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David L. Armstrong
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James Gardner
Vice-Chairman

John W. Clay
Commissioner

July 30, 2008

PARTIES OF RECORD

Re: Case No. 2008-00135

Attached is a copy of the memorandum which is being filed in the record of the above-referenced cases. If you have any comments you would like to make regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact Amy Dougherty at 502/564-3940, Extension 257.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Stumbo".

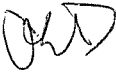
Stephanie Stumbo,
Executive Director

Attachment

INTRA-AGENCY MEMORANDUM

KENTUCKY PUBLIC SERVICE COMMISSION

TO: The File

FROM: Amy Dougherty 

DATE: July 30, 2008

SUBJECT: Case No. 2008-00135
Sprint Communications Co. LP v. Brandenburg Telephone Co.

Those persons whose names appear on the attached sign-in sheet met to discuss the issues pertaining to this complaint. Sprint began by arguing that it is a wireless carrier, and that the jurisdiction of calls change with the caller's location. According to Sprint, it provides to Brandenburg a report of the percent interstate usage (PIU), but Brandenburg does not use the report in its billing calculations. Sprint also proposes that Brandenburg use the jurisdictional information parameter (JIP) which contains the information of the location where the wireless telephone call enters a network. Brandenburg has declined to use the JIP data also. The issue according to Sprint is whether the calls are interstate in nature or intrastate. It argues that Brandenburg is over billing it for intrastate charges. Intrastate calls are billed at 18 cents per minute, whereas, interstate are billed at 1.4 cents per minute.

Brandenburg responded by indicating that Sprint was 4 months behind on its billing. According to Brandenburg, the traffic in question is that which Brandenburg carries for Sprint as an access customer, not as a wireless provider. The access trunks are used and Brandenburg's tariff says how the traffic is to be jurisdictionalized. Brandenburg is using its access tariff to jurisdictionalize the traffic. Brandenburg wants to use the protocols in place according to the tariff as opposed to Sprint's self-reporting of traffic percentages. According to Brandenburg, Sprint would like Brandenburg to just take its word for the PIU. According to Sprint, 93 percent of its traffic is interstate in nature and should be billed at 1.4 cents per minute. Yet Sprint has not provided any evidence of the PIU.

Moreover, according to Brandenburg, all inter-exchange carriers and incumbent local-exchange carriers would be affected if Brandenburg used the JIP report. Brandenburg discussed the retroactive audit which Sprint has requested. According to Brandenburg, such an audit exceeds the tariff parameters by going back to fixed charges and then setting a rate retroactively. Also, according to Brandenburg, Sprint has a CMRS agreement and thus, Brandenburg wants to know why the CMRS traffic has arrived over its access trunks.

Sprint responded by saying that its interconnection agreement with Sprint Spectrum is a wireless agreement for the exchange of local intra-MTA traffic, whereas the access covers intra-exchange traffic. Access is paid for 5 percent of the overages based in the interconnection agreement, yet the traffic in question here is inter-exchange traffic.

Brandenburg reiterated that Sprint just wants Brandenburg to accept Sprint's word for the traffic division. Seventy-five percent is interstate and twenty-five percent intrastate based on the telephone numbers, and the percent interstate usage is used for the rest of the traffic. Sprint pointed out that AT&T Kentucky uses the JIP report to jurisdictionalize the traffic that it carries.

Sprint emphasized that it began pursuing this matter with Brandenburg 4 or 5 months ago. When Brandenburg asked why it waited so long when the traffic has been handled this way for much longer, Sprint responded that it worked on fixing the charges with the major national carriers first and is now moving to a second-tier carrier such as Brandenburg.

Brandenburg noted that it might file a complaint to request permission to disconnect Sprint, because of Sprint's failure to pay. Sprint responded that based upon an actual traffic it has completed, ninety-three percent of the traffic is interstate in nature.

Both parties agreed to the following procedures:

1. Sprint will give evidence of its ninety-three percent interstate traffic split to Brandenburg. This will be transmitted in the format of a CDR for OCN for PIU. The text files will include approximately 700,000 minutes per month. Sprint will provide this information in a week or two by no later than July 31, 2008. By August 14, 2008, Brandenburg will respond to Sprint copying the Commission regarding its review of the traffic study.

2. The parties will exchange simultaneous data requests to be served upon each other by August 8, 2008, and simultaneous responses by August 29, 2008.

3. As a possible 3rd tract, Brandenburg may file a motion requesting the Commission to order Sprint to pay its current bills.

In addition to the sign-in sheets, copies of the hand-outs of Sprint and Brandenburg are attached.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

COMPLAINT OF SPRINT COMMUNICATIONS) CASE NO.
COMPANY LP AGAINST BRANDENBURG) 2008-00135
TELEPHONE COMPANY AND REQUEST FOR
EXPEDITED RELIEF

SIGN IN

July 17, 2008

PERSON

REPRESENTING

Amy E. Dougherty
Jim STEVENS

FSC - legal
PSC

Joe Cowin

Sprint

Julie Walker

Sprint

Jack Husher

sprint counsel

Bill Atkinson

Sprint

John Selent

Dinsmore & Stahl - Brandenburg

Tip Depp

"

Allison Willoughby

Brandenburg

Randall Bradley

"

Eileen Bodamer

Consultant for Brandenburg

Mary Sandoy

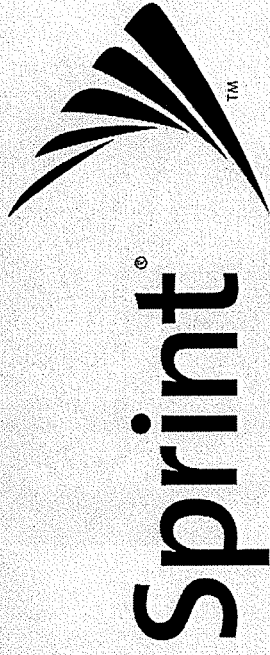
Sprint

PERSON

Kyle Willard

REPRESENTING

PSC-Engineering



Together with NEXTEL

Brandenburg

July 17, 2008

2008-135

Tariffs and FCC Orders

National Exchange Carrier Association, Inc., Tariff F.C.C. No. 5, Original Page 2-18.2, Section 2.3.11(C)(1)(a), Issued: June 3, 2003, Effective: June 18, 2003.

- 2. General Regulations (Cont'd)
- 2.3 Obligations of the Customer (Cont'd)
 - 2.3.11 Jurisdictional Report and Certification Requirements (Cont'd)
 - (C) Jurisdictional Reports - Switched Access (Cont'd)
 - (1) Percentage of Interstate Use (PIU)

(a) For purposes of developing the projected interstate percentage for Feature Group C or Feature Group D, **the customer shall consider every call that originates from a calling party in one state and terminates to a called party in a different state to be interstate communications.** The customer shall consider every call that terminates to a called party within the same state as the state where the calling party is located to be intrastate communications. The manner in which a call is routed through the telecommunications network does not affect the jurisdiction of a call, i.e., a call between two points within the same state is an intrastate call even if it is routed through another state. (emphasis added)

Duo County Tariff Section 2.3.11 (C) (1), Original Page 2-20,

Pursuant to Federal Communications Commission Order FCC 85-145 released April 16, 1985, interstate usage is to be developed as though every call that enters a customer network at a point within the same state as that in which the called station (as designated by the called station telephone number) is situated is an intrastate communication and every call for which the point of entry is a state other than that where the called station (as designated by the called station telephone number) is situated is an interstate communication.



Together with NEXTEL

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, 15680, para. 359 (1996) (Local Competition First Report and Order), aff'd in part and vacated in part sub nom., Competitive Telecommunications Ass'n v. FCC, 117 F.3d 1068 (8th Cir. 1997) and Iowa Utils. Bd. v. FCC, 120 F.3d 753 (8th Cir. 1997), aff'd in part and remanded, AT&T v. Iowa Utils. Bd., 119 S. Ct. 721 (1999).

1044. CMRS customers may travel from location to location during the course of a single call, which could make it difficult to determine the applicable transport and termination rate or access charge. We recognize that, using current technology, it may be difficult for CMRS providers to determine, in real time, which cell site a mobile customer is connected to, let alone the customer's specific geographic location. This could complicate the computation of traffic flows and the applicability of transport and termination rates, given that in certain cases, the geographic locations of the calling party and the called party determine whether a particular call should be compensated under transport and termination rates established by one state or another, or under interstate or intrastate access charges. We conclude, however, that it is not necessary for incumbent LECs and CMRS providers to be able to ascertain geographic locations when determining the rating for any particular call at the moment the call is connected. **We conclude that parties may calculate overall compensation amounts by extrapolating from traffic studies and samples. For administrative convenience, the location of the initial cell site when a call begins shall be used as the determinant of the geographic location of the mobile customer. As an alternative, LECs and CMRS providers can use the point of interconnection between the two carriers at the beginning of the call to determine the location of the mobile caller or called party.**



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2. General Regulations (Cont'd)

2.3 Obligations of the Customer (Cont'd)

2.3.11 Jurisdictional Report and Certification Requirements

(Cont'd)

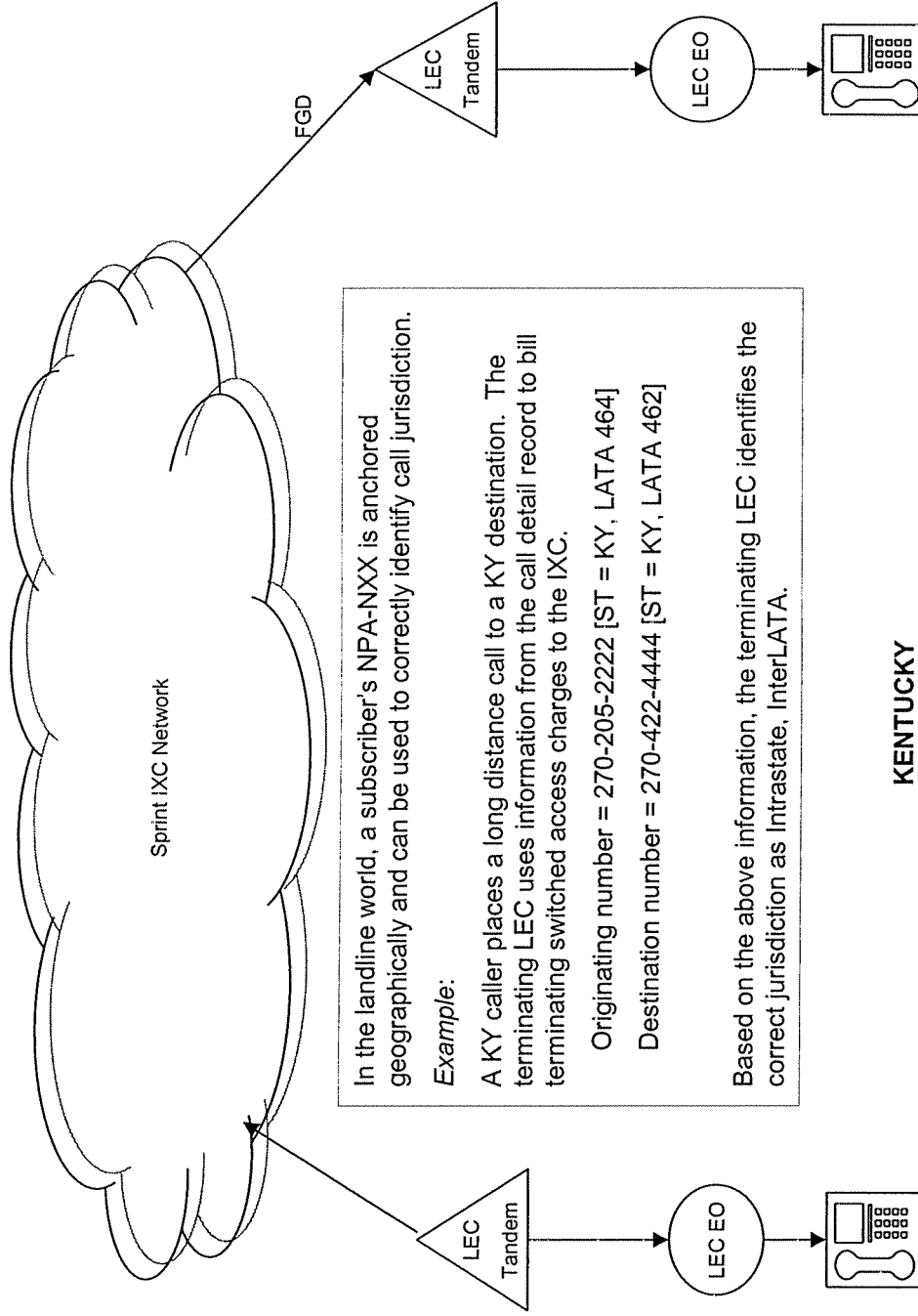
(C) Jurisdictional Reports - Switched Access (Cont'd)

(1) Percentage of Interstate Use (PIU)

When the Telephone Company receives sufficient call detail to permit it to determine the jurisdiction of some or all originating and terminating access minutes of use, the Telephone Company will use that call detail to render bills for those minutes of use and will not use PIU factor(s) described in (2), below, to determine the jurisdiction of those minutes of use.

When the Telephone Company receives insufficient call detail to determine the jurisdiction of some or all originating and terminating access minutes of use, the Telephone Company will apply the PIU factor(s) provided by the customer or developed by the Telephone Company as set forth in (2), below, only to those minutes for which the Telephone Company does not have sufficient call detail. Such PIU factor(s) will be used until the customer provides as update to the PIU factors as set forth in (2) (g) or (h) below.

Traditional landline jurisdiction determination



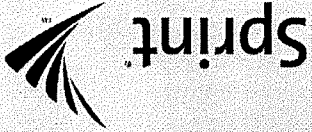
In the landline world, a subscriber's NPA-NXX is anchored geographically and can be used to correctly identify call jurisdiction.

Example:
 A KY caller places a long distance call to a KY destination. The terminating LEC uses information from the call detail record to bill terminating switched access charges to the IXC.

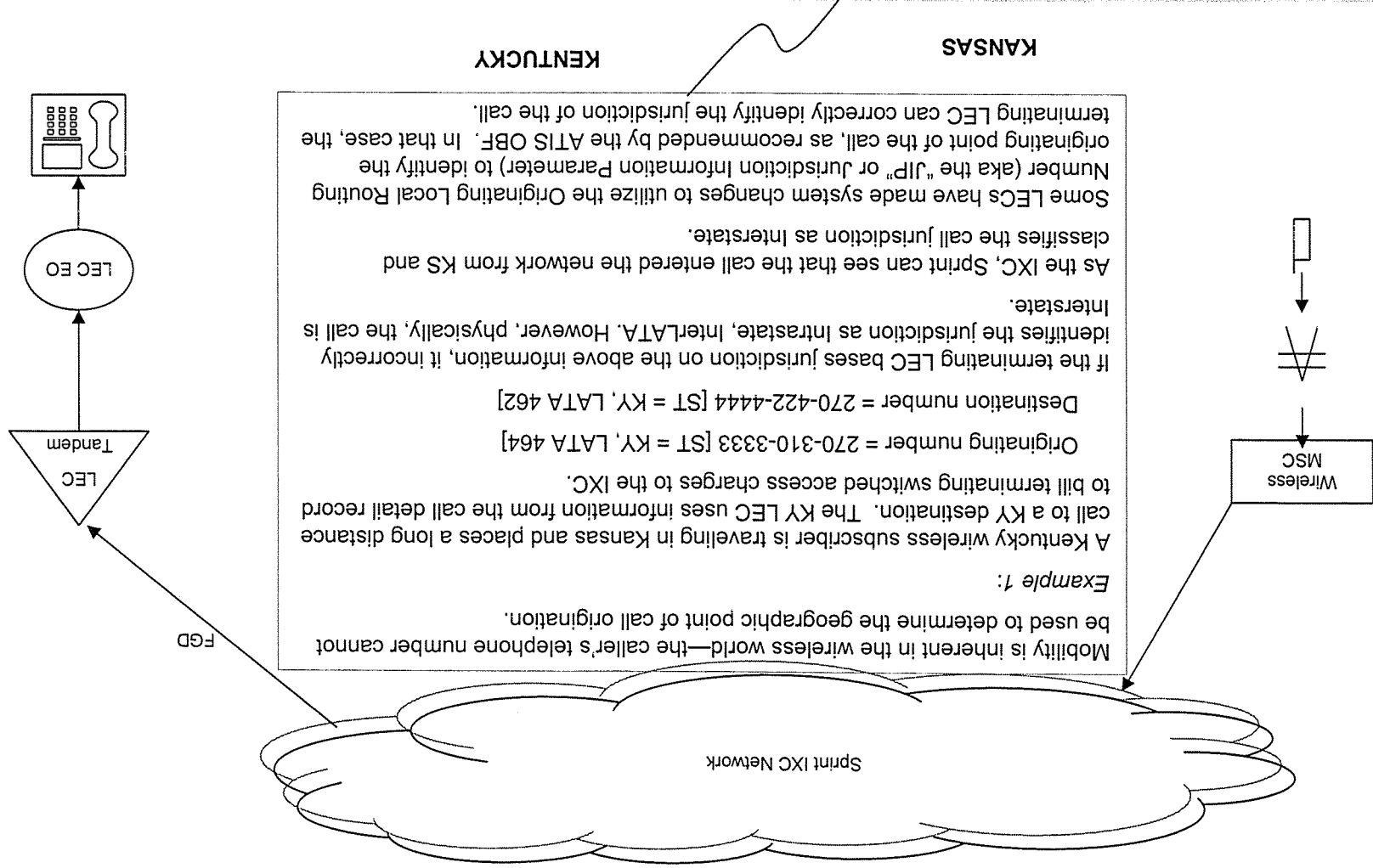
Originating number = 270-205-2222 [ST = KY, LATA 464]
 Destination number = 270-422-4444 [ST = KY, LATA 462]

Based on the above information, the terminating LEC identifies the correct jurisdiction as Intrastate, InterLATA.

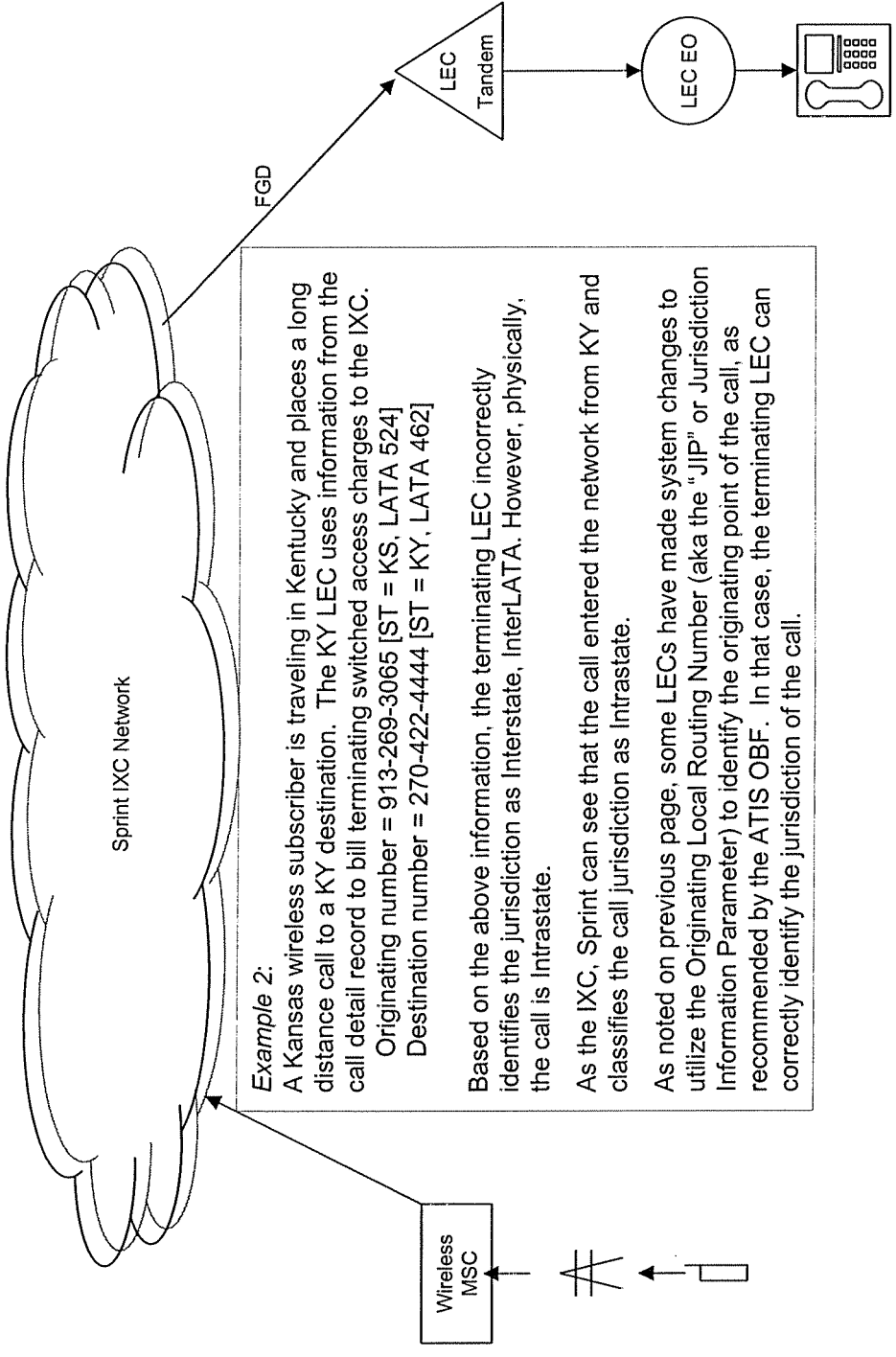
KENTUCKY



Impact of wireless-originated calls on jurisdiction determination



Impact of wireless-originated calls on jurisdiction determination



Example 2:
 A Kansas wireless subscriber is traveling in Kentucky and places a long distance call to a KY destination. The KY LEC uses information from the call detail record to bill terminating switched access charges to the IXC.
 Originating number = 913-269-3065 [ST = KS, LATA 524]
 Destination number = 270-422-4444 [ST = KY, LATA 462]

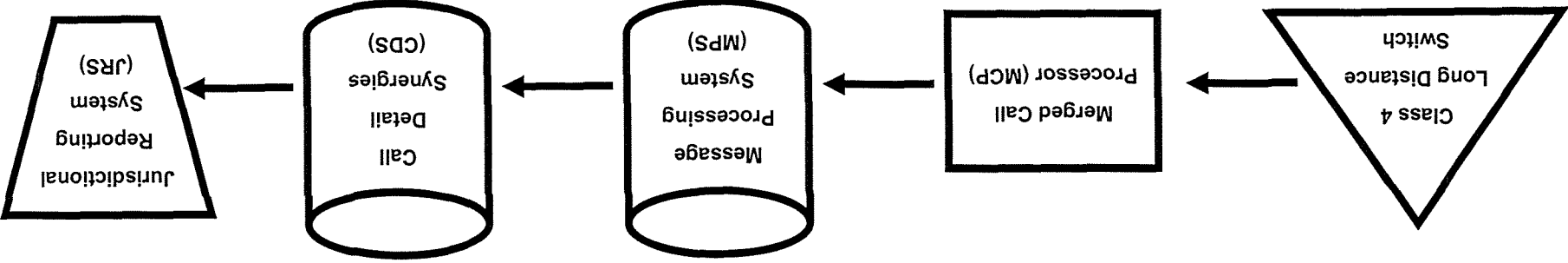
Based on the above information, the terminating LEC incorrectly identifies the jurisdiction as Interstate, InterLATA. However, physically, the call is Intrastate.

As the IXC, Sprint can see that the call entered the network from KY and classifies the call jurisdiction as Intrastate.

As noted on previous page, some LECs have made system changes to utilize the Originating Local Routing Number (aka the "JIP" or Jurisdiction Information Parameter) to identify the originating point of the call, as recommended by the ATIS OBF. In that case, the terminating LEC can correctly identify the jurisdiction of the call.

KENTUCKY

Call Detail Record/Jurisdictional Determination



Captures call detail information in a Call Detail Record (CDR)

Collects, merges and forwards call detail to MPS

Authorization, rating, distribution

Aggregation, enhancement, distribution

Receives daily CDR feed; performs jurisdictional reporting function

MPS Coding

- Uses Serving Wire Center NPA/NXX for wireless originated calls to populate the Originating State and LATA codes.
- Uses Terminating NPA/NXX to populate the Terminating State and LATA codes.

CDS Coding

- Compares MPS fields Originating LATA and State to Terminating LATA and State.
- If ORIG = TERM, CDS assigns an 'A' for INTRA.
- Otherwise, CDS assigns an 'E' for INTER.

JRS Coding

- If CDS STATE CODE = 'E', JRS assigns a '1'.
- If CDS STATE CODE = 'A', JRS looks to LATA CODE. If LATA CODE = 'E', JRS assigns a '2'. Otherwise, JRS assigns a '3'.
- '1' = Interstate; '2' = Intrastate; '3' = Intrastate IntraLATA.

DISPUTE SUMMARY

Disputed Amount

Billed Dates - 3/16/07 to 6/16/08 Total Disputed - \$997,508.87

Bill Example

Vendor
BAND
398D0333
BRANDENBURG TELEPHONE CO.

Bill Date
06/16/2008

Direction	Jurisd	Usage	Quantity	Unit	Desc	CPM	Total	Invoiced	Sprint	2nd Q	PIU	If billed	by filed	Difference
							Quantity	% of	It billed					
Terminating	Interstate	\$ 7,613.33	511,683	MOU	MOU	0.01488	690,389	74%	\$ 9,450.51	92%	\$10,166.48			(\$ 1,837.18)
Terminating	Interstate	\$32,894.69	178,706			0.18407	690,389	26%						\$22,728.21
Originating	Interstate	\$ 6,559.97												0.00
Originating	Interstate	\$ 5,076.44												0.00
Totals:		\$52,144.43												\$ 20,891.03

Non-traffic Sensitive Revenue (NTSR)

It appears the NTSR charged by Brandenburg is the equivalent of a carrier common line charge as utilized by other carriers. Brandenburg appears to have the option to bill that at a per minute rate, or a monthly charge. Brandenburg bills us a per minute rate (.0135) for all intrastate MOUs. The last true-up we got from Brandenburg was March, 2007. Based upon the information as to the accurate utilization of the PIUs it appears Sprint may have been overcharged for this component as well in that its stated intrastate percentages have been too high.



MEMORANDUM

from **John E. Selent**

July 16, 2008

TO: Allison T. Willoughby

RE: Informal Conference with Sprint

I would suggest that we would want to make the following points.

First, Sprint is an access customer, not a wireless carrier.

Second, Sprint is delivering its traffic to Brandenburg on access trunks purchased pursuant to state and federal access tariffs and therefore the access tariffs of Brandenburg apply, including those provisions of the tariff which indicate how Brandenburg may jurisdictionalize the traffic. In this regard, Brandenburg is accurately jurisdictionalizing that traffic by the numbers of the calling and called parties.

Third, Sprint would have Brandenburg agree that Brandenburg's industry standard, verifiable system for determining jurisdictionalization, which has been used for years, should be discarded due to Sprint's own alleged use of these access services to terminate CMRS traffic. Sprint would replace this system of jurisdictionalization with a system whereby Sprint self-reports the inter/intrastate split of traffic delivered to Brandenburg over these access facilities absent any evidence that the proposal by Sprint provides any better evidence than that employed by Brandenburg.

Fourth, Sprint wants Brandenburg to take its word for the jurisdictional split that Sprint proposes. Sprint contends, because some of the traffic it chooses to deliver is CMRS, that the jurisdictional split should be something like 93/7 in favor of interstate traffic. Sprint has provided Brandenburg with no relevant and appropriate traffic study to substantiate its claims, as the applicable tariff requires, and intuitively, the claimed split is nonsensical.

Fifth, this issue will affect all of the ILEC's and IXC's in Kentucky because it will require them to jurisdictionalize their access traffic as Sprint proposes with the expected corresponding shift from intrastate to interstate. Because this precedent could impact all IXCs and ILEC, whether or not they claim a relationship with a CMRS provider, this will have a substantial effect upon the source from which the NTSR requirement of the ILEC's in Kentucky is satisfied.

Sixth, Sprint's request for a retroactive audit is inappropriate because it exceeds the time period allowed by Brandenburg's applicable access tariff and would require Brandenburg to retroactively apply an intra/interstate factor to traffic in violation of its tariffs. Additionally, doing so would adversely affect the rights of persons not a party to these proceedings in that it would require Brandenburg to increase the revenue requirement contribution for all IXCs back to the period claimed by Sprint.

Seventh, Sprint has a CMRS agreement with Brandenburg, so it would seem odd that it is terminating any CMRS traffic to Brandenburg or any volume.

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