

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

Petition of Socket Telecom, LLC for Compulsory)
Arbitration of Interconnection Agreements with)
CenturyTel of Missouri, LLC and Spectra) **Case No. TO-2006-0299**
Communications, LLC pursuant to Section 252(b)(1) of)
the Telecommunications Act of 1996.)

RESPONSE TO SOCKET TELECOM'S PETITION FOR ARBITRATION

CenturyTel of Missouri, LLC ("CenturyTel") and Spectra Communications Group, LLC ("Spectra") (collectively, the "CenturyTel Parties") file this response to the Petition for Arbitration (the "Petition") of Socket Telecom, LLC ("Socket"), for compulsory arbitration pursuant to Section 252(b)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("FTA"), the Missouri Public Service Commission's (the "Commission") rules, and other applicable law. Pursuant to 47 U.S.C. § 252(b)(3), 4 CSR 240-36.040(7) and the Commission's Order Directing Notice of Petition for Arbitration, the CenturyTel Parties now timely file this Response to Socket's Petition. The CenturyTel Parties respectfully request that the Commission arbitrate and determine the contested issues and in the end, determine the appropriate terms, conditions, and prices for the proposed interconnection agreements between Socket and the CenturyTel Parties.

**I.
INTRODUCTION**

1. On January 13, 2006, Socket filed its Petition asking the Commission to decide what appear to be more than 169 substantive issues relating to the development of successor interconnection agreements ("ICAs") between Socket and each of the CenturyTel Parties. Rather than propose interconnection terms that relate to the

interconnection relationship between Socket and two independent incumbent local exchange companies (“ILECs”) with mostly rural service territories serving predominantly small communities in the state, Socket has drawn heavily upon contract language uniquely pertaining to the wholesale offerings of AT&T Missouri (f/k/a SBC Missouri) to the competitive local exchange company (“CLEC”) community in the successor ICA to the “M2A.”

2. As a threshold matter, as it critically evaluates the disputed issues in this arbitration, the Commission must remain cognizant of the context of this proceeding. Although Socket raises numerous issues that should be generally familiar to the Commission as a result of its proceeding to develop a successor agreement to the M2A (*i.e.*, Case No. TO-2005-0336) and proposes virtually identical SBC/AT&T-oriented contract language, CenturyTel is not AT&T Missouri, and the Commission should not resolve the disputed issues as if it were. Instead, as noted above, the CenturyTel Parties are independent ILECs serving predominantly small, rural communities in Missouri. For example, although the CenturyTel Parties have affiliated operations in other states, these companies, like the CenturyTel Parties, have received few orders for unbundled network elements (“UNEs”). Moreover, the UNE orders the CenturyTel Parties have received in Missouri derive from a total of three CLECs, the largest of which, Socket, has placed orders for very few UNEs (all of which are DS1 loops). Quite simply, the CenturyTel Parties are much smaller than AT&T Missouri, operate on a different size and scale, operate a substantially different network, have different economies of scale and scope, serve geographic areas with much lower population densities, and have fundamentally different operations, procedures, mechanisms, and

capabilities. This proceeding is about developing an ICA for Socket and each of the CenturyTel Parties, it is not about replacing the M2A for AT&T Missouri.

II. BACKGROUND

A. Negotiations

3. Facing the need to overhaul their existing ICA to accommodate changes in the law, CenturyTel and Socket formally began discussions in August of 2005. Socket formally requested negotiations under the FTA for new agreements with both CenturyTel Parties on August 9, 2005. On August 15, 2005, CenturyTel sent Socket a proposed Nondisclosure Agreement ("NDA") for CenturyTel of Missouri, and had previously provided Socket a copy of the CenturyTel Template Agreement. On September 6, 2005, Socket returned the signed, finalized NDAs for both CenturyTel and for Spectra.

4. Rather than begin to negotiate permanent agreements on the already-started clock, the parties turned to Socket's immediate need to obtain certain terms and conditions for the interim, including a new interim arrangement between Socket and Spectra. After more than 10 weeks of negotiations focused on amendments/interim arrangements, the parties executed agreements that addressed Socket's needs pending this proceeding.¹

5. The parties then turned to the negotiation of permanent successor agreements. In succeeding weeks, the CenturyTel Parties sent Socket information and contract proposals, but only beginning at the end of October 2005 did Socket begin to

¹ See TK-2006-0175 and TK-2006-0176.

submit proposals, addressing only limited issues, to the CenturyTel Parties' proposals regarding a permanent successor agreement. Despite the logistical issues and scheduling conflicts of each of the parties, the negotiations continued for several months. Then, between December 15, 2005 and January 4, 2006, while the CenturyTel Parties' negotiator with Socket was on vacation, which Socket was made aware of, Socket sent volumes of new contract language (indeed, ten of the eighteen Articles that are part of this Arbitration were sent to CenturyTel during this period of time)—in large part, that new contract language from Socket consists of provisions from the AT&T Missouri successor ICA to the M2A. That new contract language was not red-lined, and raised a multitude of new substantive issues that the parties had not previously discussed or negotiated. To the extent possible, the CenturyTel Parties note in the attached issues matrices many of the issues that were not subject to negotiations between the parties.

6. As the Commission embarks on the resolution of the many substantive issues associated with developing a successor CenturyTel-Socket ICA, it should not simply assume that the same resolution for AT&T Missouri should apply to the CenturyTel Parties. Instead, closely scrutinizing the issues presented, the Commission should pay close attention to the CenturyTel Parties' differences from AT&T Missouri, the unique context in which the issues arise here, and what Socket's demands really mean for the CenturyTel Parties and the telecommunications industry in Missouri going forward.

B. The CenturyTel Parties and Counsel

7. CenturyTel is a Louisiana limited liability corporation that is duly authorized to do business in Missouri. CenturyTel's principal place of business is located at 100 CenturyTel Drive, Monroe, Louisiana 71203, with its principal place of business in Missouri at 1151 CenturyTel Drive, Wentzville, Missouri 63385. Spectra is a Delaware limited liability corporation that is duly authorized to do business in Missouri. Spectra's principal place of business is located at 100 CenturyTel Drive, Monroe, Louisiana 71203, with its principal place of business in Missouri at 1151 CenturyTel Drive, Wentzville, Missouri 63385.

8. CenturyTel and Spectra are incumbent local exchange telecommunications carriers in Missouri, as defined by FTA § 251(h), and are local exchange carriers subject to the jurisdiction of the Commission. CenturyTel and Spectra each provide regulated intrastate telecommunications services within their Missouri service areas. Both CenturyTel and Spectra are subsidiaries of CenturyTel, Inc., and are referred to as "the CenturyTel Parties" herein.

9. All inquiries, correspondence, communications, pleadings, notices, orders and decisions relating to this matter for the CenturyTel Parties should be directed to:

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III. Arbitration Issues

10. Initially, Socket's Petition for Arbitration raises at least 169 disputed issues for Commission resolution in this proceeding. Those disputed issues relate to the terms and conditions of virtually every aspect of the parties' successor ICA and the pricing of elements, functionality, and services the CenturyTel Parties must provide to Socket. Satisfying the requirements of 4 CSR 240-36.040(7), and consistent with Socket's mechanism for presenting its unresolved issues, the CenturyTel Parties are attaching hereto a series of Decision Point Lists ("DPLs"), corresponding to the structure of the parties' successor ICA, reflecting the unresolved issues, the parties' proposed contract language, and the parties' respective positions² on the unresolved issues. Notwithstanding Socket's initiation of this compulsory arbitration proceeding, the CenturyTel Parties fully intend, as contemplated by 4 CSR 240-36.040(5)(B), to

² Because of the magnitude and scope of issues presented by Socket's Petition, as well as the limited time available to the CenturyTel Parties to examine the disputed issues (many of which were not subject to negotiations), the CenturyTel Parties' position statements in the attached DPLs are necessarily preliminary. As this matter proceeds, the CenturyTel Parties anticipate further refinement and supplementation of their position statements through discovery, testimony, evidentiary hearings, and briefing.

continue negotiating with Socket in an effort to resolve as many issues as possible between the parties. To that end, the CenturyTel Parties have already initiated discussions with Socket and the parties have made substantial progress, as reflected in the attached preliminary DPLs, in reducing the number of disputed issues before the Commission in this proceeding.

11. Problematically, however, in many respects Socket has failed to list the specific unresolved issues that it presents for arbitration, as required by 4 CSR 240-36.040(3)(A), (B). Instead, Socket merely asserts, without specifying the disputes between the parties, that an Article of the prospective ICA is at issue “in its entirety.” See, e.g., Socket Petition at Issues Matrices for Article VIII: Ordering and Provisioning – UNEs; Article IX: Maintenance; Article XI: E911; Article XIII: OSS; Article XV: Performance Measures; and Article VII: Collocation. Socket’s failure to provide a “statement of each unresolved issue” and its rationale for each of those specific issues obviously impacts the course of this proceeding, by, for example, failing to advise the Commission of the parties’ specific disputes for those ICA Articles and precluding the CenturyTel Parties from being able to meaningfully address the true substantive disputes.³ Nonetheless, in the attached DPLs the CenturyTel Parties endeavor to glean the substantive disputes Socket raises and provide the CenturyTel Parties’ position for each.

12. Independent of Socket’s improper attempt to impose AT&T-Missouri-oriented obligations on the CenturyTel Parties, Socket’s proposed language on

³ Based on Socket’s Issues Matrices, the dispute for those Articles does not appear to be a single, general issue of whether the ICA should include the Article. Rather, it appears that there are underlying substantive disputes with respect to proposed language, but that Socket has neither listed those disputes nor explained its position on an issue-by-issue basis.

numerous disputed issues is fatally flawed. For example, throughout its proposals Socket demands superior treatment from the CenturyTel Parties; that is, it demands better service, functionality and/or operations than what the CenturyTel Parties provide for themselves. Importantly, however, the CenturyTel Parties' interconnection obligations are parity-based, meaning they must provide required elements and services to Socket in a manner "that is at least equal in quality to that provided . . . to [themselves] or to any subsidiary, affiliate, or any other party to which the carrier[s] provides interconnection." 47 U.S.C. 251(c)(2). Likewise, Section 251(c)(3) of the Act requires "unbundled access only to an incumbent LEC's existing network—not to a yet unbuilt superior one." *Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 813 (8th Cir. 1997), *rev'd on other grounds sub nom., AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999). That is precisely what the CenturyTel Parties offer in this proceeding, agreeing across-the-board to provide required services, elements, and functionality on a nondiscriminatory, parity basis. Socket, however, is not content with obtaining parity, at least not parity with the CenturyTel Parties. Instead, perhaps due in part to Socket's widescale cutting-and-pasting of AT&T Missouri contract language, Socket repeatedly proposes contract language demanding special, super-parity treatment by, for example, compelling the CenturyTel Parties to create new processes, implement new procedures, deploy new equipment, expedite Socket orders, and substantially upgrade its network and facilities to mirror AT&T Missouri. That AT&T Missouri may have certain capabilities or may offer certain features or services is irrelevant here. Neither the FTA nor any FCC order requires the CenturyTel Parties to satisfy their statutory obligations in a manner "that is at least equal in quality to that provided" by AT&T Missouri or another RBOC. The key

in all respects is what the ILEC does for itself. Because the CenturyTel Parties must provide elements, services, and functionalities on a parity basis and that is exactly what the CenturyTel Parties propose in this proceeding, thereby fulfilling their parity obligations, the Commission should reject Socket's demands for special, superior treatment.

13. Similarly, many of Socket's proposals reveal an attempt to avoid legal requirements or to obtain new services from the CenturyTel Parties without compensation. As it arbitrates the parties' disputes, the Commission should carefully scrutinize Socket's proposals to determine whether it is attempting, for example, to craft contract language that allows it to circumvent access charges or other requirements pertaining to the routing and compensation for traffic. Likewise, where Socket is making demands for such things as network modifications, systems upgrades, or the imposition of new obligations on the CenturyTel Parties, the Commission should ensure that such demands are both feasible and applicable to the CenturyTel Parties; that the CenturyTel Parties are adequately compensated for any such modifications, upgrades, and additions done for Socket; and that the Commission's award provides an appropriate schedule for implementation of any required changes. Socket's proposed contract language, to its detriment, ignores the compensation aspect, merely requiring new things of the CenturyTel Parties—sometimes at great cost—without any measure for the CenturyTel Parties' cost recovery. The Commission should in all events consider the impacts of Socket's demands, recognizing that the CenturyTel Parties are entitled to recoup their expenses incurred satisfying Socket's unique demands and that Socket cannot use the successor ICA as an arbitrage vehicle to circumvent its obligations.

IV.
CONCLUSION

For the reasons preliminarily articulated in the attached DPLs—and to be more fully explained in testimony and in briefing—the Commission should adopt the CenturyTel Parties' positions on the disputed issues presented in this proceeding.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the undersigned has caused a complete copy of the above document to be electronically filed and served on the Commission's Office of General Counsel (at gencounsel@psc.mo.gov), the Office of the Public Counsel (at opcservice@ded.mo.gov), and counsel for Socket Telecom, LLC (at clumley@lawfirmemail.com; lcurtis@lawfirmemail.com; and b.magness@phonelaw.com) on this 7th day of February, 2006.

/s/ Larry W. Dority

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