

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”),<sup>1</sup> and state to the Missouri Public Service Commission (Commission) as follows:

1. The Commission Staff’s March 29, 2013 report regarding its investigation into call routing and call completion problems in rural Missouri concludes:

- a. Call completion problems continue to exist.
- b. Call completion problems occur mostly in rural out-state areas served by small incumbent local telephone companies.
- c. The primary cause of call completion problems appears to be intentional traffic manipulation by least cost routers used by some interexchange carriers.
- d. While the FCC is taking some actions to address this problem, more prompt and directed action by the Missouri Commission may be appropriate.

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<sup>1</sup> 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.

2. To assist with its further investigation, Staff seeks feedback from stakeholders regarding its Report. The Small Companies greatly appreciate Staff's thorough investigation of this problem and offer the following comments and feedback.

**A. The Small Companies Agree with Staff's Conclusions and Observations.**

The Small Companies agree with Staff and commend Staff for its many hours of hard work on this important issue. Staff's Report recognizes the significant social, economic development, healthcare, and public safety issues associated with call completion and routing problems:

This problem affects residential customers and business customers alike. The problem is particularly pronounced when rural families are cut off from their relatives, and when anchor institutions and enterprise and small businesses suffer a loss of business due to call termination and service quality problems. For example, problems have been reported in the medical community, such as with attempts to transmit medical images and other telemedicine applications at rural health-care clinics and hospitals. In a situation particularly troublesome in Missouri, the problem can also affect the reliability of emergency telephone service (i.e., 9-1-1 dialing).

(Staff's Report, p. 2)

The Small Companies are directly affected by call completion problems. Rural customers complain about service and may mistakenly believe that the rural incumbent local exchange carriers (ILECs) are to blame. The Small Companies can confirm from

firsthand experience Staff's conclusion that "[c]ountless hours have been spent troubleshooting problems that have nothing to do with a rural exchange carrier's network." (Staff's Report, p. 3)

The Small Companies concur with Staff's observation that "the entities that are causing the call termination problems in Missouri are **purposefully and deliberately creating the problem.**" (Staff's report, p. 10)(emphasis added.)

**B. The Small Companies Agree with Staff Counsel's Legal Analysis that Intermediate Providers (Least-Cost Routers) Must be Certificated or Registered with the Missouri Commission.**

The Small Companies agree with Staff Counsel's conclusion that intermediate providers, and specifically least cost routers, must be certificated or registered with the Commission. Staff Counsel correctly concludes that companies providing "wholesale" or "backbone" facilities or services both "control and operate" telecommunications facilities "that are used to provide telecommunications services" in Missouri. (Staff Counsel's Legal Analysis, p. 1, citing §386.020 RSMo.) These providers have the duty to provide telecommunications services on a non-discriminatory basis and are legally obliged to: (a) ensure that telecommunications traffic is transported and terminated to its final destination; and (b) compensate the next carrier handling the call. (*Id.* at p. 3, citing §§392.130, 392.140, and 392.200 RSMo.) Accordingly, all telecommunications and VoIP providers, including any entity that carries telecommunications traffic that traverses the public switched network in Missouri, are required to either be certificated or registered with the Commission prior to providing service in Missouri, and are legally obligated to pay properly tariffed access rates. (*Id.* at p. 3)

### **C. The Missouri Commission has Sufficient Authority to Adequately Address Call Completion Problems.**

The Commission has clear statutory authority over all certificated interexchange carriers (IXCs) operating in the state of Missouri. Missouri law defines “interexchange telecommunications company” as “any company engaged in the provision of interexchange telecommunications service.” §386.020(24). “Interexchange telecommunications service” is defined as “telecommunications service between points in two or more exchanges.” §386.020(25). Missouri law requires that “**every telecommunications company operating in this state shall receive, transmit, and deliver, without discrimination or delay, the conversations and messages of every other telecommunications company with whose facilities a connection may have been made.**” §392.200.6 (emphasis added.)

Thus, the Commission has the authority to investigate IXCs and their practices to determine if and how they are using least cost routers to deliver interexchange traffic. In other words, the Commission can investigate these problems on the originating side of the calls by examining the practices of the IXCs. The Small Companies agree with Staff’s observation that IXCs “are bound by Federal and State laws and regulations to ensure their traffic is properly terminated.” (Staff’s Report, p. 10)

In addition to its jurisdiction over IXCs, the Commission also has authority to require any entity that carries telecommunications traffic which traverses the public switched network in Missouri to obtain a certificate or registration. (See p. 3, Section B above).

#### **D. Sufficient Root Cause Analysis Has Been Completed.**

The Staff's Report and Legal Analysis, along with substantial data from the Federal Communications Commission (FCC), demonstrate that the root cause of this problem is associated with the access rate avoidance efforts of least cost routers and some IXCs. The FCC's recent *Notice of Proposed Rulemaking* states:

Some . . . intermediate providers offering wholesale call delivery services may be failing to deliver a significant number of calls to rural telephone company customers, and the evidence indicates that the retail long-distance providers may not be adequately examining the resultant rural call completion performance.<sup>2</sup>

The FCC has also taken specific action by adopting a consent decree requiring Level 3 Communications, LLC (Level 3) to pay a voluntary contribution of \$975,000 to the United States Treasury and an additional \$1 million voluntary contribution every time it misses quarterly call completion benchmarks.<sup>3</sup>

3. **Next Steps.** The Staff's Report, along with FCC data and the FCC's *Level 3 Order*, provide more than enough analysis and evidence of the root cause. Moreover, Staff advises, "It is unlikely that the solution being proposed in the FCC's Notice of Proposed Rulemaking will address the root causes of call completion problems in Missouri." (Staff Report, p. 7) Therefore, it is now time for the Missouri

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<sup>2</sup> *In the Matter of Rural Call Completion*, WC Docket No. 13-39, *Notice of Proposed Rulemaking*, FCC13-18, rel. Feb. 7, 2013, ¶1.

<sup>3</sup> *In the Matter of Level 3 Communications, LLC*, File No. EB-12-IH-0087, *Order and Consent Decree*, DA-13-371, rel. March 12, 2013.

Commission to take action to address rural call completion problems. The Missouri Small Companies recommend a three-part approach:

- A. The Commission could develop a public awareness campaign to educate and inform Missouri's telecommunications customers about the problem and encourage reporting to the Missouri PSC of call completion issues. The data on specific instances of call completion problems can be used to initiate enforcement or penalty actions against IXCs or least cost routers that fail to properly deliver calls.
- B. The Commission could develop a web-based reporting page for Missouri customers to report rural call completion problems similar to the FCC's reporting page.<sup>4</sup>
- C. The Missouri PSC should implement a rule to directly address rural call completion issues and confirm that all carriers have a duty to ensure that calls are completed. A draft of a proposed rule is included with these comments as **Attachment A**. This proposed rule is intended to be consistent with the additional conditions imposed by the Commission on new voice certificate holders to ensure delivery of traffic to all Missouri telephone exchanges. (See Staff Report, p. 6)

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<sup>4</sup> See <http://www.fcc.gov/encyclopedia/problems-long-distance-or-wireless-calling-rural-areas>

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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 3<sup>rd</sup> day of May, 2013 to:

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