

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Socket Telecom, LLC,)	
)	
Complainant)	
)	<u>File No. TC-2020-0409</u>
v.)	
)	
Embarq Missouri, Inc. d/b/a CenturyLink,)	
)	
Respondent.)	

ORDER GIVING NOTICE OF CONTESTED CASE AND DIRECTING FILING

Issue Date: June 24, 2020

Effective Date: June 24, 2020

On June 22, 2020, Socket Telecom, LLC (Socket) filed a complaint against Embarq Missouri, Inc. d/b/a CenturyLink (CenturyLink) a copy of which accompanies this order and notice. This is a contested case¹ pursuant to Section 386.390, RSMo.

As required by Section 536.067(2)(f), RSMo, the Commission informs the parties that the Commission's provisions governing procedures before the Commission, including provisions relating to discovery, are found at Commission rule 20 CSR 4240-2.090. Additionally, under 20 CSR 4240-2.070 (8), (9), and (10), CenturyLink has 30 days from the date of this notice to file an answer to the complaint, or risk the allegations being deemed admitted and the Commission issuing a default order.

¹ A "[c]ontested case' means a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing." Section 536.010.4, RSMo.

THE COMMISSION ORDERS THAT:

1. CenturyLink shall file an answer to the complaint no later than July 24, 2020.

2. The Commission's Data Center shall send, by certified mail, a copy of this notice and order and a copy of the complaint to:

Embarq Missouri, Inc. d/b/a CenturyLink
Legal Department
100 CenturyLink Drive
Monroe, LA 71203

3. This order is effective when issued.



BY THE COMMISSION

A handwritten signature in dark ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Nancy Dippell, Senior Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 24th day of June, 2020.

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

Socket Telecom, LLC,)	
)	
Complainant,)	
)	
v.)	File No. _____
)	
Embarq Missouri, Inc. dba)	
CenturyLink)	
)	
Respondent.)	

COMPLAINT AND ARBITRATION DEMAND

COMES NOW Socket Telecom, LLC (Socket), pursuant to Sections 386.040, 386.230, 386.250, 386.320.1, 386.330, 386.390, 386.400, 392.400.6 RSMo., and 20 CSR 4240-2.070 and 2.080, 47 USC 251 and 252 and related federal regulations, and Section 24 of the interconnection agreement described below, and for its Complaint and Arbitration Demand against Embarq Missouri, Inc. d/b/a CenturyLink ("CenturyLink") regarding CenturyLink's violation and breach of said interconnection agreement, states as follows to the Commission:

1. Socket is a certificated competitive local exchange company in the State of Missouri. Socket is a Missouri limited liability company in good standing, with its principal place of business located at 2703 Clark Avenue, Columbia, Missouri 65202 and it can be reached as follows: telephone – 573-777-1991 (ext. 551) and facsimile – 573-441-1050, email: rmkohly@sockettelecom.com. Socket is an authorized provider of intrastate switched and non-switched local exchange and interexchange

telecommunications services in Missouri under certificates granted and tariffs approved by the Commission. Socket is also an authorized provider of interstate telecommunications services in Missouri under the jurisdiction of the Federal Communications Commission.

2. All inquiries, correspondence, communications, pleadings, notices, orders, and decisions relating to this matter should be directed to:

Carl J. Lumley, #32869
Curtis, Heinz, Garrett & O'Keefe, PC
130 S. Bemiston, Suite 200
St. Louis, Missouri 63105
Telephone: (314) 725-8788
Facsimile: (314) 725-8789
Email: clumley@chgolaw.com

3. Embarq Missouri, Inc. d/b/a CenturyLink is a corporation organized and existing under the laws of the State of Missouri. It is a public utility subject to the jurisdiction of the Commission and provides telecommunications services in its service areas within the State of Missouri under authority granted and tariffs approved by the Commission.

4. CenturyLink's principal place of business is located at 100 CenturyLink Drive, Monroe LA 71203.

5. The Commission has general jurisdiction over both Socket and CenturyLink as telecommunications companies and their telecommunications facilities, including pursuant to Section 386.250 RSMo., and including all powers necessary or proper to enable it to carry out fully and effectually all its regulatory purposes as provided in Section 386.040. The Commission has jurisdiction to supervise CenturyLink and its facilities pursuant to Section 386.320 RSMo. The Commission has jurisdiction to

arbitrate disputes pursuant to Section 386.230 and to resolve complaints regarding unlawful conduct by telecommunications companies, such as this one against CenturyLink, pursuant to Sections 386.330, 386.390, 386.400, 392.400.6 R.S.Mo. The Commission has jurisdiction over this controversy pursuant to its grant of authority under § 252(e)(1) of the Act to approve negotiated or arbitrated interconnection agreements. This grant of authority to the Commission necessarily includes the power to interpret and enforce approved interconnection agreements. *See Southwestern Bell Telephone Co. v. Connect Communications Corp.*, 225 F.3d 942, 946-47 (8th Cir. 2000); *Big River Telephone Company, LLC v. Southwestern Bell Telephone*, 440 SW3d 503, 510 (Mo App 2014).

6. Socket is entitled to seek relief on its Complaint and Arbitration Demand before the Commission under Section 24 of the parties' ICA, which governs dispute resolution and provides for arbitration before the Commission, a copy of which is attached hereto and incorporated herein by reference. Socket and CenturyLink have agreed to arbitration of these issues by the Commission.

7. Socket and CenturyLink are competitors and operate under an interconnection agreement (ICA) that Socket adopted with Commission approval, which became effective in December 2005 in Case No. CO-2005-0039. The Commission should take notice of the current ICA and its related orders and proceedings which are contained in its files and incorporated herein by this reference.

8. CenturyLink has breached the parties' ICA by recently changing practices, dating back to the commencement of the parties' interconnection in 2006, and starting to impose inapplicable interstate Special Access Channel Termination and Transport

charges for Socket's local interconnection access to CenturyLink's 911 Selective Router. (See Exhibit A attached hereto and incorporated herein by reference).

9. Socket timely invoked the dispute resolution provisions of the ICA regarding the aforesaid issue. It has been more than 60 days since Socket invoked these provisions and the parties' negotiations have not resolved the issues. Socket demands arbitration pursuant to Section 24 of the ICA and Section 386.230 RSMo.

10. CenturyLink's aforesaid actions breach and violate the terms of the ICA, which was approved by Commission orders. Accordingly, such violations also come within the Commission's statutory jurisdiction over telecommunications companies and complaints pertaining thereto.

11. Pursuant to 20 CSR 4240-4.017, Socket confirms that there has not been any communication regarding the substantive issues likely to be addressed in this case between it or its representatives and the Commission in the 60 days preceding the filing hereof.

WHEREFORE, Socket prays the Commission to:

1. Serve this Complaint and Arbitration Demand and its notice upon CenturyLink, directing it to answer;
2. Promptly set a prehearing conference and a deadline to file a procedural schedule;
3. Proceed to hearing on the matters described herein;
4. Determine that CenturyLink is not entitled to impose Special Access Channel Termination and Transport charges for Socket's access to CenturyLink's 911 Selective Router, as described above.

5. Grant such other and further relief to Socket as the Commission
deems just and proper.

Respectfully submitted,

CURTIS, HEINZ,
GARRETT & O'KEEFE, P.C.

_____/s/ Carl J. Lumley_____
Carl J. Lumley, #32869
130 S. Bemiston, Suite 200
Clayton, Missouri 63105
(314) 725-8788
(314) 725-8789 (FAX)
clumley@lawfirmemail.com

Attorneys for Socket Telecom, LLC

excusable delay or other failure to perform. Subject to §4 hereof, in the event of any such excused delay in the performance of a Party's obligation(s) under this Agreement, the due date for the performance of the original obligation(s) shall be extended by a term equal to the time lost by reason of the delay. In the event of such delay, the delayed Party shall perform its obligations at a performance level no less than that which it uses for its own operations. In the event of such performance delay or failure by Sprint, Sprint agrees to resume performance in a nondiscriminatory manner and not favor its own provision of Telecommunications Services above that of CLEC.

24. DISPUTE RESOLUTION

- 24.1. The Parties recognize and agree that the Commission has continuing jurisdiction to implement and enforce all terms and conditions of this Agreement. Accordingly, the Parties agree that any dispute arising out of or relating to this Agreement that the Parties themselves cannot resolve may be submitted to the Commission for resolution. If the Parties are unable to resolve the dispute, the Parties agree to seek expedited resolution by the Commission, and shall request that resolution occur in no event later than sixty (60) days from the date of submission of such dispute. If the Commission appoints an expert(s) or other facilitator(s) to assist in its decision making, each party shall pay half of the fees and expenses so incurred. During the Commission proceeding each Party shall continue to perform its obligations under this Agreement provided, however, that neither Party shall be required to act in any unlawful fashion. This provision shall not preclude the Parties from seeking relief available in any other forum.
- 24.2. If any matter is subject to a bona fide dispute between the Parties, the disputing Party shall within thirty (30) days of the event giving rise to the dispute, give written notice to the other Party of the dispute and include in such notice the specific details and reasons for disputing each item.
- 24.3. If the Parties are unable to resolve the issues related to the dispute in the normal course of business within thirty (30) days after delivery of notice of the Dispute, to the other Party, the dispute shall be escalated to a designated representative who has authority to settle the dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute, but in no event shall such resolution exceed sixty (60) days from the initial notice. The specific format for such discussions will be left to the discretion of the designated representatives, provided, however, that all reasonable requests for relevant information made by one Party to the other Party shall be honored.
- 24.4. After such period either Party may file a complaint with the FCC or the Commission; provided, however, that nothing in this Section shall be interpreted to prevent a Party from seeking equitable, emergency, or injunctive relief at such time as it deems necessary to halt ongoing harm or an ongoing violation of this

Agreement.

25. COOPERATION ON FRAUD

- 25.1. The Parties agree that they shall cooperate with one another to investigate, minimize and take corrective action in cases of fraud. The Parties' fraud minimization procedures are to be cost effective and implemented so as not to unduly burden or harm one party as compared to the other.

26. TAXES

- 26.1. Definition. For purposes of this Section, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefore, excluding any taxes levied on income.

26.2. Taxes and Fees Imposed Directly On Either Providing Party or Purchasing Party.

- 26.2.1. Taxes and fees imposed on the providing Party, which are not permitted or required to be passed on by the providing Party to its customer, shall be borne and paid by the providing Party.
- 26.2.2. Taxes and fees imposed on the purchasing Party, which are not required to be collected and/or remitted by the providing Party, shall be borne and paid by the purchasing Party.

26.3. Taxes and Fees Imposed on Purchasing Party But Collected And Remitted By Providing Party.

- 26.3.1. Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.
- 26.3.2. To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 26.3.3. If the purchasing Party determines that in its opinion any such taxes or fees are not payable, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefore, and



2703 Clark Lane • Columbia, MO 65202
voice: (573) 817-0000 • fax: (573) 441-1050
www.socket.net • 1-800-SOCKET-3

April 20, 2020

Jeffrey T. Nodland
Assistant General Counsel - Wholesale
CenturyLink Legal Department
700 West Mineral Avenue
Littleton, Colorado 80120

Jeff,

Under Section 24. Dispute Resolution in the Master Interconnection Agreement for the State of Missouri between Level 3 Communications, LLC and Sprint Missouri, Inc. ("ICA") adopted by Socket Telecom, LLC ("Socket"), Socket submits this dispute related to CenturyLink's ("Legacy EQ") recently enacted practice of charging Socket for Special Access Channel Termination and Transport charges for Socket's access to Legacy EQ's 911 Selective Router. This began recently when Legacy EQ and CenturyLink ("Legacy CTCL") consolidated their 911 facilities across LATA's and ILEC boundaries and required Socket's to restructure its 911 trunking. When this occurred, Legacy EQ began charging Special Access Channel Termination Charges for cross-connecting to the 911 Selective Router located in the Jefferson City Central Office where Socket was collocated. They also began charging for Special Access Dedicated Transport and Channel Termination for Socket to connect to the Selective Router located in the Maryville Central Office.

Prior to this restructuring, Socket was not billed for any Special Access Channel Termination Charges for connecting to Legacy EQ's 911 Selective Router. Instead, Socket paid the 911 Trunk charges set out in the ICA to Legacy EQ when collocated in the same central office as the Selective Router. When not located in the same central office, Socket paid the Dedicated Transport rates set out in the ICA for the interoffice facility that went between Socket's facilities located in another wire center and Legacy EQ's Selective Router in addition to the 911 Trunk Charges. This is consistent with the ICA and how the interconnections in Jefferson City and Maryville had been structured since originally set up years ago.

Legacy EQ has provided no basis for this change. Therefore, Socket submits this dispute to the Dispute Resolution process set out in the ICA. I am submitting this dispute to you as you are the legal contact to whom I have been directed. Socket adopted the ICA in 2009 and the contacts set out in it are most likely no longer correct. If I need to submit this to another contact, I request you direct me to that person.

Matt Kohly
Director - Carrier Relations



STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

**WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 24th day of June 2020.**




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

June 24, 2020

File/Case No. TC-2020-0409

**Missouri Public Service
Commission**

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@opc.mo.gov

CenturyLink (Embarq Missouri)

Legal Department
100 CenturyLink Drive
Monroe, LA 71203

Socket Telecom, LLC

Carl J Lumley
130 S. Bemiston, Ste. 200
St. Louis, MO 63105
clumley@chgolaw.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,

A handwritten signature in dark ink, reading "Morris L. Woodruff". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.