

In the Matter of Proposed Rule 4 CSR 240-2.061,)
Applications for Expanded Local Calling Area Plans) **Case No. TX-2005-0194**
Within a Community of Interest.)

COME NOW CenturyTel of Missouri, LLC (“CenturyTel”) and Spectra Communications Group, LLC d/b/a CenturyTel (“Spectra”), pursuant to the Commission’s Notice of Public Hearing and Notice to Submit Comments published in Volume 30, *Missouri Register*, pages 687-689, and respectfully submit their written initial comments for the Commission’s consideration herein.

PURPOSE: The purpose of this rule is **to implement a process** for the commission to entertain requests for expanded local calling area plans that provide toll-free or discounted calling within a community of interest. (Emphasis added.)

¹ MCA/Calling Scopes Task Force Final Report, Case No. TW-2004-0471, page 4 of 8.

Chair also recognized, “many details will need to be addressed in the rulemaking process.”²

2. In Section 2 of the Proposed Rule, an application filed with the Commission that shall initiate a request for an expanded local calling area plan can be submitted by (A) at least fifteen percent (15%) of the local exchange telecommunications service subscribers within the requesting exchange; or (B) a governing body of a municipality or school district within the requesting exchange. The components of an application are set forth in Section 3, and include areas such as the proposed price and terms of the plan (C); whether the proposed plan will be optional or mandatory for all customers in the expanded local calling scopes (D); and a statement as to the toll or local classification of the calling plan traffic and associated inter-company compensation, if any, to be utilized to facilitate the plan (E) – all areas requiring information and knowledge that such applicants most likely would not possess. And yet, the rule anticipates that the serving incumbent local exchange telecommunications company would not be involved in the process until sixty (60) days after the filing of the petition. Only when the “commission convenes a conference of the parties,” are these integral and complicated issues addressed with the necessary parties at the table. (Sections 7 & 8).

3. Pursuant to Section 9, as a result of the above-referenced conference, “the applicant shall file with the commission either a statement that the application remains unchanged or alternatively identify specific modifications to the application . . .” While flexibility and adequate time required to facilitate meaningful interaction among the parties are desired, there is no ultimate timeline for such responsive filing by the applicant. However, once such a filing is made, any party objecting to the application has

² MCA/Calling Scope Task Force Final Report Statement and Opinion of John Van Eschen, page 1.

only ten (10) days to file a pleading explaining why the applicant's proposal is not acceptable.

4. Furthermore, the applicant's filing pursuant to Section 9 triggers a ninety (90) day filing requirement that "any telecommunications carrier directly affected by the proposal shall file illustrative tariff sheets to implement the applicant's proposal." However, this timeline begins prior to any Commission determination regarding objections that may have been filed pursuant to Section 10, a determination that could dramatically alter the parameters of such plan. In addition, under the current language of Section 10, there is no time period within which the Commission must make any decision regarding objections filed.

5. Section 13 provides that after receipt of the illustrative tariff sheets in Section 12, "the commission may hold a hearing or other appropriate proceeding. The parties will provide evidence to assist the commission in its findings." Recognizing the due process requirements inherent in such a matter, the Task Force Report found that "[a]fter receipt of financial data, the Commission shall hold a hearing to determine whether the proposed calling plan or change is just, reasonable, affordable, and is in the public interest." (MCA/Calling Scopes Task Force Final Report, III, G, 9, page 6 of 8, emphasis added.)

6. In previous proceedings regarding expanded local calling plans, CenturyTel and Spectra consistently have stated that revenue neutrality is required if the Commission adopts changes, and that implementation costs are required and appropriately included as a part of any revenue neutrality calculation. Section 12 appears to acknowledge such requirements in its provisions concerning illustrative tariffs:

The illustrative tariff sheets shall identify all rate adjustments necessary to implement the applicant's proposal. The company shall simultaneously file supporting documentation if it proposes to increase or establish new rates designed to maintain revenue neutrality, including the recovery of any new costs associated with implementing the proposal.

However, as noted above, it is premature and improper for the Commission to order the preparation and filing of illustrative tariffs, prior to its determination and decision concerning objections filed in response to final recommendations.

7. The lack of criteria for determining communities of interest and for guiding the Commission in making many determinations required under the proposed rule would appear to be among those "many details that will need to be addressed in the rulemaking process," as anticipated by the Task Force Chair.

8. In the "MCA/Calling Scope Task Force Final Report Statement and Opinion of Natelle Dietrich," PSC Telecommunications Department Regulatory Economist Natelle Dietrich took the opportunity to express concerns with the Task Force Final Report.

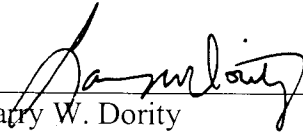
First and foremost, it is my opinion that the Task Force should have put forth a recommendation on the Commission's authority to modify calling scopes. This issue has been litigated for years in many proceedings and must be resolved. Instead, the Report states, 'Due to a question of authority with regard to the Public Service Commission and the implementation of new mandated calling plans, legislative action may be necessary to address the needs discussed above.'"³

Among the legal issues to be addressed regarding the Commission's authority in this regard, are due process rights guaranteed by Article I, Section 10 of the Missouri Constitution, Sections 392.200.9 and 392.245.11, RSMo 2000, and Missouri case law concerning the Commission's authority to regulate versus a company's right to conduct and manage its business.

³ MCA/Calling Scope Task Force Final Report Statement and Opinion of Natelle Dietrich, page 2.

WHEREFORE, CenturyTel of Missouri, LLC and Spectra Communications Group, LLC d/b/a CenturyTel respectfully file their initial Comments in response to Proposed Rule 4 CSR 240-2.061.

Respectfully submitted,



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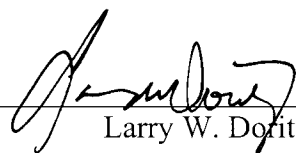
CenturyTel

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 13th day of May, 2005, to:

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