

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

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

**STAFF’S RESPONSE TO RESPONDENTS’ MOTION TO DISMISS
AND MOTION FOR SUMMARY DETERMINATION**

COMES NOW the Staff of the Missouri Public Service Commission and for its response states:

1. As explained below, the Staff opposes the Respondents’ Motion to Dismiss and Motion for Summary Determination.

2. On March 19, 2007, Socket Telecom, LLC filed a Complaint against Respondents CenturyTel of Missouri, LLC and Spectra Communications Group, LLC d/b/a CenturyTel, alleging that the Respondents are violating their Commission-approved interconnection agreement by their refusal to fulfill orders to port certain numbers.

3. On April 2, 2007, Respondents filed a Motion to Dismiss. Respondents state there is no legal requirement for them to port the numbers at issue in this case because Socket is seeking “location portability” which Respondents are not legally obligated to provide. Respondents state that their legal obligation to provide “number portability” is limited by 47 U.S.C. 151(30) and 47 C.F.R. 52.21 (j) to the same location.

4. On June 14, 2007, Respondents filed a Motion for Summary Determination. Respondents state that they are not required by current applicable laws, current applicable FCC rules or decisions, or by the Parties' agreement terms to provide "location portability" generally and that they are not required to port the specific ISP customer numbers that constitute the basis of the Complaint.

5. Commission rule 4 CSR 240-2.070(6) provides:

The commission, on its own motion or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted or failure to comply with any provision of these rules or an order of the commission, or may strike irrelevant allegations.

6. The Staff responds that the Complaint states a claim on which relief may be granted. The federal Telecommunications Act provides that an interconnection agreement, reached either by negotiation or arbitration, must be submitted to the state commission for approval. This grant of power to state commissions necessarily includes the power to enforce the interconnection agreement. *Southwestern Bell Tel. v. Connect Communications Corp.*, 225 F. 3d 942, 946 (8th Cir. 2000).

7. Commission rule 4 CSR 240-2.117 (1)(E) provides:

The commission may grant the motion for summary determination if the pleadings, testimony, discovery, affidavits, and memoranda on file show that there is no genuine issue as to any material fact, that any party is entitled to relief as a matter of law as to all or any part of the case, and the commission determines that it is in the public interest. An order granting summary determination shall include findings of fact and conclusions of law.

8. The Staff responds that there is a genuine issue as to a material fact. Section 3.2.1 of Article XII of the Parties' agreement states that number portability between Socket and CenturyTel will be provided to each other as required by FCC Orders or industry agreed-upon practices, and Section 6.4.4 holds that industry guidelines shall be followed regarding all aspects

of porting numbers from one network to another. Whether industry agreed-upon practices and guidelines require porting when a customer moves to another rate center but where the NPA NXX rating of the call does not change is a genuine issue of material fact.

WHEREFORE, the Staff requests the Commission to deny Respondents' Motion to Dismiss and Motion for Summary Determination.

Respectfully submitted,

/s/ William K. Haas

William K. Haas
Deputy General Counsel
Missouri Bar No. 28701

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-7510 (Telephone)
(573) 751-9285 (Fax)
william.haas@psc.mo.gov

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 20th day of June 2007.

/s/ William K. Haas

William K. Haas