

**BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**

<b>PETITION OF SOCKET TELECOM, LLC</b>	)	
<b>FOR COMPULSORY ARBITRATION OF</b>	)	
<b>INTERCONNECTION AGREEMENTS WITH</b>	)	<b>CASE NO. TO-2006-0299</b>
<b>CENTURYTEL OF MISSOURI, LLC AND</b>	)	
<b>SPECTRA COMMUNICATIONS, LLC</b>	)	
<b>PURSUANT TO SECTION 252(b)(1) OF THE</b>	)	
<b>TELECOMMUNICATIONS ACT OF 1996</b>	)	

**SOCKET TELECOM, LLC’S MOTION FOR RECONSIDERATION OF  
FINAL COMMISSION DECISION ON POINTS OF INTERCONNECTION**

COMES NOW Socket Telecom, LLC (“Socket”) and, pursuant to 4 CSR 240-2.160, files its Motion for Reconsideration of one aspect of the “Final Commission Decision” issued by the Commission on June 27, 2006 (the “Decision”), namely the Commission’s decision on when Socket must establish additional Points of Interconnection (“POI”) in CenturyTel exchanges.

The Decision approves an approach to the POI controversy that was never discussed by or with the parties in this proceeding. The POI thresholds approved by the Commission are not supported by the record evidence, nor are they rationally related to technical or operational considerations relevant to establishing POIs. Moreover, the criteria used in the Decision are different from the criteria related to POIs in any other interconnection agreement of which Socket is aware, and the terms of the criteria may lead immediately to disputes as the parties attempt to conform their interconnection agreement to the Commission’s Decision.

Socket therefore respectfully requests that the Commission reconsider its ruling on this single POI issue (Article V, Issue 7, Section 4.1),<sup>1</sup> and urges the Commission to incorporate the FCC’s “technically feasible” standard rather than establish a specific traffic threshold for additional POIs. Socket files this Motion quickly due to the impending June 30, 2006 effective date of the Commission’s Decision. The Commission clearly has jurisdiction to change its Final

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<sup>1</sup> Decision at 16-17.

Commission Decision through at least June 30, 2006. But if the Commission considers it necessary under the arbitration provisions of its rules, Socket is willing to extend the time for the Commission's consideration of its arbitration petition in order to complete its reconsideration of this issue. Alternatively, Socket urges the Commission to consider this Motion before the parties are required to submit their interconnection agreement (as conformed to comply with the Commission's decision) for final approval under Section 252 of the 1996 Act.

Socket states as follows in support of its Motion:

1. The resolution of the POI issue in the Decision is based on "thresholds" that the parties neither proposed nor were given any opportunity to review and consider before being approved by the Commission. There is no record evidence supporting the "2.4 percent per 1,000 access lines" threshold for establishing additional POIs in CenturyTel exchanges with "more than 1,000 CenturyTel access lines." Nor is there record evidence supporting different POI standards for exchanges above or below the 1,000 access line threshold. As Commissioner Murray noted in her concurrence, the lack of evidence makes the imposition of this Decision "unreasonable and arbitrary."<sup>2</sup> Indeed, the thresholds "were arbitrarily chosen and have no relation whatsoever to any facts that would establish that it was technically infeasible for CenturyTel to continue to interconnect with Socket through an established POI."<sup>3</sup>

2. The resolution of the POI issue is based on thresholds that are different from those that were included in the Final Report of the Arbitrator. The parties had the opportunity to comment on the proposal in the Arbitrator's Report, but were given no chance to comment on the new thresholds before they were approved by the Commission in the Decision. The thresholds adopted will have significant negative impacts on Socket's ability to offer competitive

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<sup>2</sup> Concurring Opinion of Commissioner Connie Murray, at 1 ("Murray Concurrence").

<sup>3</sup> *Id.* at 1-2.

services, particularly in smaller exchanges, and Socket urges the Commission to reconsider the thresholds before requiring them to be incorporated in the Socket/CenturyTel-Spectra interconnection agreements.

3. The FCC's rules require that ILECs must permit CLECs to interconnect with the ILEC network at any "technically feasible" point. The ILEC may deny interconnection only if the ILEC can prove to a state commission that the point of interconnection identified by the CLEC is not technically feasible.<sup>4</sup> The FCC, the Courts, and this Commission have ruled numerous times that an ILEC may force a CLEC to establish an additional POI only when the ILEC "can establish that the CLEC's use of a single POI is no longer technically feasible."<sup>5</sup> In fact, the Arbitrator's Report in this proceeding recognized that "CenturyTel has a duty to allow Socket to interconnect at any technically feasible point within CenturyTel's network."<sup>6</sup> The FCC's Rules are written this way for a reason: to prevent ILECs from preventing or delaying interconnection (and the opening of new markets to competition) by making unnecessary or unreasonable demands on CLECs seeking to interconnect. The federal rules have always given ILECs the opportunity to prove to a state commission that the interconnection requested by the CLEC was not "technically feasible," but absent such proof, the ILEC is not permitted to prevent interconnection or require particular POIs. The threshold adopted in the Decision turns the FCC's rules on their head, by giving the ILEC the right to deny interconnection based on "access line" counts that are (a) completely unrelated to the question of whether interconnection is

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<sup>4</sup> See 47 C.F.R. § 51.305(e).

<sup>5</sup> See, e.g., Case No. TO-2005-0336, Final Arbitrator's Report, Section V at 6 (June 21, 2005). See also *Southwestern Bell Tel. Co. v. Texas Public Util. Comm'n*, 2002 WL 32066469 (W.D. Tex. 2002); *Petition of WorldCom, Inc. Pursuant to Section 252(e) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, CC Docket No. 00-218, Memorandum Opinion and Order, at ¶ 52 (2002).

<sup>6</sup> Arbitrator's Final Report, at 16.

“technically feasible,” and (b) not related to interconnection for the exchange of local traffic. Further, the Commission specifically gives CenturyTel the option to set aside these thresholds if CenturyTel can make a showing that it is technically infeasible to maintain an existing POI based on specific circumstances. Thus, CenturyTel is free to elect whether to impose the Commission-ordered thresholds or use the technically feasible standard required by the FCC’s rules on Socket’s choice of a point of interconnection. The fact the Commission felt the need to permit CenturyTel to have this choice highlights the fact the thresholds have nothing to do with whether a requested interconnection is technically feasible. More importantly, this is simply not contemplated by the FCC’s rules.

4. The approach to the POI issue taken in the Decision is also inconsistent with the way thresholds have been addressed in previous Commission decisions. When the Commission has approved thresholds as the standard used to determine when an additional POI must be established, the implementing contract language has focused on the volume of traffic exchanged between the CLEC and ILEC, not the number of access lines in an exchange. For example, the Interconnection Agreement in effect between Socket and Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri requires Socket to establish an additional POI when, “traffic to/from that local calling area exceeds an OC12 at peak over three consecutive months.”<sup>7</sup> That threshold is tied directly to traffic volumes exchanged via a direct interconnection between the two companies in order to tie the definition of “technically feasible” to a known quantity of traffic. But in its Decision in this case, the Commission has ignored this logical relationship and instead adopted the number of access lines as a surrogate with no evidence to support either this new standard or the specific measurement of 2.4 trunks per one thousand access lines. While the

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<sup>7</sup> Case No. TO-2005-0336; Interconnection Agreement between Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri and Socket Telecom, LLC, Attachment 11: Network Interconnection Architecture, § 2.2.3 ii.

number of access lines may bear a relationship to the volume of traffic exchanged between the parties, that relationship is not direct, it is not uniform across all exchange sizes or local calling area sizes, it is not uniform across different customer types and classes, and it is not reflected in the threshold ordered by the Commission. Most importantly, the standard has no relationship to the technical feasibility of the requested interconnection.

5. The Arbitrator and the Commission both rejected CenturyTel's proposed threshold of a DS1 as being unreasonable, presumably because it was too low. But the impact of the Commission's new decision on this issue is inconsistent with that reasoning because the Decision will require Socket to establish a new POI when the volume of traffic exchanged between Socket and CenturyTel is less than a DS1 level in some exchanges.

6. For example, under the Commission's decision, when Socket obtains a single customer that purchases 24 access lines in an exchange with less than 1,000 access lines, Socket would be required to establish a POI in that exchange. Those 24 access lines likely will never be used simultaneously to make local calls, meaning that Socket and CenturyTel would be exchanging less than a DS1 level of traffic and yet Socket would be required to establish an additional POI in that exchange. This concern also could apply in an exchange with 10,000 access lines where Socket would be required to establish an additional POI in that exchange when Socket obtained a total of 240 access lines. There is no evidence in the record that 240 access lines will generate even a single DS1 volume of local interconnection traffic exchanged between the companies. Thus, Socket could be required to establish additional Points of Interconnection when traffic volumes between the parties are below the DS1 traffic threshold already rejected by the Commission in its Decision.

7. Socket urges the Commission to reconsider the arbitrary and unsupported approach to the POI issue reflected in the Decision, and instead incorporate language in the parties' interconnection agreement that conforms to the approach taken in other Commission-approved agreements. If the Commission determines, as Commissioner Murray's concurrence suggests, that the interconnection agreement should simply reflect the FCC's "technically feasible" standard rather than establish a specific traffic threshold for additional POIs, the Commission could approve such an approach without taking additional evidence. While Socket has advocated a specific traffic threshold, Socket agrees with Commissioner Murray that contract language simply incorporating the "technically feasible" standard is far superior to the establishment of the arbitrary thresholds included in the Decision. Socket therefore suggests the Commission simply repeat the same language it used in its decision in the M2A successor proceeding, as follows:

The standard for interconnection under federal law is that the CLEC may interconnect at any technically feasible point within the incumbent LEC's network. . . . [CenturyTel] may require an additional POI in a LATA when it can establish that the [Socket]'s use of a single POI is no longer technically feasible.<sup>8</sup>

**WHEREFORE**, for all the reasons stated, Socket respectfully requests that the Commission reconsider the portion of its June 27, 2006 "Final Commission Decision" regarding the disputes identified in Article V, Issue 7, Section 4.1, and adopt contract language consistent with the contract language described in this Motion.

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<sup>8</sup> Case No. TO-2005-0336, Final Arbitrator's Report, Section V at 8 (June 21, 2005).

Respectfully submitted,

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ATTORNEYS FOR SOCKET TELECOM, LLC

CERTIFICATE OF SERVICE

I hereby certify that the undersigned has caused a complete copy of the foregoing document to be electronically filed and served on the Commission's Office of General Counsel (at [gencounsel@psc.mo.gov](mailto:gencounsel@psc.mo.gov)), the Office of Public Counsel (at [opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov)), counsel for CenturyTel of Missouri and Spectra Communications (at [lwdority@sprintmail.com](mailto:lwdority@sprintmail.com) and at [hartlef@hughesluce.com](mailto:hartlef@hughesluce.com)) on this 28<sup>th</sup> day of June, 2006.

/s/ Carl Lumley