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North American Numbering Counsel
c/o Thomas M. Koutsky, Chair
Phoenix Center for Advanced Legal and
Economic Public Policy Studies
5335 Wisconsin Avenue, NW, Suite 440
Washington, DC 20015-2034

BY ELECTRONIC MAIL

Re: Minority Report of CenturyTel, Inc Concerning Adoption of PIM-60, now listed as Number Portability Best Practices No. 50, by the Local Number Portability Administration Working Group

Dear Council Members:

On October 25, 2007, CenturyTel, Inc. filed an appeal of the Local Number Portability Administration Working Group's ('LNPA-WG's") "Best Practice" No. 50, based on PIM-60 submitted by Socket Telecom, LLC ("Socket"). CenturyTel was concerned that the cited best practice was inconsistent with FCC policy and was otherwise not adopted in conformance with NANC's rules. Socket has in fact been using its own interpretation of that document to bolster its legal position in litigation between it and CenturyTel before the Missouri Public Service Commission. It was this action by Socket that prompted CenturyTel's appeal.

Since that time, CenturyTel has come to believe that there is another approach to resolving this matter before NANC that would entail less resources and reduce further litigation. Although CenturyTel believes its legal position is correct, it sees less reason to pursue these other arguments if this alternative approach were followed. CenturyTel is primarily concerned about the ambiguities of the Best Practice No. 50 and how it can be and is being misapplied. If this vagueness can be eliminated, CenturyTel would be prepared to withdraw its appeal so that NANC would not be further entwined in this private litigation.

We would like to submit the attached minority report to PIM-60 which outlines the ambiguities that should be rectified in Best Practice No. 50. CenturyTel apologizes for the lateness in making this filing, however, it was unclear under the NANC's rules about whether this report would be considered by NANC or when the report should be filed. We note that the NANC rules do not specify the deadline for filing or the form in which such report would be made or considered. We therefore ask NANC to consider this minority report and request to modify Best Practices No. 50.

In order to consider such report, CenturyTel asks that NANC hold its appeal in abeyance pending consideration of this report.

Please let me know if you have any questions.

Sincerely,

/s/ Gregory J. Vogt

Gregory J. Vogt
Counsel for CenturyTel, Inc.

cc: Gary Sacra
Paula Jordan
Marilyn Jones

Minority Report on PIM-60

CenturyTel, Inc., on behalf of its subsidiary operating companies,[1] hereby files a minority report from the decision of the Local Number Portability Administration Working Group ("LNPA-WG") that adopted as an industry "best practice" PIM-60, a document over the objections of a number of Incumbent Local Exchange Carriers ("ILECs"). CenturyTel respectfully requests that the North American Numbering Council ("NANC") amend the adopted document, now listed as Best Practice No. 50, in order to ensure that it is not inconsistent with FCC policies or is otherwise misinterpreted or misused in industry implementation efforts.

Background

In October, 2006 Socket Telecom, LLC ("Socket"), a wireline CLEC, requested that CenturyTel port a customer's number to Socket's service where the customer would simultaneously change the service location to a physical location outside of CenturyTel's service territory and outside of the rate center to which the number is rated. Socket submitted a second location porting order for a different number in January, 2007. CenturyTel refused to port the numbers because that action constituted geographic or location number porting that had not been required by the FCC's rules and was otherwise in violation of CenturyTel's practices.

On March 19, 2007, Socket filed a formal complaint against CenturyTel with the Missouri Public Service Commission ("MPSC") alleging that CenturyTel was obligated by law to port these numbers and that CenturyTel's refusal was inconsistent with the interconnection agreements entered into between CenturyTel and Socket. The matter was assigned to a regulatory law judge, prefiled testimony was submitted by CenturyTel, Socket and the MPSC Staff, and a full evidentiary hearing was conducted on July 11-12, 2007, relating to the issues. Briefs were filed on September 10, 2007, and the record is now complete. The Commission has taken a vote in the matter and a decision is expected shortly.

Prior to filing the formal complaint and during the informal dispute resolution process between Socket and CenturyTel, Socket filed with the LNPA-WG an LNP Problem/Issue Identification and Description Form (designated as "PIM-60"), dated March 7, 2007. *See* Exhibit A. In PIM-60, Socket asked the LNPA-WG to adopt as an industry standard a requirement that an ILEC port a customer's number when "the service location of the customer will change" using what it describes as Foreign Exchange ("FX") service to deliver calls to the customer in the location outside the rating center of the ported number. This was done in an attempt to obtain an advantage in the Missouri litigation, and has in fact been used by Socket for such purpose.

[1] CenturyTel of Missouri, LLC and Spectra Communications Group, LLC d/b/a CenturyTel are the two subsidiary operating companies of CenturyTel, Inc. that are doing business in the state of Missouri and that are respondents in the complaint filed by Socket Telecom at the Missouri Public Service Commission (discussed herein). Hereinafter, these entities will be referred to collectively as "CenturyTel".

CenturyTel and other ILECs opposed the inclusion of PIM-60 as an industry best practice during the May, June and July meetings of the LNPA-WG. Despite these objections, the Chair of the LNPA-WG determined that there was a "consensus" on the issue and included it as a best practice. Unbeknownst to CenturyTel, the matter was submitted in a report of the LNPA-WG to NANC at a meeting held on October 10, 2007. Although an LNPA-WG report was listed on the agenda of the October 10 meeting, there was no indication in the public notice that the PIM-60 contested issue was the subject of such report. See FCC Announces the Next Meeting of the North American Numbering Council, DA 07-3887 (rel. Sept. 17, 2007). CenturyTel did not become aware of this presentation until Socket filed a pleading before the MPSC on October 17, 2007, asking that the record in the Missouri proceeding be reopened to purportedly demonstrate that PIM-60 had been adopted as an accepted industry practice, something which had never occurred prior to the time that the record in the relevant case was closed in Missouri. CenturyTel strongly opposed Socket's pleading at the Missouri Commission. The NANC apparently accepted the LNPA-WG report without discussion, although it is unclear whether it ever knew of the contested nature of the issue.[2]

In order to effectuate this location portability for its own purposes, Socket portrayed its one-way Virtual NXX service as a type of FX service and attempted to create the artificial impression that the customer's geographic location has never changed because the calling scope of the customer has not changed.[3] Unlike true FX service, Socket's service does not use a customer-paid private line between the original and new exchanges but rather it seeks to have the ILEC in large part transport the calls without compensation between these different rate centers. Unlike true FX, Socket's method transfers a large portion of the interexchange transport cost from the FX provider and its paying end user to a third party carrier, the ILEC, and denies the ILEC the right to collect the toll and access charges that normally apply to the switched interexchange transport of calls.[4]

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[2] CenturyTel filed an appeal with NANC as soon as it had discovered what had happened. *See Letter Appeal from CenturyTel to North American Numbering Council* (filed Oct. 25, 2007). CenturyTel has requested that the Council hold the appeal in abeyance pending consideration of this Minority Report. The action of the Council could make the appeal moot, in which case CenturyTel would promptly withdraw it.

[3] Whereas historically local calls to the number in question would have been originated and terminated within the original rate center, after the number is ported, local calls can be placed to a Socket customer who has absolutely no presence via dedicated private line or otherwise in the original rate center. When local calls to the number change from being across town to being across the state there has indeed been a change in the calling scope.

[4] Socket Telecom has created a service for its ISP affiliate as well as other ISP customers, whereby end users originate one-way, outgoing interexchange traffic with no end user paying any fixed or usage-based rates for these interexchange calls, and the cost of the interexchange transport is foisted off without any cost recovery opportunity on the ILEC who serves the originating exchange. In practical terms,

PIM-60 Violates FCC Numbering Policies

The LNPA-WG Chair's decision to include PIM-60 as an industry best practice, has created concern in the industry because the language could be read to radically redefine local portability obligations for ILECs. Although 47 U.S.C. § 251(b)(2) requires all local exchange carriers to provide number portability, the Act defines number portability as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers." *Id.*, § 153(3).

Pursuant to this statutory authority, the FCC refused to require carriers to port numbers when the customer's physical location changes because such result was determined to be contrary to the public interest at that time. *Telephone Number Portability*, CC Docket No. 95-116, 11 FCC Rcd 8352, 8447, ¶182 (1996)("*First Report & Order*"). This refusal was also based on the disadvantages that location portability would create, including customer confusion caused by the current geographic association of numbers, and the inability of consumers to determine whether a particular call would involve toll charges. Id*.,* ¶ 184. This policy remains in place at both the federal and state level and has been confirmed as recently as the FCC *VoIP LNP Order* adopted on November 8, 2007.[5]

CenturyTel is aware that the FCC has clarified this existing policy with respect to wireline-wireless porting. In that context, the FCC concluded that, if the "wireless carrier's 'coverage area' overlaps the geographic location of the rate center in which the customer's wireline number is provisioned," then porting is required provided that the number continues to be rated to the original wireline rate center.[6] Only by requiring that the wireless carrier provide service in the original rate center did the FCC conclude that wireline to wireless porting would be "consistent with the requirement that carriers support their customer's ability to port numbers while remaining at the same location."[7]

The FCC has never adopted this wireline-wireless policy for wireline-wireline ports.8 However, even if that were the law and federal policy, Best Practice No. 50 does

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Socket's service is not "FX-like" but rather is identical in concept to 800 service with the sole exception of the originating end users dialing a seven-digit local number instead of an 800 number. The use of the seven digit local number allows the false claim that the calls are local in nature and not interexchange regardless of the interexchange termination point for the calls.

5 *Telephone Number Requirements for IP-Enabled Service Providers*, WC Docket No. 07-243, FCC No. 07-188, at ¶¶ 6 n.9, 35 n.114 (rel. Nov. 8, 2007) ("*VoIP LNP Order*").

6 *Telephone Number Portability* CC Docket No. 95-116, 18 FCC Rcd 23697, 23706, ¶ 22 (2003) ("*Intermodal LNP Order"*).

7 "Permitting wireline-to-wireless porting under these conditions will provide customers the option of porting their wireline number to any wireless carrier that offers service at the same location." *Intermodal LNP Order,* at 23706, ¶ 22 .

8 In fact, the FCC has specifically noted that porting obligations depend on the type of carrier involved in the port. "The Commission's porting obligations vary depending

not appear to be consistent with it. Best Practice No. 50 is being represented as permitting a customer to keep his or her phone number when moving to a geographic location outside of the rate center, even where the point of interconnection ("POI") is at a location outside of the rate center, as long as six conditions that are specifically crafted for Socket's specific facts are met.

To Be Consistent With FCC Policy, Best Practice No. 50 Must Be Amended

The LNPA-WG realized that Socket's originally submitted PIM-60 was inconsistent with FCC policies on number portability and therefore attempted to rectify that problem by imposing six conditions on Socket's request. Those conditions are set forth in their entirety in Appendix B. Socket has been alleging in Missouri litigation that Best Practices No. 50 permits it to engage in number portability, in a manner that is inconsistent with stated FCC policy. CenturyTel respectfully requests that NANC, at a minimum, amend the conditions as provided below to clarify two ambiguous provisions in these conditions which are being misused.

First, the Best Practices No. 50 conditions do not make clear that the porting-in carrier must provide service in the rate center where the number is rated. Condition 3 provides: "The New Service Provider already serves the Rate Center associated with the customer's number(s) out of the same switch to which they want to port this customer's number(s)." Socket has been taking the position that it "serves" the Willow Springs Rate Center merely because it has a number rated to that rate center, even though the customer has now physically moved hundreds of miles away and it does not provide service to any customers physically located in the rate center. As stated previously, the FCC's numbering policy for wireline to wireless porting, provides that the wireless porting-in carrier's service territory must overlap the porting-out carrier's.[9] If this policy were applied to the wireline-wireline context, it would be insufficient that Socket only have a number rated to the porting-out carrier's rate center, which is a second and additional condition to the ability to port.[10] Rather, at a minimum it must provide service to end user customers physically located in the rate center to which the call is rated. Therefore, this condition should be modified to read: "The New Service Provider provides service to customers physically located within the rate center to which the number is rated."

Second, the Best Practices No. 50 conditions do not make clear that the porting-in carrier must have a POI in the rate center in which the number is resident. Condition 4 provides in pertinent part: "The New Service Provider switch that already serves the Rate Center of the customer's number(s) has an existing POI at the ILEC's tandem over which calls to these numbers are routed." CenturyTel is a carrier that serves predominately rural and small city areas and thus does not employ tandems in every rate center or even in every LATA. Therefore, the tandem is actually often owned by another

on whether a service is provided by a wireline carrier or a covered CMRS provider." *VoIP Number Portability Order*, ¶ 34.

9 *See* text accompanying and note 4, *supra.*

10 CenturyTel believes that Socket Telecom is not serving any customers physically located in the exchanges at issue in the Missouri dispute.

ILEC in a distant location.[11] Thus, contrary to the apparent intent of the condition, the routing and compensation of the call is not the same both before and after the port. Before the port a call by a Willow Springs customer to the soon-to-be Socket customer would be routed locally within the Willow Springs exchange. It is further the case that before the port, a call originated by a Willow Springs customer to the Socket customer's soon-to-be new physical location (i.e. Willow Springs to St. Louis) would be a toll call. After the port, the call would no longer re routed locally but would have to be routed to St. Louis. After the port a call from Willow Springs to the St. Louis location would no longer be rated as a toll call. The call to St. Louis would appear to be a local call, with no compensation for the transport. Using the porting process in order to radically alter compensation among carriers is completely inconsistent with FCC policy and we hope it was not intended by the six conditions. Certainly, the interconnection agreement between the parties does not contemplate such a result. In order to correct this ambiguity, the fourth condition should read: "The new Service Provider's switch that serves the Rate Center of the customer's number(s) must have a POI in that Rate Center."

The location of the POI brings into stark relief the real problem with Socket's position and with the PIM-60 conditions: the carrier which ports a customer's number geographically is not covering the costs of transporting the call between exchanges. A traditional FX service, where the customer purchases a service with a dedicated line from the rate center where the number is resident and the customer's physical location, would clearly accommodate this concern because the carrier providing the FX service and ultimately the customer would pay for the transport between distant exchanges. However, the type of "FX service" which Socket is providing does not entail any dedicated line, but rather only uses common trunks to the tandem to complete the call. In these circumstances, the porting-in carrier is avoiding the interexchange costs associated with porting the number. Local number portability policy was never intended to accomplish this result, which would be clearly anticompetitive.

Conclusion

NANC can rectify the legal issues associated with the overall broad and ambiguous Best Practice No. 50 by deleting the standard from the list. In lieu of that action, however, it would be satisfactory to modify the language of Best Practice No. 50 as specified above in order to clarify that location portability is not contemplated in the standard. Modifying the conditions will clarify and ensure that Socket does not receive free transport service, but rather would be obligated to maintain a POI and to provide service in the rate center to which the number is rated, consistent with existing FCC policy.

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[11] In the particular facts of this case, Socket does not, and refuses to, locate a POI in CenturyTel's rate center. Rather, the tandem and POI are located many miles away from the number's assigned rate center and well outside of the original local calling area. Because of this distant location, after the number port CenturyTel is forced to transport traffic of the ported customer to the distant tandem without compensation.

LNP Problem/Issue Identification and Description Form

Submittal Date (mm/dd/yyyy): _03___ /__07___/ _2007___ **PIM 60**
Company(s) Submitting Issue:_Socket Telecom, LLC________________________
Contact(s): Name ____Matt Kohly___________________________
Contact Number 573_/_777_/_1991, ext. 551___ ___
Email Address rmkohly@sockettlecom.com_______________________
(NOTE: Submitting Company(s) is to complete this section of the form along with Sections 1, 2 and 3.)

1. Problem/Issue Statement: (Brief statement outlining the problem/issue.)

Socket Telecom ("Socket") is attempting to port numbers away from a LEC to serve a customer that wishes to change its local service provider. Socket will be replacing the customer's current local exchange service with a tariffed Out of Calling Scope Service (either Remote Call Forward or Foreign Exchange Service) in conjunction with Socket's local exchange service. The LEC that is currently serving the customer is refusing to port the number on the grounds that the definition of number portability as defined in Section 147 U.S.C. 151 (30) is specifically defined as excluding attempts to change the serving location of the customer. The LEC is calling this "location portability" and is taking the position that it has no obligation to port a number if the customer's service location will change as a result of the number port.

2. Problem/Issue Description: (Provide detailed description of problem/issue.)

A. Examples & Impacts of Problem/Issue: ____

Socket is currently attempting to serve an Internet Service Provider that is trying to switch service providers in the Willow Springs exchange in Missouri. The customer wants to retain its current phone number as part of the change in service providers.

To meet the customer's request, Socket placed an order to port that customer's phone number using a coordinated hot cut[1]. The customer's current LEC placed the order in "Unworkable Status" and is refusing to port the Customer's number. When asked why they are not required to port the number, the response given is that it believes this port involves Location Portability as described above; it is not required to port this number. The LEC is basing its opinion that location portability is involved on the fact that the customer's service location will change as a result of the port.

Socket and LEC currently have an Interconnection Agreement that provides for the exchange of traffic, including the points of interconnection, and the rating and routing of traffic. As the traffic rating and routing does not change as a result of the port, it is Socket's view that this port does not involve geographic or location portability.

[1] Socket previously placed an order to port the number using the automated Ten Digit Trigger (TDT) method. Socket received a Firm Order Commitment within 24 hours. The LEC did not challenge the port in NPAC. On the due date of the port, Socket was contacted and informed that the ILEC would not port the number because it lacked sufficient facilities to transport calls to that number to the POI. At the time, Socket had already completed the port at NPAC. When companies met subsequently to address the facility issue, the LEC stated that a TDT could not be used for this port. Additionally, Socket was informed that the LEC believed this port involved Location Portability and that it had no obligation, under Applicable Law, to port that number. To date, this port remains completed at NPAC but the LEC is not routing non-queried calls to Socket for delivery to the customer.

It is true that the service location of the customer will change as a result of the port as Socket will replace the customer's current local service with a tariffed Foreign Exchange component as part of the local exchange service it provides[2]. Socket does not believe that service location is relevant to the issue of location portability or a carrier's obligations related to number portability. The customer's current phone number will retain the same call rating properties as it has prior to the port. In other words, the customer will retain the same local calling scope. As such, calls currently placed to the customer that are rated as local prior to the port will continue to be rated as local after the port. Call routing will change as a result of the number port due to the fact that the LEC serving the customer has changed. However, the new call routing will be same whether Socket provides loop facilities to the physical location of the customer or replaces the customer's service with a service that has a Foreign Exchange component. In addition, traffic to the customer will route in the same manner regardless of whether Socket is able to port the customer's current phone number or issues the customer a new number from Socket's existing numbering resources assigned to the Willow Springs exchange. In all instances, traffic will be exchanged between the LEC and Socket through the points of interconnection as required by the two companies' interconnection agreement. The location of the point of interconnection is the same regardless of whether the number is ported or Socket issues a new number to the customer.

As the customer's calling scope as well as traffic rating and routing does not change as a result of the port; it is Socket's view that this port does not involve geographic or location portability.

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B. Frequency of Occurrence: ____Each time Socket Telecom attempts to port a number that this LEC believes will result in Location Portability. This has happened several times in the past and is expected to be an ongoing issue until it can be resolved.
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____

C. NPAC Regions Impacted:
Canada___ Mid Atlantic ___ Midwest_X_ Northeast___ Southeast___ Southwest___ Western___
West Coast___ ALL___

D. Rationale why existing process is deficient:
_____n/a____
____
____

E. Identify action taken in other committees / forums:
______none____
____
____

F. Any other descriptive items:

[2] While it may be generally presumed that a customer's rate center designation will correspond with the customer's physical location, Section 2.14 of Central Office Code Assignment Guideline published by ATIS recognizes that services such as Foreign Exchange Service are exceptions to this general premise

3. Suggested Resolution:

Socket is not seeking to have this particular dispute resolved by the LNPA working group. Instead, Socket would like a recommendation from the LNPA working group as to whether the port described above constitutes geographic or location portability and whether, in the its opinion, a LEC is required to port the number in the situation described above.

LNPA WG: (only)
Item Number: PIM 60
Issue Resolution Referred to: ______
Why Issue Referred: ______

Appendix B

The Best Practice No. 50 conditions are:

- The customer would like to receive calls to their number(s) at a location of theirs that is physically outside of the Rate Center associated with their number(s).
- The customer understands that these numbers must continue to be rated in accordance with the Rate Center currently associated with their number(s) and does not want them to take on the rating characteristics of the Rate Center of their new location.
- The New Service Provider already serves the Rate Center associated with the customer's number(s) out of the same switch to which they want to port this customer's number(s).
- The New Service Provider switch that already serves the Rate Center of the customer's number(s) has an existing POI at the ILEC's tandem over which calls to these numbers are routed. If this customer's number(s) are ported into the New Service Provider switch, they would be routed over the same POI, and then the New Service Provider would deliver the calls to the customer's premise that is located outside of the Rate Center associated with the customer's Number(s).
- The New Service Provider offers a tariffed and/or publicly published foreign exchange (FX) service in accordance with regulatory requirements that would cover this situation. Calls to and from customers located in the Rate Center associated with these ported numbers and the customer served by the New Service Provider will be routed exactly the same whether the New Service Provider assigns the customer a phone number from its 1K block of numbers in that Rate Center or whether the New Service Provider ports the numbers. This customer will be served out of the New Service Provider's tariffed and/or publicly published foreign exchange (FX) service offering in accordance with regulatory requirements.
- The LSR submitted by the New Service Provider reflects the customer's original service location as recorded by the Old Service Provider.

Local Number Portability Working Group, NP Best Practices Matrix, Item No. 50 (logged on July 6, 2007), located at http://npac.com/cmas/LNPA/.