

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

Socket Telecom, LLC,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. TC-2007-0341
	)	
CenturyTel of Missouri, LLC d/b/a	)	
CenturyTel and Spectra Communications	)	
Group, LLC dba CenturyTel	)	
	)	
Respondents.	)	

SOCKET TELECOM'S COMPLIANCE WITH ORDER DIRECTING FILING

On December 31, 2007 the Commission issued its Order Directing Filing, instructing Socket and the other parties to file pleadings stating the effect that the Commission's decision in another dispute between Socket and CenturyTel, Case No. TC-2007-0307, should have on this case. In compliance with that Order, Socket states to the Commission:

1. The Commission's decision in the Remote Call Forwarding (RCF) case (TC-2007-0307) demonstrates yet again that Socket must prevail in this case. In the RCF case, the Commission recognized that CenturyTel illegally seeks to prevent Socket from competing against it. (Report and Order, p. 8, 13). As in the RCF case, Socket can provide its foreign exchange service to its customers without porting numbers. (Id.). But as the Commission ruled in the RCF case, Socket also by law has the right to provide such service in conjunction with ported numbers. And as the FCC has ruled and Socket has demonstrated in this case, such number portability is essential to effective competition.¹

¹ First LNP Order, para. 2.

2. As Socket reminded the Commission in the brief (p. 8, 20) it submitted in this case, and as the Commission noted in its RCF decision,² the Commission previously determined in the Socket/CenturyTel arbitration (TO-2006-0299) that CenturyTel must port numbers served by RCF, because “the number will continue to be geographically assigned to the rate center.”³ Among its multi-faceted efforts to illegally obstruct competition from Socket,⁴ as shown in this proceeding CenturyTel has violated FCC and industry requirements (and the implications of the Commission’s prior determination regarding porting RCF numbers), by refusing to port numbers which will continue to be geographically assigned to the same rate center by means of foreign exchange (FX or VNXX) service. Meanwhile, to avoid the Commission’s express prior arbitration ruling on porting RCF numbers, CenturyTel tried to totally withhold RCF service. In Case No. TC-2007-0307, the Commission rejected CenturyTel’s efforts to withhold RCF service, and so CenturyTel must continue to port RCF numbers as previously ordered. Likewise, because “the number will continue to be geographically assigned to the rate center”, CenturyTel should be ordered in this case to comply with the law and its interconnection agreements by porting numbers that will be served by Socket’s FX/VNXX service.

3. In its decision in Case No. TC-2007-0307, the Commission correctly noted the similarity between RCF and foreign exchange service. (Report and Order, p. 6). CenturyTel should not be allowed to discriminate against FX/VNXX customers in violation of Section 392.200 RSMo, but rather those customers should also have full porting rights when rate center number assignment is preserved.

² RCF Report and Order, n. 18.

³ Final Commission Decision, TO-2006-0299, p. 55-57. See Voight Tr. 166.

⁴ See RCF Report and Order, p. 8, 13. CenturyTel’s anticompetitive activities are also subject to other proceedings. In Case No. IC-2008-0068, the Commission will address CenturyTel’s refusal to continue to pay reciprocal compensation to Socket for the exchange of local traffic as required by the arbitrated interconnection agreements. And in Case No. TC-2008-0225, the Commission will address CenturyTel’s refusal to interconnect with Socket as required by those interconnection agreements.

4. Ultimately, there is no relevant difference between the factual scenarios presented in the RCF proceeding and this case. In the RCF case, the customer is obtaining the RCF service from CenturyTel before the number is to be ported and will be served by Socket's foreign exchange service when the number is ported. In this case the customer is not obtaining an RCF or foreign exchange service from CenturyTel before the number is to be ported, but will exercise its indisputable right under FCC porting regulations to change its service⁵ to Socket's foreign exchange service when the number is ported. Thus, in the instance of the RCF case, the customer first establishes the relationship between its telephone number and an exchange other than that in which its office is physically situated by subscribing to RCF service, and then subsequently changes providers and requests a number port. In this case, the customer wants to preserve the relationship between its telephone number and the exchange in which its office has previously been physically situated by subscribing to foreign exchange service while it simultaneously situates its office in another exchange, changes providers and ports the number. As in the RCF case, the customer in this instance simply seeks to retain a familiar number. In both instances, the rate center assignment remains the same before and after the port, so there is no change in location of the number and the port is required by the FCC, the Commission, and industry practices.

⁵ First LNP Order, para. 183. Kistner Surrebuttal, p. 14, Voight Tr. 169. Consistent with the FCC's determinations, in the RCF decision the Commission noted that customers change carriers and port their numbers for the express purpose of obtaining different services using the same telephone number. *Compare* RCF Report and Order, p. 6 and 9 ("Socket Internet intended to avoid the restrictions in CenturyTel's tariff by porting the number it obtained from CenturyTel to Socket Telecom." And "Once Socket Internet has switched service providers to take service from Socket Telecom it must comply with Socket Telecom's tariffs, and is no longer bound by the terms of CenturyTel's tariffs.") with First LNP Order, para. 182 ("Service provider portability will naturally drive the provision of service portability because if a user can receive a different service and keep the same number simply by switching carriers, service providers will have an incentive to offer service portability to keep those customers. Finally, carrier attempts to differentiate their products from those of other carriers will stimulate changes in services by customers, regardless of service portability.").

5. Another aspect of the Commission's RCF decision that is pertinent to this proceeding is the Commission's recognition that CenturyTel's complaints about the process of interconnecting with Socket and exchanging traffic with it are not a basis for CenturyTel to refuse to comply with its legal obligations, whether under applicable tariffs or applicable law. As the Commission correctly observed in its RCF decision, "traffic will flow over the network in exactly the same manner whether [the customer] is allowed to ... port ... from CenturyTel or obtains a number directly from Socket Telecom." (TC-2007-0307, Report and Order, p 10). The Commission further concluded that: "Socket Telecom and CenturyTel have interconnection agreements in place that include provisions to deal with the potential congestion problems identified by CenturyTel. If CenturyTel is concerned about congestion problems, its remedy may be found in those interconnection agreements." (Id.) In the RCF case, the Commission concluded that CenturyTel could not use its purported interconnection concerns as an excuse to violate its tariffs. (Id.). Likewise, in this proceeding, the Commission should conclude, as the FCC has repeatedly held,⁶ that purported interconnection concerns are not an excuse for violating number portability requirements. Accordingly, consistent with its RCF decision, in this proceeding the Commission should resolve issue no. 3 in Socket's favor and conclude that purported network capacity issues are not grounds for denial of a number port order.

6. As Socket has amply demonstrated in this proceeding, CenturyTel has refused to port the numbers at issue because of its objections to the Commission's prior arbitration decisions on interconnection issues, which CenturyTel tries to disguise as network capacity issues under issue

⁶ October 2003 LNP Order, para. 8, 11; Intermodal LNP Order, para. 28 and n. 75; Interconnected VOIP LNP Decision, para. 2, 16, 32, 42 et seq, (Kohly Direct, p. 10, 17, 31-33, Surrebuttal, p. 9-11, 41-43, Kistner Direct, p. 12, Voight Rebuttal, p. 32

no. 3 herein. (Kohly Direct, p. 18-20, Tr. 109-10, Kistner Tr. 144).⁷ Consistent with the Commission's RCF decision, such purported issues do not excuse CenturyTel from complying with its porting obligations. Moreover, as the Commission concluded in the RCF case, the traffic is going to flow the same way in any event, with or without porting, so CenturyTel's purported network issues have no bearing at all on the porting requests at issue. Socket has unmistakably demonstrated that FCC requirements, the Commission's arbitration and RCF decisions, and industry practices all require CenturyTel to port the numbers at issue. Hence, the Commission should see through CenturyTel's smokescreen, recognize (as it did in the RCF case) the illegal and anticompetitive nature of CenturyTel's actions, and rule in Socket's favor on all issues in this case.

7. Finally, in the RCF decision, the Commission recognized CenturyTel's primary reason for seeking to grandfather its RCF service was to "erect barriers in front of its competitors." (TC-2007-0307, Report and Order, p 13). In doing so, CenturyTel was willing to punish its own customers by limiting the availability of a service necessary to provide adequate and just and reasonable service. (Id.). The impact of CenturyTel's actions in this case, refusing to port numbers, also falls squarely on customers by preventing them from exercising their right to change providers and retain their telephone numbers. (Kohly Direct, p. 43-44; Tr. 102, 111-12; Kistner Tr. 150-51; Voight Tr. 176). In refusing to port numbers, CenturyTel is erecting an operational barrier for competitors and punishing retail customers by making it more expensive and more disruptive for customers to change providers in violation of FCC LNP requirements.⁸ (Kistner Direct, p. 4; Surrebuttal p. 6).

⁷ See Socket Brief, p. 10-13, 27-34.

⁸ First LNP Order, ¶ 16.

WHEREFORE, Socket Telecom requests that the Commission grant Socket the relief it has sought in this proceeding, consistent with the Commissions prior decisions in Case Nos. TO-2006-0299 and TC-2007-0307.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was emailed to the parties listed below on this 10th day of January, 2008.

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