

LAW OFFICES
BRYDON, SWEARENGEN & ENGLAND
PROFESSIONAL CORPORATION

DAVID V.G. BRYDON
JAMES C. SWEARENGEN
WILLIAM R. ENGLAND, III
JOHNNY K. RICHARDSON
GARY W. DUFFY
PAUL A. BOUDREAU
SONDRA B. MORGAN
CHARLES E. SMARR

312 EAST CAPITOL AVENUE
P.O. BOX 456
JEFFERSON CITY, MISSOURI 65102-0456
TELEPHONE (573) 635-7166
FACSIMILE (573) 635-0427

DEAN L. COOPER
MARK G. ANDERSON
GREGORY C. MITCHELL
BRIAN T. MCCARTNEY
DIANA C. FARR
JANET E. WHEELER

OF COUNSEL
RICHARD T. CIOTTONE

September 9, 2003

Dale Hardy Roberts
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Re: Case No. TC-2002-349

Dear Mr. Roberts:

Enclosed for filing on behalf of Spectra Communications Group, LLC d/b/a CenturyTel ("CenturyTel"), the Staff of the Missouri Public Service Commission ("Commission"), and the Office of Public Counsel, please find an original and eight (8) copies of a Unanimous Stipulation and Agreement.

Would you please see that this filing is brought to the attention of the appropriate Commission personnel.

I thank you in advance for your cooperation in this matter.

Sincerely yours,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:


Sondra B. Morgan

SBM/lar
Enclosure

FILED³
SEP 9 2003
Missouri Public Service Commission

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

3
SEP 30 2003

Frances Langerud,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. TC-2002-349
	)	
CenturyTel,	)	
	)	
Respondent.	)	

UNANIMOUS STIPULATION AND AGREEMENT

Spectra Communications Group, LLC d/b/a CenturyTel ("CenturyTel"), the Staff of the Missouri Public Service Commission ("Commission") and the Office of Public Counsel ("Public Counsel"), all parties to this case, have reached agreement as to the resolution of this case and hereby enter into this Unanimous Stipulation and Agreement.

Procedural History

1. On January 19, 2002, Ms. Frances Langerud filed a Complaint with the Commission in which she disputed the late charges which had been assessed on her billing statement prior to the 31st past due day. She attached copies of her billing statements for September, October and November of 2001 and January of 2002. Ms. Langerud disputed the \$1.20 late fee assessed on these statements as well as the fact that her bill was considered past due in less than thirty (30) days.
2. When CenturyTel was made aware of the complaint, Ms. Langerud was issued a credit of \$4.80 for the late payment fees which had been billed inaccurately as well as a \$25.00 credit to

compensate her for her inconvenience. On September 17, 2002, Ms. Langerud sent a letter to the Commission in which she stated that she was satisfied with the adjustment to her CenturyTel bill and asked that her issue be dismissed from the Complaint.

3. On September 30, 2002, CenturyTel filed a Motion to Dismiss Complaint and Response to Staff Questions in which it asked that the complaint filed by Ms. Langerud be dismissed. In response to Staff questions, CenturyTel stated that a computer programming error had resulted in 83,670 customers being charged late fees in error. CenturyTel believed it had corrected the error in March of 2002; however, the error had only been partially corrected at that time. CenturyTel stated that the error was now fully corrected and that refunds would be made during its October billing cycle. CenturyTel stated that it would provide a report to Staff of the number of customers affected and the total amount of credits issued.

4. On October 24, 2002, the Commission issued an Order Dismissing Complainant and Directing Filing in which it dismissed Ms. Langerud as a party to the case. In this Order, the Commission directed CenturyTel to file a report with the Commission stating the number of customers affected and the total amount of the credits issued no later than November 27, 2002.

5. On November 26, 2002, CenturyTel filed a Report stating that it had completed refunds totaling \$322,042 to 68,937 customers. CenturyTel stated that the number of customers refunded was less than the number previously reported to the Commission because some customers included in the first number were no longer receiving service and were no longer active in the system.

6. On December 16, 2002, the Staff issued its Recommendation in which it requested that the Commission require CenturyTel to account for the dollar amount for the 14,733

customers included in the difference between the 83,670 customers that it initially identified as having been charged the late fees in error and the 68,937 customers to whom the company made refunds, as well as why it should be allowed to retain any money that it had been unable to refund to these customers. On March 7, 2003, the Commission issued an Order Directing Filing in which it directed CenturyTel to respond to the Staff Recommendation no later than March 27, 2003.

7. On March 27, 2003, CenturyTel filed its Report explaining that the first number provided to the Commission was based on historical files and numbers. When CenturyTel began the refunding process, it discovered that many of these customers were no longer part of the system and locating the customers to make refunds was impossible.

8. On May 21, 2003, the Commission issued an Order Directing Filing in which it directed the Staff to respond to CenturyTel's report and indicate whether it was satisfied with the information provided by CenturyTel and if the case could be closed. On June 20, 2003, the Staff filed its Response to the Order Directing Filing stating that after discussion with CenturyTel, it recommended that CenturyTel be directed to pay the funds not returned to customers into the public school fund created pursuant to § 166.011, RSMo 2000. Staff and CenturyTel were to meet and determine the dollar amount to be paid into the fund. Staff anticipated that a joint pleading with this information would be filed within thirty days.

9. On July 21, 2003, Staff and CenturyTel filed a Joint Response in which the parties informed the Commission that the amount to be deposited to the school fund was \$46,768.40. This figure represented the difference between \$368,810.40, the amount of the total overcharges, and \$322,042.00, the amount refunded to customers.

10. On July 23, 2003, Public Counsel filed Comments Regarding the Joint Response in which it requested that the Commission require CenturyTel to: 1) provide verified information regarding the overcharges collected, refunded and remaining; 2) account for any interest earned or interest that should be attributed and provide for distribution of the interest the same as the principal; and 3) state that all reasonable steps were taken to locate the customers due refunds.

11. On July 25, 2003, the Commission issued its Third Order Setting Prehearing Conference in which it set the matter for prehearing on August 13, 2003, in order for the parties to clarify the final actions needed for resolution of this matter. On August 13, the parties met in prehearing and agreed to resolve this matter through the following stipulation and agreement.

Stipulation and Agreement

After discussion, the parties stipulate and agree as follows:

1. CenturyTel has been unable to locate the remaining 14,733 customers owed refunds because many of them are no longer active customers and there is inadequate information to locate the proper refund recipients. Because of this inability to make refunds to these customers, the parties have agreed to an alternative measure wherein CenturyTel pays the principal amount of \$46,768.40 representing the unrefunded overpayment balance to the public school fund created pursuant to Section 160.011, RSMo 2000. This figure represents the difference between the total amount of the overcharges, \$368,810.40, and \$322,042.00, the amount refunded to customers. The Affidavit of Ted M. Hankins, Director State Government Relations, affirming that the calculation of the total late fee transactions and the amount owed is true and correct is attached to this Stipulation as Exhibit 1.

2. The parties agree that CenturyTel should pay interest on the unrefunded amount from the time the refunds were made, October 31, 2002, through August 31, 2003. The interest rate will be calculated using the formula for interest on deposits found in Commission Rule 4 CSR 240-33.050(4)(B). The current interest rate calculated according to this formula is 5.75 percent. The interest owed on the outstanding amount using this rate is \$4,033.80. This interest will be added to \$46,768.40 for a total of \$50,802.20 to be paid to the public school fund when this Unanimous Stipulation and Agreement has been approved by Commission order.

3. The parties agree that the payment of the overpayment balance to the public school fund is a just and reasonable process and is consistent with the public interest. The Commission has authority under Section 386.600 RSMo 2000 to take action to recover a penalty or forfeiture from a utility and to enforce the powers of the Commission. The parties stipulate and agree that these undistributed refunds for erroneous late charges owed to customers that cannot be located shall be treated for the purposes of this stipulation and agreement as a penalty or forfeiture subject to the Commission's jurisdiction and further agree that the Commission may direct CenturyTel to make a payment to the public school fund in the total amount of \$50,802.20, representing a refund amount of \$46,768.40 and interest thereon of \$4,033.80.

4. The approval of this Unanimous Stipulation and Agreement in its entirety by the Commission will conclude the complaint case upon which this settlement was based.

5. The Unanimous Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. If the Commission does not approve this Unanimous Stipulation and Agreement in its entirety, then this Unanimous Stipulation and Agreement shall be void and no signatory shall be bound by any of the agreements or provisions

hereof.

6. None of the signatories to this Unanimous Stipulation and Agreement shall have been deemed to have approved or acquiesced in any ratemaking or procedural principle or any methods of cost determination or cost allocation, and none of the signatories shall be prejudiced or bound, in any manner, by the terms of this Unanimous Stipulation and Agreement in this or any other proceeding, except as otherwise expressly specified herein.

7. In the event the Commission accepts the specific terms of this Unanimous Stipulation and Agreement, the Parties waive, with respect to the issues resolved herein, their respective rights pursuant to Section 536.070(2) RSMo. 2000 to present testimony and to cross-examine witnesses; and pursuant to Section 536.080 RSMo. 2000 their respective rights to provide written briefs, to present oral argument, and to the reading of the transcript by the Commission; and their respective rights to judicial review of the Commission's Report and Order in this case pursuant to Section 386.510 RSMo. 2000.

8. The Staff shall file suggestions or a memorandum in support of this Stipulation and Agreement and all other Parties shall have the right to file, within five (5) business days of receipt of Staffs memorandum, a responsive memorandum that shall also be served on all Parties.

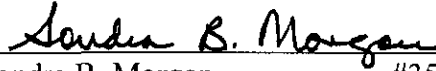
9. The Staff shall also have the right to provide, at any agenda meeting at which this Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that Staff shall, to the extent reasonably practicable, provide the other parties with advance notice when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staffs oral explanation

shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any protective order issued in this case.

10. At the request of the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Unanimous Stipulation and Agreement. Each of the Parties shall be served with a copy of any such memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all Parties. All memoranda submitted by the Parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules; shall be maintained on a confidential basis by all Parties; and shall not become a part of the record of this proceeding or bind or prejudice the Party submitting such memorandum in any future proceeding or in this proceeding, whether or not the Commission approves this Stipulation. The contents of any memorandum provided by any Party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Stipulation, whether or not the Commission approves and adopts this Stipulation.

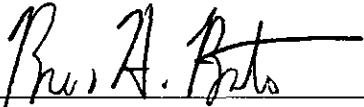
WHEREFORE, for the foregoing reason, the undersigned Parties respectfully request that the Commission issue its Order approving this Stipulation and Agreement in its entirety.

Respectfully submitted,



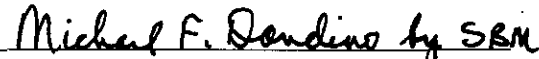
Sondra B. Morgan #35482
BRYDON, SWEARENGEN & ENGLAND P.C.
P.O. Box 456
Jefferson City, MO 65102-0456
(573) 635-7166
(573) 635-0427 (fax)
smorgan@brydonlaw.com (email)

Attorneys for Spectra Communications Group,
LLC d/b/a CenturyTel



Bruce H. Bates #35442
Associate General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-7434 (Telephone)
(573) 751-9285 (Fax)
brucebates@psc.state.mo.us (e-mail)

Staff of the Missouri Public Service
Commission



Michael F. Dandino #24590
Senior Public Counsel
Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102
(573) 751-5559 (Telephone)
(573) 751-5562 (Fax)
mdandino@ded.state.mo.us (e-mail)

Office of Public Counsel

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered on this 9th day of September, 2003, to the following parties:

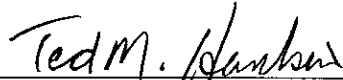
Bruce Bates
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Michael F. Dandino
Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102


Sondra B. Morgan

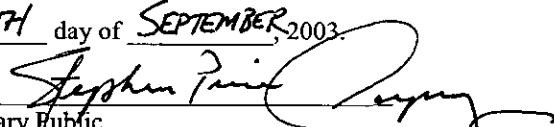
AFFIDAVIT

I, Ted M. Hankins, the Director, State Government Relations am an employee of CenturyTel Service Group, an affiliate of Spectra Communications Group, LLC, d/b/a CenturyTel hereby affirm that the attached spreadsheet titled "Missouri Late Fee Error" is a true and correct calculation of the total late fee transactions charged in error for the period from April 2001 when CenturyTel first began to charge late fees to its customers to September 2002 when the billing error was corrected. The total refund amount due to customers is shown on this spreadsheet as well as the total of all late fee transactions charged and the percentage of erroneous transactions compared to the total late fee transactions charged. The number of customers charged in error is 83,670 and refunds totaling \$322,042 have been made to 68,937 customers. CenturyTel is unable to make refunds to the remaining 14,733 customers because the customers are no longer receiving service and are no longer active in the billing system. The amount due to these customers CenturyTel is unable to locate is \$46,768.


Ted M. Hankins

STATE OF LOUISIANA)
)
COUNTY OF OUACHITA)

Subscribed and sworn to me, a Notary Public, on this 8TH day of SEPTEMBER, 2003.


Notary Public

My Commission expires AT DEATH.

Missouri Late Fee Error

Month/Yr	Total Late Fee Transactions Charged	Total Refund Transactions	Total Refund Amount	% Refund Transactions
Apr-01	18,620	10,273	\$12,327.60	55.17%
May-01	33,347	19,184	\$23,020.80	57.53%
Jun-01	31,706	17,686	\$21,223.20	55.78%
Jul-01	35,249	20,265	\$24,318.00	57.49%
Aug-01	31,668	17,676	\$21,211.20	55.82%
Sep-01	32,486	18,938	\$22,725.60	58.30%
Oct-01	33,201	20,436	\$24,523.20	61.55%
Nov-01	31,275	19,292	\$23,150.40	61.69%
Dec-01	33,218	21,273	\$25,527.60	64.04%
Jan-02	30,961	19,993	\$23,991.60	64.57%
Feb-02	29,214	19,689	\$23,626.80	67.40%
Mar-02	32,001	22,189	\$26,626.80	69.34%
Apr-02	20,934	11,921	\$14,305.20	56.95%
May-02	24,037	15,020	\$18,024.00	62.49%
Jun-02	25,549	15,967	\$19,160.40	62.50%
Jul-02	23,518	14,173	\$17,007.60	60.26%
Aug-02	24,343	15,560	\$18,672.00	63.92%
Sep-02	12,844	7,807	\$9,368.40	60.78%
TOTALS	504,171	307,342	\$368,810.40	60.86%
TOTAL TO BE REFUNDED TO CUSTOMERS			\$368,810.40	