

NEWMAN, COMLEY & RUTH

PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW
MONROE BLUFF EXECUTIVE CENTER
601 MONROE STREET, SUITE 301
P.O. BOX 537
JEFFERSON CITY, MISSOURI 65102-0537
www.ncrpc.com

TELEPHONE: (573) 634-2266
FACSIMILE: (573) 636-3306

ROBERT K. ANGSTEAD
ROBERT J. BRUNDAGE
MARK W. COMLEY
CATHLEEN A. MARTIN
STEPHEN G. NEWMAN
THOMAS R. O'TOOLE
JOHN A. RUTH
ALICIA EMBLEY TURNER

August 17, 2005

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

FILED³
AUG 17 2005
Missouri Public
Service Commission

Re: FullTel, Inc.
Case No. TC-2006-0068

Dear Judge Dale:

Enclosed for filing in the referenced matter please find the original and five copies of a Response to Order Directing Filing along with a Motion for Leave to File Response to Order Directing Filing One Day Out of Time.

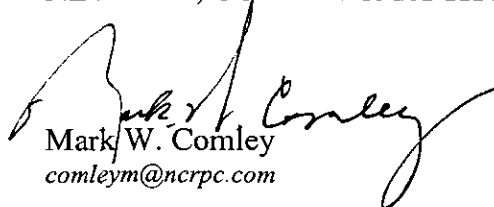
Would you please bring this filing to the attention of the appropriate Commission personnel.

Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:


Mark W. Comley
comleym@ncrpc.com

MWC:ab

Enclosure

cc: Office of Public Counsel
General Counsel's Office
Andrew M. Klein
Larry Dority

| | | |
|--------------------------------------------------------------------------------------------------------------------------|---|------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Complaint of FullTel, Inc., for Enforcement Of Interconnection Obligations of CenturyTel of Missouri, LLC</p> |) | <p>FILED³ AUG 17 2005 Missouri Public SERVICE COMMISSION Case No. TC-2006-0068</p> |
| <p>FullTel, Inc.</p> |) | |
| Complainant |) | |
| <p>v.</p> |) | |
| <p>CenturyTel of Missouri, LLC,</p> |) | |
| Respondent |) | |

1. On August 8, 2005, FullTel filed its Complaint against CenturyTel of Missouri, LLC (CenturyTel) and on the same date filed its Motion to Expedite the Commission's consideration and disposition of that complaint. By Order dated August 10, 2005, the Commission granted FullTel's motion to expedite in order to efficiently proceed toward resolution of the business-affecting dispute. CenturyTel has subsequently moved for reconsideration of the Order expediting the proceeding. For the reasons stated herein, the Commission can and should ignore CenturyTel's protest and reject its motion for reconsideration.

2. At the outset, FullTel observes that CenturyTel has opposed the motion on essentially two grounds – both totally lacking in merit. CenturyTel contends that FullTel did not comply with rules of the Commission in submitting the motion, and has not responded to a letter from its counsel, that attached to its response as Exhibit A. *Significantly, CenturyTel claims no prejudice if the expedited process remains in place.* The Commission may comb the CenturyTel's response for even a hint of prejudice, and none will appear. What is apparent, however, is that CenturyTel seeks to delay FullTel's competitive entry even further.

3. From the text of the letter from CenturyTel counsel, Exhibit A to the Motion for Reconsideration, it is clear that CenturyTel could easily fashion its response to the complaint with little further effort. The letter from CenturyTel counsel contains the arguments and details by which to join essentially all of the issues raised in the complaint. Thus, CenturyTel could have (and should have) simply answered the Complaint – instead of filing its wasteful motion for reconsideration. The fact that CenturyTel would have preferred to continue to try this case through correspondence, and not utilize the Commission's able assistance in accordance with the law, is no ground for the Commission to reverse its decision to proceed with consideration of the matter in an expeditious fashion. In other words, the fact that FullTel chose to file this action instead of replying to yet another CenturyTel letter, and CenturyTel's professed umbrage at that fact, is no reason to delay this proceeding. Again, CenturyTel's interest in delay is transparent.

4. In its written opposition to the Motion to Expedite, CenturyTel claims the motion lacks a prerequisite allegation that "the pleading was filed as soon as it could have

been or an explanation of why it was not.” CenturyTel does not suggest a time when the motion could have been filed more promptly than at the time of the pleading that initiates this case. Wisely, the Commission has not asked FullTel to explain why it did not file its motion to expedite before it filed the complaint.

5. The Commission has, however, directed FullTel to set forth the additional specific harm, other than the general economic harm, of not being able to provide service due to further delay in interconnecting, that will occur if CenturyTel is allowed 30 days to file its response. Not to discount FullTel’s point above that CenturyTel can demonstrate no prejudice by virtue of the order granting expedited treatment, and has no valid basis upon which to seek reconsideration, FullTel submits what follows in response to the Commission’s August 12, 2005 order.

6. FullTel faces *very specific and tangible economic harm* with each day this situation remains unresolved. FullTel seeks to enter Missouri in order to provide service to customers who have expressed an interest in being served. Each day that FullTel is unable to interconnect with CenturyTel is a day that FullTel loses money, since FullTel loses revenue and at the same time incurs expenses for the collocation that now stands idle due to CenturyTel’s wholly unreasonable delay.

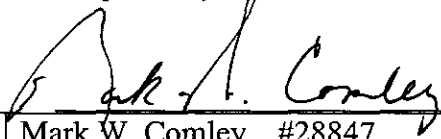
7. The Commission took appropriate action in granting FullTel’s request for expedited treatment, to avoid continued harm and promote competition. FullTel will bring better service at lower cost to Missouri telecom consumers. CenturyTel’s patterns of delay harm competition,¹ to the detriment of the state’s telecom consumers.

¹ “Delay is the deadliest form of denial.” C. Northcote Parkinson.

8. FullTel's ongoing economic harm, caused by CenturyTel's unjustified denial of interconnection, outweighs any inconvenience that CenturyTel may claim² in answering the complaint within fifteen days.

WHEREFORE, FullTel prays that the Commission overrule CenturyTel's motion for reconsideration of the order granting expedited treatment and instead resolve this matter as soon as possible.

Respectfully submitted,



Andrew M. Klein*
DLA Piper Rudnick Gray Cary US LLP
1200 Nineteenth Street, NW
Washington, DC 20036-2412
(202) 861-3827
(202) 689-8435 (fax)
Andrew.Klein@DLAPiper.com

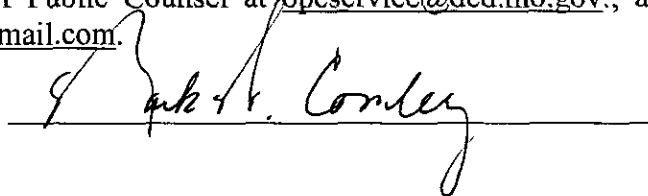
Mark W. Comley #28847
Newman, Comley & Ruth P.C.
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO 65102
Tel. (573) 634-2266
Fax (573) 636-3306
comleym@ncrpc.com

Counsel to FullTel, Inc.

*Not admitted to practice in the State of Missouri

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 16th day of August, 2005, to General Counsel's Office at gencounsel@psc.mo.gov ; Office of Public Counsel at opcservice@ded.mo.gov; and Larry W. Dority at lwdority@sprintmail.com.



² Again, none having been demonstrated.