

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petitions of)	WC Docket No. 04-424
Global Crossing Telecommunications, Inc.,)	
and SBC Communications, Inc.)	
for Declaratory Ruling)	
)	

REPLY COMMENTS OF AT&T CORP.

Pursuant to the Commission's *Notice*,¹ AT&T respectfully submits these reply comments in response to the petitions filed by Global Crossing and SBC.

The comments demonstrate that SBC cannot lawfully assess intrastate access charges on wireless telephone calls merely because the telephone numbers assigned to the wireless caller and the called party are associated with the same state. First, SBC's approach of using telephone numbers to determine the jurisdiction of wireless calls is foreclosed by well-settled Commission precedent. *See, e.g.*, Global Crossing at 5-7; MCI at 1-3; Sprint at 7; AT&T at 16. The comments show that the Commission's orders and decisions implementing the Act have consistently recognized that wireless telephone numbers are incapable of correctly identifying the jurisdiction of wireless calls. *See, e.g.*, MCI at 2 ("The Commission has repeatedly found that the call details available with current technology do not permit a LEC to

¹ Public Notice, *Pleading Cycle Established for Petitions of Global Crossing Telecomms., Inc. & SBC Comms., Inc. for Declaratory Ruling*, WC Docket No. 04-424 (released Dec. 8, 2004) ("*Notice*").

determine the jurisdiction of wireless-originated calls”); Global Crossing at 5-8 (same); Sprint at 7; AT&T at 10-13.

Second, the comments demonstrate that SBC’s tariffs expressly prohibit SBC from using telephone numbers to determine the jurisdiction of these wireless calls. The relevant SBC tariff contains one paragraph that allows SBC to allocate the jurisdiction of a call “where jurisdiction can be determined from call detail,” and another paragraph that requires SBC to accept its customers’ PIU factors when “call details are insufficient to determine jurisdiction.” AT&T at 11-12; *see also* Global Crossing at 3 (“SBC’s tariff has two provisions for determining jurisdiction”); MCI at 2-3 (same); Sprint at 7 (same). As SBC concedes, it cannot determine the jurisdiction of wireless calls from call detail. SBC Petition at 5; *see also* Global Crossing at 3; AT&T at 10. Thus, the latter paragraph in SBC’s tariff applies, and SBC “must allocate the jurisdiction of such calls using the PIU factor provided by the customer.” *See* Global Crossing at 3-6; AT&T at 10-16.²

Rather than acknowledging the plain meaning of its tariff, SBC “takes out of context,” MCI at 3, parenthetical tariff language that applies only *if* SBC can determine jurisdiction from call detail. That is, SBC makes a wholly circular argument by relying upon language that applies *if* it can determine jurisdiction to contend that it *can* determine the jurisdiction from the call detail. The commenters correctly ridicule these linguistic gymnastics as “absurd.” *E.g.*, Global Crossing at 4. And even if SBC’s position were arguably plausible—

² *See also* MCI at 1-2 (because “‘call details are insufficient to determine jurisdiction’ for wireless originated calls, SWBT Tariff FCC No. 73 requires SWBT to apply a customer supplied PIU to such calls”); Sprint at 7 (“there is no provision in SBC’s tariff that gives SBC the right to use a method for determining jurisdiction of the call under which the geographic location of the phone from which the call is placed is irrelevant”).

and it is not—any such tariff ambiguity would need to be resolved against SBC as the drafter of the tariff language and in a manner consistent with the binding law. *See* AT&T at 15; Global Crossing at 10 n.22.

Finally, the comments confirm that resolution of this dispute need not await more sweeping determinations about appropriate and necessary reforms to the access charge regime. While AT&T supports industry efforts to develop more accurate “measurements in the call detail records” to determine jurisdiction (such as “the jurisdictional indicator parameter”), the immediate issue before the Commission is whether SBC is obligated to jurisdictionalize wireless calls on the basis of usage factors in the interim – as it does for all other traffic for which call detail does not currently provide accurate jurisdictional information. As demonstrated above, the clear answer under both the background law and SBC’s existing tariff is yes, and the Commission’s resolution of this straightforward question should not be side-tracked with policy questions that can and should be addressed elsewhere.³

³ For these reasons, it is not necessary for the Commission to decide in this proceeding whether the Commission should exert exclusive jurisdiction over wireless-originated calls (WilTel at 9) or to prescribe a standard technology or methodology that will allow future call detail records to provide accurate jurisdiction information for wireless calls.

CONCLUSION

For these reasons, and for the reasons stated in AT&T's initial comments, the petition of Global Crossing should be granted and the Commission should rule that SBC's practice of determining the jurisdiction of a wireless call by comparing the calling and called numbers is unlawful and contrary to SBC's tariff.

Respectfully submitted,

AT&T Corp.

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Dated: January 18, 2005

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of January, 2005, I caused true and correct copies of the foregoing Reply Comments of AT&T Corp. to be served on the following parties by first class mail to their addresses listed on the attached service list.

Dated: January 18, 2005
Washington, D.C.

/s/ Peter M. Andros

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⁴ Filed electronically