

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

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

CONCURRING OPINION OF COMMISSIONERS
CONNIE MURRAY AND TERRY JARRETT

We reluctantly concur with the Commission's ultimate decision in its Report and Order. We agree with the majority's outcome in regard to Issue 1, that federal law does not require CenturyTel to port the telephone numbers in question, Issue 3, that network capacity issues are not grounds to deny a port order in this instance and Issue 4, that the question is moot regarding whether Socket is required to have a block of numbers assigned to it for a rate center before CenturyTel has to fulfill number port orders from Socket for that rate center. In regard to Issue 2, that CenturyTel must port the telephone numbers in question based on the parties' interconnection agreement, we must agree with the majority despite the unjust outcome. In summary, we believe that the Commission's decision is correct based upon a flawed Interconnection Agreement that was forced upon the parties by the Commission's Arbitration decision in Case No. TO-2006-0299, and existing "industry guidelines" and "industry agreed-upon practices."

ISSUE 2

We believe there are two distinct questions that must be answered, the second of which the Report and Order fails to address. First, should the numbers be ported pursuant to the Interconnection Agreement? Second, whether after a CenturyTel number has been ported to Socket, Socket should be allowed to sell the use of Virtual NXX ("VNXX") service over CenturyTel's infrastructure before the point of interconnection ("POI") for Internet Service Provider ("ISP") bound traffic?

The commission found that CenturyTel must port the numbers in question pursuant to Article XII, Section 3.2.1 and Section 6.4.4 of the Interconnection Agreement which requires such a port according to "industry agreed-upon practices" and "industry guidelines". The evidence admitted at hearing and supplemented by the admission of the Local Number Portability Working Group's minutes and the Number Porting Best Practices document, that was revised based upon the issues presented in this case, proves that "industry agreed-upon practices" or at the very least "industry guidelines" have been established. Therefore, we agree with the majority that the numbers should be ported based upon industry guidelines in existence today. However, should industry guidelines as expressed by the Local Number Portability Working Group's Number Porting Best Practices document be revised in the future in such a way that Socket no longer meets the caveats, we expect the parties to voluntarily implement any such change in future porting requests. Further, it is important to note that the Local Number Portability Working Group's consideration of this matter does not necessarily contemplate the ported numbers being used to carry ISP-bound traffic.

The commission should have also addressed the unjust outcome of its decision to require the numbers in question to be ported. As a result of the Report and Order, Socket will be allowed to send an unlimited amount of ISP-bound traffic over CenturyTel's infrastructure, in the form of VNXX traffic, at no cost to Socket. This abuse is allowed by Article V, Section 9.2.3 of the Interconnection Agreement which was drafted as a result of the Commission's Arbitration Order, and states that VNXX traffic "shall not be deemed Local Traffic but shall be Bill-and-Keep." Unfortunately, this section does not differentiate between ISP-bound traffic and non-data traffic. During the arbitration, CenturyTel agreed to the language currently contained in the Interconnection Agreement's provision addressing VNXX traffic if the following qualifier was included.

[P]rovided that Socket agreed to maintain the terms of the recent addendum agreement between CenturyTel and Socket whereby Socket agreed to place a POI at every CenturyTel end office and [sic] where all ISP-bound traffic is at bill and keep. Should Socket not agree to abide by its recent addendum terms, CenturyTel reserves the right to revert to its advocacy position on this issue which is that access charges do apply to all ISP-bound traffic that terminates to a physical ISP location outside the local calling area.

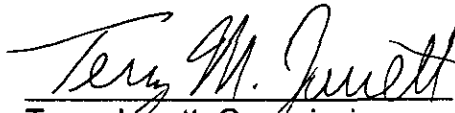
Had this qualifier been included in the Interconnection Agreement, the current case would likely have never been brought because Socket would have a POI at every rate center from which Socket ISP-bound traffic originates. Regrettably, the qualifier was struck and as a result, the Interconnection Agreement requires VNXX traffic to be "Bill-and-Keep" regardless of whether it is ISP-bound or of how far CenturyTel has to carry the traffic to the POI. This case brings to light the unfair effect of the Commission's

decision to strike CenturyTel's proposed language from the Interconnection Agreement. In hindsight, we believe the commission erred in allowing this language to be stricken from the Interconnection Agreement.¹ Unfortunately, based on the terms of the Interconnection Agreement, the commission now has no choice but to allow Socket to freeload a massive amount of ISP traffic on CenturyTel's network for several months until such time that a POI is required by the Interconnection Agreement to be established in the rate center due to the increased traffic.

For the foregoing reasons, we concur in the Report and Order.

Respectfully submitted,


Connie Murray, Commissioner


Terry Jarrett, Commissioner

Dated at Jefferson City, Missouri
on this 26th day of March 2008.

¹ Commissioner Murray concurred in the Arbitration Order.