

In the Matter of:  
**SOCKET TELECOM, LLC**

v.

**EMBARQ MO, INC.**

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**TC-2020-0409, VOL. I**

*February 09, 2021*

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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Procedural Conference

February 9, 2021

Jefferson City, Missouri

Volume 1

WebEx

In the Matter of:	)	
	)	
Socket Telecom, LLC,	)	
	)	
Complainant,	)	
	)	
vs.	)	File No. TC-2020-0409
	)	
Embarq MO, Inc.,	)	
	)	
Respondent.	)	

NANCY DIPPELL, Presiding  
SENIOR REGULATORY LAW JUDGE

REPORTED BY:  
Cynthia P. Lakin, CCR No. 323  
TIGER COURT REPORTING, LLC

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A P P E A R A N C E S

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FOR: Embarq MO, Inc.

P R O C E E D I N G S

1  
2 JUDGE DIPPELL: We can go ahead and  
3 begin. This is February 9, 2021, and we are  
4 meeting for a prehearing procedural  
5 conference in case number TC-2020-0409,  
6 Socket Telecom, LLC, Complainant, versus  
7 Embarq Missouri, Incorporated, doing business  
8 as CenturyLink, the Respondent.

9 My name is Nancy Dippell and I'm the  
10 Regulatory Law Judge assigned to this case,  
11 and I'm going to begin then with entries of  
12 appearance. So can we have CenturyLink?

13 MR. ENGLAND: Yes. Trip England  
14 with the law firm of Brydon, Swearngen &  
15 England, P.O. Box 456, Jefferson City,  
16 Missouri, 65102, appearing on behalf of  
17 Embarq doing business as CenturyLink.

18 JUDGE DIPPELL: And Socket?

19 MR. LUMLEY: Carl Lumley with the  
20 Curtis, Heinz, Garrett & O'Keefe law firm  
21 representing Socket Telecom in this matter.

22 JUDGE DIPPELL: And Public Service  
23 Commission?

24 MS. PAYNE: Whitney Payne on behalf  
25 of the Staff of the Missouri Public Service

1 Commission, 20 Madison Street, Suite 800,  
2 Jefferson City, Missouri, 65101.

3 JUDGE DIPPELL: Okay. And we  
4 weren't expecting Public Counsel to really  
5 join us, they haven't been active in this  
6 case and aren't usually in this kind of a  
7 dispute, so we'll go ahead, then.

8 So this complaint was filed sometime  
9 ago and over the last year or so we've been,  
10 the parties have been negotiating. But it's  
11 my understanding from the last status report  
12 perhaps you guys have reached an impasse in  
13 your discussions.

14 So we wanted to meet to discuss  
15 procedural schedule, and you also had some,  
16 maybe some discovery disputes that you wanted  
17 to bring to my attention. So I don't know  
18 who wants to begin with that, or.

19 MR. LUMLEY: Well, yes. I sent to  
20 Mr. England a rough outline of a potential  
21 case schedule, kind of worked from the steps  
22 that we had in our other complaint case last  
23 year that he and I were the counsel in. And  
24 I think he shared that with his client. He  
25 can comment further on that.

1           So we're trying to reach agreement.  
2 I would expect this to be able to agree. I  
3 didn't share it with Staff Counsel yet. In  
4 the last case they didn't file testimony and  
5 I thought Mr. England and I should try to  
6 agree on a schedule first before sharing it  
7 with them so it wasn't a moving target for  
8 them.

9           So that's what I know about the case  
10 schedule so far.

11           MR. ENGLAND: And Carl is correct.  
12 I forwarded it to my folks yesterday  
13 afternoon. Generally it looks pretty good to  
14 me. It's pushed -- Carl was kind enough to  
15 kind of accommodate my schedule. I may be  
16 involved in the Missouri American case coming  
17 up. I think you may be as well, Judge Dippell.

18           JUDGE DIPPELL: I am.

19           MR. ENGLAND: And then I'm going to  
20 take some personal time off after that  
21 hearing, so as I said it looks good to me.  
22 It coordinates with the hearing in the May  
23 timeframe.

24           I'm assuming we'll probably still be  
25 having or holding hearings via WebEx or

1 virtually, but I did want my folks to make  
2 sure at the very least that whoever our  
3 witnesses are going to be that they be  
4 available in the week that Carl has suggested  
5 we have the hearing, so. I'm hopeful we'll  
6 be able to get back to them in the next day  
7 or so on that.

8 MR. LUMLEY: I guess the operative  
9 question then is what the Commissioner's  
10 calendar looks like for the week of May 17th,  
11 which I picked at random based on my own  
12 personal calendar, so.

13 JUDGE DIPPELL: Let me look really  
14 quick and I can actually answer that for you.

15 I think that week is clear.  
16 According to our Internet calendar it appears  
17 to be.

18 MR. ENGLAND: I'll speak for myself,  
19 I'm not sure this would take more than a day.

20 JUDGE DIPPELL: Yeah, we have like  
21 one hearing on that Friday. The Commission  
22 has a small complaint hearing scheduled on  
23 that Friday. But other than that that week  
24 is available, and that does get us out past  
25 the Missouri American case, which is -- will

1 be taking up my time as well. But I can  
2 always pass this off to another judge if that  
3 doesn't work out, so.

4 MR. LUMLEY: Yeah, in terms of  
5 length of hearing, right now I'm anticipating  
6 one witness for us, potentially a second  
7 short witness in terms of like accounting  
8 issues as opposed to substance.

9 I don't know what Mr. England's  
10 contemplating, we haven't talked about that.

11 MR. ENGLAND: I honestly don't know,  
12 but I can't imagine we would have more than  
13 two.

14 JUDGE DIPPELL: Well, and so it  
15 looks like, I mean from your complaint this  
16 is really one, one issue, one main issue.

17 MR. LUMLEY: Right. From that  
18 regard it's a little more simple and  
19 streamlined than the prior case.

20 JUDGE DIPPELL: Okay. And that was  
21 my question for you was going to be what,  
22 what kind of timing you were looking at, but  
23 so you've answered that.

24 What about your discovery issues,  
25 then?



1 MR. LUMLEY: Well, before we bore  
2 you with that, I got what I read to be a  
3 favorable e-mail from Mr. England yesterday.  
4 We didn't get into the nitty-gritty of it,  
5 but it sounded like maybe we're past that  
6 impasse so I'll let him comment on that.

7 MR. ENGLAND: We're working on  
8 trying to provide Carl with some additional  
9 information he requested. I hope to have  
10 that to him no later than tomorrow.

11 I'm not going to go as far as to say  
12 that should satisfy him, but at least it's  
13 more information than he's had before and  
14 maybe that would satisfy him, or if not  
15 narrow whatever discovery issues we had.

16 MR. LUMLEY: So we can put that  
17 discussion off from my perspective.

18 JUDGE DIPPELL: Okay. Okay. Well,  
19 that sounds good.

20 Miss Payne, did you have anything  
21 you needed to add from the Staff?

22 MS. PAYNE: We may conduct some  
23 discovery of our own, just to get a better  
24 understanding of the case.

25 I don't know, I have not seen the

1 proposed schedule of any kind. I don't know  
2 if there's other intent to file anything on  
3 that. But I think Staff would probably  
4 appreciate more, more knowledge of the  
5 specific issue it has, you know, that we  
6 intend to take to the hearing.

7 JUDGE DIPPELL: Yeah. And I may,  
8 depending on the schedule and everything, I  
9 may ask the Staff for recommendation or an  
10 opinion or something, some guidance from  
11 their side as well.

12 But again, I'm not that familiar  
13 with the issues and will be more so obviously  
14 when we get into it, so.

15 MR. LUMLEY: And the schedule  
16 contemplates a direct rebuttal, surrebuttal,  
17 pre-filed testimony for the parties to flesh  
18 out their positions with direct in about a  
19 month from now.

20 But certainly if you give us a date  
21 to file a schedule, you know, once  
22 Mr. England and I are done discussing it we  
23 can share it with Miss Payne and whatever  
24 fine tuning we need to do and then submit it.

25 JUDGE DIPPELL: Okay. Well, it

1 sounds like you guys are close to having  
2 something worked out, so can we just say a  
3 week from today you're each to file a  
4 proposed schedule?

5 MR. ENGLAND: I think that works.

6 MR. LUMLEY: Certainly.

7 MR. ENGLAND: Judge, quick question  
8 though, your comment about asking Staff to  
9 weigh-in on it raises a question with me.  
10 Should Staff be treated as an adjunctive body  
11 in this case or as a litigant, because that  
12 impacts the ex-parte requirements?

13 JUDGE DIPPELL: Well, so this goes  
14 back to when the complaint was originally  
15 filed and it included a demand for  
16 arbitration.

17 But under the provisions of the  
18 interconnection agreement as I read them this  
19 isn't really an arbitration, like an  
20 arbitration of an interconnection agreement,  
21 this is more of a complaint dispute.

22 MR. ENGLAND: Yeah.

23 JUDGE DIPPELL: So at this point I  
24 would say that Staff is like a litigant in  
25 that they're -- it's more attuned to a

1 regular complaint and in those -- if it was a  
2 consumer complaint for instance, Staff would  
3 usually do an investigation and file a  
4 report. So they're somewhat neutral but  
5 they're not the Commission making the  
6 decision.

7           So I don't know if that muddies it  
8 or clears it up.

9           MR. ENGLAND: I think that helps. I  
10 mean thank you. If Staff is going to engage  
11 in discovery I imagine there will be some  
12 back and forth between the parties and Staff.

13           So I'm satisfied with that, but when  
14 you mentioned it it did remind me sometimes,  
15 like you said, in arbitration they have sort  
16 of a different role.

17           JUDGE DIPPELL: Right.

18           MS. PAYNE: No, I appreciate that,  
19 Trip.

20           That was kind of my concern as well,  
21 was that the fact that this is now going to  
22 hearing I anticipated that we might be called  
23 upon to provide our own opinion of the  
24 situation, you know. Using our normal stance  
25 of neutral party, but trying to provide the

1 Commission with our own specialized knowledge  
2 of, you know, what exactly we see the issue  
3 in dispute as being.

4           So that's what I would foresee. And  
5 if the parties intend to file testimony that  
6 might be sufficient. I'll have to talk to  
7 John and Carrie (phonetic) and see if we want  
8 any other, you know, discovery or that up  
9 front, or wait until after direct is filed  
10 and see if that's enough information for us  
11 to produce some kind of investigative report.

12           MR. ENGLAND: Okay.

13           JUDGE DIPPELL: Yeah. I mean I  
14 envision Staff's role as, you know, they  
15 provide the Commission expertise that is more  
16 unbiased, you know, with a look toward the  
17 whole industry as a whole and the consumers  
18 and everything, so.

19           MR. ENGLAND: I'm hurt, Judge, that  
20 you would think I might be biased.

21           JUDGE DIPPELL: We are all biased,  
22 so. It is just what our bias is, so.

23           MR. ENGLAND: Fair enough.

24           JUDGE DIPPELL: Okay. Well, and are  
25 there any other questions? Do you all need

1 to use this line to have any more discussions  
2 or anything?

3 MR. LUMLEY: I don't believe so.

4 MR. ENGLAND: I don't think so.

5 JUDGE DIPPELL: And anything else  
6 then that you need to bring to my attention  
7 or ask on the record?

8 MR. LUMLEY: No.

9 MR. ENGLAND: Not today.

10 JUDGE DIPPELL: Okay. Well, I  
11 appreciate you all coming together and I will  
12 look for your procedural schedule a week from  
13 today. If I don't get an order in paper  
14 please accept my apologize but I will try,  
15 okay?

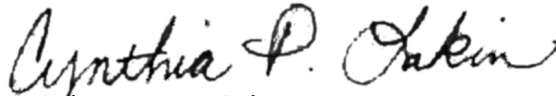
16 Looks like then that that concludes  
17 all of our discussions and we can go ahead  
18 and go off the record. Thank you.

19 (Off the record.)  
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Cynthia P. Lakin, CCR No. 343

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