

**BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**

Socket Telecom, LLC,	)	
	)	
Complainant,	)	
	)	
v.	)	<b>Case No. TC-2007-0341</b>
	)	
CenturyTel of Missouri, LLC d/b/a	)	
CenturyTel and Spectra Communications	)	
Group, LLC dba CenturyTel	)	
	)	
Respondents.	)	

**SOCKET TELECOM'S WITHDRAWAL OF MOTION TO REOPEN RECORD AND  
NOTICE OF CENTURYTEL'S ADMISSION OF ADDITIONAL FACTS**

COMES NOW Socket Telecom, LLC, pursuant to 4 CSR 240-2.080 and other applicable authority and for its Withdrawal of Motion to Reopen Record and Notice of CenturyTel's Admission of Additional Facts states to the Commission:

1. On or about October 17, 2007, Socket Telecom filed its Motion to Reopen Record and Admit Affidavit to inform the Commission that there have been additional developments concerning the LNPA Working Group's consensus decision that the ports in question in this case should be provided as a matter of best industry practices, including that:

a. On October 10, 2007, the NANC held its first meeting since April 17, 2007. That meeting was announced through a Public Notice issued by the Federal Communications Commission on September 17, 2007. The LNPA-WG provided a written copy of the LNPA-WG Report to NANC on October 1, 2007. All LNPA-WG members were also provided with a copy of the report. Included in the written report was the porting issue brought by Socket to the LNPA-WG that is now Item 50 of the LNPA-WG's Industry Best Practice Document, which is

the issue of “Porting in Conjunction with FX Service.”

b. At that meeting, the LNPA-WG’s ILEC co-chair, Gary Sacra, presented the LNPA-WG’s report to the NANC. As this was the first meeting since briefs were filed in this proceeding and was the meeting where the LNPA-WG’s report addressing Porting in Conjunction with FX service was being presented to the NANC, this would have been the appropriate time for any carrier opposed to the LNPA-WG’s consensus opinion and the inclusion of that opinion in the LNPA-WG’s Best Practice document to challenge the issue at NANC.

c. Neither CenturyTel nor any other carrier made any challenge to the report. The NANC accepted the LNPA-WG’s report as submitted. Thus, the issue of Porting in Conjunction with FX Service is settled and porting numbers in the situation when the six criteria or caveats described by the LNPA-WG remains an industry best practice, now endorsed by both the LNPA-WG and the NANC.

2. In its Response to Socket Telecom’s Motion, CenturyTel admits to the foregoing facts that have arisen since the close of the hearing in this matter, as follows:

a. In its purported appeal document, which it incorporates into its responsive pleading (see page 5), CenturyTel admits at page 1-2 that the LNPA-WG presented its report adopting PIM-60 as item 50 on the industry best practice list to NANC at the October 10, 2007 meeting, and further admits that report was listed on the agenda providing notice of the meeting.

b. In its purported appeal document, CenturyTel admits at pages 1-2 that the LNPA-WG presented its report to NANC without challenge.

c. CenturyTel admits that as of the date Socket Telecom filed its Motion to Reopen, CenturyTel had not submitted any challenge of the report, although it alleges it did submit a challenge on or about October 25, 2007. In its purported appeal document, CenturyTel admits at

page 3 that NANC accepted the LNPA-WG report as submitted, and admits at page 9 that PIM-60/item 50 remains listed as an industry best practice.

3. Because CenturyTel has admitted the foregoing facts to the Commission in its pleadings, there is no longer any need to reopen the record and admit Mr. Kohly's Affidavit. Accordingly, Socket Telecom withdraws its Motion to Reopen. CenturyTel's judicial admission in its Response pleading "acts as a substitute for evidence and obviates the need for evidence relative to the subject matter of the admission." *Sheffield Assembly of God v. American Ins.*, 870 SW2d 926, 931 (Mo App 1994); see also *Ortmeyer v. Bruemmer*, 680 SW2d 384, 395 (Mo App 1984)(post-trial judicial admissions).

4. Unfortunately, CenturyTel also chose to burden the Commission with yet another summary and restatement of virtually all of its arguments in this case. In response, out of caution Socket Telecom simply incorporates by reference the Brief it has already submitted in this matter. As demonstrated by the Record and by Socket's Brief in this matter, Socket more than met any burden of proof and is entitled to the relief it has requested as a matter of law. The additional facts offered by Socket Telecom and to which CenturyTel has now admitted keep the Commission informed as to pertinent developments regarding industry practices that have occurred since the hearing. Further, as stated in Socket's Brief at note 43, the actions of the LNPA-WG and NANC establishing industry best practices are not stayed in any way by any challenge by CenturyTel – which CenturyTel tacitly admits by omission in its purported appeal document attached to its Response.

WHEREFORE, Socket Telecom withdraws its Motion to Reopen and asks the Commission to take notice of the additional admissions of CenturyTel as described herein.

Respectfully submitted,

CURTIS, HEINZ,  
GARRETT & O'KEEFE, P.C.

/s/ Carl J. Lumley

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this document was emailed to the parties listed below on this 1st day of November, 2007.

/s/ Carl J. Lumley

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