

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

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

SOCKET TELECOM, LLC'S APPLICATION FOR REHEARING

Comes Now Socket Telecom, LLC pursuant to Section 386.500 RSMo. and 4 CSR 240-2.160 and for its Application for Rehearing states to the Commission:

The Commission issued its Report and Order herein on March 26, 2008, with an effective date of April 5, 2008. Socket Telecom hereby timely files its Application for Rehearing prior to that effective date. Socket Telecom will not restate the contents of its Brief filed herein on or about September 10, 2007, and its Supplemental Brief offered on or about November 13, 2007, but rather incorporates its Brief and Supplemental Brief herein by this reference in further support hereof.

Socket Telecom acknowledges and appreciates the fact that the Commission ruled in its favor on issues 2 and 3 in its Report and Order and directed CenturyTel to provide the requested number ports for Socket and, more importantly, the involved customers. Nonetheless, Socket Telecom must apply for rehearing on issue 1 to preserve its rights, including in anticipation of an application for rehearing by CenturyTel regarding issues 2 and 3. To that end, Socket Telecom seeks rehearing on issue 1 on the following grounds:

The Commission erroneously interpreted federal law and incorrectly resolved issue 1 against Socket Telecom. The Commission acted unlawfully, unjustly and unreasonably by ruling that federal law does not require CenturyTel to fulfill the number port orders specifically at issue in this case and similar orders. The ports in question involve service provider number portability and are required under 47 USC 251(b)(2) and related FCC regulations and decisions. Again, Socket Telecom will not reiterate the contents of its Brief and Supplemental Brief in this pleading, which it has incorporated herein by reference. But Socket will make several points specific to the contents of the Report and Order, as follows:

(a) The FCC’s 1998 Second Report and Order cited at page 8 did not address the definition of “location” and did not address the concept of “the same exchange area”. To the contrary, as the Commission correctly acknowledges at page 10 of the Report and Order in this case, the FCC has not provided an applicable definition of “location”. Instead, the FCC has issued a series of interpretative decisions including the 2003 Intermodal Order.

(b) The Commission misinterprets the FCC’s 2003 Intermodal Order at page 8 of the Report and Order. Notwithstanding the absence of an applicable definition of “location”, the FCC has expressly determined, in the Intermodal Order, that it is service provider portability, and not location portability, if the rate center assignment remains the same, such that “calls to the ported number will continue to be rated in the same fashion as they were prior to the port” and “as to the routing of calls to ported numbers, it should be no different” than if the customer were assigned “a new number rated to that rate center.” The FCC did not limit this determination to number ports involving wireless carriers. The Commission correctly applied the FCC’s requirements in the prior arbitration between Socket and CenturyTel, ordering CenturyTel to port numbers served by RCF because “the number will continue to be geographically assigned to the rate center.” (Arbitration Order, p. 55-57;

Voight Tr. 166). The Commission confirmed that point in its recent decision in Case No. TC-2007-0307, and further noted that the FX/VNXX services at issue in this case are similar to RCF services, which further demonstrates the Commission's misinterpretation of federal law in this case.¹

(c) The Commission's attempt at page 10 of the Report and Order to draw a distinction between the location of a customer and the location of a phone number does not provide a basis for violating the FCC's number portability requirements. As the Commission notes at page 5, the involved users' "location on the network does not change" in the porting situations at issue; hence, federal law requires the ports to be provided.

(d) The emergency FCC orders cited at pages 9-10 of the Report and Order do not have the significance ascribed to them by the Commission, because in those instances the relationship between customer and rate center was actually severed, thereby necessitating the temporary emergency relief. In the case of Socket's port requests, the relationship between the customer and the rates center is preserved. Indeed, ensuring the customers remains rated to the same rate center is the basis for the LNPA-WG's Caveat 2 which requires that "The customer understands that these numbers must continue to be rated with its current rate center and does not want them to take on the rating characteristics of the Rate Center of their new location."

(e) The concurrence mistakenly asserts that Socket could somehow send traffic to CenturyTel at no cost and that somehow the agreement is one-sided in favor of Socket. To the contrary, each party is responsible for the interconnection facilities on their respective side of a POI. Further, each party must terminate FX/VNXX traffic from the other party on a bill-and-keep basis. The ISP customers harmed by CenturyTel's refusal to port numbers were won from CenturyTel by Socket, and CenturyTel still has its own ISP affiliate and presumably other ISP customers, so Socket

¹ See Socket Telecom's Compliance with Order Directing Filing, filed herein on or about January 10, 2008, which is incorporated herein by this reference.

has been and remains equally required to send ISP-bound traffic to CenturyTel including when CenturyTel uses FX/VNXX arrangements. The interconnection agreement is reciprocal. There is no basis to pejoratively describe Socket as a “freeloader” in any respect and that disparaging statement should be retracted. Moreover, these matters have nothing whatsoever to do with number portability, as the traffic is exchanged in exactly the same way whether numbers are ported or new numbers are assigned. But the customers are entitled under both federal law and industry standards to keep their numbers by means of porting them.

Conclusion

For all the foregoing reasons, the Commission's Report and Order herein is unlawful, unjust and unreasonable with respect to the resolution of issue 1. Socket Telecom has provided sufficient reason for the Commission to grant and hold rehearing on issue 1 pursuant to Section 386.500 RSMo. and 4 CSR 240-2.160. The Report and Order is unjust, unwarranted and should be changed regarding issue 1. The Commission should grant Socket Telecom the relief it has requested herein and issue an order recognizing that federal law requires CenturyTel to fulfill the number port orders specifically at issue in this case and similar orders.

WHEREFORE, Socket Telecom respectfully requests the Commission to grant and hold rehearing regarding issue 1 and thereupon confirm that federal law requires CenturyTel to fulfill the number port orders specifically at issue in this case and similar orders.

Respectfully submitted,

CURTIS, HEINZ,
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/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 4th day of April, 2008.

/s/ Carl J. Lumley

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