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November 5, 2004

FILED²
NOV 05 2004
Missouri Public
Service Commission

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

Re: FullTel, Inc.
Case No. TK-2005-0079

Dear Judge Roberts:

Enclosed for filing in the referenced matter please find the original and five copies of the Response of FullTel, Inc. to Order Directing Filing.

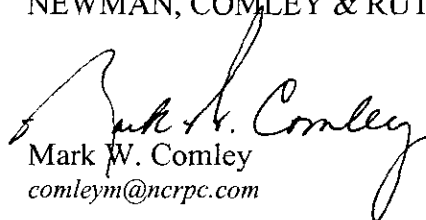
Would you please bring this filing to the attention of the appropriate Commission personnel.

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
Larry W. Dority
Roger Baresel
Andrew M. Klein

FILED²

NOV 05 2004

Missouri Public
Service Commission

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

Petition of FullTel, Inc. for Approval of an)
Interconnection Agreement Pursuant to)
Section 252 of the Communications Act of)
1934, as Amended)

Case No. TK-2005-0079

RESPONSE OF FULLTEL, INC. TO ORDER DIRECTING FILING

FullTel, Inc. ("FullTel"), by and through the undersigned counsel, respectfully submits this response in accordance with the Missouri Public Service Commission's Order Directing Filing dated October 26, 2004.¹ FullTel filed with this Commission, pursuant to Sections 251 and 252 of the Communications Act, as amended,² a Notice of adoption by FullTel of the Interconnection Agreement between CenturyTel of Missouri, LLC ("CenturyTel-MO") and Brooks Fiber Communications of Missouri, Inc., ("the Agreement"). Pursuant to Section 252(i) of the Act, FullTel selected the Brooks Fiber Agreement as the Agreement that will govern the relationship between FullTel and CenturyTel in the State of Missouri, and in accordance with the Act and prior orders of the Commission also adopted the Brooks Fiber Agreement as the Agreement that will govern the relationship between FullTel and Spectra Communications Group LLC d/b/a CenturyTel ("Spectra") in the State.³

FullTel respectfully requested that the Commission act within the 90 days specified by the 1996 Act and approve the Agreement, recognizing the effective date of June 18, 2004, the

¹ In accordance with the Commission's Order, FullTel responds herein solely to the issues requested by the Commission in the Order. FullTel therefore does not respond to the many baseless assertions contained in CenturyTel's filing of October 25, 2004 in this docket, but of course reserves the right to do so.

² 47 U.S.C. § 151, *et. seq.* (the "Act").

³ Except as otherwise indicated, CenturyTel and Spectra d/b/a CenturyTel will be collectively referred to herein as "CenturyTel."

date FullTel notified CenturyTel-MO that it intended to adopt the Brooks Fiber Agreement. Section 252(i) of the Act requires local exchange carriers to make interconnection agreements available to requesting telecommunications carriers “upon the same terms and conditions as those provided in the agreement.”⁴ Subsection (e)(4) of that same Section 252 requires, in turn, that State Commissions act to approve agreements, except those submitted following an arbitration, within 90 days. The Commission has previously determined that “Section 252(e)(4) of the Act provides that if the Commission has not approved an agreement within 90 days after submission, the agreement shall be deemed approved.”⁵

In the Commission Order approving CenturyTel’s acquisition of the GTE service territory, in Case TM-2002-232,⁶ the Commission recognized that CenturyTel had negotiated certain terms, embodied in a stipulation, obligating CenturyTel to, *inter alia*, honor the terms of and allow carriers such as FullTel to adopt Verizon interconnection agreements in Missouri.⁷ Since FullTel has acted in accordance with that stipulation, Commission Order and the Act, the Commission must either act to approve the adoption within 90 days of submission pursuant to established precedent or deem it approved upon the expiration of the 90 day period.

Since CenturyTel and Spectra (d/b/a CenturyTel) are essentially the same company, and both are required to honor existing GTE agreement terms, FullTel and similarly situated carriers should be able to operate in the collective CenturyTel territory through the consistent terms of

⁴ 47 U.S.C. §252(i).

⁵ *Order Directing Notice and Making CenturyTel A Party*, In the Matter of the Confirmation of Adoption of the Interconnection Agreement with CenturyTel of Missouri and Spectra Communications d/b/a CenturyTel by Socket Telecom LLC, Case No. CO-2005-0066, dated September 17, 2004, at page 3. (*Socket Notice*)

⁶ Report and Order, Case TM-2002-232, dated May 21, 2002. (“Report and Order”)

⁷ Report and Order at page 6.

one agreement.⁸ In fact, the Commission has already properly noted that “CenturyTel [encompassing both CenturyTel of Missouri and Spectra] agreed to abide by the terms of GTE’s existing interconnection agreements . . . when *it* acquired GTE’s exchanges.”⁹ In fact, according to a recent, verified filing by Socket Telecom, LLC, CenturyTel has already permitted carriers to operate under one single agreement for the entire CenturyTel/Spectra territory, in apparent recognition that the two affiliates are truly part of one single company.¹⁰ In further recognition of this fact, CenturyTel Inc. has, in response to the FullTel request for negotiation of a new interconnection agreement, responded on behalf of both of its subsidiaries – CenturyTel of Missouri and Spectra. Both entities are Louisiana corporations, wholly owned by CenturyTel Inc.

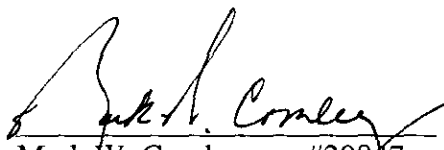
WHEREFORE, in light of the foregoing, FullTel, Inc. respectfully requests that the Commission reconfirm the applicability of the 90 day timeframe for approval of interconnection agreement adoptions, and approve FullTel’s adoption of the Agreement and deem such adoption effective June 18, 2004 for both CenturyTel entities.

⁸ The Commission approved, on April 14, 2000, Spectra’s acquisition of another GTE Midwest service territory, in Case No. TM-2000-182. In that instance, Spectra agreed to provide service in accordance with the terms of the GTE/CLEC interconnection agreements.

⁹ *Id.* at page 1.

¹⁰ In the Matter of the Confirmation of Adoption of the Confirmation of Adoption of the Interconnection Agreement with CenturyTel of Missouri and Spectra Communications d/b/a CenturyTel by Socket Telecom LLC, Case No. CO-2005-0066, *Confirmation of Adoption of the Interconnection Agreement*, dated September 15, 2004.

Respectfully submitted,



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Attorneys for FullTel, Inc.

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 5th day of November, 2004, to General Counsel's Office at gencounsel@psc.state.mo.us; Office of Public Counsel at opcservice@ded.state.mo.us; and to Larry W. Dority at lwdority@sprintmail.com.

