

**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' REPLY TO STAFF'S RESPONSE
TO RESPONDENTS' MOTION TO DISMISS
AND MOTION FOR SUMMARY DETERMINATION**

COME NOW Respondents, CenturyTel of Missouri, LLC ("CenturyTel") and Spectra Communications Group, LLC, d/b/a CenturyTel ("Spectra") (collectively "Respondents"), pursuant to 4 CSR 240-2.117, and for their Reply to *Staff's Response To Respondents' Motion To Dismiss and Motion For Summary Determination*, filed by the Staff on June 20, 2007 ("Staff's Response"), respectfully state as follows:

INTRODUCTION

In filing this Reply, Respondents recognize that this matter will go to hearing on July 11-12, 2007. As a practical matter, this Reply may be irrelevant. Respondents also note that 4 CSR 240-2.117 does not mention Replies to Responses to Motions for Summary Determination. However, because Rule 74.04 of the Missouri Rules of Civil Procedure--which may or may not directly apply to Commission proceedings--does contemplate such Replies, and because Respondents do not wish to be subject to any claims that Respondents have waived their rights, or somehow be deemed to have

admitted the truth of any allegation made by the Complainant or the Staff which has not been specifically denied, Respondents are compelled to file this Reply.

REPLY

1. Respondents admit that Staff opposes Respondents' Motion To Dismiss and Motion For Summary Determination. Respondents state and point out that Staff nevertheless agrees with Respondents that under applicable federal law, Federal Communications Commission ("FCC") rules, regulations and orders Respondents are **not** required to fulfill the two port requests specifically at issue in this case. *See, Staff's Statement of Positions*, filed July 3, 2007, pp. 2-4, *citing*, Voight Rebuttal Testimony, pp. 18-20.

2. Respondents admit that Complainant filed a Complaint against Respondents on March 19, 2007 but denies the remainder of the allegations contained in paragraph 2 to the extent that Staff either states or implies that Complainant limited its Complaint to Respondents alleged violation of Respondents' Interconnection Agreements ("ICAs"). Respondents note that the Complaint also (wrongfully) alleges that Respondents violated applicable federal law and applicable FCC rules. *See, Complaint*, paragraphs 6, 13, 21, 24, 27.

3. Respondents admit the allegations in paragraph 3 but clarify that the correct citation to the Federal Act contained in Staff's paragraph 3 should be 47 U.S.C. 153 (30)¹, which is the statutory definition of "*number portability*".

¹ Paragraph 3 of Staff's Response mistakenly references 47 U.S.C. 151(30). Staff presumably repeated the same typographical and harmless error contained Respondents' *Motion To Dismiss, Answer and Affirmative Defenses*, filed on April 2, 2007. To clarify the record, the correct statutory citation should have been and is 47 U.S.C. 153(30).

4. Respondents admit the allegations in paragraph 4. Respondents further state that Staff's rather broad statements, however, do not reflect the totality of Respondents' position with respect to Respondents' legal obligation under the ICAs to fulfill the two porting requests at issue. As such, Respondents state for purposes of clarification that Respondents' legal obligation under the ICAs to fulfill the two porting requests at issue in this case is limited by Respondents' obligations under applicable federal law, FCC regulations, rules and decisions; that no other language contained in the ICAs overrides currently applicable federal requirements; and that Complainant and Staff in this case are mis-reading and mis-applying the terms and provisions of the ICAs.²

5. Respondents admit that Staff accurately has quoted 4 CSR 240-2.070(6).

6. Respondents deny that the Complaint states a claim upon which relief may be granted.³ Respondents admit the remaining allegations contained in paragraph 6.

7. Respondents admit that Staff accurately has quoted 4 CSR 240-2.117(1)(E).

8. Respondents admit the allegations contained in paragraph 8 to the extent that the ICA provisions speak for themselves but deny the remainder of the allegations in paragraph 8. Respondents further state that the *only* material fact in this threshold determination is that the two porting requests at issue in this case involve customers physically relocating outside of their existing exchanges, and accordingly, that there is no genuine issue, or any contrary evidence, with respect to this material fact. *See,*

Complaint, page 13; Voight Rebuttal page 3.

² In order to avoid repetition, for citation purposes here Respondents incorporate by reference the record citations and discussion contained in Respondents' *Motion For Expedited Ruling on Respondents' Pending Motion To Dismiss and Motion For Summary Determination*, paragraphs 12-15, and Respondents' *Motion Regarding Procedural Schedule and Motion For Expedited Relief*, paragraphs 2, 7-14.

³ Again, in order to avoid repetition, Respondent's incorporate by reference Respondents' original *Motion To Dismiss* and the two pleadings referenced above in footnote 2 for purposes of here providing the record citations and discussion.

WHEREFORE, having fully replied to Staff's Response, Respondents again request that the Commission grant the relief requested in Respondents' previously-filed pleadings.

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 following parties on the 5th day of July, 2007.

/s/ Charles Brent Stewart

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