

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

CENTURYTEL OF MISSOURI, LLC,)	
)	
Complainant,)	CASE NO. IC-2008-0068, et al.
)	
v.)	
)	
SOCKET TELECOM, LLC,)	
)	
Respondent.)	

**CENTURYTEL'S JOINT REPLY
ON MOTIONS FOR SUMMARY DETERMINATION**

Complainants CenturyTel of Missouri, LLC ("CenturyTel") and Spectra Communications Group, LLC, d/b/a CenturyTel ("Spectra") (CenturyTel and Spectra are referred to collectively herein as "CenturyTel"), pursuant to Commission Rule 4 CSR 240-2.080(15), jointly file this Reply on Motions for Summary Determination,¹ and respectfully show the Commission the following:

Except with respect to one factual dispute, CenturyTel concurs that the parties have fully briefed their respective positions on motions for summary determination.² CenturyTel will not respond to each of the arguments set forth in Socket's Reply as it already has addressed each

¹ In its Reply to CenturyTel's Joint Legal Memorandum Regarding Summary Determination ("Socket's Reply"), Socket incorrectly states that CenturyTel already has "replied" to Socket's response to CenturyTel's Motion for Summary Determination. CenturyTel has only filed a Motion for Summary Determination and a response to *Socket's* Cross-Motion for Summary Determination. This filing constitutes CenturyTel's first and only "Reply."

² While the parties appear to concur that this matter should be decided by the Commission as a matter of law through contract interpretation, Socket nevertheless has raised a host of disputed factual issues that have no bearing on this case unless the Commission determines the Agreement to be ambiguous. One of those issues pertains to the distinction between FX Traffic and VNXX Traffic. The Commission certainly can and should resolve this dispute by interpreting and construing the unambiguous terms of the Agreement relevant to the parties' exchange of Local Traffic and local ISP Traffic. However, since Socket has made erroneous assertions about the distinction between FX and VNXX Traffic, CenturyTel is compelled to respond to this single issue in this Reply.

such argument in its Response to Socket's Cross-Motion. CenturyTel, however, is compelled to respond to Socket's misleading assertions about FX Traffic and VNXX Traffic. Specifically, in paragraphs 9 and 10 and footnote 18 of its Reply, Socket erroneously asserts that FX Traffic and VNXX Traffic are synonymous; they are not. Based upon this incorrect assertion, Socket also incorrectly claims that the parties' Agreement, therefore, subjects both FX Traffic and VNXX Traffic to a bill-and-keep compensation regime. It does not.

Whether Socket's briefing represents a misunderstanding on its part about the real physical, economic, and regulatory differences between FX and VNXX Traffic or is a baseless and misdirected attempt to discredit CenturyTel's legitimate rationale for rejecting the specific bill-and-keep provision Socket proposed during conforming negotiations (proposing to apply bill-and-keep to both VNXX and FX Traffic), its argument is simply wrong.

It is true that the Commission determined that VNXX Traffic should be exchanged at bill-and-keep. And, Socket tried to convince the Commission to apply bill-and-keep to FX Traffic during the arbitration as well. But the Commission rightfully recognized the distinction between FX and VNXX Traffic, determining that FX Traffic was non-local traffic and ordering references to FX Traffic removed from the Agreement.³ In proposing a bill-and-keep provision that included FX Traffic during conforming negotiations, Socket was simply trying to undo a Commission decision adverse to it. CenturyTel's rejection of Socket's bill-and-keep proposal had nothing to do with its application of bill-and-keep to Local Traffic and everything to do with its purported application to FX Traffic.

³ CenturyTel does not dispute that, unlike FX Traffic, the Commission determined that VNXX Traffic should be "deemed" under the Agreement to be "local" and subjected to bill-and-keep treatment.

While Socket has often conflated the two terms, FX Traffic and VNXX Traffic are different. VNXX Traffic refers to a simple reassignment or transfer of a customer's telephone number from a switch in a local calling area (local exchange) to the switch in different local calling area where the customer is physically located (distant exchange). *See Global NAPs, Inc. v. Verizon New England, Inc.*, 454 F.3d 91, 93 n.3, 96 (2nd Cir. 2006). The telephone company assigning the number—in this case, Socket—is not using its own facilities to transport the call from the local exchange to the distant exchange. *Id.* at 93 n.3. In effect, a VNXX service uses switch programming to fool the network into thinking a telephone number assigned to a customer in a distant exchange is local to an originating exchange when the telephone number actually is resident in the switch of that distant exchange.

By contrast, an FX service is a service that extends facilities (directly or through the use of services) to the physical premises of a distant customer. There is no attempt to “fool” the network into believing that the customer is actually present in the local calling area. It is similar to a VNXX service to the extent it permits a customer living in a distant exchange to obtain a telephone number associated with a different local calling area. But the similarity goes no further. Indeed, the telephone number associated with the local exchange continues to reside in the local exchange's switch. To obtain access to the local exchange, the FX service customer residing in the distant exchange pays for a dedicated facility—usually a private line—or other services from its physical location in the distant exchange back to the local exchange associated with the telephone number. *Id.* at 96.

Socket's assertion that FX and VNXX Traffic are synonymous is simply incorrect. More to the point, in the context of the former arbitration and resulting interconnection agreement, Socket's continued assertion that the Commission “ruled that FX/VNXX traffic, which is

addressed by the Agreement, would be ‘deemed’ . . . non-local and subject to bill-and-keep”⁴ is blatantly misleading. First, Section 9.2.3 of Article V addresses *only* VNXX Traffic, not FX Traffic. Indeed, the two are defined separately in the Agreement, with the “VNXX Traffic” definition describing how such calls are effectuated through telephone number reassignment, and with the “FX Traffic” definition associating such traffic with specific interexchange service offerings (i.e., Foreign Exchange Service, CENTREX CUSTOPAK with Foreign Exchange Service Option, and ISDN-PRI Out-of-Calling Scope (both Two-Way and Terminating Only)). See Agreement, Article II, § 1.46 (defining “Foreign Exchange (FX)” services) and § 1.131 (defining “VNXX Traffic”).

The Commission specifically acknowledged in the Final Commission Decision that FX Traffic “has been deemed *non-local*” and, therefore, directed the removal of the term “FX Traffic” from Article V. See Final Commission Decision, Case No. TO-2006-0299, at 29 (“Other traffic included in this section [i.e.-‘Foreign Exchange Traffic’] has been deemed *non-local* traffic through other determinations.” (emphasis added)) and 30 (“Socket’s language [defining ‘bill-and-keep’] *with the removal of the reference to terminating FX traffic*, is acceptable and consistent with [47 C.F.R. § 51.713’s] definition.” (emphasis added)).

The Commission acknowledged the difference between VNXX and FX Traffic—deeming VNXX Traffic to be “local” and subjecting it to bill-and-keep, while determining FX Traffic to be “non-local” and directing the removal of references to FX Traffic from Article V. The parties conformed and filed the Agreement consistent with these Commission determinations. For Socket now to claim that VNXX and FX Traffic are not only synonymous

⁴ Socket’s Reply at ¶ 8.

but also both subjected to bill-and-keep under the Agreement is wrong and misleading, and Socket's use of misdirection illuminates brightly the blurred distinctions and misinterpretations it must convince the Commission to adopt in order to reverse an adverse determination in the arbitration. Under the Commission's rulings, CenturyTel was entirely correct in rejecting Socket's specific bill-and-keep provision, because it included FX Traffic.

Respectfully submitted,

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**ATTORNEYS FOR CENTURYTEL OF
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CERTIFICATE OF SERVICE

I hereby certify that the undersigned has caused a complete copy of the attached document to be electronically filed and served on the Commission's Office of General Counsel (at gencounsel@psc.mo.gov), the Office of the Public Counsel (at opcservice@ded.mo.gov), Socket Telecom, LLC (at rmkohly@sockettelecom.com) and counsel for Socket Telecom, LLC (at clumley@lawfirmemail.com; lcurtis@lawfirmemail.com) on this 6th day of March, 2008.

/s/ Larry W. Dority

Larry Dority