

*Exhibit No.:*  
*Issue:* Relevant Geographic Markets  
Definition of Mass Market Customers  
*Witness:* Arthur P. Martinez  
*Sponsoring Party:* Spectra Communications Group, LLC d/b/a  
CenturyTel and CenturyTel of Missouri, LLC  
*Type of Exhibit:* Direct Testimony  
*Case No.:* TO-2003-0207  
*Date Testimony Prepared:* December 18, 2003

SPECTRA COMMUNICATIONS GROUP, LLC D/B/A  
CENTURYTEL

AND

CENTURYTEL OF MISSOURI, LLC

FILED

DIRECT TESTIMONY

FEB 09 2004

OF

Missouri Public  
Service Commission

ARTHUR P. MARTINEZ

CASE NO. TO-2004-0207

Exhibit No. 5  
Case No(s) TO-2004-0207  
Date 1-27-04 Rptr KF

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

STATE OF MISSOURI                    )  
  ) ss.  
COUNTY OF COLE                    )

**AFFIDAVIT**

I, **Arthur P. Martinez**, of lawful age and being duly sworn, state:


I am presently Director of Government Relations for CenturyTel.  
My business address is 220 Madison Street, Jefferson City,  
Missouri 65101.

Attached hereto and made a part hereof for all purposes is my  
Direct Testimony in Case No. TO-2004-0207, Phase I.

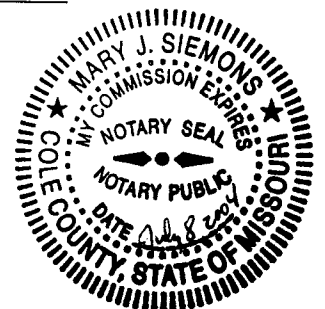
I hereby swear and affirm that my answers contained in the  
attached testimony to the questions therein propounded are true  
and correct to the best of my knowledge and belief.

  
Arthur P. Martinez

Subscribed and sworn to before me this 18<sup>th</sup> day of December, 2003.

  
Mary Siemons - Notary Public

My commission expires: July 8, 2004



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#### **Direct Testimony of**

#### **Arthur P. Martinez**

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**DIRECT TESTIMONY**

**OF**

**ARTHUR P. MARTINEZ**

**CASE NO. T0-2004-0207**

**Identification of Witness**

**Q. Please state your name and business address.**

A. My name is Arthur P. Martinez. My business address is 220 Madison Street, Jefferson City, Missouri 65101.

**Q. By whom are you employed and in what capacity?**

A. I am the Director of Government Relations for both Spectra Communications Group, LLC d/b/a CenturyTel and CenturyTel of Missouri, LLC (collectively referred to herein as "CenturyTel").

**Q. Please describe your educational background and business experience.**

A. I graduated from New Mexico State University with a Bachelor of Business Administration with a major in Managerial Finance and a Masters of Arts Degree in Economics with an emphasis in Regulatory Economics. I began my telecommunications career in 1993 as a staff member with the Telecommunications Division of the New Mexico State Corporation Commission ("NMSCC").<sup>1</sup> After leaving the NMSCC I worked for two independent rural telephone companies in positions ranging from Operations Manager to that of General Manager; my duties included regulatory and legislative affairs. I have been employed by CenturyTel for two years, working first in Colorado and now in Missouri.

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<sup>1</sup> In 1999 the New Mexico State Corporation Commission was combined with the New Mexico Public Utilities Commission to form the newly created New Mexico Public Regulation Commission.

1 **Q. On whose behalf are you testifying in this case?**

2 A. I am testifying on behalf of Spectra Communications Group, LLC d/b/a CenturyTel and  
3 CenturyTel of Missouri, LLC.  
4

5 **PURPOSE OF TESTIMONY**  
6

7 **Q. What is the purpose of your testimony?**

8 A. The purpose of my testimony is to provide the Commission with relevant information in  
9 support of CenturyTel's position regarding the list of issues for Phase I of this proceeding.  
10 First, my testimony will discuss the genesis or background of this case, and provide the  
11 Commission with information concerning the scope of the proceeding. Second, my  
12 testimony will discuss the relevant geographic markets within the state of Missouri for  
13 purposes of examining whether there is "non-impairment" in the provision of unbundled  
14 local switching to serve mass-market customers. Finally, my testimony will explain  
15 CenturyTel's position regarding the appropriate number of DS0 lines that must be  
16 supplied to a multi-line DS0 customer before that customer is considered to be an  
17 enterprise customer rather than a mass market customer. These are the issues that have  
18 been identified by the parties to this proceeding for consideration in Phase I of this case.  
19

20 **BACKGROUND OF THE PROCEEDING**  
21

22 **Q. Before discussing the specific issues contained in the List of Issues filed by the**  
23 **parties to this proceeding, would you explain your understanding of the genesis or**  
24 **background of this case?**

25 A. Yes. On August 21, 2003, the FCC released its Triennial Review Order, In the Matter of  
26 Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange  
27 Carriers, CC Docket No. 01-338, Implementation of the Local Competition Provisions of  
28 the Telecommunications Act of 1996, CC Docket No. 96-98, Deployment of Wireline  
29 Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147

1 (FCC 03-36)(hereafter "TRO"). In its TRO released August 21, 2003, the FCC stated the  
2 following in its executive summary:

- 3 • **Switching for Mass Market (defined as DS0).** We find, on a national basis,  
4 that competing carriers are impaired without unbundled local circuit switching  
5 when serving the mass market due to operational and economic barriers  
6 associated with the incumbent LEC hot cut process. We require state  
7 commissions to approve an incumbent LEC batch hot cut process, or make a  
8 detailed finding that such a process is not necessary. We recognize that a  
9 more geographically specific record may identify particular markets where  
10 there is no impairment and thus ask states to apply Commission-defined  
11 triggers measuring existing switch deployment serving this market and, if  
12 necessary, consider operational and economic barriers to switch deployment to  
13 serve this market. If states conclude that there is impairment in a particular  
14 market, they must consider whether the impairment can be cured by requiring  
15 unbundled switching on a rolling basis, rather than making unbundled  
16 switching available for an indefinite period of time.

17 and

- 18 • **Enterprise Market Loops.** Incumbent LECs are no longer required to  
19 unbundled OCn loops. Incumbent LECs must offer unbundled access to dark  
20 fiber loops, DS3 loops (limited to 2 loops per requesting carrier per customer  
21 location) and DS1 loops except at specified customer locations where states  
22 have found no impairment pursuant to Commission-delegated authority to  
23 conduct a more granular review based on Commission-defined triggers

1 measuring the availability or feasibility of alternatives to incumbent LEC  
2 unbundled loops at such customer location.

3 and

4 • **Dedicated Transport.** We redefine the dedicated transport network element  
5 as those transmission facilities that connect incumbent LEC switches or wire  
6 centers. The Commission conducted its impairment analysis of dedicated  
7 transport by capacity level. Specifically, we find that requesting carriers are  
8 not impaired without access to unbundled Ocn level transport. Further, we  
9 find that requesting carriers are impaired without access to dark fiber, DS3 and  
10 DS1 transport, each independently subject to a granular route-specific review  
11 by the states to identify available wholesale facilities. Dark fiber and DS3  
12 transport also each subject to a granular route-specific review by the states to  
13 identify where transport facilities can be deployed.

14 and

15 **Shared Transport.** We find that carriers are impaired without shared transport only to  
16 the extent that carriers are impaired without access to unbundled switching.

17  
18 After filings and informal discussions in related proceedings (Case No. TO-2004-0140  
19 and TW-2004-0149) among the telephone industry, Commission Staff, and Office of the  
20 Public Counsel, this case was established by the Commission to allow the parties to  
21 present evidence and argument on whether there are specific markets where there is "non-  
22 impairment" in the mass markets for local switching, and permit the Commission to make  
23 a determination of whether the FCC's impairment finding is appropriate in those markets.  
24 If the Commission determines that there is no impairment, then the ILECs would not be

1 required to offer to Competitive Local Exchange Companies (CLECs) unbundled access  
2 to dark fiber loops, DS3 loops (limited to 2 loops per requesting carrier per customer  
3 location) and DS1 loops in those markets.

4  
5 **SCOPE OF PHASE I OF THE PROCEEDING**  
6

7 **Q. What is the scope of this phase of the proceeding?**

8 A. It is my understanding that Phase I of this proceeding is limited to determining the  
9 relevant geographical market definition for the Commission's analysis of the FCC's  
10 impairment findings. The FCC's TRO calls on State Commissions to "define the markets  
11 in which it will evaluate impairment by determining the *relevant geographic area* to  
12 include in each market."<sup>2</sup> Secondly, this proceeding will review the appropriate number  
13 of DS0 lines that must be supplied to a multi-line DS0 customer before that customer will  
14 be considered to be an "enterprise" customer rather than a "mass market" customer.

15  
16 **Q. For purposes of examining whether there is "non-impairment" in the provision of**  
17 **unbundled local switching to serve mass-market customers, what is the relevant**  
18 **geographic market within the state of Missouri?**

19 A. CenturyTel believes that it is appropriate to utilize Metropolitan Statistical Areas  
20 ("MSAs") in Missouri for purpose of geographically defining the market in this  
21 proceeding. MSAs are defined by the Office of Management and Budget in OMB  
22 Bulletin No. 03-04, June 6, 2003. Under the Office of Management and Budget  
23 definition, an MSA has at least one urbanized area with the population of at least 50,000  
24 plus adjacent territory that has a "high degree of social and economic integration" with  
25 the core area as measured by commuting ties.<sup>3</sup> MSAs reflect a geographical area which  
26 competitors do enter, or are capable of entering, when they decide to expand their  
27 operations into a new geographic market area.

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<sup>2</sup> TRO ¶495.

<sup>3</sup> Office of Management and Budget, Standards for Defining Metropolitan and Micropolitan Statistical Areas, 65 Fed. Reg. 82, 238 (December 27, 2000).



1   **Q.     Why is the MSA the relevant geographic market for the Commission's analysis of**  
2   **the FCC's impairment findings?**

3   A.   MSAs are typically used by the FCC for its analysis of matters related to local exchange  
4       competition. For example, the FCC has utilized MSAs for the purpose of determining  
5       whether to grant ILECs' pricing flexibility for special access services and for  
6       implementation of local number portability.<sup>4</sup> In addition, it is my understanding that a  
7       single CLEC switch is capable of serving at least an entire MSA, and CLECs are  
8       typically able to advertise their services throughout an entire MSA through one or more  
9       media sources. CenturyTel believes that the use of MSAs will prove to be a practical  
10      way of defining the appropriate geographic market for purposes of this case, and  
11      therefore recommends its use by the Commission.

12  
13   **Q.     Please explain why the "wire center" is not an appropriate geographic market for**  
14   **the Commission's analysis in this proceeding?**

15   A.   For two reasons. First, technological advancements in switching technology may make it  
16       inefficient for CLECs to deploy a circuit switch for a single wire center. A prudent  
17       business plan to enter a given local exchange market should consider the number of  
18       existing access lines and the potential for future economic growth and development. The  
19       more urban the geographic market, the greater the opportunity for CLECs to realize the  
20       scale economies of not only their switching capacity, but their entire network. Second, as  
21       the public switched network evolves to an Internet Protocol ("IP") based network an  
22       increasing number of carriers will deploy remote terminals and/or soft switches to reach

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<sup>4</sup> Access Charge Reform, Fifth Report and Order and FNPRM, 14 FCC Rcd. 14,221 (August 27, 1999).

specific local areas and transport that traffic destined for the public switched network to a “hard” circuit switch that will likely be in a high density high volume area like an MSA.

**Q. Does the FCC’s TRO support this conclusion?**

**A.** Yes. In its TRO, the FCC determined that, “in most areas, competitive LECs can overcome barriers to serving enterprise customers economically using their own switching facilities in combination with unbundled loops (or loop facilities).”<sup>5</sup> It would be naive to think that a CLEC would limit the utilization of a switch to only one class of customer (i.e. the enterprise customer) if there exists sufficient capacity and a market for another class of customer (i.e. the mass market customer). The FCC provided that the only substantive impairment for mass market local circuit switching is the “hot cut” process. Specifically, the FCC stated that, “Inherent difficulties arise from the incumbent LEC hot cut process for transferring DS0 loops, typically used to serve mass market customers, to competing carriers’ switches. These hurdles include increased costs due to non-recurring charges and high customer churn rates, service disruptions, and incumbent LECs’ inability to handle a sufficient volume of hot cuts. Accordingly, based on those barriers, we make a national finding that competitive carriers providing service to mass market customers are impaired without unbundled access to local circuit switching.”<sup>6</sup> Subsequently, a CLEC would have the ability to take advantage of the scalability of a circuit switch in any given market area, including an MSA, where an efficient hot cut process has been implemented by the ILEC. Therefore, once an efficient batch hot cut process has been established by the Commission, the technical disparity that may exist

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<sup>5</sup> TRO at Para. 421.

<sup>6</sup> TRO at Para. 422.

1 between providing circuit switching to the enterprise customer versus the mass market  
2 customer no longer exist.<sup>7</sup> The FCC supports this conclusion – “Specifically, we ask the  
3 state commissions, within nine months of the effective date of this Order, to approve and  
4 implement a batch cut migration process – a seamless, low-cost process for transferring  
5 large volumes of mass market customers – or to issue detailed findings that a batch cut  
6 process is unnecessary in a particular market because incumbent ILEC hot cut processes  
7 do not give rise to impairment in that market. *We believe that the institution of such*  
8 *processes could significantly reduce or eliminate the causes of impairment we identify,*  
9 *thereby enabling significantly greater facilities-based competition in mass market*  
10 *switching.*”<sup>8</sup> (Emphasis supplied)

11  
12 **Q. Could a determination by this Commission that a "wire center" is the appropriate**  
13 **geographic market for mass market local circuit switching actually inhibit**  
14 **sustainable facilities based competition?**

15 A. Yes. By determining that a “wire center” is the appropriate geographic market, the  
16 Commission would make it virtually impossible for an ILEC operating at the fringe of an  
17 urban area to ever overcome the wholesale or self-provisioning triggers set by the FCC.  
18 As I indicate above, CLECs would likely extend their existing network capabilities,  
19 including circuit switching, as they grow their customer base. It would be an unrealistic  
20 expectation that a CLEC would deploy a new local circuit switch in every incremental  
21 ILEC wire center.

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<sup>7</sup> It should be noted that efficiency is a function of volume in that the greater the volume the greater the benefit to be gained by efficiency. An ILEC serving an exchange of only a few thousand customers should not be held to the same volume of cut over as an ILEC cutting over hundreds of thousands of customers.

<sup>8</sup> TRO at Para. 423.

1  
2 **CROSS-OVER POINT BETWEEN MASS MARKET AND ENTERPRISE**  
3 **MARKET**  
4

5 **Q. What is the nature of the second issue to be addressed in this phase of the**  
6 **proceeding?**

7 A. In the TRO, the FCC left to State commissions the factual determination of the  
8 appropriate DS0 "cut off" or "cross over" point between DS0 (mass market) and DS1  
9 (enterprise market) customers "where it makes economic sense for the multi-line  
10 customer to be served via a DS1 loop". Above the cutoff level, the multi-line customer is  
11 considered to be part of the enterprise market, while at or below the cutoff the multi-line  
12 customers is considered to be part of the mass market when analyzing impairment for  
13 unbundled local switching. As a result, the Commission should determine the definition  
14 of the mass market and enterprise market by determining the number of DS0 lines that  
15 must be supplied to a multi-line DS0 customer before that customer is considered to be  
16 an enterprise customer rather than a mass market customer.

17  
18 **Q. What is CenturyTel's position on the number of DS0 lines that should be supplied to**  
19 **a multi-line DS0 customer before that customer is considered to be an enterprise**  
20 **customer rather than a mass market customer?**

21 A. CenturyTel proposes to utilize the FCC's default rule for the DS0 crossover which it has  
22 determined to be four lines or more in density zone one of the top 50 MSAs. Under the  
23 FCC's proposal, those multi-line customers served by three DS0 loops or fewer would be

1 considered part of the mass market, while those multi-line customers served by four or  
2 more DS0 lines would be considered part of the enterprise market.

3  
4 **Q. Please explain why the FCC's default cutoff level of four or more DS0s is the**  
5 **appropriate cross-over point.**

6 A. While this determination is certainly subject to some judgment by the Commission,  
7 CenturyTel believes that the mass market typically includes small business customers  
8 that have a small number of lines coming into their premises. Small businesses that have  
9 three (3) lines or less are not subject to the level of competition that larger customers with  
10 four or more lines typically experience from CLECs seeking to provide them with local  
11 exchange service. CenturyTel therefore believes that the FCC's default cutoff levels  
12 should be considered as the definition of the mass market for purposes of this proceeding.

13  
14 **Q. Does this conclude your direct testimony?**

15 A. Yes it does.