

***Exhibit No.:***

***Issue(s):*** Article V (Interconnection and Intercarrier Compensation); Article VII A (UNE PRICING); Article XIII (Electronic OSS) and Article XV (PMs)

***Witness:*** William E. Avera

***Type of Exhibit:*** *Rebuttal Testimony*

***Sponsoring Party:*** *CenturyTel of Missouri, LLC and Spectra Communications Group, LLC d/b/a CenturyTel*

***Case No.:*** *TO-2006-0299*

***Date Testimony Prepared:*** *April 6, 2006*

**REBUTTAL TESTIMONY**

**OF**

**WILLIAM E. AVERA, PH.D., CFA**

**ON BEHALF OF CENTURYTEL OF MISSOURI, LLC AND SPECTRA  
COMMUNICATIONS GROUP, LLC d/b/a CENTURYTEL**

**CASE NO. TO-2006-0299**

OF THE STATE OF MISSOURI

PETITION OF SOCKET TELECOM, LLC )  
FOR COMPULSORY ARBITRATION OF )  
INTERCONNECTION AGREEMENTS )  
WITH CENTURYTEL OF MISSOURI, LLC )  
AND SPECTRA COMMUNICATIONS, LLC )  
PURSUANT TO SECTION 252(b)(1) OF )  
THE TELECOMMUNICATIONS ACT OF )  
1996 )

CASE NO. TO-2006-0299

STATE OF TEXAS

COUNTY OF TRAVIS

*AFFIDAVIT OF WILLIAM E. AVERA*


I, William E. Avera, of lawful age and being duly sworn, state:

1. My name is William E. Avera. I am presently Principal of FINCAP, Inc.
2. Attached hereto and made a part hereof for all purposes is my Rebuttal Testimony.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

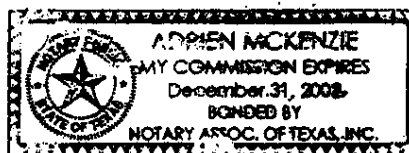


William E. Avera

Subscribed and sworn to before this 4<sup>th</sup> day of April, 2006.

  
Notary Public

My Commission expires: 12/31/2006



REBUTTAL TESTIMONY OF WILLIAM E. AVERA, PH.D., CFA

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**REBUTTAL TESTIMONY OF WILLIAM E. AVERA, PH.D., CFA  
ON BEHALF OF CENTURYTEL OF MISSOURI, LLC AND SPECTRA  
COMMUNICATIONS LLC**

**I. INTRODUCTION**

1 **Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A1. My name is William E. Avera. My business address is 3907 Red River, Austin, Texas.

3 **Q2. ARE YOU THE SAME WILLIAM E. AVERA WHO PREVIOUSLY FILED**  
4 **DIRECT TESTIMONY IN THIS DOCKET?**

5 A2. Yes.

6 **Q3. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

7 A3. I am responding to certain assertions in the testimonies of R. Matthew Kohly and Steven  
8 E. Turner on behalf of Socket Telecom, LLC. (Socket) concerning the pricing of  
9 unbundled network elements (UNEs) for CenturyTel of Missouri, LLC and its affiliate,  
10 Spectra Communications, LLC (Spectra) (collectively, CenturyTel or the Company).

**II. SUMMARY OF CONCLUSIONS**

11 **Q4. PLEASE SUMMARIZE YOUR FINDINGS REGARDING THE ASSERTIONS**  
12 **RAISED BY MR. KOHLY AND MR. TURNER.**

13 A4. The characterizations and recommendations propounded by Mr. Kohly and Mr. Turner  
14 are flawed because they ignore fundamental economic and market realities. Both  
15 witnesses fail to consider important characteristics that distinguish CenturyTel from  
16 large, urban incumbent local exchange carriers (ILECs), and their recommendations run  
17 counter to underlying economic principles and market trends that govern investment in  
18 the telecommunications industry and underlie the pricing of UNEs under the Total  
19 Element Long-run Incremental Cost (TELRIC) methodology.

### III. REBUTTAL OF MR. KOHLY AND MR. TURNER

1 **Q5. WHAT IS THE PURPOSE OF THIS SECTION OF YOUR TESTIMONY?**

2 A5. I am responding first to Mr. Kohly's claim that, because CenturyTel is "a large  
3 corporation that has taken every advantage that the [1996 Telecommunications] Act  
4 allowed,"<sup>1</sup> the Company should be treated like AT&T/SBC and Verizon Communications  
5 (Verizon) in this Docket. Second, I rebut his assertion that CenturyTel is required by  
6 commitments it made to the Commission in Docket TM-2002-232 to provide Socket the  
7 same terms and rates (including the same avoided cost discount) as Verizon had in place  
8 when it sold the properties.<sup>2</sup> Third, I demonstrate that Mr. Kohly's suggestion (p. 101)  
9 that CenturyTel should have the same electronic ordering systems as AT&T/SBC is  
10 unreasonable. Finally, I address the claim by Mr. Kohly and Mr. Turner that they have  
11 insufficient time to review CenturyTel's cost studies submitted in this case and explain  
12 why Socket's proposals (*e.g.*, nonrecurring charges, single point of interconnection) run  
13 counter to the competitive market paradigm presumed in federal policy.

14 **Q6. DO YOU AGREE WITH MR. KOHLY THAT THE SIZE AND NATURE OF**  
15 **CENTURYTEL'S BUSINESS IS COMPARABLE TO AT&T/SBC AND**  
16 **VERIZON?**

17 A6. No. CenturyTel correctly represented to the Commission in 2002 that it was the "7<sup>th</sup>  
18 largest local exchange carrier in the nation, trades on the New York Stock Exchange, and  
19 operates telephone properties in 21 states," as cited by Mr. Kohly.<sup>3</sup> But then, as now,

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<sup>1</sup> Direct Testimony of R. Mathew Kohly (March 21, 2006). p. 15.

<sup>2</sup> *Id.*, pp. 95-96.

<sup>3</sup> *Id.*, p. 16.

1 CenturyTel is in a different class in terms of size and customer density as compared to the  
2 two industry giants that have emerged from the old Bell System. Mr. Kohly (p. 16) cites  
3 a February 22, 2006 market capitalization of \$4.5 billion for CenturyTel.<sup>4</sup> By  
4 comparison, the market capitalization of AT&T/SBC is \$105.8 billion<sup>5</sup> and that of  
5 Verizon is \$102.5 billion.<sup>6</sup> In other words, the total value of AT&T/SBC's common  
6 stock is almost 25 times larger than CenturyTel and Verizon's is almost 23 times larger.

7 Apart from the fact that CenturyTel is dwarfed by these industry giants in total  
8 presence in the financial markets, there is also a fundamental difference in the nature of  
9 its business. In its 2002 Order in Docket No. TM-2002-232 the Commission recognized  
10 that CenturyTel primarily serves rural areas.<sup>7</sup> In contrast, AT&T/SBC largely serves  
11 urban centers, including seven of the ten largest cities in the U.S., while Verizon serves  
12 two of the largest cities, New York and Philadelphia.<sup>8</sup>

13 Mr. Kohly infers that CenturyTel should have similar systems and costs as  
14 AT&T/SBC and Verizon simply because it is a large, New York Stock Exchange  
15 Company. Putting aside the order of magnitude difference in the size of CenturyTel  
16 compared to the emerging giants of the former Bell System, as I discussed in my direct  
17 testimony, the rural focus of CenturyTel has a profound impact on its cost structure and  
18 the degree of activity from competitive local exchange carriers (CLECs). CenturyTel

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<sup>4</sup> While Mr. Kohly did not indicate the source for this figure, it can be calculated by multiplying the closing price on that day reported by *Yahoo! Finance* of \$36.39 by the approximately 115,200,000 shares outstanding.

<sup>5</sup> <http://finance.yahoo.com/q/hp?s=T>.

<sup>6</sup> <http://finance.yahoo.com/q/hp?s=VZ>.

<sup>7</sup> *Order*, Case No. TM-2002-232 at 10.

1 deals with dramatically fewer requests for UNE services, not only because of its smaller  
2 size but more profoundly because CLEC use of ILEC facilities is far more concentrated  
3 in the urban centers served by AT&T/SBC and Verizon than in CenturyTel's rural  
4 markets.

5 **Q7. WHAT IS THE RELATIVE MAGNITUDE OF CLECS' PRESENCE IN**  
6 **CENTURYTEL'S RURAL SERVICE AREA, AS COMPARED TO THE**  
7 **PREDOMINANTLY URBAN AREAS SERVED BY AT&T/SBC AND VERIZON?**

8 A7. At the end of 2005, CenturyTel reported that less than 50,000 access lines were made  
9 available to CLECs either through the leasing of UNEs or resale.<sup>9</sup> For the same period  
10 AT&T/SBC reported approximately 5 million CLEC lines<sup>10</sup> and Verizon reported 5.5  
11 million lines.<sup>11</sup> In other words, AT&T/SBC provided 100 times more access lines to  
12 CLECs than did CenturyTel in 2005, while Verizon provided 110 times the number of  
13 lines. This differential is even more striking after considering that both AT&T/SBC and  
14 Verizon have experienced a decline in CLEC lines. For AT&T/SBC, CLEC access lines  
15 actually peaked at over 7 million in 2003 and Verizon provided 6.6 million lines in 2004.  
16 In view of the relative magnitude of CLEC penetration, it is not surprising that  
17 AT&T/SBC and Verizon have undertaken substantial investment in automated systems to  
18 deal with CLEC requests.

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*...Continued*

<sup>8</sup> The only one of the ten largest cities not served by either AT&T/SBC or Verizon is Phoenix, Arizona.

<sup>9</sup> Estimate provided by CenturyTel to FCC for Competition Report.

<sup>10</sup> AT&T, Inc. Form 10-K for the Fiscal Year ended December 31, 2005 (March 1, 2006) p. 9.

<sup>11</sup> Verizon Communications, Inc. Form 10-K for the Fiscal Year ended December 31, 2005 (March 14, 2006) p. 8.

1 Further, my personal experience with AT&T/SBC and Verizon is that both have  
2 dedicated organizations comprised of attorneys, subject matter experts, and support staffs  
3 to generate TELRIC studies for their various state jurisdictions. For example, I began  
4 working with the SBC Communications' cost group on UNE pricing shortly after passage  
5 of the Telecommunications Act of 1996 (the Act) but even before the FCC had issued its  
6 *First Report and Order*. In contrast, while CenturyTel operates in more jurisdictions than  
7 AT&T/SBC and a similar number to Verizon, there are far fewer requests from CLECs  
8 for local system access to justify such a significant commitment of resources.

9 **Q8. WHAT IS THE SIGNIFICANCE OF THE DROP IN LINES MADE AVAILABLE**  
10 **TO CLECS BEING EXPERIENCED BY AT&T/SBC AND VERIZON?**

11 A8. Competitors are finding alternatives to provide telephony that do not require access to the  
12 ILECs' established network. Cable, satellite, broadband, VOIP, wireless, and other  
13 technologies are becoming the avenues of choice to compete with ILECs. As a result,  
14 there is even less economic justification for a rural-based company like CenturyTel to  
15 invest in costly systems and personnel to handle CLEC requests. Indeed, the systems and  
16 staff available to AT&T/SBC and Verizon were put in place at a time when CLEC use of  
17 their facilities was high and rising. With the fast pace of technological change and  
18 market evolution in the telecommunication industry, this is no longer the case. In  
19 addition to these inherent market pressures, CenturyTel faces a more uncertain demand  
20 for UNE services that can best be illustrated by the facts of this case.

21 **Q9. WHAT FACTORS ILLUSTRATE WHY IT WOULD BE UNECONOMIC FOR**  
22 **CENTURYTEL TO MAKE SIGNIFICANT INVESTMENTS IN SYSTEMS AND**  
23 **RESOURCES TO PROCESS CLEC REQUESTS FOR ACCESS TO THE LOCAL**  
24 **NETWORK?**

25 A9. Consider that Socket refused in discovery in this docket to reveal their plans for future  
26 use of CenturyTel's incumbent local network. Based on published articles posted on



1 Socket's website, there is every reason to conclude that Socket's future use of  
2 CenturyTel's facilities is entirely speculative. For example, an October 2005 article from  
3 the *Columbia Business Times* provided on Socket's website quotes Mr. Carson Coffman,  
4 co-owner and vice president of Socket:

5 **For now**, Socket is offering services using CenturyTel's legacy copper  
6 network. "Where we can, we are running new fiber, but this is a very slow  
7 process," Coffman said. "We didn't want to have to **wait for new fiber to**  
8 **begin offering telephone service.**"<sup>12</sup>

9 Socket's strategy may be to use CenturyTel's facilities as stopgap measure until its own  
10 fiber network is built out. It would be irrational for CenturyTel to make a permanent  
11 investment in costly systems and personnel when the opportunity to recover these costs  
12 through revenue from Socket is likely to be temporary, as Socket bridges the gap until its  
13 own facilities take over.

14 Further, Socket's future demand depends on overall market conditions and  
15 competition. Specifically, the same article pointed out that the local cable company was  
16 moving to compete with both Socket and CenturyTel:

17 Between March and August, Socket and CenturyTel competed only with  
18 each other. Then Mediacom—Columbia's cable company—announced its  
19 plans to offer local telephone services as well. Unlike Socket, Mediacom  
20 will use not CenturyTel's network but its own cable network, thanks to  
21 cutting-edge technology.<sup>13</sup>

22 It would make no economic sense for CenturyTel to make a massive commitment to  
23 providing UNE services to CLECs, given the small and uncertain demand, and

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<sup>12</sup> "Columbia Gains Two Additional Choices for Local Telephone Service Provider," *Columbia Business Times* (October 2005) (emphasis added).

1 particularly in view of the declining demand being experienced by major ILECs such as  
2 AT&T/SBC and Verizon.

3 Indeed, the reason competitive markets have been favored by federal policy in the  
4 telecommunications arena is that competition leads to more efficient use of resources.  
5 Forcing CenturyTel to invest in systems and resources that are not justified by the low  
6 and uncertain level of CLEC orders, as Mr. Kohly advocates, would be exactly the sort of  
7 regulatory “Gold Plating” that the competitive policy is designed to avoid. Interestingly,  
8 Socket’s management articulated clearly the competitive imperative of avoiding  
9 unnecessary investment in another article available through its website:

10 To attract those customers, Socket has stressed its ability to offer “tailor  
11 made” telecommunications plans. “We are willing to work with  
12 companies to engineer the best phone and data network for their particular  
13 company—not just make them buy a long list of services they may not  
14 need.” Coffman said. “We are not about trying to squeeze companies into  
15 a ‘package’ that may not fit—we can design something that works for  
16 them.”<sup>14</sup>

17 Socket’s management recognizes that customers in competitive markets seek to avoid  
18 paying for goods and services that are not needed, yet Mr. Kohly is asking this  
19 Commission to “squeeze” CenturyTel into an AT&T/SBC and Verizon package that does  
20 not fit.

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... Continued

<sup>13</sup> Id.

<sup>14</sup> “Socket Expands into Local Telephone Service Market,” *Jefferson City Business Times* (October 2005), p. 16.

1 **Q10. ARE THERE OTHER ASPECTS OF SOCKET'S PROPOSALS THAT DISTORT**  
2 **THE COMPETITIVE MARKET OUTCOME ENVISIONED BY TELRIC?**

3 A10. Yes. As discussed in detail in the testimony of Mr. Simshaw, Socket's request for a  
4 single point of interconnection ("POI"), coupled with the market and regulatory  
5 characteristics peculiar to virtual NXX ("VNXX") arrangements, would lead to  
6 distortions by allowing CLECs to avoid related connections costs. Socket's proposals  
7 run counter to the outcome that would be achieved under the competitive markets  
8 presumed by federal policy and only exacerbate the risks associated with the low and  
9 uncertain level of CLEC demand for UNE services.

10 **Q11. DO YOU AGREE WITH MR. KOHLY THAT CENTURYTEL IS OBLIGED TO**  
11 **ADOPT THE TERMS, RATES, AND DISCOUNTS THAT VERIZON HAD IN**  
12 **PLACE IN 2002?**

13 A11. No. Mr. Kohly wrongly implies that CenturyTel is bound by the outcome of historical  
14 cost studies and regulatory proceedings into perpetuity. But given the significant  
15 differences between CenturyTel and large, urban telecommunications companies like  
16 Verizon, such a requirement makes no economic sense. Moreover, as discussed above,  
17 the telecommunications industry has continued to evolve at a swift pace and there is no  
18 basis to assume that past studies and findings conducted for an entirely different ILEC are  
19 relevant to CenturyTel in today's markets. Such a position violates the fundamental  
20 premise of TELRIC, which assumes a current estimate of forward-looking costs in a  
21 future market with ubiquitous competition.

22 Indeed, Mr. Turner goes so far as to suggest that because "the current  
23 GTE/AT&T-Arbitration based interconnection agreement ... does not have any

1 nonrecurring charges in it,” CenturyTel’s nonrecurring services should be provided free  
2 of charge.<sup>15</sup> Such a conclusion merely serves to illustrate the fact that holding CenturyTel  
3 to the static results of an earlier study for a different carrier would be inconsistent with  
4 economic logic and the policy goals of the Act. Given the fact that CenturyTel’s rate  
5 proposals are supported by cost studies that meet TELRIC guidelines and reflect its  
6 unique circumstances and cost structure, there is simply no basis for Socket’s contention  
7 that the Company is forever bound to a set of findings adopted in the past for another  
8 ILEC.

9 **Q12. DOES THE FACT THAT CENTURYTEL HAS TAKEN ADVANTAGE OF THE**  
10 **OPPORTUNITIES IN THE 1996 TELECOMMUNICATIONS ACT IMPACT**  
11 **HOW IT SHOULD BE TREATED IN THIS CASE?**

12 A12. No. The public benefits when parties, including those with ILEC operations, respond to  
13 the incentives Congress built into in the Act. Mr. Kohly seems to be suggesting (p. 17)  
14 that CenturyTel should be penalized for business decisions it made that are consistent  
15 with the law – actions that are no different than those taken by Socket. Indeed, this case  
16 has arisen because Socket has responded to the opportunities inherent in the Act:

17 Then came Socket Telecom LLC, an affiliate of Socket Internet. In  
18 January, Socket began offering local telephone services in Columbia, an  
19 opportunity made possible by the Telecommunications Act of 1996. “The  
20 legal organization and securing licenses took nearly two years, a lot of  
21 lawyers and more money than we care to think about,” said Carson  
22 Coffman, co-owner and vice president. Socket kept going because it saw  
23 great opportunity.<sup>16</sup>

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<sup>15</sup> Turner Direct at 56.

<sup>16</sup> “Columbia Gains Two Additional Choices for Local Telephone Service Provider,” *Columbia Business Times* (October 2005).

1 The fact that CenturyTel and Socket have both responded to the opportunities available  
2 through the Act says nothing about the economic and policy considerations relevant in  
3 this case. Imposing significant unjustified investment and costs on CenturyTel, as  
4 proposed by Mr. Kohly, would only undermine the purposes of the Act by impairing one  
5 competitor (the ILEC) relative to other entrants. That result is contrary to sound  
6 economics and the competitive policy of the Act.<sup>17</sup>

7 **Q13. DO YOU AGREE WITH MR. KOHLY AND MR. TURNER THAT SOCKET**  
8 **DOES NOT HAVE THE TIME TO EVALUATE THE COST STUDIES**  
9 **SUBMITTED BY CENTURYTEL?**

10 A13. No. I understand that the format of the studies was provided to Socket during  
11 negotiations prior to the filing of testimony. The inputs added by CenturyTel in its  
12 testimony are consistent with FCC guidelines and should be familiar to an analyst with  
13 Mr. Turner's degree of experience.<sup>18</sup> For example, while Mr. Turner identifies the cost of  
14 capital as being a troublesome input,<sup>19</sup> as discussed in my direct testimony, CenturyTel  
15 has chosen the same 11.25% cost of capital that has been a part of federal regulation for  
16 over 25 years. The FCC specified this cost of capital as a starting point in its 1996 *First*  
17 *Report and Order*<sup>20</sup> and again in its *Triennial Review Order*.<sup>21</sup>

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<sup>17</sup> The stated objective of the Act is “[t]o promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.” Imposing uneconomic investments and costs to the detriment of one market participant does not mimic the efficiencies presumed under full competition.

<sup>18</sup> Mr. Turner indicated (p. 54) that he has “reviewed cost studies across the country for every major incumbent LEC in every part of the country.”

<sup>19</sup> Redacted Direct Testimony of Steven E. Turner, p. 53.

<sup>20</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 and 95-185, First Report and Order, FCC 96-325 (1996) (*First Report and Order*) at ¶ 702.

1           Moreover, Mr. Turner made no effort to conduct independent analyses of a UNE  
2 cost of capital under TELRIC or provide any reasonable alternative to CenturyTel's  
3 proposal. An analysis of the cost of capital is separate and distinct from the details  
4 underlying any particular UNE cost study and nothing prevented Mr. Turner from  
5 performing his own evaluation, as I did in my direct testimony. As I concluded there,  
6 CenturyTel's 11.25% cost of capital is entirely consistent with investors' current  
7 requirements and the TELRIC methodology.

8           Similarly, the depreciation rates employed by CenturyTel are the well-established  
9 FCC rates and despite his purported familiarity with UNE cost studies, Mr. Turner again  
10 entirely failed to propose any credible alternatives. Further, as discussed in my direct  
11 testimony, in its arbitration of UNE rates for Verizon Virginia, Inc. in CC Docket No. 00-  
12 218, *et al.*, (*Virginia Arbitration Order*), the FCC's Wireline Competition Bureau  
13 (Bureau) noted that FCC precedent provides three broad principals guiding the evaluation  
14 of a UNE cost study against alternatives:

15           First, any cost model we use should be consistent with TELRIC pricing  
16 principals (*i.e.*, it should be designed to calculate the cost of a network that  
17 uses the most efficient technology available, taking as a given the existing  
18 incumbent LEC wire centers). Second, the model should be transparent.  
19 That is, the logic and algorithms of the cost study should be revealed,  
20 understandable, capable of being adjusted by the parties and regulators,  
21 and not contain "black boxes." ... Third, any assumptions contained in  
22 the model should be verifiable. Any data used to estimate costs should

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...Continued

<sup>21</sup> *Report and Order and Order on Remand and Further Notice of Proposed Rulemaking*, FCC 03-36 (Aug. 21, 2003) (*Triennial Review Order or TRO*) at ¶ 682.

1           either be from public sources, or capable of verification and audit without  
2           undue cost or delay.<sup>22</sup>

3           Contrary to Socket's allegations, CenturyTel's studies follow established TELRIC  
4           principles, are transparent, and contain verifiable assumptions. As a result, the cost  
5           studies submitted by CenturyTel are consistent with regulatory guidance and are neither  
6           obscure nor unexpected.

7   **Q14. DOES THIS COMPLETE YOUR REBUTTAL TESTIMONY?**

8   A14. Yes, it does.

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<sup>22</sup> *Memorandum and Order*, DA 03-2738, CC Docket Nos. 00-218 & 00-251 (Aug. 29, 2003) (*Virginia Arbitration Order*) at ¶ 48.