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August 28, 2002

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102-0360

FILED³

AUG 28 2002

Missouri Public
Service Commission

Re: Case No. TM-2002-232

Dear Judge Roberts:

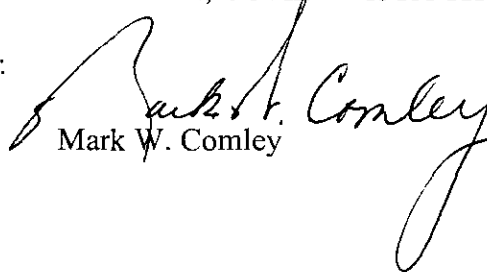
Please find enclosed for filing in the referenced matter the original and eight copies of the Response of Midwest Independent Coin Payphone Association to CenturyTel's and Staff's Responses to Order Directing Filing.

Please contact me if you have any questions regarding this filing. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:


Mark W. Comley

MWC:ab

Enclosure

cc: Office of Public Counsel
General Counsel's Office
Sondra B. Morgan
Lin Harvey
All attorneys of record

AUG 28 2002

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

Missouri Public
Service Commission

In the matter of CenturyTel of Missouri, LLC's)
Local Network Access Services Tariff, PSC Mo.-No. 1,)
Section 8, Regarding Pay Telephone Service)

Tariff No. JL2003-003

In the Matter of the Joint Application of GTE)
Midwest, Inc., d/b/a Verizon Midwest and CenturyTel)
of Missouri, LLC for 1) Authority to Transfer and)
Acquire Part of Verizon Midwest's Franchise,)
Facilities and System Located in the State of)
Missouri; 2) For Issuance of Certificate of Service)
Authority to CenturyTel of Missouri, LLC; 3) To)
Designate CenturyTel of Missouri, LLC as Subject)
to Regulation as a Price Cap Company; and 4) To)
Designate CenturyTel of Missouri, LLC as a)
Telecommunications Carrier Eligible to Receive)
Federal Universal Service Support.)

Case No. TM-2002-232

**RESPONSE OF MIDWEST INDEPENDENT COIN PAYPHONE ASSOCIATION
TO CENTURYTEL'S AND STAFF'S RESPONSES TO ORDER DIRECTING FILING**

Pursuant to the Commission's Order Directing Filing of August 23, 2002 , the Staff and CenturyTel filed responses on August 27, 2002. Midwest Independent Coin Payphone Association (MICPA) submits this reply to both:

A. The timeliness of intervention

Both Staff and CenturyTel assert that MICPA's filing is an effort to intervene in Case No. TM-2002-232. Quite to the contrary, MICPA considers the tariff filing by CenturyTel an independent matter subject to motions to suspend and other process supplied by this Commission just as other tariff filings with thirty day effective dates would be. The motion, having been filed at least ten days prior to the effective date of the questioned tariff, was, without argument, timely under the customary procedures of this Commission. The Commission should note that the caption of MICPA's motion did not include Case No. TM-2002-232. The caption of the motion limited its

application only to the payphone tariffs proposed by CenturyTel and not the company's entire tariff submission.

MICPA does not oppose CenturyTel's proposal to acquire the Verizon territories. MICPA's intervention in the case in which that acquisition was considered would not serve it or the Commission. MICPA opposes the payment of rates that have been determined unlawfully. Its motion raises questions about the lawfulness of CenturyTel's tariffs, questions which cannot be resolved simply because the parties are following the requirements of a Stipulation and Agreement. The parties' Stipulation and the Commission's endorsement of that Stipulation will not cure an overriding unlawfulness in the tariff.

Staff's and CenturyTel's arguments that MICPA's objections to CenturyTel's payphone tariffs are untimely should be rejected.

B. The Federal Telecommunications Act, the FCC and its Orders.

Staff and CenturyTel contend that the FCC lacks the authority to require non-BOC's to comply with its payphone orders. They cite the *Wisconsin Order* for this argument. MICPA first points out that the FCC's *Wisconsin Order* is now under appeal. One of the issues considered is whether the FCC in error refused jurisdiction over non-BOC's in the supervision of the payphone rates each will charge. At one time the FCC exerted jurisdiction over non-BOC's with respect to their payphone rates and the non-BOC companies did not object to that jurisdiction.

In April of 1997, Southwestern Bell Telephone Company, United Telephone Company and GTE Midwest, Inc., in an effort to comply with the FCC's initial payphone orders, submitted tariffs to this Commission for approval.¹ There was no expression of protest or objection to the FCC's

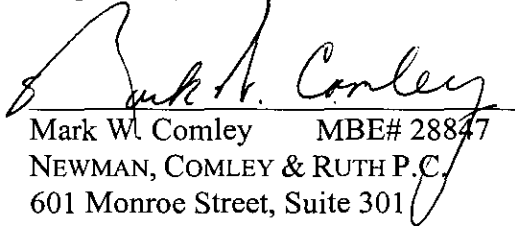
¹MICPA has long contended that those tariffs failed to comply with the orders of the FCC.

authority to direct the companies to file pursuant to its orders. MICPA submits that the question of the FCC's authority over non-BOCs with respect to the establishment of rates and charges for payphone access services is still an open question. Furthermore, MICPA contends that the appropriate standard by which to judge the reasonableness and lawfulness of CenturyTel's payphone access tariffs under Missouri law is the FCC's New Services Test. The FCC has determined that use of the New Services Test promote competitions and the widespread deployment of payphone services, all of which are consistent with the objectives of this Commission and the policies of state of Missouri.

C. Conclusion

Staff's and CenturyTel's arguments should be rejected by the Commission. MICPA's motion to suspend CenturyTel's payphone tariffs and its application to intervene should be granted. The Commission should convene a hearing in which to investigate the lawfulness of those tariffs.

Respectfully submitted,



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CERTIFICATE OF SERVICE

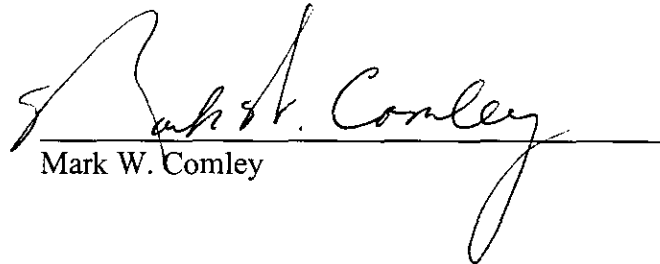
I hereby certify that on this 28th day of August, 2002, a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, to:

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