

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

**CENTURYTEL OF MISSOURI, LLC,
and SPECTRA COMMUNICATIONS
GROUP, LLC, d/b/a "CENTURYTEL"**

Complainants,

v.

SOCKET TELECOM, LLC,

Respondent.

CASE NO. IC-2008-0068

**CENTURYTEL AND SPECTRA'S LEGAL MEMORANDUM IN SUPPORT OF JOINT
MOTION FOR SUMMARY DETERMINATION
ON INTERPRETATION OF COMPENSATION ARRANGEMENTS
APPLICABLE TO LOCAL TRAFFIC**

Pursuant to 4 CSR 240-2.117, Complainants CenturyTel of Missouri, LLC ("CenturyTel") and Spectra Communications Group, LLC ("Spectra") (CenturyTel and Spectra are referred to collectively herein as "CenturyTel") jointly file this Legal Memorandum in Support of Joint Motion for Summary Determination on Interpretation of Compensation Arrangements Applicable to Local Traffic ("Motion") against Respondent Socket Telecom, LLC ("Socket"), and respectfully show the Commission the following:

**I.
INTRODUCTION**

1. This dispute is about the meaning of the parties' interconnection agreements ("ICAs" or "agreements").¹ The agreements provide that each party must transport and

¹ Both ICAs were arbitrated before the Missouri Public Service Commission ("Commission") pursuant to Section 252 of the Telecommunications Act of 1996 (the "Act") in Case No. TO-2006-0299 (the "Arbitration"). Socket Telecom, LLC filed its petition for arbitration on or about January 13, 2006. The Arbitration hearing commenced on or about April 13, 2006, and the Arbitrator's Final Report was issued on May 18, 2006. The Final Commission Decision was issued on June 27, 2006.

terminate Section 251(b)(5) Traffic² and ISP Traffic³ (“Local Traffic”⁴) that the other party delivers to it, but they do not require the parties to compensate each other for the termination of such traffic. This type of arrangement is specifically permitted under FCC orders and regulations and is often described as “bill-and-keep.”

2. After the agreements became effective on October 13, 2006, Socket disregarded their terms and began submitting invoices to CenturyTel and Spectra. Socket has continued to submit such invoices on a monthly basis and has expanded the number of local calling areas in which it is claiming reciprocal compensation. To date, Socket has billed CenturyTel and Spectra in excess of \$100,000 for termination of alleged Local Traffic.⁵

3. In submitting invoices to CenturyTel and Spectra for the payment of reciprocal compensation for Local Traffic, Socket contradicts the terms of the ICAs, contending that the agreements apply a reciprocal compensation rate to the exchange of Local Traffic. Socket’s claim is grossly at odds with the determinations made in the Arbitrator’s Final Report, the

CenturyTel’s complaint was filed September 5, 2007, and Spectra’s complaint was filed October 26, 2007 (the CenturyTel and Spectra complaints will be collectively referenced as the “Complaints”), each after the agreements’ alternative dispute resolution processes were exhausted. Socket responded to the Complaints on October 12, 2007 and November 5, 2007, respectively (collectively, “Socket’s Answers and Counterclaims”), and the Complaints were consolidated in this case for determination on November 6, 2007.

² “Section 251(b)(5) Traffic” is defined in the agreements as “calls originated by Socket’s end users and terminated to CenturyTel’s end users (or vice versa) . . . if the call: (i) originates and terminates to such end-users in the same CenturyTel exchange area; or (ii) originates and terminates to such end-users within different exchange areas that share a common local calling area, as defined in CenturyTel’s tariff, *e.g.*, Extended Area Service (EAS), mandatory and optional Metropolitan Calling Area, or other like types of expanded local calling scopes.” Agreements, Article II, Section 1.108.

³ “ISP Traffic” is defined in the agreements as “traffic to and from an ISP.” *See* Agreements, Article II, Section 1.57. While ISP-Bound Traffic is used in the agreements but not defined, it is essentially co-terminous with local “ISP Traffic.” *See* Agreements, Article II, Section 1.72 (incorporating “ISP-Bound Traffic,” together with Section 251(b)(5) Traffic, as components of Local Interconnection Traffic).

⁴ “Local Traffic” is defined in the agreements as “include[ing] all Section 251(b)(5) Traffic that is originated by Socket’s end users and terminated to CenturyTel’s end users (or vice versa) that: (i) originates and terminates to such end-users in the same CenturyTel exchange area; or (ii) originates and terminates to such end-users within different exchange areas that share a common local calling area, as defined in CenturyTel’s tariff; *e.g.*, Extended Area Service (EAS), mandatory and optional Metropolitan Calling Area, or other like types of expanded local calling scopes.” Agreements, Article II, Section 1.78.

⁵ Each of Socket’s Invoices represents that it is billing “Reciprocal Compensation” for “Local Calling.”

determinations adopted in the Final Commission Decision, and, most relevant to this Motion, the specific terms incorporated into the final, approved interconnection agreements. Moreover, Socket's demand disregards the Commission's prior determination of the issue of what intercarrier compensation arrangement applies to the parties' exchange of such traffic.

4. Indeed, the agreements as written reflect that there was never a dispute between the parties that Section 251(b)(5) Traffic and ISP Traffic would be exchanged on a bill-and-keep basis. In the end, the Commission ordered the parties to incorporate terms into the agreements under which neither was required to pay compensation for the termination of Local Traffic. In preparing final contract language, the parties proposed and the Commission approved agreements that contain no provision requiring the payment of compensation for the parties' exchange of Section 251(b)(5) Traffic and ISP Traffic—*i.e.*, adopting a “bill-and-keep” arrangement.

5. Ironically, Socket's claim even contradicts its arguments in the Arbitration, where it advocated bill-and-keep for *all* traffic.⁶ As such, Socket's counterclaim and defenses are also precluded by the doctrines of collateral and judicial estoppel.

II. ARGUMENT AND AUTHORITIES

6. There is no dispute that the ICAs provide for the exchange of Section 251(b)(5) Traffic and local ISP Traffic (“Local Traffic”) between the parties.⁷ The instant dispute centers

⁶ Repeatedly in the arbitration, both Socket and CenturyTel argued for the application of bill-and-keep to all Local Traffic, including local ISP Traffic. At no time during the arbitration did either party propose that compensation should ordinarily be paid. Instead, Socket proposed a “bill-and-keep” arrangement for the transport and termination of *all* MCA and non-MCA Section 251(b)(5), ISP-Bound, and FX Traffic, including VNXX Traffic. *See* Final DPL, Article V, Issue 10 (Sections 9.4-9.5); Post-Hearing Briefing of Socket Telecom, LLC at 35-41. CenturyTel proposed a “bill-and-keep” arrangement, subject to an “out-of-balance” provision for Section 251(b)(5) Traffic. Notably, under CenturyTel's proposal, even if reciprocal compensation were to be triggered by a significant imbalance in the exchange of Section 251(b)(5) Traffic, ISP Traffic would continue at all times to be exchanged on a bill-and-keep basis. *See* Final DPL, Article V, Issue 10 (Sections 9.2, 9.2.1 and 9.2.2).

on the question of whether the ICAs require the parties to *pay* each other when one party terminates Local Traffic on the network of the other. Socket asserts that “[t]he Interconnection Agreement[s] provide[] that the parties will pay each other reciprocal compensation for the mutual exchange of ‘Local Traffic’ as that term is defined by the agreement.” Socket’s Answers and Counterclaims, Counterclaims ¶ 8. Socket’s “interpretation” contradicts the express terms of the ICAs, which apply no compensation, but rather a bill-and-keep regime, to such traffic.

A. Summary Judgment Is Appropriate When the Construction of an Unambiguous Contract Is at Issue.

7. Summary judgment should be granted in favor of the moving party as a matter of law when there is no genuine issue of material fact. *Allied Mutual Ins. Co. v. Brown*, 105 S.W.3d 543, 545 (Mo.App. E.D. 2003). Because the interpretation of a contract is a question of law, *see Goellner v. Goellner Printing*, 226 S.W.3d 176, 178 (Mo.App. E.D. 2007), summary judgment is particularly appropriate when the construction of an unambiguous contract is at issue. *See Lupo v. Shelter Mutual Ins. Co.*, 70 S.W.3d 16, 18-19 (Mo.App. E.D. 2002). In Missouri, the guiding principle of contract interpretation is that a tribunal or court will seek to ascertain the intent of the parties and to give effect to that intent. *Triarch Industries, Inc. v. Crabtree*, 158 S.W.3d 772, 776 (Mo. 2005) (en banc). The intent of the parties to a contract is presumed to be expressed by the ordinary meaning of the contract’s terms. *Id.* If the contract is unambiguous, it will be enforced according to its terms. *Id.* *See also Leggett v. Missouri State Life Ins. Co.*, 342 S.W.2d 833, 851 (Mo. 1961).

8. This case can be resolved without an evidentiary hearing and without resort to extrinsic evidence because the ICA provisions governing the exchange of and compensation for

⁷ See Socket Telecom’s Answer to Complaint and Counterclaim at ¶ 10 (“Socket admits that the parties’ Interconnection Agreement provides that they will interconnect their respective networks for the mutual exchange of ‘Local Interconnection Traffic’ as defined in the agreement, including ‘Local Traffic’ as defined in the agreement.”).

Local Traffic are unambiguous. *See Eiman Brothers Roofing System, Inc. v. CNS Intern. Ministries, Inc.*, 158 S.W.3d 920, 922 (Mo.App. W.D. 2005)(whether a contract is ambiguous is a question of law). The fact that parties disagree over the contract's meaning does not render the language ambiguous. *Kyte v. American Family Mutual Ins. Co.*, 92 S.W.2d 295, 299 (Mo.App. W.D. 2002).

B. No Provision of the Agreements Require Payment of Compensation for Local Traffic and, Therefore, "Article V" Requires the Exchange of Local Traffic on a Bill-and-Keep Basis As a Matter of Law.

9. Article V of the ICAs contains, among other things, the terms governing the exchange of traffic between the parties' networks. The term "reciprocal compensation" appears *nowhere* in Article V. Instead, the unambiguous terms contained within the four corners of the ICAs clearly express that the parties intended to exchange Local Traffic between their respective networks *without compensating each other* for the termination of such traffic. Although Socket has been bold enough to send unsubstantiated invoices for payment, *it cannot identify a single provision in the ICA applying reciprocal compensation* to the exchange of Local Traffic.

10. That the parties selected a bill-and-keep arrangement is hardly surprising. As the FCC describes it, "bill-and-keep" is an arrangement "in which neither of two interconnecting networks charges the other network for terminating traffic that originated on the other network. Instead, each network recovers from its own end users the cost of both originating traffic delivered to the other network and terminating traffic received from the other network."⁸ The parties' choice to *include* terms requiring the exchange of Local Traffic, but to *exclude* terms

⁸ *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order (*Local Competition Order*), CC Docket No. 96-98, CC Docket No. 95-185, FCC 96-325 (Adopted, August 1, 1996; Released, August 8, 1996) at ¶ 1096.

requiring payment for the termination of such traffic, is consistent with a choice of bill-and-keep as the parties' reciprocal compensation regime.

11. Looking, as the Commission is required to do, to the ordinary meaning of the unambiguous terms of the agreements—which express an agreement to *exchange* Local Traffic without provisions requiring either of the parties to *pay* for that exchange—the ICA can only be interpreted, as a matter of law, as applying a bill-and-keep arrangement for the exchange of Local Traffic. The Commission cannot interpret the agreements as applying reciprocal compensation charges to the exchange of such traffic unless it also reads terms into the agreements terms that do not exist. This the Commission may not do as a matter of law.

C. None of the Provisions Socket Relies Upon Provide for Payment of Compensation for Local Traffic.

12. In its Answers and Counterclaims, Socket points to several provisions of the ICAs that it claims supports its errant interpretation. *See* Socket's Answers and Counterclaims, Counterclaims ¶ 9. However, none of the sections Socket cites—read separately or together—provides for the payment of compensation for Local Traffic. To the contrary, Article V, Section 9.8, clearly describes Section 9 as providing a “Bill-and-Keep arrangement” to Local Traffic. Specifically, Section 9.8 states: “Nothing in this Section [9] shall be interpreted to . . . (ii) allow either Party to aggregate traffic *other than Local Traffic* for the purpose of compensation *under the Bill-and-Keep arrangement* described in this Section.” (emphasis added). Unlike any of the other provisions Socket depends upon, Subsection 9.8 clearly demonstrates the intent of the parties with respect to the specific treatment of Local Traffic. *See Triarch Industries*, 158 S.W.3d at 776 (the guiding principle of contract interpretation is to ascertain the intent of the parties and to give effect to that intent).

13. In its Answers and Counterclaims, Socket points to Article V, Sections 9.7, 9.7.1 and 9.7.2.⁹ Presumably, Socket does so because those provisions, in varying degrees, describe mechanically what activities constitute the “transport” and “termination” of traffic. Setting aside the determinative point that these terms do not serve to apply reciprocal compensation charges to Local Traffic, the indisputable reason for the presence of these and other general provisions in the agreement is that while CenturyTel, Spectra, and Socket had each proposed in arbitration a bill-and-keep arrangement for Local Traffic, CenturyTel and Spectra had also proposed an “out of balance” provision for the exchange of Section 251(b)(5) Traffic. Thus, Section 9.7 reflects terms that would have been significant if the out-of-balance provision was ever triggered, and the parties invoked reciprocal compensation due to an imbalance in the exchange of Section 251(b)(5) Traffic. Ultimately, however, the Commission rejected CenturyTel’s specific language with the out-of-balance provision, but did not direct the removal of the inert terms of Section 9.7. The parties, therefore, never removed these related “legacy” provisions from the final agreements. Nevertheless, Socket cannot overcome the legal infirmity in its arguments that *none of these provisions—separately or in conjunction with other provisions of the ICAs—applies compensation* to the termination of Local Traffic, Section 251(b)(5) Traffic or ISP Traffic. Thus, as a matter of law, the ICAs cannot be interpreted as providing for payment of reciprocal compensation for the exchange of Local Traffic.

D. Socket is Estopped from Arguing the Issue of Which Compensation Arrangement Applies to the Parties’ Exchange of Local Traffic.

14. At its heart, Socket’s claim that reciprocal compensation applies is nothing more than an impermissible attempt to re-litigate an issue that already was resolved in the prior arbitration between the parties. Thus, Socket’s counterclaim is barred by the doctrine of

⁹ Socket’s Answers and Counterclaims, Counterclaims ¶ 9.

collateral estoppel. Moreover, Socket's position in this proceeding directly contradicts the position it took in the prior arbitration. As a result, Socket also is judicially estopped from asserting that reciprocal compensation applies.

1. **Socket is "collaterally estopped" from asserting that reciprocal compensation applies because the issue was already determined by the Commission in the prior arbitration.**

15. Collateral estoppel—sometimes referred to as "issue preclusion"—precludes the same parties from re-litigating an issue that has already been decided in a previous action. *See State ex rel. Conners v. Miller*, 194 S.W.3d 911, 913 (Mo.App. W.D. 2006); *Stine v. Warford*, 18 S.W.3d 601, 605 (Mo.App. W.D. 2000). The Missouri Supreme Court has established a four-prong test for determining when collateral estoppel is invoked. First, the issue decided in the first action must be identical to the issue in the second action. Second, the prior litigation must have resulted in a final judgment on the merits. Third, the party to be estopped must have been a party to the prior adjudication. Finally, the party to the prior adjudication must have had a full and fair opportunity to litigate the issue in the prior suit. *Oates v. Safeco Ins. Co.*, 583 S.W.2d 713, 719 (Mo. 1979) (en banc).

16. With respect to the first prong, the parties, in the prior arbitration (Case No. TO-2006-0299), jointly presented "Article V: Issue 10," which framed the issue to be arbitrated as: "What language should the ICA include regarding intercarrier compensation for transport and termination of traffic?" *See* Case No. TO-2006-0299, Final DPL, Article V, Issue 10 (filed April 7, 2006). In determining the issue, the Commission both adopted and rejected various contract language proposals proffered by the parties to govern intercarrier compensation for various types of traffic, *including local traffic and ISP Traffic*. *See generally*, Case No. TO-2006-0299, Final Commission Decision at 24-32. With respect to Socket's proposed language for "non-MCA

Traffic” (which included Section 251(b)(5) Traffic and ISP Traffic), the Commission determined: “CenturyTel’s language at Section 9.2.3, addressing the appropriate application of bill and keep, is appropriate. Other traffic included in this section has been deemed non-local traffic through other determinations.” *Id.* at 29. Thus, the Commission clearly determined that bill-and-keep should apply to the non-MCA Traffic at issue, which included Section 251(b)(5) Traffic and ISP Traffic (or “Local Traffic”).

17. Indeed, Socket conceded this critical point when commenting on another issue determined in the Arbitrator’s Final Report. While commenting on whether “IP-PSTN” language should be included in the agreement, Socket stated:

The Arbitrator addressed *compensation for ISP-Bound Traffic* (a subset of Information Access Traffic) in other provisions of Article V. *The Arbitrator’s determinations that bill-and-keep applies to the transport and termination of such traffic* does not resolve the issue raised by Socket’s proposed [IP-PSTN] language.¹⁰

Despite this unequivocal acknowledgement back in 2006, Socket now claims inconsistently with its own arguments that reciprocal compensation charges apply to Local Traffic, including ISP Traffic, in direct contravention of the Commission’s determination. Furthermore, it is undisputed that the Commission nowhere determined in the prior arbitration that reciprocal compensation should apply to any traffic under the agreement whatsoever.

18. In the current action, the same issue is presented, albeit via causes of action for declaratory judgment and/or breach of contract. Although the causes of action or claims may differ, the *issue* is the same and collateral estoppel applies. *See Hollida v. Hollida*, 190 S.W.3d 550, 554 (Mo.App. S.D. 2006) (For collateral estoppel, which focuses on “issue preclusion” not

¹⁰ Comments of Socket Telecom, LLC on the Arbitrator’s Final Report, Case No. TO-2006-0299 (filed May 31, 2006) at 28 (emphasis added).

claim preclusion, to apply, there is no requirement that the prior and current litigation present identical causes of action.) The issue of what intercarrier compensation applies to the parties' exchange of Local Traffic was subsumed by "Article V, Issue 10" in the prior arbitration, and it is the same issue presented in the current dispute. As those issues are essentially identical, the first prong of the collateral estoppel test has been met.

19. Second, the Final Commission Decision resulted in a final judgment on the merits sufficient to satisfy the second prong of the Missouri Supreme Court's collateral estoppel test. In Missouri, a determination in an administrative proceeding satisfies the "final judgment on the merits" prong of the collateral estoppel test. *See Bresnahan v. May Department Stores Co.*, 726 S.W.2d 327, 330 (Mo. 1987)(recognizing that an issue adjudicated before an administrative tribunal—the Labor and Industrial Commission—satisfied the "prior adjudication" prong and, therefore, the plaintiff was estopped from re-litigating the issue in a subsequent breach of contract proceeding).¹¹

20. Third, the party CenturyTel seeks to estop, Socket, was a party to the prior adjudication in Case No. TO-2006-0299. Therefore, the third prong of the collateral estoppel test is met.

21. Finally, with respect to the issue of what intercarrier compensation arrangement should apply for the exchange of local traffic, Socket had a full and fair opportunity to litigate that very issue in Case No. TO-2006-0299. "Article V, Issue 10" placed the question of

¹¹ The specific holding in *Bresnahan* was overruled by § 288.215.1, R.S.Mo.Supp.1988. *See Reed v. City of Springfield*, 758 S.W.2d 138, 139 (Mo.App. 1988). However, that statute was intended to destroy the collateral estoppel effect only of findings of fact made in a proceeding before the Labor and Industrial Relations Commission for unemployment insurance benefits under Ch. 288, R.S.Mo. 1986, where the same issues arise later in another forum. *See id.* at 148-49. Therefore, *Bresnahan* continues to stand for the general proposition that an administrative tribunal's prior adjudication of an issue may be invoked as collateral estoppel in a subsequent judicial proceeding. *See Becker v. Missouri Dept. of Corrections and Human Services*, 780 S.W.2d 72, 77 & n.2 (Mo.App. E.D. 1989); *State ex rel. Missouri Gas Energy v. Public Service Com'n of Missouri*, 224 S.W.3d 20, 26 (Mo.App. W.D. 2007).

intercarrier compensation between the parties for their exchange of Local Traffic squarely at issue in the prior arbitration. Socket was permitted to file direct testimony, rebuttal testimony and briefing on the issue. The arbitration hearing lasted nearly one week, during which Socket had the opportunity to cross-examine CenturyTel's witnesses. Moreover, Socket had the opportunity to file not only a post-hearing brief, but also written comments on the Arbitrator's Final Report. Thus, Socket was afforded a full and fair opportunity to litigate the issue.

22. Having met all four prongs of the Missouri Supreme Court's test, collateral estoppel precludes Socket from re-litigating the issue of what intercarrier compensation arrangement applies to the parties' exchange of Local Traffic and ISP Traffic. The Commission conclusively established that a bill-and-keep arrangement applied, and Socket is estopped from asserting the application of reciprocal compensation in this proceeding.

2. Socket is "judicially estopped" from taking the position that reciprocal compensation applies because it is in direct opposition to the position it took both during and after the prior arbitration.

23. Judicial estoppel applies "to prevent litigants from taking a position in one judicial proceeding, thereby obtaining benefits from that position in that instance and later, in a second proceeding, taking a contrary position in order to obtain benefits from such a contrary position at that time." *Besand v. Gibbar*, 982 S.W.2d 808, 810 (Mo.App. E.D. 1998) (citation omitted); *Shockley v. Director, Div. of Child Support Enforcement*, 980 S.W.2d 173, 175 (Mo.App. E.D. 1998)(citation omitted). Moreover, the doctrine of judicial estoppel applies when a party attempts to take a position that is inconsistent with the position it took in a prior administrative proceeding. *See Shockley*, 980 S.W.2d at 175 ("This doctrine of judicial estoppel can apply to quasi-judicial administrative actions.").

24. The proscribed position-for-the-moment swapping is precisely what Socket is attempting here. As stated above, Socket took the position in the prior arbitration that bill-and-keep should apply to all local and ISP traffic.¹² After the arbitration hearing, in its Post-Hearing Brief, Socket succinctly stated its position:

On the intercarrier compensation issues in Article V, *Socket's position is a straightforward one.* Socket has proposed that *all local, FX (including VNXX), and ISP-Bound traffic be exchanged on a bill-and-keep basis*, the same way traffic is exchanged in MCA areas today. By proposing bill-and-keep, Socket gives up its statutory right to receive compensation from CenturyTel for terminating traffic originated by CenturyTel's customers. Moreover, Socket gives up any possible "arbitrage" opportunity associated with charging CenturyTel for termination of ISP-Bound traffic.

Post-Hearing Brief of Socket Telecom, LLC, Case No. TO-2006-0299, at 9-10 (emphasis added). *See also id.* at 35-41 (wherein Socket, in briefing its position on "Article V, Issue 10," stated that bill-and-keep is the appropriate method of reciprocal compensation).

25. As set forth above, the Commission ultimately adopted and approved the application of bill-and-keep to Local Traffic and ISP Traffic exchanged between the parties, and the parties conformed the relevant provisions (Article V, Section 9) of the final interconnection agreements in the manner dictated by the Final Commission Decision. Socket now takes a diametrically opposing position—that reciprocal compensation applies to such traffic—and, by it, seeks now to benefit from the very "arbitrage" opportunities it purported to eschew in the prior arbitration. Socket, however, is judicially estopped from taking that new position in this proceeding. *See Shockley*, 980 S.W.2d at 175-76 (precluding a party in a subsequent administrative action from taking a position that differed from the position it took in a prior judicial action); *Vorhof v. Vorhof*, 532 S.W.2d 830, 832 (Mo.App. 1975)(precluding a party in a

¹² *See supra* note 5.

separate post-judgment action from taking a position that differed from the position she took in a prior divorce proceeding).

III.

REQUEST FOR ORAL ARGUMENT

26. Pursuant to 4 CSR 240-2.117(1)(G), CenturyTel respectfully requests oral argument on its Motion for Summary Determination on Interpretation of Compensation Arrangements Applicable to Local Traffic.

IV.

PRAYER

27. WHEREFORE, CenturyTel respectfully requests that the Commission grant its Motion for Summary Determination and declare that the Interconnection Agreements, as a matter of law, requires the exchange of Local Traffic, including Section 251(b)(5) Traffic and local ISP Traffic, without the payment of compensation. CenturyTel further requests that the Commission grant its Motion on the additional bases that Socket is collaterally or judicially estopped from asserting that reciprocal compensation applies to such traffic. On the basis of either or all of these grounds, CenturyTel requests that the Commission dismiss Socket's counterclaim and defenses and grant CenturyTel such other and further relief to which it may be justly entitled.

Respectfully submitted,

FISCHER & DORITY, P.C.

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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; lcourtis@lawfirmemail.com) on this 13th day of December, 2007.

/s/ Larry W. Dority

Larry Dority