

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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

**RESPONDENTS' OBJECTIONS TO LATE-FILED EXHIBIT
AND REPLY TO SOCKET TELECOM'S RESPONSE
TO ORDER DIRECTING FILING**

COME NOW CenturyTel of Missouri, LLC and Spectra Communications Group, LLC d/b/a CenturyTel (collectively "Respondents"), pursuant to the Commission's *Order Directing Filing* issued on March 3, 2008 ("*Order*") and 4 CSR 240-2.130(17), and for their *Objections to Late-Filed Exhibit and Reply To Socket Telecom's Response to Order Directing Filing* respectfully state as follows:

1. The Commission's *Order* instructs Socket Telecom, LLC ("Socket") to file the minutes of the July 10, 2007 LNPA-WG meeting and the LNPA-WG best practices document that incorporates PIM-60, as a late-filed exhibit in this matter. The *Order* also provides that CenturyTel shall file its objections to Socket's filing, if any, no later than March 14, 2008. Socket filed its Response to Order Directing Filing on March 4, 2008. Respondents continue to object to the Commission's consideration of such information, as fully set forth herein.

2. The action taken by the LNPA-WG on July 10, 2007 with respect to PIM-60--even if memorialized in writing and now included in the evidentiary record--does not:

- a. somehow change or expand the currently applicable federal law that prior to July 10, 2007 or afterward in no way mandated wireline-to-wireline location portability; nor
- b. constitute “industry agreed-upon practices” or “industry guidelines” as those terms are used, and properly applied, in the ICAs in the context of determining Respondents’ legal obligations to port the numbers that are the subject of this Complaint proceeding.

3. It is uncontested in the closed evidentiary record already before the Commission that the LNPA-WG operates by consensus, concerns itself primarily with technical as opposed to policy issues, and that the resulting LNPA-WG’s recommendations in any event are subject to further action by the NANC and ultimately by the FCC before its recommendations can be considered legally binding on the industry. Exh. 8, pp. 5-8 (Penn Rebuttal); Exh. 9, pp. 5-13 (Penn Surrebuttal); Exh. 6, pp. 17-18 (Dr. Furchtgott-Roth Rebuttal); Exh. 7, pp. 7-10 (Dr. Furchtgott-Roth Surrebuttal); Tr. 83 (Kohly); Tr. 217-220 (Dr. Furchtgott-Roth); Tr. 229-231 (Penn).

4. This record evidence is further confirmed by the LNPA itself on its own Best Practices website where it unambiguously makes the following disclaimer:

“The members of the LNPA have created a “Best Practices” document for porting between and within telephony carriers. This document is NOT a mandate, but rather a gentleman’s agreement on porting between carriers”. (emphasis in the original).

A copy of this LNPA Best Practices web page, dated 12/05/07 (but also in effect as of July 10, 2007) is attached herewith for the Commission's reference. It also can be accessed directly at the following link: <http://npac.com/cmas/LNPA/>.¹

5. The non-binding, non-final nature of the LNPA-WG's actions already is clearly reflected in the existing evidentiary record. The addition into the record now as a late-filed exhibit of the LNPA-WG's written meeting minutes of July 10, 2007 and "Best Practices" document does not change that.

6. In apparent recognition of this fundamental and inconvenient truth, Socket improperly and repeatedly has attempted to bolster its case by attempting to submit extra-record material, including among other things, material relating to PIM-60 occurring *after* the LNPA-WG's July 10, 2007 meeting. Socket again has done so most recently in paragraph 3 of *Socket Telecom's Response To Order Directing Filing* filed on or about March 4, 2008. Respondents again here renew their objections to this extra-record material but once again find themselves placed in the untenable position of either remaining silent or providing a response to Socket's inaccurate and incomplete extra-record submissions.

7. Without waiving its continuing objections, Respondents herewith submit as an attachment the sworn affidavit of Mr. Gregory J. Vogt, which shows that Socket in its extra-record submissions has failed to inform the Commission that:

- a. as of February 22, 2008, the NANC has ***not*** approved the "Best Practices" document, which includes PIM-60 as Number 50;
- b. the NANC in fact has ***remanded*** PIM-60 to the LNPA-WG; and

¹ This is the same LNPA Best Practices web site referenced in Socket's March 4, 2008 pleading although this particular web page with the LNPA's disclaimer was not included by Socket.

- c. even the Co-Chairman of the LNPA-WG believes that the LNPA-WG's "Best Practices" document is only an expression of voluntary guidelines, rather than an expression of "industry standards".

8. Again without waiving its continuing objections, Respondents also herewith submit the sworn affidavit of Calvin K. Simshaw, which shows that pursuant to remand from NANC, the LNPA WG once again took up the matter of PIM-60/Best Practice 50 at its March 12, 2008 meeting in Denver. At that meeting the LNPA WG modified one of the conditions listed in PIM-60/Best Practice 50 and discussed significantly modifying another. The LNPA WG determined that its membership could benefit from further socializing the proposed change within their respective companies and set the matter for further discussion at the scheduled May 6-7 meeting in Kansas City. Only after that meeting, at the earliest, would a revised PIM-60/Best Practice 50 be submitted to NANC. On top of its dubious applicability to this case, the most that can be said about PIM-60/Best Practice 50 is that it remains very much a work-in-progress and is not even yet a final consensus document of the LNPA WG, much less an approved Best Practice.

9. In order for Socket to prevail with its *Complaint*, Socket first must convince the Commission to ignore currently applicable federal law, including currently applicable FCC policy, rules and decisions respecting location portability between wireline carriers. It next must convince the Commission to engage in a tortured interpretation of the ICAs in a way that is inconsistent not only with the plain meaning of the language of ICAs themselves but also in a way clearly contrary to currently applicable federal law and policy. Finally, and after all this, Socket then must convince the Commission to take it upon itself as a matter of regulatory policy to jump far ahead of the FCC and also become

the first state commission in the nation to *mandate* location portability between wireline carriers. Even with the addition of the LNPA-WG's July 10, 2007 meeting minutes and an earlier, now out-dated version of the "Best Practices" document, the evidentiary record before the Commission and the applicable law continues to compel a decision in favor of the Respondents in this case.

WHEREFORE, Respondents submit their Objections To Late-Filed Exhibit and Reply to Socket Telecom's Response to Order Directing Filing.

Respectfully submitted,

/s/ Charles Brent Stewart

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by electronic mail or mailed, First Class postage prepaid, to the attorneys of all parties of record in Case No. TC-2007-0341 on the 14th day of March 2008.

/s/ Charles Brent Stewart
