

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No. EB-04-IH-0012
)	
CenturyTel, Inc., CenturyTel of)	Acct. No. 200432080136
Washington, Inc., CenturyTel of Cowiche,)	
Inc., and CenturyTel of Inter Island, Inc.)	FRN Nos. 0001-5846-97, 0003-7386-89, 0001-5825-43

ORDER

Adopted: July 9, 2004

Released: July 12, 2004

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau ("Bureau") has been conducting an investigation into possible violations by CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc. (collectively, "CenturyTel") of section 52.26(a) of the Commission's rules¹ by failing to route calls from CenturyTel's customers to ported wireless numbers.²

2. The Bureau and CenturyTel have negotiated the terms of a Consent Decree that would terminate the Bureau's investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. We have reviewed the terms of the Consent Decree and evaluated the facts before us. We believe that the public interest would be served by approving the Consent Decree and terminating the investigation.

4. Based on the record before us we conclude that there are no substantial or material questions of fact with respect to this matter as to whether CenturyTel possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, IT IS ORDERED, pursuant to sections 4(i) and 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 503(b), and the authority

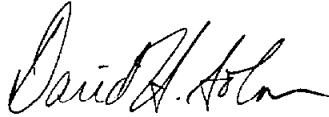
¹ 47 C.F.R. § 52.26(a).

² See *CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc.*, Notice of Apparent Liability, DA 04-1304 (rel. May 13, 2004).

delegated by sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that the attached Consent Decree IS ADOPTED.

6. IT IS FURTHER ORDERED that the above captioned investigation is TERMINATED and the Notice of Apparent Liability in this proceeding³ is RESCINDED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "David H. Solomon".

David H. Solomon
Chief, Enforcement Bureau

³ *Id.*

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CONSENT DECREE

1. The Enforcement Bureau ("Bureau") of the Federal Communications Commission ("Commission") and CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc. (collectively, "CenturyTel"), hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into whether CenturyTel violated section 52.26(a) of the Commission's rules⁴ by failing to route calls from CenturyTel's customers to ported wireless numbers.⁵

2. For the purposes of this Consent Decree, the following definitions shall apply:

- (a) "Commission" means the Federal Communications Commission.
- (b) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
- (c) "CenturyTel" means CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc., any affiliate, d/b/a, predecessor-in-interest, parent companies, any wholly or partially owned subsidiary, or other affiliated companies or businesses and their successors and assigns.
- (d) "Parties" means CenturyTel and the Bureau.

⁴ 47 C.F.R. § 52.26(a).

⁵ See Letter from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC to Glen F. Post, III, Chief Executive Officer, CenturyTel, Inc. (Feb. 4, 2004) ("Letter of Inquiry"). See also *CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc.*, Notice of Apparent Liability, DA 04-1304 (rel. May 13, 2004) ("CenturyTel NAL").

- (e) "Order" or "Adopting Order" means an Order of the Commission or the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (f) "Effective Date" means the date on which the Commission or the Bureau releases the Adopting Order.
- (g) "Investigation" means the investigation commenced by the Bureau's February 4, 2004 Letter of Inquiry regarding whether CenturyTel violated section 52.26(a) of the Commission's rules in connection with failing to route calls from CenturyTel's customers to ported wireless numbers.

I. BACKGROUND

3. Number portability is defined as "the ability of users of telecommunications services to retain, at the same location, existing telephone numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."⁶ Under the Communications Act of 1934, as amended, (the "Act"), all telecommunications carriers have a duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.⁷ In 1996, the Commission required all local exchange carriers ("LECs") to begin a phased deployment of local number portability ("LNP") within the 100 largest metropolitan statistical areas.⁸ The Commission also required all carriers to route calls to ported numbers.⁹ Furthermore, the Commission imposed requirements on the carrier immediately preceding the terminating carrier, the "N-1 carrier," to ensure that number portability databases are queried and thus that calls are properly routed.¹⁰

4. CenturyTel provides local exchange service in 22 states in rural markets and small-to-mid-sized cities, as well as long distance service, Internet access, and data services.¹¹ After receiving information that CenturyTel may not have been routing calls from CenturyTel

⁶ 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(l).

⁷ 47 U.S.C. § 251(a)(2).

⁸ *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996). On reconsideration, the Commission clarified that LECs need only provide number portability within the 100 largest MSAs for switches in which another carrier made a specific, bona fide, number portability request *Telephone Number Portability*, First Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 7236, 7273, ¶ 60 (1997) ("*First Reconsideration Order*").

⁹ *First Reconsideration Order*, 12 FCC Rcd at 7277, ¶ 69. See also *Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 23697, 23711-12 n.92 (2003).

¹⁰ *Telephone Number Portability*, Second Report and Order, 12 FCC Rcd 12281, 12323-24, ¶¶ 73-74 (1997).

¹¹ See www.centurytel.com.

customers in Washington to wireless customers with ported numbers, the Bureau issued a Letter of Inquiry to CenturyTel requesting information on this call routing issue. CenturyTel submitted a response to the Bureau's Letter of Inquiry on February 24, 2004.

5. On May 13, 2004, the Bureau issued a Notice of Apparent Liability for Forfeiture ("NAL")¹² proposing a \$100,000 forfeiture against CenturyTel and finding that in circumstances where CenturyTel did not have an LNP-capable switch and had a direct trunk with a porting wireless carrier, CenturyTel default-routed local and extended area service calls to the wireless carrier that originally serviced the telephone number. The NAL found that if this porting wireless carrier did not perform a database query to determine where to route the call, the CenturyTel customer would receive a message that the wireless subscriber's number was not in service, when in fact the number had been ported to another carrier.

II. AGREEMENT

6. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement of the Investigation between CenturyTel and the Bureau of the apparent violations of the Commission's rules found in the NAL, without issuance of an order finding liability against CenturyTel for any such apparent violations or any other violation of law arising out of the same facts, and that the NAL will be rescinded as of the Effective Date. In consideration for the termination of this Investigation and in accordance with the terms of this Consent Decree, CenturyTel agrees to the terms, conditions, and procedures contained herein.

7. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance by CenturyTel with the requirements of the Act or the Commission's rules or orders. The Parties agree that this Consent Decree is for settlement purposes only.

8. CenturyTel agrees that it will make a voluntary contribution to the United States Treasury in the amount of one hundred thousand dollars (\$100,000) within 30 calendar days after the Effective Date of the Adopting Order. CenturyTel must make this payment by check, wire transfer, or money order drawn to the order of the Federal Communications Commission. The check, wire transfer, or money order should refer to "Acct. No. 200432080136" and "FRN Nos. 0001-5846-97, 0003-7386-89, 0001-5825-43." If CenturyTel makes this payment by check or money order, it must mail the check or money order to: Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois, 60673-7482. If CenturyTel makes this payment by wire transfer, it must wire such payment in accordance with Commission procedures for wire transfers.

9. For purposes of settling the matters set forth herein, CenturyTel agrees to implement a Compliance Plan related to LNP administration and consisting of the components

¹² See CenturyTel NAL.

delineated below. The Compliance Plan will be for a period of 12 months after the Effective Date, except as otherwise required to comply with the Commission's rules.

- (a) Upon execution of this Consent Decree, CenturyTel will have formed a team designated the Network Support Center ("NSC"), consisting of technical and managerial employees. The NSC will be designated as the focal point for LNP deployment over CenturyTel's system.
- (b) Within 20 days of the Effective Date, CenturyTel will designate a Local Number Portability Compliance Officer to whom all inquiries and concerns about LNP and call routing may be addressed. The Local Number Portability Compliance Officer will supervise CenturyTel's compliance with the Commission's rules and the requirements regarding LNP and CenturyTel's compliance with the requirements of this Consent Decree.
- (c) Upon execution of this Consent Decree, CenturyTel will have deployed LNP capability to all 398 of its host switches throughout its 22 state territory.
- (d) Upon execution of this Consent Decree, company-wide on all 398 of its host switches and whenever CenturyTel is the N-1 carrier, CenturyTel will perform or will have performed on its behalf, a database query to obtain the Location Routing Number ("LRN") that corresponds to any dialed number. Whenever it is the N-1 carrier, CenturyTel will ensure that any call placed by a CenturyTel customer to a ported telephone number is properly routed to the network of the current carrier serving that telephone number, based on the LRN.
- (e) CenturyTel will ensure that any switch added to CenturyTel's system after the Effective Date is LNP capable within a reasonable period of time following CenturyTel's acquisition of that switch. If a switch is added to CenturyTel's system that is not LNP capable, CenturyTel will ensure that whenever CenturyTel is the N-1 carrier CenturyTel will perform or will have performed on its behalf a database query to obtain LRN information in order to ensure that calls placed by CenturyTel customers to ported telephone numbers are properly routed to the network of the current carrier serving that telephone number, based on the LRN.
- (f) Prior to September 1, 2004, in certain instances CenturyTel will have a third party perform certain LRN database queries as described in paragraph 9(d). After September 1, 2004, CenturyTel will implement its own local service management system ("LSMS") to perform database queries.
- (g) Upon execution of this Consent Decree, CenturyTel will have developed written rules and policies regarding the LNP ordering process, including a customer service representative handbook, and materials for public relations teams to prepare them to answer LNP questions from consumers.

- (h) Upon execution of this Consent Decree, CenturyTel will have incorporated LNP compliance training into its existing training for employees who engage in LNP activities, including but not limited to customer service representatives, public relations department employees, and engineering group employees. Training sessions will be conducted for new employees within the first 90 days of employment.
- (i) Upon execution of this Consent Decree, CenturyTel will have established specific policies and procedures for handling LNP-related complaints, including complaints about dropped calls to ported numbers. Specifically, CenturyTel's policies will require a customer service center representative who receives a complaint regarding LNP to prepare a trouble ticket and dispatch it to the central office serving the complaining CenturyTel customer to verify it is LNP-related. If so, the central office will send the trouble ticket to the NSC for resolution with a copy to the Local Number Portability Compliance Officer. The NSC will work to resolve the problem as soon as practicable. If the matter is not resolved within 48 hours, the Local Number Portability Compliance Officer will be notified and will become the primary party responsible for resolving the matter. The customer will be kept apprised within a reasonable time of all efforts to resolve the matter.
- (j) CenturyTel will not avail itself of any suspension or modification of the Commission's LNP requirements granted to CenturyTel prior to the Effective Date pursuant to any application for relief from a state public service commission.

10. In express reliance on the covenants and representations contained herein, the Bureau agrees to terminate the Investigation.

11. The Bureau agrees that it will not use the facts developed in this Investigation through the Effective Date of the Consent Decree or the existence of this Consent Decree to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against CenturyTel concerning the matters that were the subject of the Investigation. The Bureau also agrees that it will not use the facts developed in this Investigation through the Effective Date of this Consent Decree or the existence of this Consent Decree to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against CenturyTel with respect to CenturyTel's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier. Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to section 208 of the Act against CenturyTel or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating material new evidence of noncompliance by CenturyTel of the Act, the rules, or this Order.

12. CenturyTel waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Bureau issues an Order adopting the Consent Decree without change, addition, modification, or deletion. CenturyTel shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein.

13. CenturyTel's decision to enter into this Consent Decree is expressly contingent upon the Bureau's issuance of an Order that is consistent with this Consent Decree, and which adopts the Consent Decree without change, addition, modification, or deletion.

14. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

15. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither CenturyTel nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and CenturyTel shall waive any statutory right to a trial *de novo*. CenturyTel shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein.

16. Any violation of the Consent Decree or the Adopting Order will constitute a separate violation of a Commission order, entitling the Commission to exercise any rights or remedies authorized by law attendant to the enforcement of a Commission order.

17. The Parties also agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which CenturyTel does not consent) that provision will be superseded by such Commission rule or order.

18. CenturyTel hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

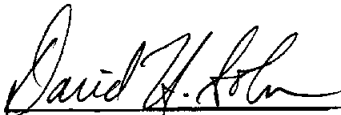
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19. This Consent Decree may be signed in counterparts.



David H. Solomon
Chief, Enforcement Bureau
Federal Communications Commission

July 9, 2004
Date



Stacey W. Golf
General Counsel of CenturyTel, Inc.
CenturyTel, Inc., CenturyTel of
Washington, Inc., CenturyTel of Cowiche,
Inc., and CenturyTel of Inter Island, Inc.

Date