

Exhibit No.:
Issue: Policy
Witness: Arthur P. Martinez
Sponsoring Party: CenturyTel of Missouri, LLC
Type of Exhibit: Direct Testimony
Case No.: IO-2006-0109
Date Testimony Prepared: September 22, 2005

CENTURYTEL OF MISSOURI, LLC

DIRECT TESTIMONY

OF

ARTHUR P. MARTINEZ

CASE NO. IO-2006-0109

Exhibit No. 1
Case No(s). IO-2006-0109
Date 9-25-05 Rptr KF

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

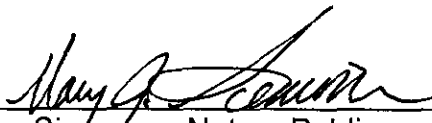
STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

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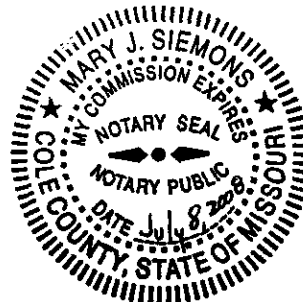
I, Arthur P. Martinez, of lawful age and being duly sworn, state: I am presently Director of Government Relations for CenturyTel of Missouri, LLC. My business address is 220 Madison Street, Jefferson City, Missouri 65101. Attached hereto and made a part hereof for all purposes is my direct testimony. 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 22nd day of September, 2005.


Mary Siemons - Notary Public

My commission expires: July 8, 2008



1 employed by CenturyTel for four years, working first in Colorado and now in Missouri. I
2 previously have testified in a number of regulatory proceedings before this Commission.

3 **PURPOSE OF TESTIMONY**

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

5 A. The purpose of my testimony is to present and further support the evidence that was
6 provided in CenturyTel's verified Application for Competitive Classification; to address
7 the specific areas of agreement existing between CenturyTel and the Staff of the
8 Commission relating to the grant of competitive status to four exchanges for the
9 provisioning of residential services and the grant of competitive status to seven
10 exchanges for the provisioning of business services; to address Staff's objection to the
11 grant of competitive status for business services in the Dardenne exchange; and finally to
12 respond to the Objection to Application of Fidelity Communications Services II, Inc.
13 ("Fidelity") relating specifically to the Bourbon exchange. I am mindful that the Office
14 of the Public Counsel ("OPC") submitted its Objections and Recommendations, wherein
15 OPC urges the Commission to make an evidentiary record to serve as the basis for the
16 Commission's decision, and to require CenturyTel to fully disclose the facts that support
17 its assertions in the application. I respectfully submit that both concerns clearly have
18 been met in this proceeding.

19 **Q. Please describe the underlying Application filed by CenturyTel initiating this**
20 **proceeding.**

21 A. CenturyTel filed its Application for Competitive Classification on September 9, 2005,
22 pursuant to Section 392.245.5 RSMo. (2005), requesting that the Commission conduct a
23 30-day competitive classification review pursuant to Section 392.245.5(6) RSMo. and

1 approve CenturyTel's Application for Competitive Classification for all its residential
2 services, other than exchange access service, for the following exchanges: (a) Bourbon,
3 (b) Branson, (c) Columbia, (d) Dardenne, (e) O'Fallon, (f) St. Peters and (g) Wentzville;
4 and for all of its business services, other than exchange access services, in the following
5 exchanges: (a) Bourbon, (b), Columbia (c) Cuba, (d) Dardenne, (e) O'Fallon, (f) St.
6 James, (g) St. Peters and (h) Wentzville. Concurrent with the filing of the Application,
7 CenturyTel filed proposed tariffs, with thirty-day effective dates, reflecting grants of the
8 requested competitive classification.

9 **Q. What is your understanding of the criteria for qualifying for competitive status in a**
10 **30-day proceeding?**

11 A. Missouri statute Section 392.245.5 RSMo. (2005) allows carriers subject to Price
12 Cap Regulation to seek competitive classification for each telecommunications service
13 offered to business and residential customers, other than exchange access service, in any
14 exchange in which at least two non-affiliated entities are providing basic local
15 telecommunications service to customers within the exchange. Section 392.245.5 RSMo.
16 (2005) states as follows:

17 5. Each telecommunications service offered to business customers, other than exchange
18 access service, of an incumbent local exchange telecommunications company regulated
19 under this section shall be classified as competitive in any exchange in which at least two
20 non-affiliated entities in addition to the incumbent local exchange company are providing
21 basic local telecommunications service to business customers within the exchange. Each
22 telecommunications service offered to residential customers, other than exchange access
23 service, of an incumbent local exchange telecommunications company regulated under
24 this section shall be classified as competitive in an exchange in which at least two non-
25 affiliated entities in addition to the incumbent local exchange company are providing
26 basic local telecommunications service to residential customers within the exchange. For
27 purposes of this subsection:

1 (1) Commercial mobile service providers as identified in 47 U.S.C.
2 Section 332(d)(1) and 47 C.F.R. Parts 22 or 24 shall be considered as entities
3 providing basic local telecommunications service, provided that only one such
4 non-affiliated provider shall be considered as providing basic local
5 telecommunications service within an exchange;

6 (2) Any entity providing local voice service in whole or in part over
7 telecommunications facilities or other facilities in which it or one of its affiliates
8 have an ownership interest shall be considered as a basic local
9 telecommunications service provider regardless of whether such entity is subject
10 to regulation by the commission. A provider of local voice service that requires
11 the use of a third party, unaffiliated broadband network or dial-up Internet
12 network for the origination of local voice service shall not be considered a basic
13 local telecommunications service provider. For purposes of this subsection only, a
14 broadband network is defined as a connection that delivers services at speeds
15 exceeding two hundred kilobits per second in at least one direction;

16 (3) Regardless of the technology utilized, local voice service shall mean
17 two-way voice service capable of receiving calls from a provider of basic local
18 telecommunications services as defined by subdivision (4) of section 386.020,
19 RSMo;

20 (4) Telecommunications companies only offering prepaid
21 telecommunications service or only reselling telecommunications service as
22 defined in subdivision (46) of section 386.020, RSMo, in the exchange being
23 considered for competitive classification shall not be considered entities providing
24 basic telecommunications service; and

25 (5) Prepaid telecommunications service shall mean a local service for
26 which payment is made in advance that excludes access to operator assistance and
27 long distance service;

28 (6) Upon request of an incumbent local exchange telecommunications
29 company seeking competitive classification of business service or residential
30 service, or both, the commission shall, within thirty days of the request, determine
31 whether the requisite number of entities are providing basic local
32 telecommunications service to business or residential customers, or both, in an
33 exchange and if so, shall approve tariffs designating all such business or
34 residential services other than exchange access service, as competitive within
35 such exchange.

36 **Q. Please address the criteria that one of the two entities can be a commercial mobile**
37 **service provider.**

1 A. Section 392.245.5(1) RSMo. (2005) states that commercial mobile service providers shall
2 be considered as entities providing basic local telecommunications service, provided that
3 only one such non-affiliated provider shall be considered as providing basic local
4 telecommunications service within an exchange. CenturyTel has numerous non-affiliated
5 wireless providers operating in its exchanges providing local service. Exhibit A of
6 CenturyTel's Application identifies wireless carriers, including (a) Cingular, (b) Verizon,
7 (c) T-Mobile, (d) Alltel, (e) US Cellular, (f) Nextel and (g) Sprint providing local service
8 in the above CenturyTel exchanges. (See Exhibit A for Wireless Carriers Operating in
9 CenturyTel Exchanges, incorporated herein by reference.) Wireless carrier websites and
10 industry reference websites were utilized to confirm the information depicted on Exhibit
11 A. As discussed in the Direct Testimony of Staff Witness John Van Eschen at Page 6,
12 the Staff agrees that CenturyTel has met the criteria regarding the presence of wireless
13 providers in the exchanges where competitive status is sought.

14 **Q. What is your understanding of the criteria for the second non-affiliated entity in**
15 **terms of qualifying for the thirty-day trigger under the statute?**

16 A. The second entity can be any entity providing local voice service in whole or in part over
17 telecommunications facilities or other facilities in which it or one of its affiliates has an
18 ownership interest. As specifically set forth in CenturyTel's Application, CenturyTel
19 identified Charter Fiberlink-Missouri, LLC as providing both residential and business
20 phone service, using facilities it owns in part or whole, in the following CenturyTel
21 exchanges: (a) Dardenne, (b) O'Fallon, (c) St. Peters, and (d) Wentzville. Furthermore,
22 Fidelity Communications Services II, Inc. is providing business phone service, using

1 facilities it owns in part or whole, in the following CenturyTel exchanges: (a) Bourbon,
2 (b) Cuba and (c) St. James. In addition, Fidelity Communications Services, II also is
3 providing residential phone service, using facilities it owns in part or whole, in the
4 CenturyTel exchange of Bourbon. Socket Telecom, LLC is providing residential and
5 business phone service, using facilities it owns in part or whole, in the CenturyTel
6 exchange of Columbia. Finally, based on CD Telecommunications, LLC's ("CD
7 Telecom") original 2004 MoPSC Annual Report, CenturyTel identified CD Telecom as
8 providing residential phone service, using facilities it owns in part or whole, in the
9 CenturyTel exchange of Branson.

10 **Q. Please describe the facts supporting CenturyTel's identification of Charter**
11 **Fiberlink-Missouri, LLC as an entity that meets the second criteria discussed above.**

12 A. Charter Fiberlink-Missouri, LLC ("Charter") provides local phone service to both
13 residential and business customers in direct competition with CenturyTel in the following
14 CenturyTel exchanges: (a) Dardenne, (b) O'Fallon, (c) St. Peters and (d) Wentzville:

- 15 i. Charter obtained a Certificate to Provide Basic Local and Interexchange
16 Telecommunications Services within Missouri, including the exchanges
17 now owned by CenturyTel, on April 5, 2001 (Case No. TA-2001-346).
- 18 ii. Charter is not a reseller of CenturyTel's services but uses its own
19 facilities. Charter has its own facilities extensively deployed throughout
20 the above-mentioned exchanges.
- 21 iii. Based upon a combination of Charter's website and its 2004 Annual
22 Report, it is providing residential service in the following CenturyTel

1 exchanges: (a) Dardenne, (b) O'Fallon, (c) St. Peters, and (d) Wentzville .
2 (See Exhibit B of the Application)

3 iv. In addition, migrations of business customers from CenturyTel to Charter
4 are reflected in CenturyTel's internal business records showing the
5 disconnection of this particular CLEC customers' loops from CenturyTel's
6 switch. Exhibit C HC (HIGHLY CONFIDENTIAL) of the Application
7 reflects recently ported business numbers to Charter occurring in the
8 CenturyTel exchanges of Dardenne, O'Fallon, St. Peters and Wentzville.
9 Using the LERG, CenturyTel validated the subject NPA-NXXs of Charter
10 for the above-referenced exchanges.

11 Based upon Mr. Van Eschen's Direct Testimony, Staff has confirmed the information
12 provided by CenturyTel regarding Charter's provisioning of residential service, and
13 Charter is depicted on Schedule 1 to his testimony as a wireline company providing
14 residential local voice service on a full facility basis in the CenturyTel exchanges of
15 Dardenne, O'Fallon, St. Peters and Wentzville. However, based upon their independent
16 investigation, Staff is recommending competitive status for the exchanges of O'Fallon,
17 St. Peters and Wentzville for business services based on AT&T providing local voice
18 business services in these exchanges, rather than Charter. As stated by Mr. Van Eschen:
19 "Our records and recent discussions with AT&T officials indicate AT&T is providing
20 business local voice service in these exchanges on a full facility basis. In contrast to
21 CenturyTel's claims, Charter is not providing local voice service to business customers."
22 (Van Eschen Direct Testimony, page 11). Accordingly, the only issue with Staff

1 regarding this group of exchanges concerns the provisioning of business services in the
2 Dardenne exchange, which I will discuss later in my testimony.

3 **Q. Please describe the facts supporting CenturyTel's identification of Fidelity**
4 **Communications Services II, Inc. as an entity that meets the statutory criteria for a**
5 **non-affiliated wireline provider.**

6 A. Fidelity Communications Services II, Inc. ("Fidelity") is providing local phone service to
7 business customers in direct competition with CenturyTel in the following CenturyTel
8 exchanges: (a) Bourbon, (b) Cuba and (c) St. James. In addition, Fidelity also is
9 providing local phone service to residential customers in direct competition with
10 CenturyTel in the CenturyTel exchange of Bourbon.

11 i. Fidelity Communications Services II, Inc. obtained a Certificate to
12 Provide Basic Local Telecommunications Services within Missouri,
13 including the exchanges now owned by CenturyTel, on November 30, 1999
14 (Case No. TA-2000-229);

15 ii. Fidelity's 2004 Annual Report reflects that it is providing Full Facility
16 Based services to business customers in direct competition with CenturyTel
17 in the CenturyTel exchanges of Cuba, Bourbon and St. James. Fidelity's
18 2004 Annual Report also reflects that it is providing Full Facility Based
19 services to residential customers in direct competition with CenturyTel in
20 the CenturyTel exchange of Bourbon. (See Exhibit D of the Application for
21 Fidelity's 2004 Annual Report).

1 Again, based upon Mr. Van Eschen's Direct Testimony, Staff has confirmed the
2 information provided by CenturyTel regarding Fidelity, and Fidelity is depicted on
3 Schedule 1 of his testimony as a wireline company providing business local voice service
4 in the Cuba, Bourbon and St. James exchanges on a full facility basis. However, based
5 upon Staff's further investigation and representations by Fidelity officials, Mr. Van
6 Eschen has testified that the residential line in the Bourbon exchange is a Fidelity
7 employee, and that Fidelity indicates it is not offering residential service within the
8 Bourbon exchange. Mr. Van Eschen concludes his analysis by stating, "Although it may
9 be argued that one line is sufficient to meet the criteria for competitive status, Staff
10 questions the appropriateness of granting competitive status under these circumstances."
11 (Direct Testimony, page 12). CenturyTel has agreed not to contest Staff's
12 recommendation at this time, and is withdrawing its request for competitive status for
13 residential service in the Bourbon exchange. Accordingly, CenturyTel will file substitute
14 tariff sheets removing Bourbon from the list of competitive exchanges for residential
15 services.

16 **Q. Please describe the facts supporting CenturyTel's identification of Socket Telecom,**
17 **LLC as an entity that meets the statutory criteria for a non-affiliated wireline**
18 **provider.**

19 **A.** Socket Telecom, LLC ("Socket") provides local phone service to business and residential
20 customers in direct competition with CenturyTel in CenturyTel's Columbia exchange:

- 1 i. Socket was certificated by the Commission in Case No. TA-2001-671 to
2 provide basic local telecommunications services in Missouri, including the
3 exchanges now owned by CenturyTel.
- 4 ii. Socket is providing service in the Columbia, Missouri exchange with its
5 own facilities, and it is recognized as a facilities-based local exchange
6 carrier. (See, Transcript pp. 266-267, Case No. CO-2005-0066.)
- 7 iii. Upon information and belief, CenturyTel would expect that Socket's 2004
8 Annual Report identifies local residential and business customers in the
9 CenturyTel exchange of Columbia, and that Socket is providing service in
10 this exchange with its own facilities. However, Socket's 2004 Annual
11 Report is filed on a Highly Confidential basis (See Exhibit E of the
12 Application). Accordingly, pursuant to Section 392.245.5(6), CenturyTel
13 respectfully requests that the Commission consider its own records
14 concerning ownership of facilities, including the 2004 Annual Report of
15 Socket Telecom, LLC.
- 16 iv. In addition, migrations of business and residential customers from
17 CenturyTel to Socket are reflected in CenturyTel's internal business
18 records showing the disconnection of this particular CLEC customers
19 from CenturyTel's switch. Exhibit F HC (HIGHLY CONFIDENTIAL) of
20 the Application reflects recently ported business and residential numbers
21 to Socket occurring in the CenturyTel exchange of Columbia. Using the
22 LERG, CenturyTel validated the subject NPA-NXXs of Socket for the
23 above-referenced exchange.

1 Again, based upon Mr. Van Eschen's Direct Testimony, Staff has confirmed the
2 information provided by CenturyTel regarding Socket, and Socket is depicted on
3 Schedule 1 of his testimony as a wireline company providing business local voice service
4 in the Columbia exchange on a full facility basis. Although former residential customers
5 of CenturyTel have been ported to Socket in the Columbia exchange, based upon the
6 representations of both Staff and Socket that Socket "...is not offering residential services
7 with in the [Columbia] exchange," and the lines in question are "employee" lines and
8 may be used for testing or other such purposes, CenturyTel has agreed not to contest
9 Staff's recommendation regarding residential services in the Columbia exchange at this
10 time, and is withdrawing its request for competitive status for residential services in the
11 Columbia exchange. (Mr. Van Eschen's Direct Testimony, Page 13). Further,
12 CenturyTel will submit a substitute tariff reflecting this action.

13 **Q. Please describe the facts supporting CenturyTel's identification of CD**
14 **Telecommunications, LLC as an entity that meets the statutory criteria for a non-**
15 **affiliated wireline provider.**

16 A. CD Telecom's original 2004 MoPSC Annual Report on file at the time of filing our
17 Application reflects that CD Telecom is providing full facilities based services to
18 residential customers in direct competition with CenturyTel in the Branson exchange.
19 (See, Exhibit G to Application). However, based on Staff's recommendation and CD
20 Telecom's recent submission of a revised annual report, CenturyTel has agreed to
21 withdraw its request for competitive status for the Branson exchange at this time, and will
22 be filing substitute tariff sheets to reflect such action.

1 **Q. Earlier in your testimony, you indicated that you would address the specific areas of**
2 **agreement existing between CenturyTel and the Staff of the Commission relating to**
3 **the grant of competitive status for the provisioning of residential and business**
4 **services. Could you briefly summarize those areas of agreement for the**
5 **Commission?**

6 **A. Yes. As discussed above, and as reflected in Mr. Van Eschen's Direct Testimony, "As**
7 **shown on Schedule 1, Staff recommends competitive status be granted to the following**
8 **exchanges in the 30-day proceeding for residential: Dardenne, O'Fallon, St. Peters and**
9 **Wentzville. For business services competitive status should be granted to the following**
10 **exchanges: Bourbon, Columbia, Cuba, O'Fallon, St. James, St. Peters, and Wentzville."**
11 **(Page 14).**

12 **Q. Is there agreement between CenturyTel and Staff regarding the request for**
13 **competitive status in the Dardenne exchange for business services?**

14 **A. Based on Staff's Recommendation and Objection, as well as Mr. Van Eschen's Direct**
15 **Testimony, "Staff is not recommending competitive status be granted to the Dardenne**
16 **exchange for the provisioning of business services." (Testimony, Page 2). Accordingly,**
17 **Staff objects to the grant of competitive status at this time. As noted by Mr. Van Eschen,**
18 **"Unfortunately Staff has been unable to resolve this matter at this time; therefore, Staff**
19 **recommends the Commission deny CenturyTel's request for competitive status in the**
20 **Dardenne exchange for business services." (Page 13). CenturyTel supports Staff's**
21 **continuing inquiry and hopes that Staff will, in fact, be able to gain additional**
22 **information by the time of hearing.**

1 **Q. Would you respond to the Objection to Application of Fidelity?**

2 A. Certainly. In its Objections to Application filed on September 20, 2005, Fidelity states
3 that it "objects to competitive classification of CenturyTel's business and residential
4 services in the Bourbon exchange." (Page 1). I already have addressed the residential
5 services issue related to Bourbon, and stated that CenturyTel is agreeing to withdraw that
6 portion of its request at this time. However, as Staff's support indicates, CenturyTel
7 clearly has met the criteria for obtaining competitive status for the provisioning of
8 business services in the Bourbon exchange. By its own admission, Fidelity provides
9 local voice service to business customers in the Bourbon exchange in whole or in part
10 over telecommunications facilities or other facilities in which it or one of its affiliates
11 have an ownership interest, and thereby clearly meets the criteria set forth in Section
12 392.245.5(2). Its attempts to re-write the statute and strained statutory construction
13 notwithstanding, Fidelity confirms that it holds itself out to serve business customers in
14 the Bourbon exchange, it presently serves business customers in that exchange utilizing
15 its own facilities, and it intends to do so in the future.

16 **Q. Please summarize your testimony.**

17 A. CenturyTel has demonstrated, and the Commission Staff's independent verification
18 supports: (1) that at least two non-affiliated entities are providing residential basic local
19 telecommunications service to customers within the CenturyTel exchanges of Dardenne,
20 O'Fallon, St. Peters, and Wentzville; and (2) that at least two non-affiliated entities are
21 providing business basic local telecommunications service to customers within the
22 CenturyTel exchanges of Bourbon, Columbia, Cuba, O'Fallon, St. James, St. Peters and

1 Wentzville. In addition, CenturyTel has demonstrated and the record evidence supports
2 that at least two non-affiliated entities are providing business basic local
3 telecommunications service to customers within the CenturyTel exchange of Dardenne.
4 CenturyTel's Application and tariffs meet the statutory requirements for competitive
5 classification and should become effective in no more than 30 days from the date of
6 filing.

7 **Q. Does this conclude your direct testimony?**

8 **A. Yes it does.**