place to assure that their connecting carriers meet the obligations imposed by the interconnection agreement.

SWB and GTE between them have 93 approved interconnection agreements. SWB and GTE have accepted absolutely no responsibility to see that their own interconnection agreements, to which we were not party, are enforced. The result is that the small LECs, if they want to recover appropriate compensation, have to attempt to chase down these many carriers interconnecting with SWB and GTE. We have no billing information identifying the originating carrier or call jurisdiction. Not only would it be an exceedingly difficult for the many small LECs to chase down these many connecting carriers, if we were successful it may only be on a prospective basis. I don't know how we would agree to past due compensation amounts.

I think it is fairly clear that the actions of the former PTCs have operated to the detriment of the small LECs.

Q. **Has SWB ever opposed being placed in the position of accepting transiting traffic without its consent, as SWB proposes for the small LECs?**

A. Apparently so. In an arbitration with TCG in Kansas, SWB voiced its opposition to accepting indirect traffic from a transiting carrier. Its opposition was upheld. The Kansas Corporation Commission's August 7, 2000 decision was in Docket No. 00-TCGT-571-ARB. The issue was framed as whether SWB could be required to receive traffic transited by TCG to SWB. SWB objected and requested a determination that it not be so required. SWB asserted TCG should not be permitted to interject itself in any effort by SWB to establish direct interconnection agreements. The KCC found that:

> "no other carrier should be authorized to interject itself into the interconnection arrangements of the local exchange carrier, without its agreement. There is no indication in the statute that transit services are considered. Clearly, parties may agree to accept calls on a transiting basis,

> but SWB has indicated its unwillingness to do so and has expressed a preference for negotiating its own agreement." (emphasis mine)

The position SWB took for itself in Kansas is the precise opposite of the position SWB is taking in Missouri. The KCC decision should apply equally to small LECs in Missouri. Small LECs in Missouri oppose the same type of indirect transiting relationship being forced upon them without their consent Small LECs have never indicated that they would agree to accept calls on a transiting basis, and in fact have communicated their objection in the past. SWB, GTE, and Sprint should not have the discretion to force the small LECs to accept transiting traffic. SWB, GTE, and Sprint should not be permitted to interject themselves into the small company rights to obtain their own direct interconnection agreements.

Q. **Do you believe that it is necessary or appropriate for the originating carrier to be responsible to pay terminating compensation, regardless of how the traffic is delivered to the terminating LEC?**

A. No. This is not necessary or appropriate. It would impose a relationship that is inconsistent with the IXC terminating business relationship in use by IXCs for both interLATA and intraLATA traffic since divestiture in 1983.

As I have mentioned, the appropriate relationship for a competitive environment is for compensation obligations to be built around direct interconnections. Today IXCs are billed for all terminating traffic on their trunks, regardless of how many upstream carriers contract with the IXC to place their traffic on the trunks. The IXC then collects from the upstream carriers based on the relationship it established with them at their point of interconnection. As I have also mentioned, an originating record system leaves the terminating LEC without the information and ability to assure that it is properly paid.

Q. **In your direct testimony you suggested one option for accommodating MCA traffic into the Missouri Small Company Terminating Compensation Proposal would be to place MCA traffic on separate trunks. SWB witness Scharfenberg opposed this on the basis of efficiency. Does this mean the small company proposal will not work?**

A. No. I was somewhat surprised at Mr. Scharfenberg's testimony. In its November 22, 2000 answer to our August 4 data request number 11, SWB stated that it has separate trunk groups between SWB end offices to ILEC end offices designed to carry only MCA traffic. If this is true the inefficiency problem has not been a barrier for SWB. The small company proposal contained alternatives to separate trunks. One alternative is to measure and report MCA traffic. Another alternative is to establish usage factors.

Q. **Does this conclude your rebuttal testimony?**

A. Yes.

ACCESS SERVICE

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1. Application of Tariff

1.1 This tariff contains regulations, rates and charges applicable to the provision of Carrier Common Line, Switched Access and Special Access Services, and other miscellaneous services, hereinafter referred to collectively as service(s), provided by the Telephone Company, to Customer(s).

1.2 The provision of such services by the Telephone Company as set forth in this tariff does not constitute a joint undertaking with the customer for the furnishing of any service.

1.3 Local Exchange Carriers (LEC's) subject to this tariff are also subject to terms and conditions of the Conceptual Framework, Missouri Intrastate, IntraLATA Primary Carrier By Toll Center Plan filed in Case No. TO-84-222 et al., as modified and approved by the Missouri Public Service Commission. (N)

84-222 et al.

ACCESS SERVICE

2. General Regulations (Cont'd)

2.6 Definitions (Cont'd)

Interconnection Point (M)

The V and H coordinate as determined in EXCHANGE CARRIERS ASSOCIATION TARIFF - WIRE CENTER & INTERCONNECTION INFORMATION of a point where facilities of the Telephone Company meets facilities of a connecting exchange telephone company.

Interexchange Customer(s)(IC)

Denotes any interexchange carrier (facility based or reseller) engaged for hire, which subscribes to the services offered under this Tariff to provide intrastate telecommunications services for its own use or for the use of its End Users. For purposes of this tariff, Primary Toll Carriers are also included in this definition. (M)

(M) Material previously appearing on 3rd Revised Sheet 44 now appears on this sheet.