

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

An Investigation into Call Routing)
and Call Completion Problems)
in the State of Missouri)

File No. TW-2012-0112

COMMENTS OF THE MISSOURI SMALL TELEPHONE COMPANIES

COME NOW the Missouri Small Telephone Companies (“Small Companies”)¹
and in response to the Missouri Public Service Commission (Commission) Staff’s May
31, 2013 Request for Comment state to the Commission as follows:

1. Nothing in the pending Section 392.611 in HB 331 will change Staff’s findings which conclude that rural call completion problems continue to exist in Missouri.
2. Nothing in the pending Section 392.611 in HB 331 will change the Small Companies’ concerns about rural call completion problems.
3. Nothing in the pending Section 392.611 in HB 331 will alter the Small Companies’ previously stated opinions and suggestions as to the Commission’s authority to address call completion issues. Specifically, nothing will change the Small Companies’ agreement with Staff’s Legal analysis that:
 - a. Companies that provide “wholesale” or “backbone” facilities or services

¹ For the purposes of this case, the Small Companies consist of the following rural telephone companies: Alma Communications Company d/b/a Alma Telephone Company, BPS Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Fidelity Telephone Company, Goodman Telephone Company, Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo Telephone Corporation, Kingdom Telephone Company, K.L.M. Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Otelco Mid-Missouri LLC, Miller Telephone Company, MoKAN Dial, Inc., New Florence Telephone Company, New London Telephone Company, Northeast Missouri Rural Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Peace Valley Telephone Company, Inc., Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company.

are telecommunications companies under the definition of §386.020;

- b. Every telecommunications company has the duty to provide telecommunications service on a non-discriminatory basis and is legally obliged to transport traffic to its final destination; and
- c. Every telecommunications company and IVoIP provider, including companies that provide “wholesale” or “backbone” facilities or services, is required to be either certificated or registered with the Commission prior to providing telecommunications service in Missouri and is legally obligated to pay properly tariffed access rates.²

4. The pending Section 392.611.3 in HB 331 contains the following savings clause language to maintain the Commission’s authority under both federal and state law over intercarrier and network issues:

. . . Notwithstanding any other provision of this section, **nothing** in this section extends, **modifies, or restricts any authority delegated to the state commission under federal statute, rule, or order to require, facilitate, or enforce any interconnection obligation or other intercarrier issue including**, but not limited to, intercarrier compensation, **network configuration or other such matters**. Notwithstanding any other provision of this section, **nothing in this section** extends, **modifies, or restricts any authority the commission may have arising under state law relating to interconnection obligations or other intercarrier issue including**, but not limited to, intercarrier compensation, **network configuration, or other such matters**.

(emphasis added). Rural call completion problems are “intercarrier issues” that involve “intercarrier compensation” and “network configuration”, among other things.

Specifically, both the Commission’s Staff and the FCC have determined that rural call

² Staff’s Legal Analysis, attached to Staff’s March 29, 2013 Report and Recommendation.

completion problems are caused in large part by some least cost routers and other intermediate service providers in the call path.³ The problem clearly is an “intercarrier issue” between the originating carriers, the intermediate carriers, and the terminating carriers that in many cases do not receive the calls.

5. Nothing in the pending Section 392.611 in HB 331 will change the Commission’s authority under various specific Missouri statutes, including:

- a. 392.200.6 – Duty to receive, transmit, and deliver conversations and messages of other companies without discrimination or delay;
- b. 392.220.1 – Requirement to file schedules showing rates for joint service provided over facilities of other telephone companies, and to file any contract or agreement with any other telephone company relating to the use of telephone facilities or rates and charges over any such facilities;
- c. 392.240.3 – Authorizes Commission to require interconnection between telephone company facilities;
- d. 392.360 – Every telecommunications company shall obey, observe, and comply with Commission orders and requirements, and any telecommunications company that fails to comply with such orders is subject to forfeiture and penalties; and
- e. 392.450.4 – Preserves telecommunications companies’ rights and obligations under Sections 251 and 252 of the Telecommunications Act of

³The “primary cause of call completion problems appears to be intentional traffic manipulation by certain intermediate providers (a.k.a. least-cost-routers) used by some originating interexchange carriers.” (Staff’s Report, p. 10) Staff’s Report observes, “[T]he entities that are causing the call termination problems in Missouri are **purposefully and deliberately creating the problem.**” *Id.* (emphasis added.)

1996 and the Commission's authority to mediate and arbitrate disputes arising under federal law.

It is also noteworthy that the pending Section 392.611 in HB 331 relaxes, but does not eliminate, the requirement for certification. *Compare* existing 395.450 with pending Section 392.611.4 and existing 392.550.

6. The pending Section 392.611 in HB 331 is focused on end-user retail customers, so it would not appear to apply to least-cost routers or wholesale providers because those entities do not have end-user retail customers. For example, pending section 392.611.1 exempts telecommunications companies from obligations and regulations "on retail telecommunications services provided to end user customers." (Emphasis added.)

7. Nothing in the pending Section 392.611 in HB 331 alters in any way the Small Companies' proposed three-part approach to address call completion issues:

- A. A public awareness campaign;
- B. A web-based reporting page for Missouri customers to report rural call completion problems; and
- C. Establishment of a rule to directly address rural call completion issues.

The Small Companies respectfully request that the Commission move forward as soon as possible to implement a rulemaking to address the call completion problems identified in Staff's Report.

8. The only change to the Small Companies' position is that the pending Section 392.611.4 in HB 331 would make it easier for intermediate carriers or least cost routers to obtain certification from the Commission after August 28, 2013. If the pending legislation is signed by Governor Nixon, then the process to obtain certification as a telecommunications provider will mirror the streamlined registration process currently in place for VoIP providers.

Respectfully submitted,

/s/ Brian McCartney

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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was mailed, hand-delivered, or served electronically this 14th day of June, 2013 to:

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