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September 24, 2003

Secretary of PSC  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**FILED**

SEP 24 2003

Missouri Public  
Service Commission

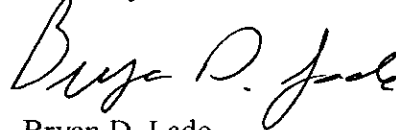
Re: Case No. LA-2004-0105

Dear Secretary:

Enclosed please find an original and eight copies of the MITG's Application to Intervene in Opposition To Granting of Service Authority, And Request for Hearing.

Thank you for seeing this filed. If you should have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Bryan D. Lade

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Enc.

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**FILED**

SEP 24 2003

**BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI**

**Missouri Public  
Service Commission**

**In the Matter of the Application of CenturyTel )  
Solutions, LLC, for Certificate of Service )  
Authority to Provide Basic Local Exchange, )  
and Local Exchange Telecommunications )  
Service in the State of Missouri and for )  
Competitive Classification )**

**Case No. LA-2004-0105**

**Application to Intervene in Opposition To Granting of Service Authority,  
And Request for Hearing**

COMES NOW the Missouri Independent Telephone Company Group (“MITG”)<sup>1</sup>, and hereby submit this Application to Intervene in Opposition to granting CenturyTel Solutions, L.L.C. (“CTS”) Service Authority as a Basic Local Exchange and interexchange and nonswitched local exchange telecommunication service provider. In support of its application the MITG state as follows:

1. Applicant appears to be a wholly owned affiliate of CenturyTel of Missouri, LLC, and a controlled affiliate of Spectra Communications Group, LLC d/b/a “CenturyTel”, both of which are owned or controlled by CenturyTel, Inc. The operations of CenturyTel of Missouri and Spectra are as regulated incumbent local exchange carriers.
2. Applicants’ application purports to seek authority of Applicant to compete with and in the local exchanges of its corporate affiliates or parents CenturyTel of Missouri and Spectra.
3. It is the customary practice for ILECs wishing to compete in the service areas of other ILECs to form an affiliate with which to do so.

<sup>1</sup> Alma Communications Co., Chariton Valley Telephone Corp., Choctaw Telephone Co., Mid-Missouri Telephone Company, MoKan Dial Inc., and Northeast Missouri Rural Telephone Co.

4. It is not the customary practice for an ILEC to form an affiliate who will compete with the owning/controlling ILEC in the exchanges of the parent ILEC.

5. The MITG oppose the Commission granting the Service Authority sought by CTS on the grounds that it is against the public interest, and possibly in violation of law, to allow an affiliate of an ILEC to compete with itself in its incumbent exchanges.<sup>2</sup>

6. Such an authorization would be contrary to the public interest in that it could result in a transfer of regulated ILEC obligations and revenues to a competitively classified and less regulated CLEC. It would not be in the public interest to recognize or promote, under the guise of "competition", "competition" between two commonly controlled entities. Such an authorization would be contrary to the public interest in that it could promote or allow unfair competitive advantage to Applicant by its ILEC affiliates compared to that of unaffiliated CLECs. Such an authorization could erode the efficacy of the Commission's regulatory authority over ILECs in terms of determining local calling scopes.

7. This Commission was made aware of similar concerns in the case when Sprint Communications Company, L.P. applied for competitive classification and Service Authority within its corporate affiliate's, United Telephone Company of Missouri, Inc. d/b/a "Sprint", exchanges. In that case the Staff raised some concerns with respect to possible abuses of this arrangement. Specifically, the Commission recognized:

"the possibility that an affiliate CLEC could place new facilities and offer new services instead of the ILEC, which could encourage the migration of customers to the CLEC by limiting the offerings of the ILEC, and could circumvent the requirements of the Federal Telecommunication Act of 1996 by depriving

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<sup>2</sup> Exhibit 2 to CTS's Application list approximately 200 exchanges where CTS purports to offer service as competitor to their parent company.

competitors of access to new facilities or new services through the purchase from an ILEC of services for resale or UNEs.”<sup>3</sup>

8. Pursuant to §§ 392.430 or 392.440 RSMo. this Commission can only approve such an application for Service Authority upon a showing by applicant that the grant of authority is not against the public interest. The MITG believes CTS will be unable to show that its competition with its affiliates is in the public interest and that therefore this application for Service Authority in the CenturyTel of Missouri and Spectra exchanges should be rejected. In the alternative, MITG suggests that the Commission can act under its authority granted by § 392.470 RSMo. to impose “any condition or conditions that it deems reasonable and necessary upon any company providing telecommunications service if such conditions are in the public interest . . . .” The Commission could order such conditions pursuant to a stipulation that protects against some of the potential abuses as was determined in the Sprint case cited above.

9. The MITG also opposes the granting of Service Authority as an interexchange carrier (“IXC”) to CTS without that grant also prohibiting CTS from originating traffic on any basis besides Feature Group D traffic which applies to all non-ILEC IXCs. The MITG believes that, as a condition of such service authority, Applicant should be required to make presubscription available to its prospective toll customers, without preference to Applicant’s affiliates engaged in the toll business, and to offer equal carrier access via feature group D signaling protocol. The MITG also opposes any arrangements between CTS and its parents or affiliates CenturyTel of Missouri or Spectra, which would allow CTS interexchange traffic to be handed off to, transited, or otherwise carried by, CenturyTel of Missouri or Spectra, utilizing any signaling protocol other than industry standard IXC FGD protocols. Unless so limited, the

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<sup>3</sup> *In the Matter of the Application of Sprint Communications Company, L.P. for a Certificate of Service Authority to Provide Basic Local Telecommunications Service and Local Exchange Telecommunications Service*, Case No. TA-97-269, *Report and Order*, issued April 21, 1998.

MITG companies will be subject to ILEC FGC protocols, in contravention to MITG access tariffs, which could prejudice the MITG by the failure of the MITG companies to receive proper billing records, and to have enforceable compensation rights for interexchange traffic of Applicant.

10. The Commission has authority under § 392.470 RSMo. to impose “any condition or conditions that it deems reasonable and necessary upon any company providing telecommunications service if such conditions are in the public interest . . .”

11. As set forth above, the interest of the MITG companies is different than that of the general public.

12. Copies of all filings in this docket should be directed to the MITG by serving:

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Lisa Cole Chase, MO Bar #51502  
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WHEREFORE, the MITG asks this Commission to grant this application to intervene, to hold an evidentiary hearing, and to reject the Application unless provisions are made to protect the public interest, and the private interests of the MITG, as set forth above.

**ANDERECK, EVANS, MILNE  
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By:



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**ATTORNEYS FOR MISSOURI  
INDEPENDENT TELEPHONE GROUP**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed, U. S. Mail, postage pre-paid, this 24<sup>th</sup> day of September 2003, to:

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