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

In the Matter of an Investigation Concerning the     )  
Continuation or Modification of the Primary Toll     ) Case No. TO-97-217  
Carrier Plan When IntraLATA Presubscription is     )  
Implemented in Missouri.     )

**ORDER DENYING MOTION TO COMPEL**

The Small Telephone Company Group (STCG) filed a motion on June 26, 1998 asking the Commission to direct Southwestern Bell Telephone Company (SWBT), GTE Midwest Incorporated (GTE), and Sprint Missouri, Inc. (Sprint) to respond to certain data requests (DRs). It also asked for expedited treatment of its motion. SWBT, GTE, and Sprint filed responses on July 1, 2, and 6, respectively.

STCG propounded DRs 1 through 19 to SWBT, GTE, and Sprint (collectively the Respondents) on June 2. The three companies notified STCG on June 11 and 12 that they objected to DRs 7 through 19 on the grounds that the DRs lacked relevance and were overbroad and burdensome. The parties responded to DRs 1 through 6. STCG argues that DRs 7 through 19, which request information regarding how interexchange (IXC) toll, wireless, and other traffic which the PTCs terminate on SC networks is measured, are relevant to three of the issues to be decided by the Commission in the hearing scheduled for July 22 through 24. Specifically, those questions are:

- a) How and where should actual terminating intraLATA intrastate LEC-to-LEC traffic be measured where traffic terminates at the end office transiting a tandem switch of a current SC?
- b) How and where should actual terminating intraLATA intrastate LEC-to-LEC traffic be measured where traffic terminated at an end office without transiting a tandem switch of a current SC?

- c) 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?

STCG states that the PTCs are advocating continuation of the present record-keeping arrangement in which terminating intrastate intraLATA LEC-to-LEC toll traffic is measured where the originating toll call is recorded for end-user billing; IXC, wireless, and other traffic is measured where that traffic enters the PTCs' networks. STCG alleges that, in many instances, the PTCs are terminating more traffic than they are reporting. STCG claims that "[o]nly when information is received regarding the accuracy of the records being created for all traffic transiting these common trunks can the STCG member companies . . . be satisfied that the PTCs' proposal is reasonable."

In response to the objection by SWBT and Sprint that the DRs are burdensome, STCG states that the Respondents have offered no facts to support this objection. STCG also points out that SWBT and Sprint have answered identical requests for information regarding intraLATA toll traffic and therefore the requests are not burdensome.

STCG asked for expedited consideration of its motion, stating that it needed time to analyze the information produced by the DRs and prepare testimony before the scheduled hearings. STCG stated that the date for the evidentiary hearing may need to be extended.

SWBT, GTE, and Sprint argue that DRs 7 through 19 request information that is irrelevant to this proceeding, that STCG is merely attempting to delay the implementation of intraLATA presubscription by filing the motion to compel, and that the DRs are overbroad and burdensome and preparing responses would take considerable time and resources.

The Respondents answered DRs 1 through 6, all of which dealt with LEC-to-LEC traffic. DRs 7 through 19, however, deal with IXC and cellular traffic which is terminated in LEC exchanges. The Respondents argue that IXC and cellular traffic is not subject to the PTC Plan and therefore the information requested is irrelevant. The Respondents point out that the parties have been relying on one another for record-keeping accurate enough to support their billing for ten years, and that STCG has provided no evidence to support its claim that the PTCs are terminating more traffic than they are reporting. The Respondents also argue that, if such a problem does exist, it is beyond the scope of the PTC Plan case.

The Respondents argue that STCG's purpose in propounding these DRs is really to delay the implementation of intraLATA presubscription by requesting information that will result in a delay of the hearing schedule. SWBT points out that, although STCG asks for expedited treatment of its motion, it failed to file the motion until two weeks after receiving objections from the Respondents.

SWBT and Sprint argue that DRs 7 through 19 are overbroad and unduly burdensome. SWBT specifically describes each of the DRs in its pleading and states that answering this long series of questions will entail a considerable amount of work by numerous employees. SWBT points out that it would have to research its relationship with every IXC and wireless carrier with which it interconnects in order to prepare appropriate responses. Sprint also stated that providing the detailed information sought for each and every IXC or wireless carrier interconnected with Sprint would take time and effort because of the large numbers of IXCs and wireless carriers involved.

The Commission has reviewed STCG's motion to compel and the responses filed by SWBT, GTE, and Sprint, as well as the texts of DRs 7 through 19. The Commission finds that DRs 7 through 19 request information regarding interexchange, wireless, and other traffic that is not subject to the PTC Plan. The Commission's order of March 12, 1998 in TO-97-217 was designed to begin the process of replacing the PTC Plan with an Originating Responsibility Plan (ORP). The information requested by DRs 7 through 19 is irrelevant to the proceedings at hand and, therefore, the motion to compel will be denied. Because the Commission finds that the information requested is irrelevant to the case, there is no need to take up the issues of overbreadth and burdensomeness.

**IT IS THEREFORE ORDERED:**

1. That the Small Telephone Company Group's Motion to Compel Southwestern Bell Telephone Company, GTE Midwest Incorporated, and Sprint Missouri, Inc. to Answer Data Requests and for Expedited Consideration filed on June 26, 1998 is denied.

2. That this order shall become effective on July 22, 1998.

**BY THE COMMISSION**

*Dale Hardy Roberts*

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

( S E A L )

L. Anne Wickliffe, Deputy Chief  
Regulatory Law Judge, by delegation  
of authority pursuant to 4 CSR  
240-2.120(1) (November 30, 1995)  
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,  
on this 17th day of July, 1997.

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COMMUNICATIONS COUNCIL  
PUBLIC SERVICE COMMISSION