

Exhibit No. _____
Issue: Article XVI: White Pages
Witness: John A. Dupuy
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Socket Telecom, LLC
Case No.: TO-2006-0299
Date: April 6, 2006

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

**PETITION OF SOCKET TELECOM, LLC)
FOR COMPULSORY ARBITRATION OF)
INTERCONNECTION AGREEMENTS WITH) CASE NO. TO-2006-0299
CENTURYTEL OF MISSOURI, LLC AND)
SPECTRA COMMUNICATIONS, LLC)
PURSUANT TO SECTION 252(b)(1) OF THE)
TELECOMMUNICATIONS ACT OF 1996)**

**REBUTTAL TESTIMONY OF
JOHN A. DUPUY ON BEHALF OF
SOCKET TELECOM, LLC**

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April 6, 2006

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1 **Q. Please state your name and address.**

2
3 A. My name is John A. Dupuy. My business address is 1005 Cherry Street, Suite
4 104, Columbia, Missouri 65201.

5 **Q. Are you the same John A. Dupuy who filed direct testimony in this case?**

6
7 A. Yes.

8 **INTRODUCTORY COMMENTS**
9

10
11 **Q. Do you have any general comments concerning the direct testimony of CenturyTel
12 witness Scott Feder?**

13 A. Yes. Reading my comments side by side with his, it appears that we are “talking
14 past” each other to a degree. This is not his fault or mine; it’s simply an indication of the
15 furious pace of the oral ad-hoc negotiations right before the arbitration filing. Mr. Feder
16 has also listed several issues that do not actually appear in the DPL. I have therefore
17 shown the DPL issues, plus I list Mr. Feder’s issue so it is clear to what I am responding.

18 **Q. Your testimony seems to use different terms than Mr. Feder’s testimony. Can you
19 explain the differences?**

20 A. Certainly.

21 “DL (directory listing)” is the functional equivalent of “subscriber listing” as far
22 as this discussion goes.

23 “OBF” is the Ordering and Billing Forum under the “ATIS” standards
24 organization, so my reference to “ATIS-approved” is the equivalent to “OBF-approved”.

1 “AT&T” is the new name of “SBC” and is used interchangeably here. To make
2 my testimony consistent with Mr. Feder’s, I will switch to “AT&T”.

3 “LSR” is a generic local service order. “DSR” is an order specifically related to
4 directory services. In this context, LSR and DSR can be used interchangeably. An LSR
5 with a “DL sub-form” is effectively a DSR.

6 **Q. I understand you are going to begin with DPL Issue 3. Why is that?**

7 A. Issue 3 deals with CenturyTel acting as a single point of contact for third party
8 publishing companies who seek to purchase customer listings from CenturyTel. This is
9 our most important and critical issue. Its solution changes the nature of most of the
10 remaining issues. And, without a resolution in our favor, we can’t operate as a CLEC.

11 **Q. Why is this so important?**

12 A. We simply cannot sell to the public and operate as a CLEC if customers,
13 particularly businesses, learn that switching to Socket means they will only be listed in
14 CenturyTel’s phone book but will be omitted from listings with potentially every other
15 publisher. This is especially critical as more and more folks use alternate publishers such
16 as web sites and PDA software to obtain information about businesses. To be omitted
17 from CenturyTel’s phone book is one thing and causes a hassle locally. To be blocked
18 from the rest of the world is quite another problem.

19 **Q. What is the second-most important issue?**

20 A. The second most important issue is included in DPL Issue 2, regarding the
21 inclusion of a classified listing associated with a business listing.

1 **Issue 3: Should the Parties' ICA address Socket's right to non-discriminatory**
2 **access to telephone numbers, directory assistance services, and directory**
3 **listings?**

4
5 **CenturyTel Alternative Issue Statement: Which party's language should**
6 **the Commission adopt with respect to terms and conditions for the**
7 **printing and distribution of directories?**
8

9 **Response to Feder Issue 5: Should CenturyTel be required to be the single point of**
10 **contact for provisioning of directory listings to third parties, including third party**
11 **directory publishers?**
12

13 **Q. Has this issue been resolved?**

14 A. Socket thought this issue was resolved, as we sent a DPL to CenturyTel prior to
15 the filing of direct testimony stating that we agreed to CenturyTel's language for Issue 3
16 (Sections 3.1 and 3.2). Our means of conveying this message to CenturyTel may have
17 been unclear, however, as Mr. Feder covered this issue in his testimony.

18 **Q. What is your current position on this issue?**

19 A. We are still interested in resolving this issue. Subsequent to our acceptance of
20 CenturyTel's proposed language, CenturyTel has provided another DPL that adds a
21 clause at the beginning of Section 3.1 that conditions the provisions to circumstances
22 "where Socket elects to use the DSR Process described in Section 2.2 above." We are
23 willing to agree to that change, and accept CenturyTel's language in full.

24 However, Mr. Feder's direct testimony is wholly inconsistent with CenturyTel's
25 proposed contract language. Quite frankly, he acts as if the CenturyTel language does
26 not exist at all. Consequently, I am providing testimony to counter Mr. Feder's
27 contradictory direct testimony. By this rebuttal testimony, I also hope to make clear that
28 we are construing CenturyTel's proposed language to mean that it will keep Socket's

1 listings on file during the year, i.e., that it will not purge those listings after providing
2 them to CenturyTel's primary directory publisher, so that the listings will be available
3 during the year to other third party publishers. If CenturyTel's intent is otherwise, then
4 this testimony should serve to provide evidence to support Socket's position.

5 **Q. Please explain the term "single point of contact."**

6 A single point of contact is a person or entity that acts as a "clearinghouse" for all
7 publishers that want the phone number listings for an exchange. It is standard industry
8 practice for publishers to assume that there is a single point of contact for an exchange.
9 Both our Sprint ICA and AT&T ICA have provisions making them the single point of
10 contact, in recognition of this common practice. Very rural ILECs might "farm out" this
11 function to other entities, such as AT&T. However, CenturyTel does not do this, and
12 instead acts as its own single point of contact for the exchanges it serves.

13 **Q. Is acting as a single point of contact a service regulated by tariff?**

14 A. No, it isn't. However, an interconnection agreement is not limited to just tariff
15 items. It also includes those items and services necessary to make the FTA-created
16 competition between CLEC and ILEC possible. I described this in great detail in my
17 direct testimony, but it is absolutely critical that CenturyTel act as the distribution point
18 to third party publishers. Simply put, the entire publishing industry expects CLEC listings
19 to be included and intermingled with ILEC listings. Our ICA can't change the behavior
20 of the entire publishing industry. As such, in order for it to be possible for competition to
21 occur as envisioned by the FTA, our ICA must include this provision.

1 **Q. Mr. Feder says that forcing CenturyTel to act as the single point of contact**
2 **regarding secondary distribution of listings is outside the FTA and the ICA. What**
3 **is your response?**

4 **A.** I believe the FCC would disagree with Mr. Feder. Under the federal
5 Telecommunications Act of 1996 (“FTA”) Section 251(b)(3) and the FCC’s rules
6 implementing it, Socket is entitled to “nondiscriminatory access” to directory listing. The
7 FCC’s rules explain this parity standard as follows:

8 “Non-discriminatory access” refers to access to telephone numbers,
9 operator services, directory assistance and directory listings that is at least
10 equal to the access that the providing local exchange carrier (LEC) itself
11 receives. Non-discriminatory access includes, but is not limited to:

12
13 (i) Nondiscrimination between and among carriers in the rates,
14 terms, and conditions of the access provided; and

15
16 (ii) The ability of the competing provider to obtain access *that is*
17 *at least equal in quality to that of the providing LEC.*¹

18
19 This standard must be read in conjunction with the FCC’s definition of “directory
20 listings”:

21 Directory listings are any information:

22
23 (1) Identifying the listed names of subscribers of a telecommunications
24 carrier and such subscriber’s telephone numbers, addresses, or primary
25 advertising classifications (as such classifications are assigned at the time
26 of the establishment of such service), or any combination of such listed
27 names, numbers, addresses or classifications; and

28
29 (2) That the telecommunications carrier or an affiliate has published,
30 *causes to be published, or accepted for publication in any directory*
31 *format.*²

¹ 47 C.F.R. § 51-217(a)(2) (emphasis added).

² 47 C.F.R. § 51.5 (emphasis added).

1 **Q. Your quotations sound like the FCC envisions non-discriminatory access if Socket**
2 **wants to access CenturyTel’s database, rather than imposing any obligation on**
3 **CenturyTel to insure that Socket’s information is passed on to publishers. How do**
4 **you answer such a challenge?**

5 A. I am not a lawyer. However, the FCC has clearly stated that, for cases like this
6 involving the passing of CLEC information to a publisher, “directory listing” should be
7 “defined as a verb that refers to the act of placing a customer’s listing information in a
8 directory assistance database or in a compilation for external use (such as white pages).”³

9 This FCC ruling makes it clear that an ILEC does not just have to provide access
10 to the information contained in its own database of customers. Instead it must actually
11 place a CLEC’s customer listing information in the compilation for use in external
12 directories. Further, under the FCC’s rules, it must place those listings in a
13 nondiscriminatory manner, meaning at least in the same manner as it provides in regard
14 to its own retail customers. Finally, it doesn’t matter whether the ILEC publishes its own
15 directory because the FCC’s definition of “directory listing” includes listings that the
16 ILEC has caused to be published or accepted for publication in any directory format.

17 CenturyTel is willing to include Socket’s listing in its generic telephone directory.
18 But CenturyTel simply cannot meet the FCC’s parity standard if it excludes Socket’s
19 listings from any third-party publisher to which CenturyTel provides its own customers’
20 listings.

³ *In re Implementation of the Telecommunications Act of 1996*, Third Report and Order in CC Docket No. 96-115, Second Order on Reconsideration of the Second Report and Order in CC Docket No. 96-98, and Notice of Proposed Rulemaking in CC Docket No. 99-273 at ¶ 160 (Sept. 9, 1999).

1 **Q. Mr. Feder suggests the Parties could work out a separate arrangement concerning**
2 **this issue after the conclusion of the arbitration.**

3 A. In my opinion, that would essentially mean we are not going to come to an
4 agreement. Unfortunately, our current agreement does not address whether CenturyTel
5 acts as the single point of contact, and the hostile relationship between the two companies
6 has made private negotiations to date difficult. Further, CenturyTel's personnel have
7 already stated they do not believe the company should serve as the single point of
8 contact. Even if the Commission were to order the parties to negotiate this issue, we
9 could face the additional delay and expense of opening an entirely new case before the
10 PSC to resolve a subsequent complain concerning failure to negotiate. Consequently, I
11 believe the issue should be fully resolved in this arbitration.

12 **Issue 2: May CenturyTel limit Socket's access to telephone numbers, directory**
13 **assistance services, and directory listings to only Socket's resale**
14 **customers?**

15
16 **CenturyTel Alternative Issue Statement: With respect to the services to**
17 **be provided under Article XVI, which language should the Commission**
18 **adopt?**
19

20 A. **Response to Feder Issue 1 concerning § 2.1: Should CenturyTel be obligated**
21 **to provide classified listings to Socket's business customers at no charge.**
22

23 **Q. Mr. Feder claims that yellow pages, and their listings, are an unregulated service. Is**
24 **this true?**

25 A. In some contexts, the yellow pages are unregulated. But we are not simply
26 talking about the publication of the yellow pages here – instead, we are talking about
27 whether CenturyTel has any obligation to provide Socket's customer listings to its yellow

1 pages publisher in the same manner in which CenturyTel provides its own customer
2 listings.

3 **Q. If the yellow pages are not regulated, is everything concerning these directories**
4 **outside the scope of the FTA and CenturyTel's obligations?**

5 A. No. I believe that the directory listing obligations I discussed earlier in my
6 testimony apply to the yellow pages just as much as the white pages. The FCC's
7 definition of "directory listings" that I quoted earlier includes "primary advertising
8 classification." There is clearly no need for such classification in the white pages. The
9 advertising category is only useful in determining under which heading a yellow page
10 listing should be placed.

11 Once again the basic issue is non-discriminatory treatment and parity.
12 CenturyTel's business customers get a free listing in the yellow pages. Mr. Feder admits
13 this when he states:

14 ...CenturyTel's business customers receive, as a part of CenturyTel's
15 business or B1 class of tariff service, a listing in the classified section of
16 the appropriate directory.
17

18 **Q. Is it right that Socket should get these classified listings for free?**

19 A. That argument is quite backwards. One need only look at truly independent
20 publishers such as Fiest to see that they gain far more value from including the listing
21 than what the incremental cost of an individual listing might be. In fact, independent
22 publishers pay good money to get the listings so that they can put them in for "free." If
23 anything, Socket should be paid for that privilege; however, we are not asking for
24 payment.

1 **Q. But how would publishing “free” listings make a publisher money?**

2 A. First, it helps them sell upgrades to the listing, such as an enhanced listing,
3 display ads, and additional category listings. This is their primary source of revenue. Of
4 course, they can only convince customers to buy these upgrades if the customer believes
5 the general public is using their telephone book. The more people who use the telephone
6 book, the more the publisher can charge for the upgrades.

7 And that brings me to the second reason they make money from a free listing: the
8 general public is much less likely to use a telephone book that is missing numbers. By
9 having complete listing coverage in the classifieds, the public is less likely to switch to an
10 alternative directory. That fact is no less true with the primary telephone directory
11 published by the ILEC: The public is likely to lose confidence in the CenturyTel yellow
12 pages if it will not provide them with all of their telephone book needs. Failing to place
13 “free” listings then causes a telephone book publisher to lose revenue far beyond the cost
14 of the listings themselves.

15 **Q. If CenturyTel’s phone book were independent of CenturyTel’s ILEC operations,**
16 **would there need to be an agreement regarding yellow pages/classifieds?**

17 A. No. A truly independent publisher is motivated by profit to put in free Yellow
18 Pages listings. This has been our experience with Feist YellowBook (formerly McLeod).

19 **Q. Mr. Feder states that reference to “equivalent quantity” in Socket’s proposed**
20 **Section 2.1 is misplaced. What is your response?**

1 A. Socket included flexible wording in case the publishing industry practice
2 changed. If CenturyTel wants the ICA to simply say “single classified listing,” however,
3 we are willing to live with that.

4 **B. Response to Feder Issue 2 concerning § 2.1.1: At what rates should**
5 **CenturyTel be required to provide non-published listings and foreign or**
6 **other listings in the white pages directory?**

7
8 **Q. What is the status of this issue?**

9 A. Socket has decided to accept CenturyTel’s language for Section 2.1.1.
10 Consequently, this sub-issue is resolved.

11 **C. Response to Feder Issues 3 and 4 concerning §§ 2.2-2.10: Should CenturyTel**
12 **be required to develop a mechanized or electronic process for the submission**
13 **of listings information? and What is the proposed process for the submission**
14 **of listings information and the related process associated with the nature,**
15 **format, time frames, and costs for listings verifications reports?**

16
17 **Q. Mr. Feder claims CenturyTel cannot make available to Socket a “mechanized feed”**
18 **for the provision of subscriber listing information. Is this true?**

19 A. I’m sure it is. As Mr. Feder himself says, it is “not technically feasible given
20 CenturyTel’s current operating procedures and would require development and
21 implementation of new systems.”

22 **Q. Mr. Feder claims that a “mechanized feed” is not available for CenturyTel either. In**
23 **other words, apparently CenturyTel also manually keys the data into its own**
24 **system. Is this true?**

25 A. Such a statement is highly misleading. Currently, CenturyTel enters the data
26 manually only once into its listings database. Socket, on the other hand, manually enters
27 it once into a web interface, then CenturyTel manually re-enters it again into the listings

1 database. So where CenturyTel's process is prone to manual entry errors once, Socket's
2 process is prone to it twice -- once by us and once by CenturyTel. This is not parity with
3 CenturyTel's personnel.⁴

4 **Q. If CenturyTel were to develop a whole new system to provide a mechanized feed,**
5 **wouldn't that be an expensive, time-consuming task?**

6 A. Possibly. However, CenturyTel has not given us any information on cost or how
7 long such a system would take to produce.

8 **Q. What would Socket do while waiting for the new system?**

9 A. The most important thing we would do is diligently perform monthly audits with
10 the monthly electronic directory listing verification. That way, we can catch the mistakes
11 before they reach the various publishers.

12 **Q. How have others developed mechanized feeds?**

13 A. Our direct experience is with Sprint and AT&T. Sprint allows us to access their
14 "IRES" system, which is the same system used by its own employees. Of course, our
15 accounts on IRES are restricted to just our own customers' listings and just those
16 functions allowed by our interconnection agreement. But as a result of this access to
17 Sprint's system, a directory listing change is instantly reflected in the Sprint listings
18 database. This is a direct form of parity with Sprint personnel.

⁴ As I noted in my direct testimony, a recent audit of our listings with CenturyTel showed that 50% were missing, and 20% of those that had been included had errors. This error rate not only demonstrates that an electronic system would work better, I also find it hard to believe that this error rate represents parity with CenturyTel's own customers' accuracy under the current system.

1 AT&T uses a different technique. They have built a web interface called “SBC
2 Web toolbar,” a.k.a. LEX. This web interface is used primarily by the CLECs. When
3 orders are placed into LEX with a listing component, the data from LEX is populated into
4 AT&T’s listing database by electronic means. Some orders require human (employee)
5 review, but the employee simply makes a yes/no decision: they don’t retype the
6 information. This intervention can make a directory listing change take a few hours to
7 appear in the listings database but it is still accomplished accurately and in a timely
8 manner.

9 **Q. Would either AT&T’s method or Sprint’s method be acceptable?**

10 A. Yes, either would be acceptable. While AT&T does not provide us the direct
11 access to the database that Sprint does, which would be a truer form of parity, it is
12 functionally equivalent. The hour or two of delay is acceptable and it is mechanized in
13 the sense that a human being is not re-keying the information.

14 **Q. CenturyTel is claiming that this is another “AT&T Missouri-oriented obligation”**
15 **against a small rural provider. Is it?**

16 A. It’s an “AT&T Missouri-oriented obligation” only in the sense that it is a general
17 251(c) obligation of an ILEC. CenturyTel does not qualify as a section 251(f)(1) rural
18 carrier, even if it does have rural exchanges. AT&T also has small rural exchanges.
19 Sprint not only has rural exchanges, the company is also smaller than CenturyTel in
20 Missouri. Yet Sprint meets its obligations as an ILEC.

21 **Q. But, isn’t Sprint larger than CenturyTel when considering their operations**
22 **nationwide?**

1 A. Yes, but since they both made the most recent Fortune 1000 list, neither could
2 easily claim to be a poorly funded company. Socket witness Mr. Kohly explains this in
3 much more detail in his direct and rebuttal testimony, but the claim that CenturyTel is too
4 rural (small) to build a mechanized system is not valid. Presumably, any mechanized
5 system that is built could be used with any other CLECs in the 26 states in which they
6 operate. No ILEC will see building a system to support a competitor as a good economic
7 business move, regardless of their size. But we should take this in the context of the FTA
8 as a whole. In that context, OSS upgrade costs, including ones for directory listings, will
9 look trivial compared to the huge profits from the deregulation benefits. This is especially
10 true in CenturyTel's case since, by their own admission, they hardly have any UNE-
11 based CLEC competition.

12 **Q. Mr. Feder says the "thirty day" window for developing a mechanized feed is**
13 **unreasonable. Is it?**

14 A. I can't answer that question as I do not have insight into CenturyTel's internal
15 operations. However, CenturyTel has yet to give Socket a counter offer. It's critical that
16 some kind of time frame be set. Our experience with CenturyTel to date is that "best
17 effort" means "we won't do it." They are very good at delay tactics. I don't mean this
18 regarding Mr. Feder specifically, as I have had limited experience with him, but in regard
19 to CenturyTel's CLEC operations and upper management.

20 **Q. Mr. Feder says the "three day" window for handling updates and changes to the**
21 **subscriber listing information of a galley proof is unreasonable. Is it?**

1 A. It seems entirely reasonable to me. What isn't reasonable is their essentially
2 saying "we promise to manually enter your listing changes without confirmation before
3 the deadline." What if a mistake is made? Any manual process is prone to error, so cross
4 checks are not only prudent but necessary.

5 If we are permitted to have monthly audits, the number of changes we would need to
6 make should be reduced. This will help make the three-day window more manageable.

7 **Q. CenturyTel is proposing rates for updates and changes to Socket subscriber listings**
8 **(directory listings) with the standard service order charge.**

9 A. As a general rule, we would be comfortable with Socket paying for normal
10 listings changes. However, given the error rate of the current manual system, we are not
11 comfortable with "rewarding" errors with service order charges. As proposed, LSRs
12 submitted to correct a listing would be subject to a charge. This is contrary to our current
13 interconnection agreement which provides that no party shall charge the other party for
14 correcting errors in Subscriber listings.

15 **Q. Mr. Feder says that CenturyTel does not have the capability of producing a monthly**
16 **electronic directory listing verification for the monthly audit. Is this true?**

17 A. Mr. Feder admits that an electronic copy of a report can be prepared, but
18 emphasizes that the process to prepare that report is manual. However, if we can't
19 prevent errors with a mechanized feed, then the regular monthly audit with electronic
20 directory listing verification is the only viable way to fix errors before they are sent to the
21 various third-party publishers.

1 **Q. Mr. Feder says that CenturyTel's monthly electronic directory listing verification**
2 **could come in the form of an Excel spreadsheet. Is this acceptable?**

3 A. Yes, that is a fantastic solution. Socket could then import the spreadsheet data into
4 our database for the audit.

5 **Q. Mr. Feder says CenturyTel is "not in the position to provide that report at the**
6 **frequency requested by Socket." Can you respond to that?**

7 A. Since "not in the position" isn't a technical term, I'm not sure what he means.
8 CenturyTel certainly has the technical knowledge and financial ability to make such a
9 manual report at that frequency. I also would assume that it would benefit CenturyTel for
10 its directory to have accurate listings.

11 **Q. Is asking CenturyTel for a monthly electronic verification report another AT&T-**
12 **style burden?**

13 A. Ironically, AT&T isn't required to do this because AT&T has a mechanized feed
14 and a very high success rate. As such, we are fairly confident in their listings.

15 **Q. Do the monthly electronic verification reports and the galley proof review audits**
16 **conflict with each other?**

17 A. Not at all. They fix two separate problems. The monthly report makes it possible
18 for us to keep our directory listings accurate year-round for all publishers who get listings
19 from CenturyTel. The galley proof is only good for correcting errors prior to Berry
20 Publishing printing CenturyTel's directory.

21 **Q. Does Socket get free galley proofs from other publishers such as Feist?**

1 A. Yes, we do. They aren't required to provide them but they do anyway to help the
2 quality of their product.

3 **Q. Mr. Feder objects to the use of the word "galley proofs," as photocomposed pages**
4 **are not available at the point that auditing is possible. What are your thoughts?**

5 A. We used the phrase "galley proof" in our contract language as it is a general term
6 we use with AT&T, Sprint, and Feist. However, Socket does not need the pages to be
7 photocomposed. We would be agreeable to another term such as "pre-publishing
8 verification report." Another spreadsheet as suggested by Mr. Feder would be fine as
9 well. In principle, this was agreed to during oral negotiation.

10 **Q. Does this conclude your testimony?**

11 A. Yes, it does.