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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

PREHEARING CONFERENCE

October 20, 2004
Jefferson City, Missouri
Volume 1

In the Matter of the)
Confirmation of Adoption of an)
Interconnection Agreement with)
CenturyTel of Missouri, LLC) Case No. CO-2005-0066
d/b/a CenturyTel and Spectra)
Communications Group, LLC)
d/b/a CenturyTel by Socket)
Telecom, LLC)

MORRIS L. WOODRUFF, Presiding,
SENIOR REGULATORY LAW JUDGE.

REPORTED BY:

STEPHANIE L. KURTZ MORGAN, RPR, CCR
MIDWEST LITIGATION SERVICES

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FOR: Staff of the Missouri Public Service
Commission.

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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Let's go ahead and get started,
3 then. Good afternoon, everyone. We're here for a prehearing
4 conference in Case No. CO-2005-0066.

5 And we'll begin today by taking entries of
6 appearance, beginning with Socket.

7 MR. LUMLEY: Good afternoon, Judge. Carl Lumley of
8 the Curtis Heinz firm, appearing on behalf of Socket Telecom,
9 130 South Bemiston, Suite 200, Clayton, Missouri 63105.

10 JUDGE WOODRUFF: For CenturyTel?

11 MR. DORITY: Good afternoon, Judge. Appearing on
12 behalf of Spectra Communications Group, LLC, doing business as
13 CenturyTel and CenturyTel of Missouri, LLC, Larry W. DORITY of
14 the firm of Fischer and DORITY, P.C.

15 Our address is 101 Madison Street, Suite 400,
16 Jefferson City, Missouri 65101.

17 JUDGE WOODRUFF: For Staff?

18 MR. HAAS: William K. Haas, appearing on behalf of
19 the Staff of the Public Service Commission. My address is
20 Post Office Box 360, Jefferson City, Missouri 65102.

21 JUDGE WOODRUFF: And I don't see anyone here for
22 the Public -- Public Counsel.

23 Well, thank you all for coming today. And the
24 reason I called you here today was because we've got a case
25 here that has a fairly short timeframe for decision by the

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1 Commission. And I just wanted some input from the parties on
2 how they wish to proceed in this case.

3 I believe the deadline for action of the federal
4 statutes is December 14th, so we're gonna need to move fairly
5 quickly.

6 Let me first ask, are there any factual issues at
7 dispute in this case? Anyone that wants to respond can do so.

8 MR. LUMLEY: I -- I would expect that there are
9 factual issues in dispute, yes.

10 JUDGE WOODRUFF: And that would be whether or not
11 services are being provided under this Interconnection
12 Agreement?

13 MR. LUMLEY: Right.

14 JUDGE WOODRUFF: Mr. Dority?

15 MR. DORITY: Your -- Your Honor, I would simply
16 state that we don't believe there are any factual issues in
17 dispute. If you'll recall, when we filed our pleading in this
18 matter, we asked for a summary determination on the pleadings.

19 JUDGE WOODRUFF: Uh-huh.

20 MR. DORITY: I believe Staff's memorandum where
21 they recommend that the Commission reject the adoption of the
22 Interconnection Agreement. Also it clearly lays out documents
23 that this Commission can take official notice of within its
24 files whose language on the face of them clearly indicate that
25 there is absolutely no basis upon which Socket can claim to

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1 adopt an -- a non-existent Interconnection Agreement that
2 Spectra purportedly had entered into.

3 And to the extent that the one fact that appears to
4 be at issue, in terms of the extent to which Spectra may have
5 mistakenly turned up some trunks on -- on behalf of Socket,
6 I'm prepared to indicate on the record today that Spectra is
7 willing to allow those to remain in place.

8 We're only talking, Judge, about 3 very small rural
9 exchanges out of 107 exchanges that Spectra Communications
10 operates in the State of Missouri. And those were opened up
11 by mistake in response to a letter from Mr. Lumley to
12 CenturyTel demanding that some trunks be put in place.

13 These 3 exchanges mistakenly were a part of the
14 group that Mr. Lumley had referred to that actually did
15 pertain to Spectra. In August and September of this year,
16 those 3 exchanges were, in fact, opened up.

17 And in visiting with the client, they are willing
18 to continue with those trunks in existence on an interim
19 arrangement, which the FCC's rules clearly would allow,
20 pending the -- Socket taking action to either adopt into an
21 existing Spectra agreement or begin negotiations for a new
22 agreement.

23 And, of course, whatever the end result of either
24 path would be, then that would be trued up and applicable to
25 the interim arrangement that we're willing to -- to continue

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1 in existence at this point in time.

2 So other than that, I am not aware of any possible
3 factual dispute that could be out there, Judge. And we
4 would -- we're ready to ask you to -- to have the Commission
5 rule on our motion for judgment on the pleadings.

6 JUDGE WOODRUFF: Okay. Mr. Lumley, what facts are
7 you seeing as dispute?

8 MR. LUMLEY: Well, we believe that the -- the facts
9 and circumstances under which service is being provided -- you
10 know, all of the details of that are important to the
11 Commission.

12 All the facts surrounding the fact that these two,
13 you know, ostensibly separate companies are run as
14 one enterprise, and that this agreement applies to that
15 enterprise as a whole, and -- and we feel that we should
16 provide that evidence to the Commission so it can make a
17 judgment as to what's been going on and what should happen in
18 the future.

19 JUDGE WOODRUFF: Okay. Mr. Haas, what's Staff's
20 view on that -- whether there's any factual dispute?

21 MR. HAAS: Your Honor, it would be the Staff's
22 position that the Commission's records set forth the -- the
23 necessary facts for the Commission to make a determination.

24 JUDGE WOODRUFF: Okay.

25 MR. DORITY: And, Your Honor, if I just -- if I may

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1 reiterate that, as the Commission's records themselves will
2 clearly indicate, these companies are, in fact, two separate
3 entities operating under two separate certificates,
4 two separate sets of tariffs. And the fact that one may have
5 a d/b/a under which we have branded some of operations for our
6 retail customers has no impact whatsoever on the ability of
7 another carrier to opt into a -- an agreement.

8 JUDGE WOODRUFF: Okay.

9 MR. LUMLEY: And our evidence would be much more
10 extensive than that, in terms of their day-to-day operations.

11 JUDGE WOODRUFF: All right. Well, there is that
12 motion out there for summary determination, and the Commission
13 will make a ruling on that at some point. And obviously I'm
14 not gonna rule from the Bench on it today.

15 MR. DORITY: I guess I was only suggesting, Your
16 Honor, that if it -- if you could take that up with the
17 Commission, knowing what the outcome of that will be, would
18 clearly give us some direction as to what kind of a timeline,
19 if any, we ought to be concerned about in terms of going to
20 hearing.

21 JUDGE WOODRUFF: Well, the timeline, of course,
22 that I am concerned with and with -- you're concerned with,
23 too, is the -- the deadline in the statute. I -- I assume
24 from the nodding of your heads that you all agree with that,
25 that is a deadline?

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1 MR. LUMLEY: Correct.

2 JUDGE WOODRUFF: Well, what we'll need to do is go
3 ahead and set up a procedural schedule leading to a hearing.
4 If we resolve this matter otherwise then, of course, the
5 hearing would go away. But I want to go ahead and get it on
6 the schedule so that we can proceed if we need to on that way.

7 Do the parties want to pre-file testimony or would
8 you prefer coming into the hearing presenting everything at
9 the time of the hearing?

10 MR. LUMLEY: Our proposal would be to just go
11 straight to hearing, cuz there's really not time for a normal
12 pre-filed testimony schedule.

13 JUDGE WOODRUFF: Mr. Dority, do you have a position
14 on that?

15 MR. DORITY: I don't know that we have a position
16 on that right now, Your Honor.

17 JUDGE WOODRUFF: All right. Well, if we're going
18 to be doing a hearing -- I looked at the calendar upstairs
19 before I came down -- we would have hearing time available on
20 November 8, 9, 10 or 12 or the 18th or the 19th.

21 Does anyone have any objections to any of those
22 dates or any conflicts that you're aware of?

23 MR. LUMLEY: The problem I face on the 8th is that
24 I'm City Attorney for the City of Creve Coeur, and that's the
25 night that their city council meets. It would be difficult

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1 for me to get back in time, assuming that we went to, you
2 know, basically a five o'clock stop on that date.

3 So my preference would be to do the 12th, the 18th
4 or the 19th.

5 JUDGE WOODRUFF: The -- the 12th would be a Friday.
6 Does anyone -- that -- that looks good on my schedule.

7 Any objections to the 12th of November, other than
8 it is the day after the -- after a State holiday?

9 MR. DORITY: I don't believe we would object, Your
10 Honor.

11 JUDGE WOODRUFF: All right. November 12 it is
12 beginning at 8:30. And I will issue a -- a notice this week
13 just confirming that -- just putting it in writing.

14 Anything else anyone wants to bring up while we're
15 still on the record?

16 MR. DORITY: Judge, we were just in receipt of
17 Socket's response pursuant to your order.

18 JUDGE WOODRUFF: Uh-huh.

19 MR. DORITY: We did not intend at this point to
20 file any reply to that par-- particular pleading. I guess,
21 again, just to save all of the parties the time and expense of
22 preparing for hearing, based upon our motion and upon Staff's
23 recommendation, we would just simply urge the Judge to try to
24 take this up with the Commission as soon as possible so that
25 if they are inclined to -- to rule on the motion or grant

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1 Staff's recommendation, that we need to be aware of that as
2 soon as possible and save us the time and expense of preparing
3 for a hearing.

4 JUDGE WOODRUFF: I'll certainly take that up with
5 the Commission at the first available opportunity.

6 MR. DORITY: Thank you.

7 JUDGE WOODRUFF: But there are a number of missing
8 agenda dates coming in the future, as you may be aware. We'll
9 take it up.

10 Anything else while we're on the record?

11 (No response.)

12 JUDGE WOODRUFF: All right. With that, then, this
13 on-the-record portion of the prehearing conference is
14 adjourned.

15 WHEREUPON, the on-the-record portion of the
16 prehearing conference was concluded.

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