

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

CENTURYTEL OF MISSOURI, LLC,)	
)	
Complainant,)	CASE NO. IC-2008-0068, et al.
)	
v.)	
)	
SOCKET TELECOM, LLC,)	
)	
Respondent.)	

**AFFIDAVIT OF SUSAN W. SMITH
IN SUPPORT OF CENTURYTEL'S JOINT RESPONSE TO SOCKET'S CROSS
MOTION FOR SUMMARY DETERMINATION**

**STATE OF TEXAS §
 §
COUNTY OF BOWIE §**

BEFORE ME, the undersigned authority, personally appeared Susan W. Smith, a person whose identity is known to me. After I administered an oath to her, upon oath, she said:

1. My name is Susan W. Smith. I am employed by CenturyTel Service Group, LLC, and my business address is 911 North Bishop Rd., C207, Texarkana, TX 75503.

2. As an employee of CenturyTel Service Group, LLC, I hold the position of Director of External Affairs. In that capacity, I am responsible for interconnection matters for CenturyTel's operations in Texas, Arkansas and Missouri. My responsibilities include but are not limited to interconnection matters which may include contractual, regulatory, and legislative matters that would affect CenturyTel subsidiaries in each of these states—including, in Missouri, CenturyTel of Missouri, LLC and Spectra Communications Group, LLC, d/b/a CenturyTel.

3. I was the lead negotiator for CenturyTel of Missouri, LLC and Spectra Communications Group, LLC (collectively, "CenturyTel") in the negotiations with Socket Telecom, LLC ("Socket") that culminated in the Interconnection Agreements ("Agreements") at issue in this proceeding. Those Agreements were arbitrated in Case No. TO-2006-0299, and became effective by Order of the Missouri Public Service Commission ("Commission") on or about October 13, 2006. I participated in the negotiation of the Agreements from the time Socket requested negotiations under the FTA through the post-arbitration negotiations to conform the Agreements to the Final Commission Decision. I also have and continue to participate in dispute resolution discussions and negotiations between CenturyTel and Socket pertaining to operational and contractual issues that arise under the Agreements.

4. Prior to the arbitration hearing in Case No. TO-2006-0299, Socket and CenturyTel attempted to negotiate terms for the Agreements, including General Terms & Conditions (Article III) and terms covering Interconnection and Intercarrier Compensation (Article V). With respect to intercarrier compensation for Local Traffic (including local ISP Traffic), CenturyTel proposed a bill-and-keep term with an "out-of-balance" provision. That provision, which was included in the Joint Final DPL, provided as follows:

9.2 Compensation For Exchange of Local Traffic.

9.2.1 Local Mutual Compensation. The Parties shall compensate each other for the exchange of Local Traffic originated by or terminating to the Parties' end-user customers in accordance with Section 9.2.2 of this Article, subject to any applicable regulatory conditions, such as a State exempt factor, if any. The Charges for the transport and termination of optional EAS, intraLATA toll and interexchange traffic shall be in accordance with the Parties' respective intrastate or interstate access tariffs, as appropriate.

9.2.2 Bill and Keep. Either Party may initiate a traffic study no more frequently than once a quarter. Such traffic study shall examine all Local Traffic *excluding Local Traffic that is also Information Access Traffic*. Should such traffic study indicate, in the

aggregate, that either Party is terminating more than sixty percent (60%) of the Parties' total terminated minutes for Local Traffic, *excluding Local Traffic that is also Information Access Traffic*, either Party may notify the other that mutual compensation will commence pursuant to the rates set forth in Appendix A of this Agreement and following such notice it shall begin and continue for the duration of the Term of this Agreement unless otherwise agreed. *Local Traffic that is also Information Access Traffic will remain subject to Bill-and-Keep.*

See Joint Final DPL, Article V at 57-59 (emphasis added) (true and correct excerpts of which are attached hereto as **Exhibit "A"**).

5. In discussions with Socket's lead negotiator, Matt Kohly, and counsel, Brad Bayliff, I explained that this bill-and-keep proposal embodied CenturyTel's position that Local Traffic should be exchanged on a bill-and-keep basis unless it was significantly out of balance—meaning one party was terminating significantly more Local Traffic than the other party. Thus, CenturyTel proposed to incorporate the "out-of-balance" provision set forth in proposed Section 9.2.2 above, which could trigger reciprocal compensation in the event that Local Traffic exchanged between the parties became significantly out of balance. However, I also clearly explained CenturyTel's position that, if the out-of-balance provision was ever triggered and reciprocal compensation between the parties commenced, Information Access Traffic that is also Local Traffic (*i.e.*, local ISP Traffic) should *at all times* be exchanged on a bill-and-keep basis. That position is reflected in the italicized portions of Section 9.2.2 above, which were intended to exclude ISP Traffic from the Local Traffic balance evaluation and to subject it at all times to bill-and-keep.

6. Incident to CenturyTel's bill-and-keep proposals, or more specifically to the proposed out-of-balance feature of the proposal, CenturyTel also proposed several other provisions that were intended to govern and/or apply to reciprocal compensation between the parties *in the event the out-of-balance provision was ever triggered*. These other provisions

included, for example: Article III, Sections 10.2 (pertaining to the use of a Percentage of Local Use (PLU) for billing Local Traffic) and 10.4 (traffic audits); Article V, Sections 9.7 (defining "transport" of Local Traffic) and 9.7.2 (defining "termination" of Local Traffic); and Article VIIA (inclusion of Local and Tandem Switching rates). However, CenturyTel proposed the inclusion of these provisions in the Agreement only because they would be relevant if the Commission adopted CenturyTel's bill-and-keep proposal with an out-of-balance provision. They were not intended to apply to the extent the parties operated under a bill-and-keep regime for Local Traffic.

7. As reflected in the Joint Final DPL filed by the Parties, by the time of the arbitration hearing, the parties had no dispute on the issue of whether bill-and-keep should apply as the primary compensation arrangement for Local Traffic, including ISP Traffic. Socket did dispute the incorporation of an out-of-balance trigger, and it proffered its own bill-and-keep proposal that had no such out-of-balance feature. Socket's last proposal on intercarrier compensation prior to the arbitration, which also is reflected in the Joint Final DPL, provided as follows:

9.4.1 All non-MCA Traffic, including Non-MCA Section 251 (b)(5) Traffic, Non-MCA ISP Traffic, Non-MCA Foreign Exchange Traffic including VNXX Traffic shall be exchanged on a Bill and Keep basis.

Socket explained that, by its proposal, it was advocating that bill-and-keep apply to, among other things, all "Non-MCA Section 251(b)(5) Traffic" (*i.e.*, Local Traffic) and "Non-MCA ISP Traffic" (*i.e.*, local ISP Traffic), without any out-of-balance provision. In the negotiations leading up to the parties' filing of the Joint Final DPL, neither CenturyTel nor Socket proposed or argued in negotiations that reciprocal compensation should apply to Local Traffic or local ISP Traffic.

8. Thus, at the time of the arbitration, there were only two primary disputes between the parties with respect to the intercarrier compensation issue. First, the parties disputed whether the bill-and-keep provision applicable to Local Traffic should have an out-of-balance trigger. Notably, the parties *did not* dispute that local ISP Traffic should always be subject to a “straight” bill-and-keep provision. Such was the treatment of local ISP Traffic under *both* parties’ proposed bill-and-keep provisions. Second, the parties disputed whether the “other types” of traffic included in Socket’s proposed bill-and-keep provision, Section 9.4.1—Foreign Exchange (FX) Traffic and VNXX Traffic—*also* should be exchanged on a bill-and-keep basis. For example, while Socket proposed that VNXX be exchanged on a bill-and-keep basis, CenturyTel advocated that such traffic be subjected to access charges.

9. The question of how VNXX Traffic should be compensated became a dominant issue at the arbitration, with the Commission ultimately determining that it should be exchanged on a bill-and-keep basis.¹ That determination was codified in the conformed Agreement at Article V, Section 9.2.3. With respect to FX Traffic, the Commission determined that it was non-local traffic and, therefore, should not be covered by the Agreements.²

8. Addressing the parties’ dueling reciprocal compensation provisions, the Commission rejected both parties’ proposals,³ leaving no term in the Agreements specifically addressing which compensation regime applied to Local Traffic, including ISP Traffic.

¹ See Final Commission Decision at 27-28.

² See *id.* at 29.

³ See *id.* at 26-27 (rejecting CenturyTel’s proposed Article V, Sections 9.2.1 and 9.2.2) and 29 (rejecting Socket’s proposed Article V, Section 9.4.1).

9. Even after the arbitration and the issuance of the Final Commission Decision, neither party proposed or argued in the Agreement-conforming process that reciprocal compensation should apply to Local Traffic or ISP Traffic.

10. In August 2006, while attempting to negotiate with Socket to conform the Agreements to the Final Commission Decision, I participated in a series of conference calls with CenturyTel's counsel, Gavin Hill, and, at various times, Socket's lead negotiator, Matt Kohly, Socket's counsel, Bill Magness, and/or Brad Bayliff. On those calls, the parties discussed the fact that the Commission had rejected both parties' bill-and-keep proposals for Local Traffic and the fact that the Final Commission Decision appeared to direct the parties to file conforming Agreements without any provision applying a compensation regime to Local Traffic, including local ISP Traffic. At that time, the parties agreed to consider incorporating express bill-and-keep language into the Agreements for Local Traffic and local ISP Traffic.

11. To that end, on August 24, 2006, Socket provided CenturyTel with what it called a "settlement offer" on all conforming issues remaining in Article V. *See* Socket Confidential Settlement Offer, Article V (a true and correct copy of which is attached hereto as **Exhibit "B"**). Included in that offer was Socket's bill-and-keep proposal, which provided:

The Parties would agree that all traffic is Bill-and-Keep.

9.3 All non-MCA Traffic, including Non-MCA Section 251 (b)(5) Traffic, Non-MCA ISP Traffic, and Non-MCA Foreign Exchange Traffic, including VNXX Traffic, shall be exchanged on a Bill-and-Keep basis.

CenturyTel rejected Socket's proposal for a number of reasons, including primarily because it purported to include in the provision "Foreign Exchange Traffic" or FX Traffic. The Commission had just rejected Socket's attempt to apply bill-and-keep to FX Traffic during the arbitration, and the proposed provision was the very same provision that Socket had proposed in

the arbitration and the Commission had rejected in the Final Commission Decision. In the end, Socket indicated that it was not willing to alter its proposed language for this provision. Therefore, the conforming process did not result in any provisions being added by the parties expressly applying reciprocal compensation or bill-and-keep to Local Traffic.

12. Given the time constraints imposed for filing the conformed Agreements, and our inability to reach agreement, the parties filed the "Intercarrier Compensation" terms (Section 9.0 through 9.7.3) of Article V exactly as directed by the Final Commission Decision—without any "conforming" provision expressly applying any form of reciprocal compensation to Local Traffic and without any deletions or additions the Commission did not specifically order. The status of the Intercarrier Compensation terms after the conforming process was one of the key reasons why CenturyTel, when filing its "Statement of Compliance and Noncompliance of Conforming Interconnection Agreement," stated that certain terms "simply 'conform' to the determinations of the Commission where the parties could not reach agreement after arbitration[.]" (A true and correct copy of an excerpt from CenturyTel's Statement of Compliance and Noncompliance of Conforming Interconnection Agreement is attached as **Exhibit "C"**.)

13. As I testified above, the provisions on which Socket now relies—Article III, Sections 10.2 and 10.4; Article V, Sections 9.7 and 9.7.2; and the switching rates in Article VIIA—were included in the Agreement early-on in the negotiation process because they were intended to be relevant in the event the Commission adopted CenturyTel's proposed bill-and-keep provision with an out-of-balance trigger. After the Commission rejected both parties' proposed bill-and-keep provisions, the parties used the post-arbitration conforming process to address the specific and numerous determinations and provisions addressed in the Final Commission Decision. The parties never even discussed removing these other Article III and

Article V provisions from the Agreement during the conforming process. Given the substantial time and resources needed to conform other provisions specifically addressed by the Commission, the parties simply focused on other issues, and did not address any provisions of the contract that were not previously disputed.

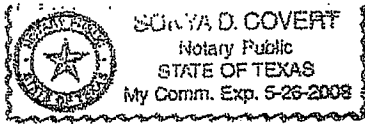
14. On or about December 7, 2006, after the Agreements had become effective, Socket began submitting invoices to CenturyTel including charges for reciprocal compensation for its alleged termination of CenturyTel originated Local Traffic. Socket has been sending monthly invoices for reciprocal compensation ever since. When Socket submitted its first two invoices, covering a three-month period from October 2006 to December 2006—Invoice No. 129 dated December 7, 2006, and Invoice No. 131 dated January 11, 2007—CenturyTel inadvertently paid them. When these payments were brought to my attention, I immediately investigated and informed the CenturyTel personnel responsible for paying carrier invoices that, under the Agreements, neither party is entitled to reciprocal compensation, and that Local Traffic is exchanged under bill and keep. Since then, CenturyTel has disputed each successive reciprocal compensation invoice submitted by Socket. CenturyTel has never sent Socket an invoice charging reciprocal compensation for terminating any Socket-originated Local Traffic (including local ISP Traffic).

15. I was one of CenturyTel's witnesses in the separate proceeding between CenturyTel and Socket, Case No. TO-2007-0341, which addresses a dispute regarding number portability. As a witness and as CenturyTel's Director of External Affairs for Missouri, I am familiar with CenturyTel's engagement of Brent Stewart as CenturyTel's counsel in that proceeding, as well as the issues in that proceeding. The compensation regime applicable to Local Traffic under the parties' Agreements was not one of the issues before the Commission.

FURTHER AFFIANT SAITH NOT.

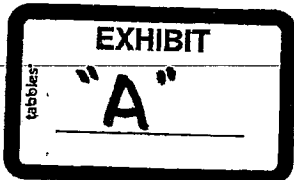
Susan W. Smith
Susan W. Smith

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this
12 day of February, 2008.



Susana D. Covert
Notary Public in the State of Texas

My Commission Expires: 5/26/08



FINAL DPL: CASE NO. IO-2006-0299
ARTICLE V – INTERCONNECTION AND TRANSPORT AND TERMINATION OF TRAFFIC

Issue Statement	Issue No.	Sec. Nos.	Socket Language	Socket Preliminary Position	CenturyTel Language	CenturyTel Preliminary Position
RESOLVED	1	1.0	<p>1.0 GENERAL PROVISIONS</p> <p>1.1 This Article describes the technical arrangements by which Socket and CenturyTel will interconnect their networks when Socket is providing its switching facilities to serve a given Exchange Area and related terms and conditions herein.</p> <p>1.2 Intentionally left blank.</p> <p>9.8 Nothing in this Section shall be interpreted to (i) change compensation set forth in this Agreement for traffic or services other than Local Traffic, including but not limited to internetwork facilities, access traffic or wireless traffic, or (ii) allow either Party to aggregate traffic other than Local Traffic for the purpose of compensation under the Bill-and-Keep Arrangement described in this Section. The Parties reserve the right to otherwise seek compensation for non-Local Traffic including the imposition of access charges where appropriate.</p>	Resolved	<p>1.0 GENERAL PROVISIONS</p> <p>1.1 This Article describes the technical arrangements by which Socket and CenturyTel will interconnect their networks when Socket is providing its switching facilities to serve a given Exchange Area and related terms and conditions.</p> <p>1.2 Intentionally left blank.</p> <p>9.8 Nothing in this Section shall be interpreted to (i) change compensation set forth in this Agreement for traffic or services other than Local Traffic, including but not limited to internetwork facilities, access traffic or wireless traffic, or (ii) allow either Party to aggregate traffic other than Local Traffic for the purpose of compensation under the Bill-and-Keep Arrangement described in this Section. The Parties reserve the right to otherwise seek compensation for non-Local Traffic including the imposition of access charges where appropriate.</p>	The parties have resolved this issue, agreeing to incorporate the shown language in their ICA.
RESOLVED	2	1.3	<p>1.3 The Parties acknowledge that in paragraph 140 of its Triennial Review Remand Order the FCC said, in part: "We note in addition that our finding of non-impairment with respect to entrance facilities does not alter the right of competitive LECs to obtain interconnection facilities pursuant to section 251(c)(2) for the transmission</p>	Resolved	<p>1.3 The Parties acknowledge that in paragraph 140 of its Triennial Review Remand Order the FCC said, in part: "We note in addition that our finding of non-impairment with respect to entrance facilities does not alter the right of competitive LECs to obtain interconnection facilities pursuant to section 251(c)(2) for the transmission</p>	The parties have resolved this issue, agreeing to incorporate the shown language in their ICA.

Key: Bold language represents language proposed by Socket and opposed by CenturyTel.
 Underlined language represents language proposed by CenturyTel and opposed by Socket.

**FINAL DPL: CASE NO. TO-2006-0299
ARTICLE V – INTERCONNECTION AND TRANSPORT AND TERMINATION OF TRAFFIC**

Issue Statement	Issue No.	Sec. Nos.	Socket Language	Socket Preliminary Position	CenturyTel Language	CenturyTel Preliminary Position
What language should the ICA include regarding intercarrier compensation for	10	9.0-9.6	<p>9.0 INTERCARRIER COMPENSATION FOR LOCAL INTERCONNECTION TRAFFIC</p> <p>9.1 This section addresses</p>	<p>with the FCC's rules regarding interconnection. In an effort to avoid future disputes between the Parties, Socket objects to unnecessary reference to Article XVII – Collocation.</p> <p>Section 8.3 references an addendum to Socket's current ICA with CenturyTel and apparently seeks to bring those terms and conditions into this Agreement and also apply access charges rates to "non-incidental" local traffic. Socket does not agree to include the terms of the temporary amendment in this Interconnection Agreement.</p> <p>CenturyTel even seeks to modify the amendment by applying access charges (presumably special access charges) to "incidental non-local traffic," which CenturyTel does not define. The Interconnection Facilities Compensation language should make it clear that each Party is responsible for bringing its facilities and trunks to the POI and the other Party is responsible for facilities and trunks on its side of the POI.</p> <p>Kohly Direct at 63-66. Kohly Rebuttal.</p>	<p>9.0 <u>Transport and Termination of Traffic</u></p> <p>9.1 <u>Traffic to be Exchanged.</u></p>	<p>CenturyTel's proposed language attempts to minimize ambiguity and preclude Socket from utilizing the POI and the parties' agreement to be responsible for facilities on their side of the POI as a mechanism for arbitrage. To that end, CenturyTel's proposed language ensures that section 8.1 is not somehow construed to exempt Socket from the terms of Article XVII. Collocation or any applicable access tariffs. That the parties agree to remain responsible for facilities and trunks on their side of the POI does nothing to alter collocation or access tariff applicability, and the agreement should specifically say so in order to prevent possible future disputes. Therefore, the Commission should adopt CenturyTel's proposed language. Rather than imposing any new or substantive requirements, the language merely incorporates the terms and provisions of the otherwise applicable access tariffs. Simshaw Direct at 35-36; Simshaw Rebuttal.</p>
				<p>Properly allocating responsibility and costs, the Commission should not allow Socket to game the system by erecting an intercarrier compensation mechanism that allows it to shift costs</p>		

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FINAL DPL: CASE NO. TO-2006-0299
ARTICLE V – INTERCONNECTION AND TRANSPORT AND TERMINATION OF TRAFFIC

Issue Statement	Issue No.	Socket Language	Socket Preliminary Position	Century/Tel Language	Century/Tel Preliminary Position
transport and termination of traffic?		<p>Intercarrier Compensation for the exchange of Local Interconnection Traffic.</p> <p>9.2 MCA Traffic is traffic originated by a party providing a local calling scope pursuant to the local calling scope pursuant to the Case No. TO-92-306 and Case No. TO-99-483 (MCA Orders) and routed as a local traffic based on the calling scope of the originating party pursuant to the MCA Orders.</p> <p>9.2.1 Compensation for MCA Traffic will be consistent with the Commission's decisions in Case No. TO-92-306 and Case No. TO-99-483.</p> <p>9.2.2 The parties agree to use the Local Exchange Routing Guide (LERG) to provision the appropriate MCA NXXs in their networks. The LERG should be updated in accordance with industry standards for opening a new code to allow the other party the ability to make the necessary network modifications. If the Commission orders the parties to use an alternative other than the LERG, the parties will comply with the Commission's final order.</p> <p>9.3 Non-MCA Traffic is all Section 251(b) (5) Traffic, ISP Traffic, Foreign Exchange Traffic including VNXX Traffic, and Transit Traffic that is not defined as MCA</p>	<p>Traffic.</p> <p>The original Socket proposal provided for Bill and Keep but included a means to change to an alternative method of handling reciprocal compensation. In its direct testimony, CenturyTel expressed concern about this aspect of Socket's proposal and Socket's possible ability to exit the bill and keep arrangement. To address CenturyTel's concerns, Socket makes a final offer that it will accept Bill and Keep for Non-MCA Traffic traffic, including Section 251(b)(5) Traffic, ISP Traffic, and FX Traffic, including VNXX Traffic. Socket proposes to retain a provision that allows the parties to mutually agree to negotiate a new compensation agreement and amend the ICA at a later time.</p> <p>CenturyTel's proposed language denies compensation for categories of traffic that the FCC has held are subject to intercarrier compensation, most notably ISP Traffic. The <i>ISP Remand Order</i> requires ILECs that choose not to adopt the ISP Remand Order rate to exchange ISP traffic at the state-approved reciprocal compensation rates reflected in their contracts.</p> <p>CenturyTel also fails to address how non-VNXX-FX traffic will be exchanged, but does agree to exchange that traffic on a bill and keep basis if Socket agrees to maintain a previous</p>	<p>The Parties shall reciprocally terminate Local Traffic including MCA traffic, (or other traffic the Parties agree to exchange) originating on each other's networks utilizing either Direct or Indirect Network Interconnections as provided in Sections 4, 5 and 6 herein. To this end, the Parties agree that there will be interoperability between their networks. In addition, the Parties will notify each other of any reasonably anticipated material change in traffic to be exchanged, in terms of e.g., traffic type, volume.</p> <p>9.2 Compensation For Exchange of Local Traffic.</p> <p>9.2.1 Local Mutual Compensation. The Parties shall compensate each other for the exchange of Local Traffic originated by or terminating to the Parties' end-user customers in accordance with Section 3.2.2 of this Article, subject to any applicable regulatory conditions, such as a State exempt factor, if any. The Charges for the transport and termination of optional EAS, intral-ATA toll and interexchange traffic shall be in accordance with the Parties' respective intrastate or interstate access tariffs, as appropriate.</p> <p>9.2.2 Bill and Keep. Either Party may initiate a traffic study no more frequently than once a quarter. Such traffic study shall examine all Local</p>	<p>to CenturyTel, avoid incurring costs itself, and unduly profiting at the same time be obtaining reciprocal compensation for VNXX Dial-up ISP traffic. Socket's assertion that it is sponsoring bill and keep is misleading and disregards that most of the traffic the parties will "exchange" is likely to be one-way VNXX dial-up ISP traffic. Instead of bill and keep, Socket will end up reaping a windfall by shifting substantial costs to CenturyTel, receiving compensation from ISPs, and receiving reciprocal compensation from CenturyTel when Socket terminates more than 60% of the traffic between the parties, as it undoubtedly will. Simshaw Direct at 36-39; Simshaw Rebuttal.</p> <p>Socket's proposed contract language would create an undue arbitrage opportunity.</p> <p>As noted above (see position statement for issue 7), the bulk of the traffic to be "exchanged" between the parties going-forward will likely be Socket's primarily one-way VNXX dial-up ISP traffic. Since Socket will almost certainly terminate more than 60 percent of the traffic "exchanged" between the parties immediately, its contract language would certainly trigger the reciprocal compensation mechanism, allowing Socket to move from bill and keep to a reciprocal compensation windfall. That</p>

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Issue Statement	Issue No.	Sec. Nos.	Socket Language	Socket Preliminary Position	CenturyTel Language	CenturyTel Preliminary Position
			<p>Traffic.</p> <p>9.4 Compensation for Non-MCA Section 251(b) (5) Traffic, Non-MCA ISP Traffic and Non-MCA Foreign Exchange Traffic including VNXX Traffic.</p> <p>9.4.1 All non-MCA Traffic, including Non-MCA Section 251 (b)(5) Traffic, Non-MCA ISP Traffic, Non-MCA Foreign Exchange Traffic including VNXX Traffic shall be exchanged on a Bill and Keep basis.</p> <p>9.4.2 "Bill and Keep" refers to an arrangement in which neither of two interconnecting parties charges the other for terminating FX traffic that originates on the other party's network.</p> <p>9.5 The Parties may mutually agree to another compensation arrangement. In the event the Parties do mutually agree to another Inter-carrier Compensation arrangement, the Parties will make the necessary amendment to the Interconnection Agreement to include that arrangement in the Agreement.</p> <p>9.6 Compensation for Termination of Non-PIC'd IntraLATA Interexchange Toll</p>	<p>addendum to its ICA. Socket does not agree to operate under the terms of the previous amendment or to agree to CenturyTel's additional proposal that Socket establish a POI at each CenturyTel central office.</p> <p>In addition, CenturyTel erroneously seeks to apply intrastate access charges to FX traffic (even in MCA areas where the Commission has held that bill-and-keep applies). Kohly Direct at 66-69. Kohly Rebuttal.</p>	<p>Traffic excluding Local Traffic that is also Information Access Traffic. Should such traffic study indicate, in the aggregate, that either Party is terminating more than sixty percent (60%) of the Parties' total terminated minutes for Local Traffic, excluding Local Traffic that is also Information Access Traffic, either Party may notify the other that mutual compensation will commence pursuant to the rates set forth in Appendix A of this Agreement and following such notice it shall begin and continue for the duration of the Term of this Agreement unless otherwise agreed. Local Traffic that is also Information Access Traffic will remain subject to Bill-and-Keep.</p> <p>9.2.3 VNXX Traffic. If Socket assigns NPA/NXXs to a customer physically located outside of the CenturyTel Local Calling Area containing the rate center with which the NPA/NXX is associated, traffic originating from CenturyTel customers within that CenturyTel Local Calling Area to Socket customer physically located outside of the CenturyTel Local Calling Area, shall not be deemed Local Traffic but shall be at bill and keep (provided that Socket agreed to maintain the terms of the recent addendum agreement between CenturyTel and Socket whereby Socket agreed to place a POI at every CenturyTel end office and where all</p>	<p>arrangement is fundamentally unreasonable and is inconsistent with economic and regulatory policy, especially since Socket is the cost causer and is the only party generating revenue from the VNXX dial-up ISP traffic and Socket would shift the vast majority of costs to CenturyTel under its unrestricted single POI per LATA in perpetuity proposal. Simshaw Direct at 36-39; Simshaw Rebuttal; Issue 7 Position Statement.</p> <p>Socket's proposal is also inconsistent with the FTA. The statute, of course, refers to reciprocal compensation as the "mutual and reciprocal" recovery of costs. There is nothing mutual or reciprocal about Socket's position. In crafting the FTA, Congress anticipated a mutual exchange of traffic with both parties benefitting from the arrangement. The Act anticipated that reciprocal compensation would flow both directions. Socket, however, is attempting to arbitrage the system such that 100 percent of the traffic terminates on its network, so that it receives 100 percent of the end-user revenues, and it receives 100 percent of the reciprocal compensation payments, all the while shifting most of the costs to CenturyTel. That demand is inconsistent with the statute, inconsistent with sound economic and regulatory principles, and does not represent a reasonable or fair allocation of costs and responsibilities. Simshaw</p>

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ARTICLE V – INTERCONNECTION AND TRANSPORT AND TERMINATION OF TRAFFIC

Issue Statement	Issue No.	Sec. Nos.	Socket Language	Socket Preliminary Position	CenturyTel Language	CenturyTel Preliminary Position
			<p>Traffic.</p> <p>9.6.1 IntraLATA Interexchange Traffic that is carried on jointly provided LEC-to-LEC network is considered as IntraLATA Toll Traffic and is subject to tariffed access charges. Billing arrangements are outlined in Section 10 -- Recording and Billing of this Article.</p> <p>9.6.2 Compensation for the termination of this traffic will be at terminating access rates for Message Telephone Service (MTS) and originating access rates for 800 Service, including Carrier Common Line (CCL) charge, as set forth in each Party's intrastate access tariff(s).</p> <p>9.6.3 For interstate IntraLATA service compensation for terminating of Intercompany traffic will be at terminating access rates for Message Telephone Service (MTS) and originating access rates for 800 Common Line (CCL) charge, as set forth in each Party's interstate access service tariffs or interstate price sheet.</p>		<p>ISP-bound traffic is at bill and keep. Should Socket not agree to abide by its recent addendum terms, CenturyTel reserves the right to revert to its advocacy position on this issue which is that access charges do apply to all ISP-bound traffic that terminates to a physical ISP location outside of the local calling area.)</p> <p>9.2.X MCA Transit Traffic. Neither party shall assess transit charges on any MCA transit traffic.</p> <p>9.2.XX FX Traffic. (CenturyTel anticipated providing compromise language shortly.)</p> <p>(CenturyTel proposes inserting the following in Article II- Definitions-</p> <p>MCA Traffic- Traffic originated by a party providing a local calling scope pursuant to the Case No. TO-92-306 and Case No. TO-99-483 (MCA Orders) and routed as a local traffic based on the calling scope of the originating party pursuant to the MCA Orders.)</p>	<p>Direct at 38-39; Simshaw Rebuttal; Issue 7 Position Statement.</p> <p>It is also notable that, notwithstanding its general professed reliance on provisions from SBC's successor agreement to the MZA, Socket's proposed language here is inconsistent with the language adopted by the Commission on this point in that proceeding. Simshaw Direct at 38.</p> <p>CenturyTel's proposal is reasonable and fairly apportions responsibility between the parties.</p> <p>CenturyTel's language, which subjects Socket's VNXX dial-up ISP traffic to access charges is consistent with the existing access regime, minimizes the opportunity for arbitrage, is consistent with sound economic and regulatory principles, and fairly allocates costs and responsibilities between the parties. Moreover, it recognizes the true nature of the traffic at issue. In the alternative, and consistent with the MCI/metro/CenturyTel and CD Telecom/CenturyTel agreements, Bill and Keep could be applied to such traffic conditioned upon POIs being established in each local calling area where Socket chooses to assign VNXX telephone numbers. Simshaw Direct at 38-39; Simshaw Rebuttal.</p> <p>On this issue, like the resolution of Issue 7 above, the Commission should</p>

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ARTICLE V – INTERCONNECTION AND TRANSPORT AND TERMINATION OF TRAFFIC**

Issue Statement	Issue No.	Sec. Nos.	Socket Language	Socket Preliminary Position	CenturyTel Language	CenturyTel Preliminary Position
What are the appropriate rates, terms and conditions for compensation for transit traffic?	11	10.0	<p>10.0 TRANSIT TRAFFIC</p> <p>10.1 Compensation for MCA Transit Traffic</p> <p>10.1.1 Consistent with the Commission's decision in Case No. TO-92-306 and Case No. TO-99-483 and notwithstanding any other provision of the agreement to the contrary, neither party shall assess transit charges on any MCA transit traffic.</p> <p>10.2 Compensation for Non-MCA Transit Traffic.</p> <p>10.2.1 The Transit Rate is charged by the Transit Provider to the originating Party on a MOU basis. The Transit Rate element is only applicable when calls do not terminate to the Transit Provider's End User.</p> <p>10.2.2 The Transit Rate is based upon the tandem switching and common transport rates set forth in Article VII, Schedule of Pricing.</p>	<p>Socket's proposed language on Transit Traffic is consistent with prior Commission precedent, as reflected most recently in Docket No. TO-2005-0336, the arbitration of the successor agreement to the M2A. The Commission has previously decided that ILECs are obligated to provide transit service as part of their Section 251 obligations. Socket's proposal correctly recognizes that transit compensation is not required if the traffic involved constitutes MCA traffic.</p> <p>Moreover, the Socket language includes important provisions left out of the CenturyTel proposals (including a mutual commitment to pass Calling Party Number information to the other party, which will increase the transiting carrier's ability to bill for the traffic it transits). CenturyTel's proposed language also limits transit traffic to a amount of traffic below a DS1 level of calls. CenturyTel is not permitted to impose restrictions on when it will provide transit service. CenturyTel also would require Socket to pay, without</p>	<p>10.0 The Parties will provide Tandem Switching for Local Traffic between the Parties' end offices subtending each other's access Tandem, as follows:</p> <p>10.1 The originating Party will compensate the Tandem Party for each minute of non-MCA originated Tandem switched traffic which terminates to a third party (e.g., other Socket, ILEC, or wireless service provider). The applicable rate for this charge is the Tandem Transiting charge identified in Appendix A.</p> <p>10.2 The originating Party also assumes responsibility for compensation to the company that terminates the call. Compensation to third parties terminating traffic on either Party's behalf shall be covered by specific arrangements between the originating Party and the terminating third party.</p> <p>10.3 Each Party shall deliver Tandem traffic to CenturyTel with CCS and the appropriate Transnational</p>	<p>refrain from allowing Socket to generate a windfall and shift its costs by erecting an arbitrage situation that is inconsistent with the FTA's key goals. Simshaw Direct at 36-39; Simshaw Rebuttal; Issue 7 Position Statement.</p> <p>Recognizing the fair and reasonable apportionment of responsibility, the Commission should adopt CenturyTel's proposed contract language, which is consistent with industry standard regarding the billing mechanism for transit traffic and attempts to prevent arbitrage. Miller Direct at 31-36; Miller Rebuttal.</p> <p>Consistent with industry standards, CenturyTel would have the terminating carrier bill the originating carrier for transit traffic.</p> <p>CenturyTel, unlike Socket, provides for a reasonable, industry standard method compensation scheme for transit traffic. To appreciate the reasonable allocation of responsibility, it is necessary first to understand the traffic at issue. Transit traffic is telecommunications traffic between originating and terminating carriers that is transported between the originating and terminating carriers over the network of a third party carrier; it is neither originated nor terminated on the third party carrier's network. Miller Direct at 31. Whereas</p>

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SOCKET CONFIDENTIAL SETTLEMENT OFFER: CASE NO. TO-2006-0299
ARTICLE V - INTERCONNECTION AND TRANSPORT AND TERMINATION OF TRAFFIC

Sec. Nos.	Socket Language	CenturyTel Language	Proposed Settlement
4.3.3 and 4.3.4	<p>4.3.3 Socket is required to establish an additional POI in a Class I Exchange when the total Local Interconnection Traffic it exchanges with CenturyTel to or from an existing POI and a Class I exchange exceeds, at peak over three consecutive months, a DS1 or 24-channels.</p> <p>4.3.4 Socket is required to establish an additional POI in a Class II Exchange when the total Local Interconnection Traffic it exchanges with CenturyTel to or from an existing POI and a Class II exchange exceeds, at peak over three consecutive months, a DS1 or 24-channels for each 1,000 access lines in the exchange, rounded to the nearest 1/10 of a DS1.</p> <p>a. <i>E.g.</i>, for an exchange of 2,412 CenturyTel access lines, this threshold is reached when the total Local Interconnection Traffic exchanged between the Parties exceeds, at peak over three consecutive months, 2.4 DS1s of traffic to or from an existing POI and that exchange;</p> <p>b. <i>E.g.</i>, for an exchange of 10,550 CenturyTel access lines, this threshold is reached when the total Local Interconnection Traffic exchanged between the Parties exceeds, at peak over three consecutive months 10.6 DS1s of traffic to or from an existing POI and that exchange; and,</p> <p>c. <i>E.g.</i>, for an exchange of 28,100 CenturyTel access lines, this threshold is reached when the total Local Interconnection Traffic exchanged between the Parties exceeds, at peak over three consecutive months, 28.1 DS1s of traffic to or from an existing POI and that exchange.</p>	<p>4.3.3 Socket is required to establish an additional POI in a Class I Exchange when the total <u>traffic covered by the Agreement</u> it exchanges with CenturyTel to or from an existing POI and a Class I exchange exceeds, at peak over three consecutive months, a DS1 or 24-channels.</p> <p>4.3.4 Socket is required to establish an additional POI in a Class II Exchange when the total <u>traffic covered by the Agreement</u> it exchanges with CenturyTel to or from an existing POI and a Class II exchange exceeds, at peak over three consecutive months, a DS1 or 24-channels for each 1,000 access lines in the exchange, rounded to the nearest 1/10 of a DS1.</p> <p>a. <i>E.g.</i>, for an exchange of 2,412 CenturyTel access lines, this threshold is reached when the total <u>traffic covered by the Agreement</u> exchanged between the Parties exceeds, at peak over three consecutive months, 2.4 DS1s of traffic to or from an existing POI and that exchange;</p> <p>b. <i>E.g.</i>, for an exchange of 10,550 CenturyTel access lines, this threshold is reached when the total <u>traffic covered by the Agreement</u> exchanged between the Parties exceeds, at peak over three consecutive months 10.6 DS1s of traffic to or from an existing POI and that exchange; and,</p> <p>c. <i>E.g.</i>, for an exchange of 28,100 CenturyTel access lines, this threshold is reached when the total <u>traffic covered by the Agreement</u> exchanged between the Parties exceeds, at peak over three consecutive months, 28.1 DS1s of traffic to or from an existing POI and that exchange.</p>	<p>Socket would withdraw its language with consistency revision to Section 4.1.</p> <p>4.1 When the Parties directly interconnect for the mutual exchange of traffic covered by this agreement Local Interconnection Traffic, the Parties will initially interconnect their network facilities at a minimum of one technically feasible POI on CenturyTel's network in each LATA in which Socket offers telecommunications services.</p> <p>4.3.3 Socket is required to establish an additional POI in a Class I Exchange when the total <u>traffic covered by the Agreement</u> it exchanges with CenturyTel to or from an existing POI and a Class I exchange exceeds, at peak over three consecutive months, a DS1 or 24-channels.</p> <p>4.3.4 Socket is required to establish an additional POI in a Class II Exchange when the total <u>traffic covered by the Agreement</u> it exchanges with CenturyTel to or from an existing POI and a Class II exchange exceeds, at peak over three consecutive months, a DS1 or 24-channels for each 1,000 access lines in the exchange, rounded to the nearest 1/10 of a DS1.</p> <p>a. <i>E.g.</i>, for an exchange of 2,412 CenturyTel access lines, this threshold is reached when the total <u>traffic covered by the Agreement</u> exchanged between the Parties exceeds, at peak over three consecutive months, 2.4 DS1s of traffic to or from an existing POI and that exchange;</p> <p>b. <i>E.g.</i>, for an exchange of 10,550</p>



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Sec. Nos.	Socket Language	CenturyTel Language	Proposed Settlement
	POI and that exchange.		CenturyTel access lines, this threshold is reached when the total traffic covered by the Agreement exchanged between the Parties exceeds, at peak over three consecutive months 10.6 DSIs of traffic to or from an existing POI and that exchange; and, c. <i>E.g.</i> , for an exchange of 28,100 CenturyTel access lines, this threshold is reached when the total traffic covered by the Agreement exchanged between the Parties exceeds, at peak over three consecutive months, 28.1 DSIs of traffic to or from an existing POI and that exchange.
9.3	[Intentionally omitted].	[Intentionally omitted].	The Parties would agree that all traffic is Bill-and-Keep. 9.3 All non-MCA Traffic, including Non-MCA Section 251 (b)(5) Traffic, Non-MCA ISP Traffic, and Non-MCA Foreign Exchange Traffic, including VNXX Traffic, shall be exchanged on a Bill-and-Keep basis.
10.1	"Transit" is a switching and transport function only, which allows one Party to send calls to a third-party network through the other Party's tandem and/or transport facilities.	Transit Traffic is a switching and transport function only, which allows one Party to send Local Interconnection Traffic to a third-party network through the other Party's Tandem.	The Parties would make clear that Socket may indirectly interconnect with other carriers. By default, the agreed definitions in Article II would apply. 10.1 Socket may indirectly interconnect with other carriers.
10.3.1	Because Transit Traffic is an obligation imposed pursuant to 47 U.S.C. §§ 251(c)(2) and (3), the applicable pricing standard for Non-MCA Transit Traffic is TELRIC. This allows Socket to effect an indirect interconnection with other carriers,	Because Transit Traffic is an obligation imposed pursuant to 47 U.S.C. §§ 251(c)(2) and (3), the applicable pricing standard for Non-MCA Transit Traffic is TELRIC.	Socket would withdraw its language. 10.3.1 Because Transit Traffic is an obligation imposed pursuant to 47 U.S.C. §§ 251(c)(2) and (3), the applicable pricing standard for Non-MCA

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10.7	<p>which is expressly authorized by § 251(a)(1) of the Act.</p> <p>Intentionally omitted.</p>	<p>Each Party shall be responsible for any necessary interconnection or other agreements with third-party telecommunications carriers to whom they send Local Interconnection Traffic transited over the other Party's network. The originating Party also assumes responsibility for compensation to the third-party telecommunications carrier that terminates the call. Such compensation to third-party telecommunications carriers on either Party's behalf shall be covered by specific arrangements between the originating Party and the terminating third party.</p> <p>Intentionally omitted.</p>	<p>Transit Traffic is TELRIC.</p> <p>CenturyTel would withdraw its language. Intentionally omitted.</p>
10.8	<p>Socket will pay the Local Transit Traffic rates to CenturyTel for calls that originate on Socket's network and are sent to CenturyTel for termination to a CMRS provider as long as such Traffic can be identified as wireless traffic. CenturyTel will pay the same Local Transit Traffic rate to Socket for such calls that originate on CenturyTel's network and are sent through Socket for termination on a CMRS Provider's network. Each Party shall be responsible for any necessary interconnection agreements with CMRS provider's network.</p> <p>Intentionally omitted.</p>	<p>Intentionally omitted.</p>	<p>Socket would withdraw its language. Intentionally omitted.</p>
11.1.2.2 to 11.1.2.4	<p>Intentionally omitted.</p>	<p>11.1.2.2 At such time as Socket offers service for the exchange of Local Interconnection Traffic in an LCA that is not an MCA, Socket shall establish the necessary trunk groups to:</p> <p>11.1.2.2.1 Each CenturyTel local Tandem in the LCA where Socket offers service when there are CenturyTel local Tandem(s) in the LCA where Socket offers service.</p>	<p>CenturyTel would withdraw its language. Intentionally omitted.</p>

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Sec. Nos.	Socket Language	CenturyTel Language	Proposed Settlement
11.1.2.5	Dedicated trunking may be established by mutual agreement of the Parties.	<p>11.1.2.2.2 Each CenturyTel End Office in the LCA where Socket offers service when there is no CenturyTel local Tandem in the LCA where Socket offers service.</p> <p>11.1.2.3 Where Socket offers service for the exchange of Local Interconnection Traffic in an LCA that is not within an MCA, Socket shall establish dedicated trunking to each End-Office that is not a Remote End-Office in that LCA when forecasted or actual traffic volumes exceed 24 DS0s at peak.</p> <p>Additional dedicated trunking may be established by mutual agreement of the Parties.</p>	CenturyTel would withdraw its language. Dedicated trunking may be established by mutual agreement of the Parties.
17.0	Anything to the contrary in this Agreement notwithstanding, any traffic originated by an end user of either Party in Internet Protocol format that subsequently undergoes a net protocol change, as defined by the FCC, prior to its termination to an end user of another Party ("IP-PSSTN Traffic") shall be treated as 251(b)(5)/ISP-bound local traffic for compensation purposes and shall be compensated at the rates for such 251(b)(5)/ISP-bound local traffic set forth in this Agreement or any amendment to this Agreement.	Intentionally omitted.	This dispute would be the sole remaining dispute in Article V.

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CONFIDENTIAL SETTLEMENT OFFER

**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 COMMUNICATIONS GROUP, LLC) CASE NO. TO-2006-0299
PURSUANT TO SECTION 252(b)(1) OF THE)
TELECOMMUNICATIONS ACT OF 1996)**

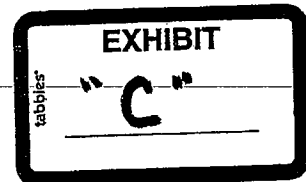
**CENTURYTEL'S STATEMENT OF COMPLIANCE AND NONCOMPLIANCE OF
CONFORMING INTERCONNECTION AGREEMENT**

COME NOW Spectra Communications Group, LLC, and CenturyTel of Missouri, LLC (collectively, "CenturyTel"), and pursuant to Commission Rules 4 CSR 240-36.050(1) and (4), file their Statement of Compliance and Noncompliance of Conforming Interconnection Agreement ("Statement") to the requirements of Sections 251 and 252 of the federal Telecommunications Act of 1996, as amended (the "FTA"), FCC rules, Missouri statutes, and the rules of the Missouri Public Service Commission, and respectfully state as follows:

**I.
INTRODUCTION AND SUMMARY OF THE ARGUMENT**

Concurrently with the filing of this Statement, the parties have filed interconnection agreements that (i) state the agreement of the parties as to issues and contract language not arbitrated, (ii) reach agreement and state terms on a number of issues arbitrated and determined against one or the other of the parties, and (iii) simply "conform" to the determinations of the Commission where the parties could not reach agreement after arbitration (discussed together herein as the "Conforming ICA").¹ Although the Conforming ICA represents the sum of the parties' agreements and the Commission's determinations, Commission Rule 4 CSR 240-36.050

¹ Spectra Communications Group, LLC, and CenturyTel of Missouri, LLC, will each have separate interconnection agreements with Socket.



recognizes that, after the conforming process, the parties may contend that the product does not meet the standards of either federal or state law such that the Commission may lawfully approve it under Section 252(e). CenturyTel respectfully submits that while the majority of the Conforming ICA does, indeed, meet the requirements of the law on the record presented, some terms or conditions expressed as conforming to the Final Commission Decision nevertheless fail to satisfy the requirements of Sections 251 and 252 of the FTA, FCC rules, Missouri statutes, or the rules of the Missouri Public Service Commission. CenturyTel, therefore, respectfully requests that the Commission reject the provisions of the Conforming ICA that do not comport with federal or state law and provide for modifications that would make the Conforming ICA lawful.

A. ARTICLE VIIA (RECURRING AND NON-RECURRING UNE PRICING) AND ARTICLE VI (RESALE DISCOUNT)

By failing to reflect CenturyTel's forward-looking costs of providing the UNEs at issue and failing to account for CenturyTel-specific factors impacting underlying costs and cost structure, the Commission's decisions on pricing are largely flawed. While it may be appropriate to utilize one ILEC as a proxy for another ILEC's costs/rates, the FTA and TELRIC demand demonstrating that the proxy is appropriate and, at a minimum, satisfies the statutory and regulatory rate-setting criteria. It is on that point, critically, that the Commission errs. Specifically:

- (1) Article VIIA of the Conformed ICA unlawfully includes AT&T's non-recurring charges that, contrary to the FTA and TELRIC, do not reflect CenturyTel's costs and the adoption of which is manifestly inconsistent with TELRIC pricing methodology.
- (2) Disregarding mandatory statutory and regulatory pricing principles, Article VIIA of the Conformed ICA includes recurring DS1 UNE loop rates that, because they are based on 1997 GTE costs for analog loops without any showing of comparability to CenturyTel's current, forward-looking costs of providing digital loops, are neither forward-looking nor otherwise consistent with mandatory TELRIC pricing methodology.