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June 2, 2004

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

Re: Case No. TX-2003-0445
Customer Proprietary Network Information

Dear Mr. Roberts:

In response to **Proposed Rule 4 CSR 240-33.160 – Customer Proprietary Network Information (CPNI)**, as published in the May 3, 2004 edition of the *Missouri Register*, CenturyTel¹ respectfully concurs in the written Comments filed this date by the Missouri Telecommunications Industry Association (MTIA). CenturyTel also offers the following additional comments for the Commission's consideration.

The Staff of the Missouri Public Service Commission (Staff) filed written comments in support of the proposed rule on June 1, 2004. Staff characterizes the intent and purpose of the proposed rule as follows:

The proposed rule codifies current federal Customer Proprietary Network Information (CPNI) regulations at the federal level. Currently, companies under the Commission's jurisdiction must comply with **most** provisions of the proposed rule under federal authority. The proposed rule will bring currently existing federal interstate protections afforded to Missouri telecommunications customers to the intrastate stratum. (Emphasis added.)²

While not intending to present or frame its comments as "responsive" to those of the Staff, CenturyTel must respectfully emphasize that proposed rule 4 CSR 240-33.160 does not merely codify current federal CPNI regulations, but rather it imposes new, additional

¹ These comments are provided on behalf of CenturyTel of Missouri, LLC and Spectra Communications Group, LLC d/b/a CenturyTel, collectively referred to herein as "CenturyTel."

² Comments of the Staff of the Missouri Public Service Commission, Case No. TX-2003-0445, June 1, 2004, page 1.

state-specific requirements that appear to conflict with Federal Communications Commission (FCC) rules, as well as create administrative burdens for carriers. CenturyTel does not oppose the Missouri Public Service Commission promulgating state rules that adopt the federal rules (47 C.F.R. §§ 64.2001-2009) regarding telecommunications companies' use of CPNI. However, as stated by MTIA, "Layering a state-specific rule containing differing definitions, exemptions and provisions over this existing federal requirement is likely to cause carriers great difficulty in following both sets of requirements."

One example of potential conflict with the Federal Telecommunications Act of 1996 (the Act) and the FCC's implementing rules, is proposed rule 4 CSR 240-33.160(2)(C)(4) with regard to the disclosure of CPNI to a Public Safety Answering Point, or "PSAP." The proposed rule provides:

(C) Approval not required for use of customer proprietary network information.

* * * * *

4. A telecommunications company may use, disclose, or permit access to CPNI to public safety answering points (PSAPs) if the PSAP claims it needs the information to respond to an emergency. Information to be released is limited to that CPNI information as defined in 4 CSR 240-33.160(1)(H).

This language appears to conflict with Section 222 of the Act and the FCC's Rules, which do not provide any specific exception for the disclosure of CPNI to a PSAP. Indeed, the only disclosure exception in Section 222(g) of the Act with regard to PSAPs addresses the disclosure of "Subscriber List Information," which is defined as:

(A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; . . . (See Section 222(h)(3)(A)).

As a result, the Missouri rule would afford Missouri citizens less protection by allowing all CPNI (quantity, technical configuration, type, etc.) to be disclosed to a PSAP, not just Subscriber List Information (SLI). PSAPs only require SLI, and not CPNI, to respond to an emergency, and it is certainly unclear as to how the additional

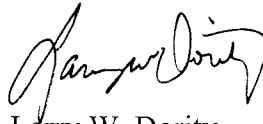
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information (length of call, call destination, amount customer billed, etc.) would assist PSAPs in an emergency situation. Accordingly, with a carrier's duty to comply with the federal Act and existing FCC Rules, this potential area of conflict would appear to be ripe for a preemption challenge.

As set forth in the MTIA Comments, there are numerous other additional state-specific definitions/requirements contained in the proposed rule that present opportunities for conflict with, and possible preemption by, the federal rules. While not having specific cost information available at this time, it would appear that the fiscal impact of complying with disparate regulations would far exceed the aggregate \$500.00 private entities cost estimate included with the proposed rule.

If you have any questions regarding this filing, please contact the undersigned. Thank you for your assistance in this matter.

Sincerely,



Larry W. Dority

cc: Mr. Arthur Martinez, CenturyTel
General Counsel's Office
Office of the Public Counsel