

NEWMAN, COMLEY & RUTH

PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS AT LAW

MONROE BLUFF EXECUTIVE CENTER

601 MONROE STREET, SUITE 301

P.O. BOX 537

JEFFERSON CITY, MISSOURI 65102-0537

www.ncrpc.com

TELEPHONE: (573) 634-2266

FACSIMILE: (573) 636-3306

ROBERT K. ANGSTEAD
ROBERT J. BRUNDAGE
MARK W. COMLEY
CATHLEEN A. MARTIN
STEPHEN G. NEWMAN
JOHN A. RUTH

September 30, 2004

FILED²

SEP 30 2004

**Missouri Public
Service Commission**

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102-0360

Re: FullTel, Inc.

Dear Judge Roberts:

Please find enclosed for filing in the referenced matter the original and five copies of a Petition of FullTel, Inc. for Confirmation of Interconnection Agreement Adoption.

Would you please bring this filing to the attention of the appropriate Commission personnel.

Please contact me if you have any questions regarding this filing. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:


Mark W. Comley
comleym@ncrpc.com

MWC:ab

Enclosure

cc: Office of Public Counsel
General Counsel's Office
Roger Baresel
Andrew M. Klein

FILED²

SEP 30 2004

BEFORE THE PUBLIC SERVICE COMMISSION OF
THE STATE OF MISSOURI

Missouri Public
Service Commission

Petition of FullTel, Inc. for Approval of an)
Interconnection Agreement Pursuant to)
Section 252 of the Communications Act of)
1934, as Amended)

Case No. _____

PETITION OF FULLTEL, INC., FOR CONFIRMATION OF
INTERCONNECTION AGREEMENT ADOPTION

FullTel, Inc., ("FullTel"), by and through the undersigned counsel, respectfully submits for the Missouri Public Service Commission's approval, pursuant to Sections 251 and 252 of the Communications Act, as amended,¹ FullTel's adoption of the Interconnection Agreement between CenturyTel of Missouri, LLC ("CenturyTel-MO") and Brooks Fiber Communications of Missouri, Inc., ("the Agreement"), that was filed by GTE Midwest Incorporated, d/b/a Verizon Midwest (CenturyTel's predecessor-in-interest) with the Commission on July 18, 2002, in docket CK-2002-1146. Pursuant to Section 252(i) of the Act, FullTel has selected the Brooks Fiber Agreement as the Agreement that will govern the relationship between FullTel and CenturyTel in the State of Missouri. Furthermore, in accordance with the Act and prior orders of the Commission, FullTel also adopts the Brooks Fiber Agreement as the Agreement that will govern the relationship between FullTel and Spectra Communications Group LLC d/b/a CenturyTel ("Spectra") in the State.²

The Agreement provides for the interconnection of the two companies' networks and makes available to FullTel wholesale telecommunications services and ancillary services offered by CenturyTel. FullTel respectfully requests that the Commission act within the 90 days

¹ 47 U.S.C. § 151, *et. seq.* (the "Act").

² Except as otherwise indicated, CenturyTel and Spectra d/b/a CenturyTel will be collectively referred to herein as "CenturyTel."

specified by the 1996 Act and approve the Agreement, recognizing the effective date of June 18, 2004, the date FullTel notified CenturyTel-MO that it intended to adopt the Brooks Fiber Agreement.

In support of this request, FullTel states as follows:

1. CenturyTel is an incumbent local exchange carrier authorized to provide local exchange telephone service in Missouri.
2. FullTel is a competitive local exchange carrier that has a petition for authorization to provide competitive facilities-based and resold basic local exchange telecommunications services, interexchange services and nonswitched local services in Missouri, pending in case number LA-2005-0055.

THE AGREEMENT

3. FullTel has exercised its right to adopt the agreement between CenturyTel and Brooks Fiber, filed with the Missouri Public Service Commission on July 18, 2002 in docket CK-2002-1146. Section 252(i) of the Act requires local exchange carriers to make interconnection agreements available to requesting telecommunications carriers “upon the same terms and conditions as those provided in the agreement.”³

4. FullTel notified CenturyTel by facsimile and overnight mail on June 18, 2004 of its election to adopt the terms of the Brooks Fiber Agreement as the terms and conditions that will govern the relationship between CenturyTel and FullTel in Missouri. (FullTel’s notification is attached hereto as *Exhibit A.*) In its adoption notification, FullTel informed CenturyTel that it reserved the right to file with the Commission this petition for approval of the adoption if CenturyTel failed to act in accordance with its legal obligations.

³ 47 U.S.C. §252(i).

5. CenturyTel, however, has responded to FullTel's adoption request by claiming that the Brooks Fiber agreement is "not available for adoption." (CenturyTel's letter is attached hereto as *Exhibit B*) CenturyTel erroneously asserts that it is not a party to the agreement, noting that the agreement was formed between its predecessor-in-interest, GTE Midwest, Incorporated, d/b/a Verizon Midwest, and Brooks Fiber.

6. While CenturyTel correctly notes that it is bound by the Commission Order approving its acquisition of the GTE service territory, in Case TM-2002-232,⁴ it fails to recognize that the transaction, and the Commission's Order, obligate CenturyTel to honor the terms of the agreement and make it available to other carriers on a nondiscriminatory basis.

7. On November 28, 2001, CenturyTel-MO and GTE Midwest, Inc., d/b/a Verizon Midwest, filed a joint application for approval of the transfer of the Verizon service territory in Missouri. On March 21, 2002, CenturyTel-MO, Verizon, Commission Staff, Public Counsel and others filed a non-unanimous stipulation.⁵ The Stipulation, which was made part of the Commission's Report and Order, contained numerous conditions. Among those conditions was the requirement that CenturyTel allow carriers such as FullTel to adopt Verizon interconnection agreements in Missouri:

CenturyTel shall use the same rates, terms and conditions of service as Verizon on the date of the closing of the transaction. CenturyTel shall, in good faith, negotiate interconnection agreements with all carriers who currently have interconnection agreements with Verizon and who desire to interconnect with CenturyTel. Where technically feasible, the new agreement will have the same rates, terms and conditions as did the agreement with Verizon. These agreements will differ from the Verizon agreements only with respect to technical differences to reflect the way CenturyTel interfaces with the interconnecting carrier. In

⁴ Report and Order, Case TM-2002-232, dated May 21, 2002. ("Report and Order")

⁵ By Commission rule, inaction by the non-signing parties rendered the Stipulation unanimous. Report and Order at page 4, citing 4 CSR 240-2.115 (1) and (3).

cases in which services are being provided under these interconnection agreements, CenturyTel will cooperate with the interconnecting carriers to secure expeditious approval of a replacement interconnection agreement and to ensure continuity of service for their customers. CenturyTel shall provide local interconnection services as set out in the interconnection agreement between Verizon and Intervenor AT&T, and adopted by Intervenor Fidelity, for a period of one year following the closing of the proposed transaction. Any interconnection agreement not replaced within one year shall continue in force on a month-to-month basis until replaced.

(Report and Order at page 6)

8. The Commission “reviewed and carefully considered the Stipulation and Agreement and the conditions contained therein,” and determined that it would conditionally approve CenturyTel-MO’s acquisition of Verizon’s exchanges “subject to the conditions contained in the Stipulation and Agreement.” (Report and Order at page 17) In its ordering clauses, the Commission approved the Stipulation and specifically stated that the “various grants of authority and certificates of service authority to CenturyTel of Missouri, LLC contained in this Report and Order are subject to the conditions contained in the Stipulation and Agreement.” (Ordering Clause 2, Report and Order at page 21) The Commission stated further that “CenturyTel of Missouri, LLC, is ordered to comply with those conditions [contained in the Stipulation].” Since these conditions require CenturyTel to, *inter alia* honor existing interconnection agreements, offer the same terms and conditions to others, and continue to operate under agreements not replaced within one year shall continue on a month-to-month basis until replaced, CenturyTel is bound by Commission Order to honor FullTel’s adoption of the Brooks Fiber Agreement.⁶

⁶ FullTel notes that it already submitted to CenturyTel, on September 9, 2004, a request to initiate negotiations for a long-term interconnection agreement. As a result, adoption of the Agreement is being sought for use on an interim basis, in accordance with applicable law.

9. Similarly, the Commission also approved, on April 14, 2000, Spectra's acquisition of another GTE Midwest service territory, in Case No. TM-2000-182. As was the case with the subsequent acquisition of territory, Spectra agreed to provide service in accordance with the terms of the GTE/CLEC interconnection agreements.⁷ Since CenturyTel and Spectra (d/b/a CenturyTel) are essentially the same company, and both are required to honor existing GTE agreement terms, there is simply no reason why FullTel should not be able to operate in the collective CenturyTel territory through the consistent terms of one agreement. The Commission has already properly noted that "CenturyTel [encompassing both CenturyTel of Missouri and Spectra] agreed to abide by the terms of GTE's existing interconnection agreements . . . when it acquired GTE's exchanges."⁸ In fact, according to a recent filing by Socket Telecom, LLC, CenturyTel *has* permitted carriers to operate under one single agreement for the entire territory.⁹

COMPLIANCE WITH THE ACT

10. FullTel's adoption of the Agreement satisfies the requirements for Commission approval under the federal Act as well. Section 252(i) requires, for example, that each local exchange carrier "shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provide in

⁷ See *Order Directing Notice and Making CenturyTel A Party*, In the Matter of the Confirmation of Adoption of the Interconnection Agreement with CenturyTel of Missouri and Spectra Communications d/b/a CenturyTel by Socket Telecom LLC, Case No. CO-2005-0066, dated September 17, 2004. (*Socket Notice*)

⁸ *Id.* at page 1.

⁹ In the Matter of the Confirmation of Adoption of the Confirmation of Adoption of the Interconnection Agreement with CenturyTel of Missouri and Spectra Communications d/b/a CenturyTel by Socket Telecom LLC, Case No. CO-2005-0066, Confirmation of Adoption of the Interconnection Agreement, dated September 15, 2004.

the agreement.”¹⁰ Since CenturyTel became a party to the Brooks Fiber agreement by virtue of its acquisition of the service territory, as successor-in-interest, and by virtue of the PSC’s Report and Order, it is obligated to make available any interconnection, service, or network element provided under that agreement.

11. In addition, Section 252(e)(2)(A) of the Act further provides as follows:

The State commission may only reject ... an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that--(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity[.]¹¹

12. The Agreement does not discriminate against any other telecommunications carrier, in compliance with Section 252(e)(2)(a)(i), since any other telecommunications carrier authorized to provide local telephone service in Missouri may obtain the interconnection, unbundling and resale arrangement specified in the Agreement on the same terms and conditions.

13. The Agreement is also consistent with the public interest, convenience, and necessity, as it will permit FullTel to compete with CenturyTel for telephone service, providing thereby the attendant benefits of improved service quality and lower rates for consumers of telecommunications.

APPROVAL OF THE AGREEMENT

14. The Brooks Fiber Agreement sets forth the terms, conditions and prices under which CenturyTel and FullTel will offer and provide network interconnection, reciprocal call termination, access to network elements, ancillary network services, and wholesale

¹⁰ 47 U.S.C. §251(i). See also *Socket Notice* at page 2.

¹¹ 47 U.S.C. §251(e). See also *Socket Notice* at page 2.

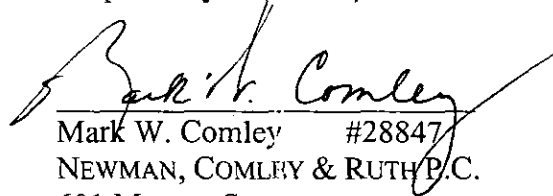
telecommunications services for resale within each Local Access and Transport Area ("LATA") in which they both operate in Missouri. Key provisions of the Agreement provide for:

- (i) A single point of interconnection in each LATA for the exchange of customer traffic, and
- (ii) Retention of customer telephone numbers when consumers switch to FullTel.

15. FullTel respectfully requests that the Commission expedite its review of the Agreement to facilitate and further competition in the local exchange market. FullTel respectfully requests that the Commission act prior to the expiration of the 90 day period specified in the Act and, in so doing, respect the effective date of June 18, 2004, the date FullTel notified CenturyTel of its adoption.

WHEREFORE, in light of the foregoing, FullTel, Inc. respectfully requests that the Commission approve its adoption of the interconnection agreement between CenturyTel of Missouri, LLC and Brooks Fiber Communications of Missouri, Inc., filed with the Missouri Public Service Commission on July 18, 2002 in docket CK-2002-1146, pursuant to Sections 252(e) and 252(i) of the Act, and deem such adoption effective June 18, 2004, for both CenturyTel entities.

Respectfully submitted,



Mark W. Comley #28847
NEWMAN, COMLEY & RUTH P.C.
601 Monroe Street
P.O. Box 537
Jefferson City, MO 65102-0537
Tel. (573) 634-2266
Fax (573) 636-3306
comleym@ncrpc.com

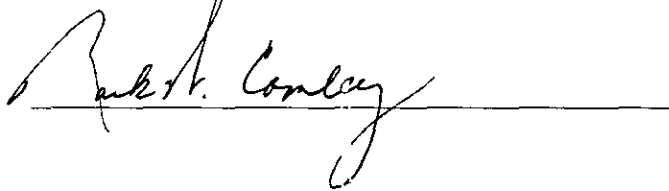
Andrew M. Klein*
KELLEY DRYE & WARREN LLP
1200 19th Street, N.W.
Washington, D.C. 20036
Tel. (202) 955-9600
Fax (202) 955-9792
AKlein@KelleyDrye.com

Counsel to FullTel, Inc.

DATED: September 30, 2004

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 30th day of September, 2004, to General Counsel's Office at gencounsel@psc.state.mo.us; Office of Public Counsel at opcservice@ded.state.mo.us.

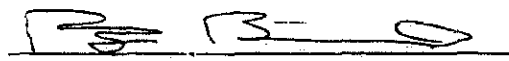
A handwritten signature in cursive script, appearing to read "Robert A. Conley", is written over a horizontal line.

* Not admitted to practice in the State of Missouri.

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

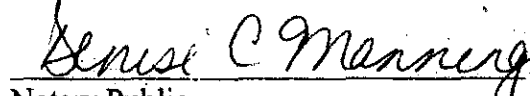
VERIFICATION

I, Roger P. Baresel, first being duly sworn, state on my oath that I am over the age of twenty-one years, sound of mind, and the President of FullTel, Inc. I am authorized to act on behalf of FullTel, Inc. regarding the foregoing document. I have read the Confirmation and I am informed and believe that the matters contained therein are true. Further, I hereby confirm that Mark W. Comley, Newman, Comley & Ruth P.C., P.O. Box 537, Jefferson City, MO 65102, is authorized to sign all pleadings and documents necessary to obtain the decision of the Missouri Public Service Commission on the foregoing Confirmation, and to represent FullTel, Inc. in this proceeding.


Roger P. Baresel

On this 30 day of September, 2004 before me, a Notary Public, personally appeared Roger P. Baresel, and being first duly sworn upon his oath stated that he is over twenty-one years, sound of mind and the President of FullTel, Inc., he signed the foregoing document as an employee of FullTel, Inc., and the facts contained therein are true and correct according to the best of his information, knowledge and belief.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the county and state aforesaid, the day and year above written.


Notary Public # 02002901



STATE OF MISSOURI



Matt Blunt
Secretary of State

CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

FULLTEL, INC.

using in Missouri the name

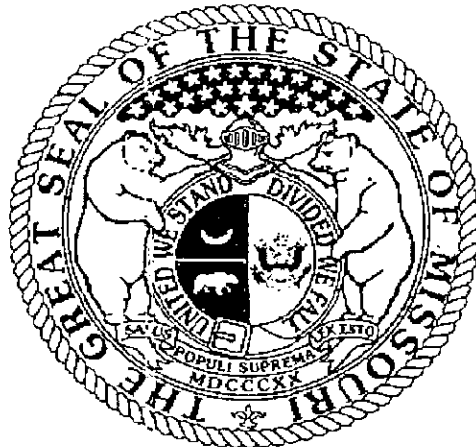
FULLTEL, INC.
F00606712

a OKLAHOMA entity was created under the laws of this State on the 19th day of August, 2004, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 26th day of August, 2004

A handwritten signature of Matt Blunt in cursive script.

Secretary of State



KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9800

NEW YORK, NY

TYSONS CORNER, VA

CHICAGO, IL

STAMFORD, CT

PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICES

JAKARTA, INDONESIA

MUMBAI, INDIA

FACSIMILE

(202) 955-9792

www.kelleydrye.com

DIRECT LINE: (202) 987-1257

EMAIL: aklein@kelleydrye.com

June 18, 2004

VIA FAX AND OVERNIGHT MAIL

CenturyTel, Inc.
Attn: Carrier Relations
100 CenturyTel Drive
Monroe, LA 71203

Re: FullTel, Inc., Notification of Adoption of Interconnection Agreement with CenturyTel of Missouri, LLC

Dear Sir/Madam:

FullTel, Inc., by and through its undersigned counsel, hereby notifies CenturyTel of Missouri, LLC ("CenturyTel"), of its adoption, pursuant to section 252(i) of the Communications Act of 1934, as amended ("the Act"), of the interconnection agreement between CenturyTel's predecessor-in-interest, GTE Midwest Incorporated, d/b/a Verizon Midwest, and Brooks Fiber Communications of Missouri, Inc. (the "Brooks Fiber Agreement"), which was filed by Verizon with the Missouri Public Service Commission on July 18, 2002 in docket CK-2002-1146. FullTel adopts the terms and conditions of the Brooks Fiber Agreement as the terms and conditions that will govern the relationship between CenturyTel and FullTel in the State of Missouri.

By execution of this adoption letter, and any related correspondence or documentation, neither FullTel nor CenturyTel waives any of its rights or remedies under the Act, the rules, decisions or administrative processes of the Federal Communications Commission or the Missouri Public Service Commission, or under any other applicable law or regulation. In addition, FullTel's adoption of the Brooks Fiber Agreement does not affect any rights FullTel has to adopt or negotiate amendments or successor agreements to the agreement formed through this adoption.

KELLEY DRYE & WARREN LLP

CenturyTel
June 18, 2004
Page Two

In processing the adoption, please utilize the following contact information for the Notice sections of the FullTel/CenturyTel interconnection agreement:

Roger P. Baresel
President
FullTel, Inc.
201 Robert S. Kerr Avenue, Suite 210
Oklahoma City, OK 73102
(405) 236-8200 (voice)
(405) 236-8201 (fax)

Copy to:

Andrew M. Klein
Counsel to FullTel, Inc.
Kelley Drye & Warren LLP
1200 19th Street, NW, Suite 500
Washington, DC 20036
(202) 955-9600
Fax (202) 955-9792

Finally, FullTel notes that today, June 18, 2004, will become the effective date for the interconnection agreement formed through this adoption. Kindly acknowledge CenturyTel's receipt of this notification and agreement to the effective date by executing a copy of this letter in the space provided and returning it to the undersigned. Please contact us at your earliest convenience in order to agree upon a process for the preparation and filing of the interconnection agreement formed through this adoption. Please be advised, however, that FullTel reserves the right to proceed to file this adoption directly with the Missouri PSC should the undersigned not receive a signed acknowledgment by June 25, 2004.

CenturyTel
June 18, 2004
Page Three

KELLEY DRYE & WARREN LLP

Thank you for your anticipated cooperation in this matter.

Sincerely yours,



Andrew M. Klein
Counsel to FullTel, Inc.

cc: William Voight, Missouri Public Service Commission (via overnight mail)
Mark Comley, Esq., Newman, Comley & Ruth (via mail)
Roger Baresel, President, FullTel, Inc.

ACKNOWLEDGED AND AGREED TO:
CenturyTel of Missouri, LLC

BY: _____ (signature)
_____ (name)

DATED: _____ 2004.

FISCHER & DORITY
PROFESSIONAL CORPORATION

James M. Fischer
Larry W. DORITY

Attorneys at Law
Regulatory & Governmental Consultants

101 Madison, Suite 400
Jefferson City, MO 65101
Telephone: (573) 636-6750
Fax: (573) 636-0363

June 24, 2004

VIA FACSIMILE
(202) 955-9792

Andrew M. Klein, Esq.
Kelley Drye & Warren LLP
1200 19th Street, N.W.
Suite 600
Washington, D.C. 20036

Re: FullTel, Inc.

Dear Mr. Klein:

This letter is in response to your correspondence on behalf of FullTel, Inc. dated June 18, 2004, to CenturyTel, Inc. concerning FullTel's attempt to adopt an interconnection agreement between GTE Midwest Incorporated, d/b/a Verizon Midwest ("Verizon Midwest") and Brooks Fiber Communications of Missouri, Inc. (the "Brooks Fiber Agreement"). CenturyTel of Missouri, LLC was not a party to the Brooks Fiber Agreement and, accordingly, the Brooks Fiber Agreement is not available for adoption pursuant to Section 252(i) of the Act. CenturyTel consistently has taken this position regarding interconnection agreements that existed between Verizon Midwest and CLECs at the time of CenturyTel of Missouri, LLC's acquisition of Verizon's Missouri properties, in accordance with the terms and obligations resulting from the Nonunanimous Stipulation and Agreement and Report and Order entered in Missouri Public Service Commission Case No. TM-2002-232.

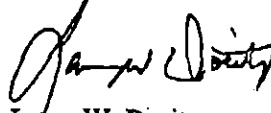
If you or representatives of FullTel, Inc. wish to discuss the adoption of a current CenturyTel of Missouri, LLC interconnection agreement in Missouri, please contact Susan Smith, Director-External Affairs, CenturyTel, 911 North Bishop, Suite C-207, Texarkana, TX 75501, (903) 792-3499.

Exhibit B

Andrew M. Klein, Esq.
June 24, 2004
Page Two

Please feel free to contact me should you have any questions or wish to discuss this matter further. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry W. Dority". The signature is fluid and cursive, with the first name "Larry" being more prominent.

Larry W. Dority

cc: William Voight, Missouri Public Service Commission (via facsimile)
Mark Comley, Esq., Newman, Comley & Ruth (via facsimile)
Arthur Martinez, CenturyTel (via facsimile)
Susan Smith, CenturyTel (via facsimile)