

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

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Missouri Public
Service Commission

In the Matter of the Spectra Communications)
Group, LLC d/b/a CenturyTel Proposed Revision)
To its PSC Mo. No. 3 Long Distance Message)
Telecommunications Service Tariff to Introduce)
The Promotional Macon Expanded Calling Plan.)

Case No. IT-2004-0141
Tariff File No. JI-2004-0148

**RESPONSE IN OPPOSITION
TO STAFF RECOMMENDATION AND
THE MITG/CVT APPLICATION TO INTERVENE**

COMES NOW Spectra Communications Group, L.L.C. d/b/a CenturyTel (“Spectra” or “Applicant”), pursuant to Commission Rule 4 CSR 240-2.080(15) and the Commission’s *Order Directing Filing* of October 6, 2003, and for its Response in Opposition to Staff Recommendation and the MITG/CVT Application to Intervene, respectfully states as follows:

1. On August 1, 2003, Spectra filed its promotional tariff – Macon Expanded Calling Plan – with the Commission, which will provide an optional, expanded intraLATA calling service to subscribers in Spectra’s rural Macon exchange. Bundled with the Applicant’s basic local exchange service, business and residential customers essentially will receive 240 and 600-minute blocks of time for flat-rate amounts, with additional minutes charged at the rate of seven (7) cents per minute. The promotion sign-up period, as originally filed, would be August 11, 2003 through February 11, 2004, with a customer commitment to keep the plan for a minimum of twelve (12) months. Pursuant to discussions with the Staff of the Commission, Spectra has extended the effective date of the tariff to October 15, 2003.

2. As a further result of its discussions with Staff, Spectra filed the subject Application requesting relief from Subsection 392.200.4(1), RSMo 2000. In its verified Application, Spectra set out the various reasons why the Commission should grant such relief, and offered support for its position that the optional, expanded intraLATA calling service provided by its Macon Expanded Calling Plan Promotional Tariff is reasonably necessary to promote the public interest and the purposes and policies of Chapter 392, RSMo 2000.

3. On September 19, 2003, the Commission issued its *Order Directing Filing*, wherein the Staff was ordered to “file its memorandum and recommendation, stating whether or not the application and proposed revised tariff sheet filed herein by Spectra Communications Group, LLC, doing business as CenturyTel, should be approved, not later than 4:00 p.m. on Tuesday, September 30, 2003.”

4. In response to the Commission’s *Order Directing Filing*, Staff filed its Recommendation and accompanying Memorandum on September 30, recommending that the Commission suspend Spectra’s tariff filing for hearing.

5. As set forth in Spectra’s Application¹, the Staff describes in its Memorandum recent service offerings of Chariton Valley Telephone Corporation (ILEC) and its competitive local exchange carrier affiliate, Chariton Valley Telecom Corporation (CLEC), and concludes that, “In summary, CenturyTel’s tariff filing appears to be in response to competition for its Macon exchange customers brought about by Chariton Valley ILEC and its affiliate Chariton Valley CLEC.”²

¹ Application, ¶7, page 3.

² Staff Memorandum, pp. 1-2.

6. Of no surprise, the Missouri Independent Telephone Company Group (“MITG”), of which Chariton Valley Telephone Corporation is a member, and Chariton Valley Telecom Corporation (“CVT”) filed their Application to Intervene in this matter on September 26, 2003, in opposition to the relief requested by Applicant, alleging that “the Application, if granted, will directly and adversely affect the interests of the MITG and CVT.”³

7. Before addressing the three areas identified by Staff as its basis for suggesting suspension and hearings, Spectra respectfully suggests that the MITG and CVT sorely miss the point in their parochial attacks on the subject tariff alleging geographic rate deaveraging, discrimination or preference. As an optional service, offered as a promotion for a finite period of time, the Macon Expanded Calling Plan is designed to benefit those very rural subscribers whose protection is envisioned in the federal and state statutes referenced by MITG and CVT. Indeed, many of the same statutory sections and paragraphs from the FCC’s Report and Order in CC Docket No. 96-91, relied upon by MITG/CVT, are set out in detail in Spectra’s Application in support of why relief from Subsection 392.200.4(1) is particularly appropriate. (*See* Subsection IV of the Spectra Application, “The Underlying Premise for Federal and State Requirements Regarding Geographic Rate Averaging: Protection of Subscribers in Rural and High Cost Areas.”)⁴

The FCC promulgated rule 47 CFR 64.1801 Geographic rate averaging and rate integration, which provides: (a) **The rates charged by providers of interexchange telecommunications services to subscribers in rural and high-cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas.**⁵ . . . (Emphasis added.)

³ Application to Intervene, p. 9.

⁴ Spectra Application, pp. 5-7.

⁵ Application to Intervene, pp. 4-5.

¶ 24. We do not believe that permitting carriers to depart from geographic rate averaging to the extent necessary to offer contract tariffs, Tariff 12 offerings, optional calling plans, temporary promotions, and private line services in accordance with our current policy **will subject rural and high-cost area customers to unjust or unreasonable, or unjustly or unreasonably discriminatory, rates** because . . .⁶ (Emphasis added.)

¶46 . . . States have a role in ensuring that rates for intrastate interexchange calls offered to rural and high-cost customers are no higher than those paid by urban customers. . . .⁷

8. As noted at Paragraph 13 of Spectra's Application, in examining the legislative history of the 1996 Act, the FCC noted at ¶ 3 in its Report and Order that Congress intended to maintain the protections afforded rural customers. The FCC quoted the Joint Explanatory Statement, which states:

[n]ew section 254(g) is intended to incorporate the policies of geographic rate averaging and rate integration of interexchange services in order to ensure that subscribers in rural and high cost areas throughout the Nation are able to continue to receive both intrastate and interstate interexchange services **at rates no higher than those paid by urban subscribers.** (Joint Explanatory Statement at 132) (Emphasis added).

9. Again, the Macon Expanded Calling Plan is designed to benefit those very rural subscribers whose protection is envisioned in the federal and state statutes.

10. As stated in the Staff Recommendation, there are essentially three bases upon which the Staff recommends suspension of Spectra's tariff filing for hearing:

In the attached Staff Memorandum, which is labeled Appendix A, the Staff opines that the Application does not show that Macon's Expanded Calling Plan promotion is reasonably necessary to promote the public interest and the purposes and policies of Chapter 392 RSMo. The Staff also notes that Spectra's proposal discriminates against customers who wish to sign up for this service after the promotional period expires. Also,

⁶ *Id.*, p. 5.

⁷ *Id.*, p. 7.

the Staff has not fully investigated whether the proposed service recovers its cost.⁸

Spectra will address each of the three points in turn.

11. While Staff “opines that the Application does not show that Macon’s Expanded Calling Plan promotion is reasonably necessary to promote the public interest and the purposes and policies of Chapter 392, RSMo,” a reading of Staff’s Memorandum appears to suggest that Staff’s real concern regarding geographically deaveraged toll rates in this instance, is the unique nature of the Macon promotion; the fact that it is, indeed, a different and novel approach to expanded rural calling; and the fact that precedent may be set.

CenturyTel’s proposal is unique because no other telecommunications company in Missouri currently offers a special intraLATA interexchange calling plan to a single exchange or portion of its serving area. . . . CenturyTel’s proposal is broader than any existing COS replacement plans in the sense that CenturyTel’s offering applies to calling anywhere within the LATA.

The Telecommunications Department Staff (Staff) is concerned about the precedent created if CenturyTel’s proposal is allowed to go into effect.⁹

12. As fully addressed in its Application, Spectra respectfully suggests that the actual underpinnings of the geographically averaged rates regime is the protection of subscribers in rural and high cost areas, so that those customers pay interexchange rates that are no higher than those paid by their urban counterparts. Clearly, the Macon Expanded Calling Plan is designed to benefit those very rural subscribers. And yes, this proactive, competitive response by Spectra to provide its rural Macon customers with optional, flat-rate intraLATA calling may be a unique and innovative response to the expanded rural calling scopes issues that have plagued this Commission for many years.

⁸ Staff Recommendation, ¶4, p. 2.

⁹ Staff Memorandum, p. 2.

Spectra would suggest that this promotional, optional calling plan, in fact, reflects the benefits of the competitive marketplace envisioned by the state and federal acts. As an optional and promotional tariffed service offering, the Macon Expanded Calling Plan presents this Commission with a unique opportunity to allow the competitive marketplace to provide subscribers in the rural Macon, Missouri exchange with an expanded rural calling scope, that both promotes the public interest and the purposes and policies of Chapter 392. This tariff offering is limited in its scope, and it is proposed for a finite period of time. Thus, the Commission can allow this defined experiment to proceed, or it can follow the Staff as it carries its “what-if” scenario to a new plateau – “Carried to its extreme, exchange specific toll pricing would allow a company to offer different toll rates in every exchange it offers service.”¹⁰

13. Regarding Staff’s second concern, Spectra respectfully suggests that it is Staff’s concern, and not the tariff proposal, that “raises the discrimination issue from a different perspective.”¹¹ In a truly extraordinary approach, Staff now would suggest that this promotional offering is discriminatory because customers that might want to initiate subscription to the service after the end of the promotion sign-up period on February 11, 2004, “. . . will be prevented from subscribing to the service because they missed their window of opportunity during the promotional time period.” Of course, the same could be said of any promotional service that has been, or will be, offered in this State. Most, if not all, promotions have a requisite period of time within which customers may sign up to take advantage of the subject service offering. There will always be other customers who may “miss their window of opportunity” by not subscribing within the time period

¹⁰ *Id.*

¹¹ *Id.*

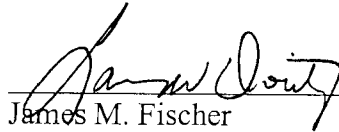
allowed. Promotional offerings are specifically authorized in the same statutory section addressing unjust discrimination and unreasonable preference – Section 392.200, RSMo 2000. “Promotional programs for telecommunications services may be offered by telecommunications companies for periods of time so long as the offer is otherwise consistent with the provisions of this chapter and approved by the commission.” Section 392.200.2, RSMo 2000.

14. Regarding the third concern expressed by Staff – “the Staff has not fully investigated whether the proposed service recovers its cost” – Spectra is disappointed to be first apprised of this concern in the context of Staff’s Memorandum filed on September 30, 2003, given the several extensions of the tariff’s effective date since its August 1 filing, as documented in this Commission’s previous *Order Directing Filing*.¹²

¹² “After filing its proposed tariff sheet, CenturyTel entered into discussions with the Staff of the Missouri Public Service Commission with the object of obtaining a favorable recommendation from the Staff. While these discussions went forward, CenturyTel on August 5, 2003, extended the effective date of the proposed sheet by letter from August 11 to August 25. On August 14, CenturyTel again extended the effective date of the proposed sheet by letter from August 25 to October 1. Finally, on September 17, CenturyTel extended the effective date from October 1 to October 15. Also on September 17, at the advice of Staff, CenturyTel filed its Application seeking relief from Section 392.200.4(1), RSMo 2000.” *Order Directing Filing*, September 19, 2003, pp. 1-2.

WHEREFORE, Spectra Communications Group, LLC d/b/a CenturyTel respectfully prays: (1) that the Commission deny the Application to Intervene of the Missouri Independent Telephone Company Group and Chariton Valley Telecom Corporation; (2) that the Commission reject Staff's recommendation to suspend Spectra's tariff filing for hearing; (3) that the Commission find, based on Spectra's verified Application, that Spectra should be relieved from the provisions of Section 392.200.4(1), RSMo 2000 for purposes of the instant tariff filing; and (4) that the Commission promptly approve Spectra's proposed revision to its PSC Mo. No. 3 Long Distance Message Telecommunications Service Tariff to introduce the promotional service offering, Macon Expanded Calling Plan.

Respectfully submitted,



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CERTIFICATE OF SERVICE

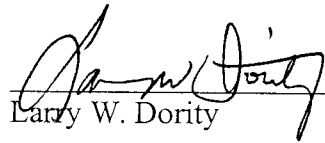
I hereby certify that a true and correct copy of the above and foregoing document was hand-delivered, emailed or mailed this 8th day of October, 2003 to:

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