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Sponsoring Party: *CenturyTel of Missouri, LLC*
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CENTURYTEL OF MISSOURI, LLC
DIRECT TESTIMONY OF GUY E. MILLER, III
CASE NO. TO-2009-0037

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1 **DIRECT TESTIMONY OF GUY E. MILLER, III**

2 **CASE NO. TO-2009-0037**

3 **BACKGROUND INFORMATION**

4 **Q. Please state your name and business address.**

5 A. My name is Guy E. Miller, III. My business address is 100 CenturyTel Drive, Monroe,
6 LA 71203.

7 **Q. On whose behalf are you submitting direct testimony?**

8 A. I am submitting direct testimony on behalf of CenturyTel of Missouri, LLC, one of the
9 Missouri incumbent local exchange companies ("ILECs") of CenturyTel, Inc., referred to
10 herein as "CenturyTel."¹

11 **Q. By whom are you employed and what is your position?**

12 A. I am currently employed by CenturyTel Service Group as Director- Carrier Relations
13 Strategy and Policy. I have held this position since December 5, 2005.

14 **Q. What are your responsibilities as Director-Carrier Relation Strategy and Policy?**

15 A. I am responsible for evaluating, developing, and implementing the policies and positions
16 that govern the interactions between representatives of the CenturyTel regulated
17 telephone companies and wholesale customers, including competitive carriers. In
18 addition, I am responsible for evaluating, developing, and implementing CenturyTel's
19 regulatory positions on inter-carrier issues. For example, I have evaluated and
20 recommended revisions to proposed elements of inter-carrier compensation reform. I

¹ The Parties have continued to negotiate since the filing of the Petition and it is anticipated that the Parties will continue negotiations following the filing of the Revised Statement of Unresolved Issues on September 2, 2008. If there are any discrepancies between this testimony and CenturyTel's Disputed Points List filed in this Docket on August 25, 2008 (the "CenturyTel DPL"), this testimony is intended to be controlling as it represents the most current state of CenturyTel's position thereunder. In an effort to assist the Arbitrator with the status of the

1 have also prepared policy and process recommendations for mitigating phantom traffic
2 and I served as the rural LEC lead negotiator for negotiation of transiting issues with
3 BellSouth.

4 **Q. What position did you hold before becoming Director-Carrier Relation Strategy and**
5 **Policy?**

6 A. From September 10, 2002 to December 4, 2005, I was Director-Carrier Relations for
7 CenturyTel Service Group.

8 **Q. What were your responsibilities as Director-Carrier Relations?**

9 A. I was responsible for overseeing all of CenturyTel's activities under Sections 251 and
10 252 of the 1996 revisions to the Communications Act of 1934, as amended (the "Act")
11 (47 U.S.C. §§ 251 and 252), including ensuring compliance with those statutes. This also
12 meant I was responsible for oversight of all interconnection agreement negotiations and
13 for all operations performed under those agreements.

14 **Q. Please describe your experience in the telecommunications industry before**
15 **becoming Director-Carrier Relations.**

16 A. I have worked in the telecommunications industry in various capacities for approximately
17 30 years. I started in 1978 as a Customer Services Supervisor for Southwestern Bell
18 Telephone Company. I was primarily responsible for managing the Business Customer
19 Service operations for a specified geographic part of Houston, Texas. In 1980, I became
20 a Customer Services Manager in the Business Education and Analysis workgroup. I
21 analyzed large business customer equipment configurations and telecommunications
22 needs and made recommendations for improved efficiency and for resolving business

proceeding, CenturyTel retains the right to file an updated and current interconnection agreement and DPL prior to submission of this matter for decision.

1 needs. In 1981, I entered the Southwestern Bell sales organization, first as an Account
2 Executive serving the Publishing and Media industries then as an Account Executive II
3 serving national accounts in the petrochemical industry.

4 In 1984, I transferred to a start-up affiliated equipment sales company, Southwestern Bell
5 Telecommunications, as a National Accounts Manager. I was responsible for
6 telecommunications equipment sales to national petrochemical and engineering
7 companies. This company promoted me to Corporate Manager- Training Programs in
8 1985 and asked me to develop and deliver sales and management training as well as
9 direct all technical training efforts. In 1986, the responsibilities for developing and
10 administering benefit programs and for specific staffing issues were added to my duties.

11 In 1987, I was recruited into another new affiliated company, Southwestern Bell Gateway
12 Services, as the Regional Sales Director for Strategic and Tactical plans and methods.
13 This company was a pre-Internet information provider and I developed and implemented
14 the plans for the marketing and advertising of information services and for the
15 development of services content to meet consumer needs and expectations. I also
16 managed government and community relations and marketing and sales support issues.

17 In 1989, I returned to Southwestern Bell Telephone as the Market Manager for the
18 competitive carrier market segment and, eventually, the Market Planner for that market
19 segment. From 1989 until 1995, I developed strategic, tactical and business plans to
20 provide service to the CLEC, wireless, IXC, ESP/ISP and cable industries. I also
21 developed new products for this market segment and established specialized customer
22 service and sales support programs.

1 In 1995, I was recruited to MFS Telecom, a competitive telecommunications access
2 provider, where I served as the Director- Marketing for MFS' private line and collocation
3 services. For a short time in 1996, I worked on contract as the Vice President- Sales and
4 Marketing for Quantum Software Solutions- a start up provider of call center software.
5 Then, from late 1996 until September, 2002, I worked for Intermedia Communications, a
6 competitive local exchange carrier. For most of this time, I was a Senior Director in
7 product marketing. I managed and developed dedicated and switched transport and
8 collocation products for the wholesale business segment, which included carriers, ISPs,
9 large enterprise business and government. In 2001, Intermedia was purchased by
10 WorldCom. At that time, I began serving in an interim dual role as the Intermedia
11 executive in charge of Carrier and ISP Sales Support and also as Intermedia's Vice
12 President for Industry Policy. In this latter role, I oversaw the integration of Intermedia's
13 regulatory and carrier relations activities into the WorldCom business model. I left
14 WorldCom in late 2002 and, as previously mentioned, joined CenturyTel in September of
15 that year.

16 **Q. Have you previously testified before any state commission?**

17 A. Yes. I testified in an arbitration of interconnection agreement terms before the Arkansas
18 Public Service Commission in May 2008 and filed testimony in related arbitrations
19 before the Michigan Public Service Commission, the Oregon Public Utility Commission
20 and the Colorado Public Utilities Commission in April 2008, May 2008 and June 2008,
21 respectively. In April 2008, I testified before the Missouri Public Service Commission
22 (the "Commission") regarding a dispute over the interpretation of interconnection
23 agreement terms and in April 2006, I testified before that same Commission regarding an
24 arbitration of interconnection agreement terms. In April, 2005, I testified before the

1 Alabama Public Service Commission regarding a dispute with a CLEC concerning billing
2 and collocation issues. I also testified before this Commission in 1992 on the matter for a
3 national media company demanding an N11 code for its use in providing information to
4 subscribers.

5 I have also been involved in the preparation and delivery of written testimony related to
6 several FCC proposed rulemakings from 2003 through 2007. These rulemakings have
7 included wireless local number portability, virtual NXX, phantom traffic, intercarrier
8 compensation reform and 911/E911 services for VoIP providers. Additionally, in 2007, I
9 testified in an American Arbitration Association arbitration in Wisconsin that involved a
10 dispute between CenturyTel and Charter over Charter's use of CenturyTel NIDs and the
11 compensation for such use.

12 **Q. Have you previously dealt directly with Charter Fiberlink, LLP ("Charter") in**
13 **interconnection disputes it has had with CenturyTel?**

14 A. Yes.

15 **Q. Do you believe that these disputes or the manner in which Charter handled these**
16 **disputes is relevant to this arbitration?**

17 A. Yes. These disputes involved some of the same issues that are at dispute in this
18 arbitration and Charter's positions and actions show Charter's intent in this arbitration. I
19 have provided a synopsis of these disputes as SCHEDULE GEM-1 to this testimony.

20 **PURPOSE OF TESTIMONY**

21 **Q. What is the purpose of your testimony for this arbitration?**

22 A. The purpose of my testimony is to state the positions of CenturyTel regarding certain of
23 the arbitration issues that remain unresolved between Charter and CenturyTel in this
24 proceeding. I will also provide rebuttal to assertions made in Charter's Petition for
25 Arbitration filed in this matter with the Commission on July 31, 2008 (the "Petition"). I

1 am not an attorney but I will provide citations of law in my testimony and explain my
2 understanding of those citations based on my experiences with implementing and
3 interpreting applicable law from a business perspective on a daily basis.

4 **Q. Have there been any changes to the Parties' positions since the filing of the Petition**
5 **and the CenturyTel DPL?**

6 A. Yes. Some issues between the Parties have been resolved. I will identify when such is
7 the case when I address each separate issue below. Further, to the extent that there is any
8 variation between the CenturyTel position or statements in the CenturyTel DPL, this
9 testimony represents the most current position of CenturyTel based on the continuing
10 negotiations between the Parties and should be regarded as superseding any contrary
11 position in the CenturyTel DPL.

12 **DISCUSSION OF THE ISSUES**

13 **Issue 2 How should the Interconnection Agreement define the term Network**
14 **Interface Device or "NID"?**

15 **Issue 24 (a) Should Article IX, Section 3.4 clarify that the End User controls Inside**
16 **Wire except in those multi-tenant properties where CenturyTel owns and**
17 **maintains such Inside Wire?**

18 **(b) Is Charter required to submit an order to and pay CenturyTel for**
19 **accessing CenturyTel's NID when Charter connects its loop to the End**
20 **User's Inside Wiring through the customer access side of the CenturyTel**
21 **NID?**

22 **Q. Do you believe that Issues 2 and 24 should be addressed in tandem?**

23 A. Yes. Aspects of Issue 24, particularly the definitions of customer inside wiring and of the
24 phrase "access the NID" are directly related to the proper resolution of Issue 2. Thus,

Issue 2 and Issue 24 should be addressed together and resolved in relation to each other as proposed by CenturyTel.

Q. How would you summarize these issues?

A. The crux of the NID disputed issues centers on whether, as Charter asserts, Charter can unilaterally use CenturyTel's NIDs for free, or whether, as CenturyTel asserts, Charter must request from CenturyTel and compensate CenturyTel for the use of its NIDs, to house all or a portion of Charter's interconnection with a customer it takes from CenturyTel. My testimony will show that Charter's positions on Inside Wiring and Point of Demarcation are contrary to Federal law and known precedent and, unfortunately, constitute another attempt by Charter to obtain free use of CenturyTel's NIDs even after Charter lost this issue and had to pay CenturyTel a \$0.5 Million award in Wisconsin AAA and state court litigation.

Q: Do you agree with Charter's characterization of these issues in Charter's DPL?

A: Charter's characterization of Issue 2 is acceptable, but not its characterization of Issue 24. Contrary to Charter's characterization of Issue 24, there is no such thing as a "customer side of the NID."² In addition, in asking only whether or not compensation must be made for "accessing" the NID, and thus incorrectly presumes that it possesses a right to such access. Given the experience that I have had with Charter prior to this arbitration with respect to these very issues, I understand Charter's definition of the word "access" to go beyond both the dictionary definition of the word and the concept of "access to the NID" under applicable FCC orders. Charter's position is further based on its interpretation of "customer inside wiring" and certain presumptions as to the party that controls customer

² Charter's proposed Issue 24 is styled as: "Should Charter have access to the customer side of the Network Interface Device ("NID") without having to compensate CenturyTel for such access?"

1 inside wiring. As I will explain, Charter's position that it is entitled to use CenturyTel's
2 property for free finds no support in common sense, much less the Act as interpreted by
3 the FCC..

4 **Q: Regarding Issue 2, what is your opinion of Charter's stated position?**

5 A: Charter's assertion that CenturyTel's definition "contravenes FCC definitions" is simply
6 wrong. Quite to the contrary, the Commission should adopt CenturyTel's proposed
7 definition of Network Interface Device or "NID" because it *is* consistent with applicable
8 law and FCC regulations. CenturyTel's definition, which is derived from the actual FCC
9 description of a NID and further references actual federal regulation, is as follows:

10 2.103 **Network Interface Device (NID)**

11 A means of interconnecting Inside Wiring to CenturyTel's distribution
12 plant, such as a cross-connect device used for that purpose. The NID
13 houses the protector, the point from which the Point of Demarcation is
14 determined between the loop (inclusive of the NID) and the End User
15 Customer's Inside Wire pursuant to 47 CFR 68.105.

16 **Q: Why do you believe it is important to use the FCC's actual NID description and**
17 **references to federal regulations regarding demarcation point and inside wire?**

18 A: The terms NID, Inside Wire and Point of Demarcation are all related. The FCC has
19 defined the relationship between the NID, Inside Wire and Point of Demarcation in its
20 Orders and regulations. The Parties have agreed upon the definitions of "Inside Wire"
21 (Art. II, Sec. 2.71) and "Point of Demarcation" (Art. II, Sec. 2.114), but not the definition
22 of the "NID." Charter's proposed definition of the NID simply states that it "houses the
23 protector." CenturyTel's proposed definition establishes the interplay between these
24 three related terms in a manner that is consistent with the FCC's decisions. In contrast,
25 Charter's definition creates ambiguity as it fails to describe the relationship between the
26 NID, the Point of Demarcation and the customer's Inside Wire.

1 **Q. Why is the relationship between these terms important?**

2 A: The relationship between these terms – NID, Inside Wiring and Point of Demarcation – is
3 important because they define the point at which CenturyTel’s local distribution network
4 ends and the customer’s Inside Wiring begins. The absence of a clear statement of that
5 relationship can only lead to additional disputes between the Parties regarding Charter’s
6 access to CenturyTel’s NID. Indeed, Charter’s unauthorized use of CenturyTel affiliate
7 NIDs in the State of Wisconsin has already led to litigation. In a 2007 AAA arbitration,
8 Charter was found to be liable to CenturyTel’s non-rural Wisconsin affiliates for
9 unbundled network element (“UNE”) charges for NID usage under the parties’
10 interconnection agreement.³ The decision in the *Wisconsin AAA Case* was confirmed by
11 Circuit Court for Dane County, Wisconsin in January 2008.⁴ Recently, CenturyTel’s
12 rural Wisconsin affiliates brought suit against Charter in the Circuit Court for LaCrosse
13 County, Wisconsin⁵ for unjust enrichment and conversion in connection with Charter’s
14 unauthorized use of their NIDs.⁶

15 **Q: Is it your opinion that Charter’s previous actions and disputes regarding the**
16 **interpretation of the term “NID” and use of the NIDs are justification for**
17 **establishing the relevant definitions and terms regarding Issues 2 and 24 in the**
18 **Agreement?**

19 A: Absolutely. It is essential that the Agreement not only clearly define, consistent with
20 applicable law, what constitutes a NID, the Point of Demarcation between CenturyTel’s

³ AAA Case No. 51 494 Y 00524-07 (Aug. 24, 2007) (the “*Wisconsin AAA Case*”).

⁴ *CenturyTel, Inc. v. Charter Fiberlink, LLC*, Case No. 07-CV-4085.

⁵ Case No. 08-470; currently pending in the U.S. District Court for Western District of Wisconsin, Case No. 3:08-CV-00470.

⁶ The rural ILEC interconnection agreement between the CenturyTel Wisconsin Affiliates and Charter contains no terms for NID use by Charter since under federal law, the NID is an unbundled network element (UNE) obligation. A rural ILEC is exempt from the UNE obligation and Charter made no request to the rural CenturyTel ILEC for voluntary non-UNE NID usage terms. Accordingly, Charter has no right to use the rural CenturyTel ILEC NIDs in

1 facilities and the end user's Inside Wire, but also what the Network Interface is not.
2 CenturyTel's proposed definition does so and explicitly cross-references the FCC's rule,
3 47 C.F.R § 68.105.

4 **Q: What contract provisions in Article IX are in dispute?**

5 A: As shown in the Joint DPL, the contract provisions in Article IX that are in dispute are
6 Sections 3.3, 3.4, 3.5 and 3.5.1.

7 **Q: Going back to Charter's proposed NID definition, "[t]he NID houses the protector,"**
8 **in your opinion is Charter's definition sufficient?**

9 A: No. In its definition, Charter fails to include all relevant information provided by federal
10 law. In my opinion, Charter does this in an attempt to obtain free use of CenturyTel's
11 NIDs when this narrow definition is used in combination with Charter's positions on
12 Inside Wiring and Point of Demarcation definitions.

13 **Q: What is the relevant information in applicable law that Charter has excluded from**
14 **its proposed definition?**

15 A: First, in 47 C.F.R. §68.3, the FCC states:

16 Demarcation point (also point of interconnection). As used in this part, the
17 point of demarcation and/or interconnection between the communications
18 facilities of a provider of wireline telecommunications, and terminal
19 equipment, protective apparatus *or wiring at a subscriber's premises*.
20 [Emphasis added.]

21 Charter's definition stops at "protective equipment" and fails to acknowledge that the
22 demarcation point can alternatively be on the wiring.

23 **Q: Why is the distinction important?**

24 A: Continuing on with applicable definitions, also in 47 C.F.R. § 68.3, Inside Wiring is
25 defined as "Customer-owned or controlled wire on the subscriber's side of the
26 demarcation point." With Charter's proposed definition, the erroneous implication is that

any fashion.

1 “protective equipment” and “protector” are one in the same, that the customer always
2 owns and controls wiring connected to the protector and since the protector is in the
3 “middle” of the NID, that the customer therefore owns or controls the portion of
4 CenturyTel’s NID past the protector. This implication is erroneous because (1) a
5 customer never gains ownership of any CenturyTel facilities, including any portion of a
6 CenturyTel NID, and (2) neither Charter nor any of its customers has a right to control
7 any CenturyTel facilities, including any portion of a CenturyTel NID. The only thing
8 that the customer owns or controls is the customer’s wiring.

9 **Q: Is any further guidance provided by federal law?**

10 A: Yes. Further clarification of the demarcation point is provided in 47 C.F.R. §68.105,
11 which provides:

12 (a) Facilities at the demarcation point. Carrier-installed facilities at, *or*
13 *constituting*, the demarcation point shall consist of *wire or* a jack
14 conforming to the technical criteria published by the Administrative
15 Council for Terminal Attachments.

16 (c) Single unit installations. For single unit installations existing as of
17 August 13, 1990, and installations installed after that date the demarcation
18 point shall be a point *within 30 cm (12 in) of the protector* or, where there
19 is no protector, *within 30 cm (12 in) of where the telephone wire enters*
20 *the customer's premises*, or as close thereto as practicable.

21 (d) Multiunit installations. (1) In multiunit premises existing as of August
22 13, 1990, the demarcation point shall be determined in accordance with
23 the local carrier's reasonable and non-discriminatory standard operating
24 practices. Provided, however, that where there are multiple demarcation
25 points within the multiunit premises, a demarcation point for a customer
26 shall not be further inside the customer's premises than a point *twelve*
27 *inches from where the wiring enters the customer's premises*, or as close
28 thereto as practicable. [Emphasis added]

29 As can be observed from the above-quoted provisions of FCC Rules, the customer does
30 not own or control CenturyTel’s NID or CenturyTel’s equipment housed within the NID.

1 Rather, the customer's ownership of its Inside Wiring ends at a point within 12 inches
2 past CenturyTel's protector housed within CenturyTel's NID.

3 This is confirmed by an FCC Order that defines the demarcation point as "the point on
4 the loop where the telephone company's control of the wiring ceases and the subscriber's
5 control of wire begins. Thus the demarcation point is defined by control; it is not a fixed
6 location on the network, but rather a point where an incumbent's and property owner's
7 responsibilities meet." (UNE Remand Order at ¶ 169). A local exchange carrier's NID
8 does not represent the demarcation point, as indicated by the FCC's comment that it
9 "find(s) the demarcation point preferable to the NID in defining the termination point of
10 the loop because, in some cases, the NID does not mark the end of the incumbent's
11 control of the loop facility." (UNE Remand Order at ¶ 168).

12 **Q: Why would Charter argue that a customer's ownership of inside wiring extends to**
13 **the protector?**

14 A: I understand Charter's position as follows: If the customer's ownership of Inside Wiring
15 extends to some element of the NID that is within the NID housing, or to a portion of the
16 NID itself, then the customer can impart such rights to Charter when it "stand in the
17 shoes" of the customer.

18 **Q. Is Charter's position correct?**

19 A. No. First of all, as CenturyTel's tariff and other documentation provided to the
20 customer clearly states (SCHEDULE GEM-2), and as Charter admitted in the *Wisconsin*
21 *AAA Case*, the NID is of course owned in its entirety by CenturyTel. Consistent with
22 federal law, and recognized by the documentation CenturyTel provides, CenturyTel
23 customers have the right to access CenturyTel's NID for specified purposes on the side of
24 the NID where the customer's Inside Wire connects to CenturyTel facilities. Thus, the

1 more accurate description is not the “customer side” of the NID, but rather the “customer
2 *access* side” of the NID. In fact, most NIDs are actually marked at factory with
3 “customer access side.” (SCHEDULE GEM-3) This customer right of access is neither
4 unfettered nor free of charge. The customer’s access is restricted by documented rules
5 designed to protect the NID and CenturyTel’s system – and the customer pays for the
6 NID through CenturyTel’s regulated rates, the cost basis of which include a return on and
7 of the capital cost of the NID as well as the operation and maintenance expense
8 associated with the NID. When the customer ceases to be a customer of CenturyTel, the
9 customer loses the right of access to CenturyTel’s NID. Thus, even if Charter “stands in
10 the shoes” of the customer, such status is not a source of any rights in favor of Charter.

11 **Q: Staying with inside wire, what is Charter’s objection regarding CenturyTel’s**
12 **definition of inside wire?**

13 A: CenturyTel’s language states that the End User maintains control over Inside Wire,
14 “[e]xcept in those multi-unit tenant properties where CenturyTel owns and maintains
15 control over Inside Wire within a building.” Charter incorrectly asserts that the foregoing
16 quoted phrase is inconsistent with applicable law.

17 **Q: Why is CenturyTel’s language consistent with applicable law?**

18 A: CenturyTel’s language is fully consistent with FCC rules, which contemplate and provide
19 for instances in multi-unit properties where the ILEC owns Inside Wire. 47 C.F.R.
20 §51.319(b)(2) states in pertinent part:

21 Subloops for access to multiunit premises wiring. ...One category of this
22 subloop is *inside wire*, which is defined for purposes of this section as *all*
23 *loop plant owned or controlled by the incumbent LEC* at a multiunit
24 customer premises *between the minimum point of entry as defined in*
25 *Sec. 68.105 of this chapter and the point of demarcation of the*
26 *incumbent LEC’s network as defined in Sec. 68.3* of this chapter.
27 [Emphasis added.]

1 Please recall as I testified above, that federal law establishes the demarcation as some
2 point within 12 inches beyond the location at which the wiring actually enters the
3 multiunit tenant's premise. Therefore, CenturyTel's language is correct and consistent
4 with law in that where CenturyTel maintains ownership of multiunit inside wiring,
5 CenturyTel maintains that ownership and control past the NID and up to a point within
6 12 inches of where the wiring actually enters a multiunit tenant's premise.

7 **Q: In its Position Statement, Charter asserts that it should be permitted "to access the**
8 **NID for the purpose of connecting its own loop facilities to the customer's inside**
9 **wire." How do you respond to this assertion?**

10 **A:** This is apparently the result that Charter intends to achieve through its proposed wording
11 of Section 3.5.1 which states: "... when Charter is connecting a Charter provided loop to
12 the inside wiring of a customer's premises through the customer side of the CenturyTel
13 NID, Charter does not need to submit a request to CenturyTel and CenturyTel shall not
14 charge Charter for access to the CenturyTel NID." I read this language to permit two
15 forms of conduct – to allow Charter to access CenturyTel's NID to remove the customer
16 wire for connection to Charter's loop outside of CenturyTel's NID, and to allow Charter
17 to access CenturyTel's NID to connect Charter's loop to the customer wire within
18 CenturyTel's NID. This second action constitutes use of the NID by FCC definition, not
19 to mention common sense. Because CenturyTel owns the NID, Charter must pay
20 CenturyTel for using the NID to house Charter's interconnection with *its* customer.
21 This situation has been specifically addressed as "use of the NID" by the FCC beginning
22 with the Local Competition Order⁷ where the FCC stated:

⁷ First Report & Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, FCC 96-325, August 8, 1996.

392. ...Therefore, we conclude that a requesting carrier is entitled to connect its loops, via its own NID, to the incumbent LEC's NID.

394. We ***do not require*** an incumbent LEC to permit a new entrant to connect its loops directly to the incumbent LEC's NID. ...

396. ... Our requirement of a ***NID-to-NID connection*** addresses the most critical need of competitors that deploy their own loops -- obtaining access to the inside wiring of the building. We recognize, however, that competitors may benefit ***by directly connecting their loops to the incumbent LEC's NID***, for example, by ***avoiding the cost of deploying NIDs***. ..." [Emphasis added]

Charter's placement of its facilities inside CenturyTel's NID constitutes use of the NID, just as CenturyTel uses the NID when it connects its own loop facilities to the End User Customer's Inside Wire.

Further clarification on this point is provided in 47 CFR § 51.319 (c) which addresses the NID as a UNE:

"...an incumbent LEC also shall provide nondiscriminatory access to the network interface device on an unbundled basis, in accordance with section 251(c)(3) of the Act and this part. The network interface device element is a stand-alone network element and is defined as ***any means of interconnection of customer premises wiring*** to the incumbent LEC's distribution plant, ***such as a cross-connect device*** used for that purpose. An incumbent LEC shall permit a requesting telecommunications carrier to connect its own loop facilities to on-premises wiring ***through*** the incumbent LEC's network interface device, or at any other technically feasible point. [Emphasis added]

51.307 (c) indicates that any use of a UNE whatsoever is included in the UNE definition:

"access to an unbundled network element, along with ***all of the unbundled network element's features, functions, and capabilities***, in a manner that allows the requesting telecommunications carrier to provide any telecommunications service that can be offered by means of that network element." [Emphasis added]

And finally, 51.509 (h) indicates that there is a price for the stand alone NID UNE:

"An incumbent LEC ***must establish a price*** for the network interface device when that unbundled network element is purchased on a stand-alone basis pursuant to Sec. 51.319(c)." [Emphasis added]

1 **Q: Are there any other citations that are relevant to this issue?**

2 A: Yes. The UNE Remand Order also adds clarity to the use of the NID.⁸ Paragraph 233
3 reiterates that any use of the NID is covered in the NID as a UNE.

4 “In the Local Competition First Report and Order, the Commission
5 defined the NID as a cross-connect device used to connect loop facilities
6 to inside wiring. We modify that definition of the NID to include *all*
7 features, functions, and capabilities of the facilities used to connect the
8 loop distribution plant to the customer premises wiring, regardless of the
9 particular design of the NID mechanism. Specifically, we define the NID
10 to include *any means of interconnection of customer premises wiring* to
11 the incumbent LEC’s distribution plant, such as a cross-connect device
12 used for that purpose.” [Emphasis added.]

13 There are many other relevant citations that I could document but I believe the
14 justification for CenturyTel’s position and the case against Charter’s position are both
15 clear at this point.

16 **Q. Has any other commission provided any guidance on this point?**

17 A: Yes. In PUC Docket No. 28821, the Texas Public Utilities Commission (“Texas PUC”)
18 approved agreement language that states “[t]he NID Unbundled Network Element is
19 defined as any means of interconnection of end user customer premises wiring to SBC
20 TEXAS’ distribution loop facilities, such as a cross connect devise used for that purpose,
21 and it includes all features, functions, and capabilities of the NID.”⁹

22 **Q. Is it your opinion that the Texas PUC decision confirms CenturyTel’s position and**
23 **the appropriateness of CenturyTel’s proposed language and rates?**

24 A: Yes.

⁸ In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, THIRD REPORT AND ORDER AND FOURTH FURTHER NOTICE OF PROPOSED RULEMAKING, CC Docket No. 96-98, Released: November 5, 1999

⁹ Texas PUC Docket 28821, Decision on Issue 335.

1 **Q: What are CenturyTel's terms and conditions?**

2 A: Section 3.5 provides that "Charter may access the NID on CenturyTel's network side or
3 the End User Customer's access side on a stand-alone basis to permit Charter to connect
4 its own loop facilities to the premises wiring at any customer location." CenturyTel
5 agrees to access to the customer access side of CenturyTel NIDs at no charge for the sole
6 purpose of disconnecting the customer's Inside Wire from CenturyTel's loop. But if
7 Charter subsequently houses any portion of its connection with the customer's Inside
8 Wire within the NID, Charter is using the customer access side of the CenturyTel NID
9 and must order and pay for such access, akin to a CLEC's use of a non-rural LEC's NIDs
10 as a UNE.

11 CenturyTel has thus agreed that Charter may access CenturyTel's NID to disconnect the
12 customer's Inside Wire, but if Charter wants access for the purpose of placing any of its
13 (or the customer's active) plant inside the NID, Charter must compensate CenturyTel for
14 the use of the NID. As I have already demonstrated, Charter has no right to use
15 CenturyTel's NIDs as a UNE without compensation and it should therefore have no such
16 right when the NID is voluntarily offered to Charter under CenturyTel's proposed terms.

17 **Q: Was this matter of compensation addressed in the 2007 arbitration on Charter's use**
18 **of a CenturyTel Wisconsin non-rural affiliate's NIDs?**

19 A: Yes. The arbitrator's ruling could not be clearer. He stated: "In the end, the location of
20 the demarcation point simply does not matter. No matter where that point is, a CLEC
21 does not have the right to use an ILEC's network facilities without compensation. An
22 ILEC customer has access to remove its wire from the ILEC's NID and become a
23 CLEC's customer. After that, neither the customer nor the CLEC have the right to use

1 the ILEC's NID, much less to house the CLEC's interconnection with the customer,
2 unless the CLEC purchases the NID as a UNE.”¹⁰

3 **Q: What is CenturyTel's desired outcome for Issues 2 and 24?**

4 A: CenturyTel requests that the Commission adopt its proposed language for Charter's use
5 of CenturyTel's NIDs. As I have demonstrated, (1) CenturyTel's NIDs are owned by
6 CenturyTel and are CenturyTel network facilities, (2) FCC rules and decisions define the
7 point of interconnection between Charter and a former CenturyTel customer as involving
8 only Charter's facilities and the customer's Inside Wire and not CenturyTel's NID, (3) a
9 CenturyTel customer has the right to access one side of the NID for the purpose of
10 checking, replacing or removing the customer's Inside Wire, and (4) Charter must obtain
11 CenturyTel's authorization and must compensate CenturyTel for access to the “customer
12 access side” of the NID to remove the customer's Inside Wire, to house Charter's
13 interconnection with its customer's Insider Wire, or otherwise to occupy CenturyTel's
14 NIDs with facilities owned by Charter and/or its customer.

15 **Issue 3 (a) How should the Agreement define the term “Tariff”?**

16 **(b) How should the Tariffs be referenced and incorporated into the**
17 **Agreement?**

18 **Issue 41 How should specific Tariffs be incorporated into the Agreement?**

19 **Issue 14 (a) If Charter requests that CenturyTel provide a service or perform an**
20 **act not otherwise provided for under the Agreement, and Charter pre-**
21 **approves the quoted costs of CenturyTel's performance, should the**

¹⁰ *Wisconsin AAA Case* at p.9.

1 **Agreement include a provision requiring Charter to pay such costs as pre-**
2 **approved by Charter?**

3 **(b) If a service or facility is offered under the Agreement but does not**
4 **have a corresponding charge set forth in the Pricing Article, should such**
5 **service or facility be subject to “TBD” pricing pursuant to Article III,**
6 **Section 46.¹¹**

7 **Q. Does CenturyTel believe Issues 3, 41 and 14 are related?**

8 A. Yes. These three issues all relate directly to each other. Thus, Issue 3, Issue 41 and Issue
9 14 should be addressed concurrently and resolved in relation to each other as proposed by
10 CenturyTel.

11 **Q. Do the Parties have any dispute over the definition of the term “Tariff?”**

12 A. The Parties have no material dispute regarding the actual definition of the term “Tariff”
13 as evidenced by the agreed upon language in Art. II, Sec. 2.140: “Any applicable filed
14 and effective Federal or state tariff (and/or State Price List) of a Party, as amended from
15 time-to-time.” However, Charter has proposed additional language that goes well beyond
16 a definition, and is inaccurate. CenturyTel has addressed Charter’s addition by
17 establishing Issue 3(b).

18 **Q. What is the dispute in Issue 3 (b) that also affects Issue 3 (a)?**

19 A. The real dispute between the Parties is how Tariffs should be referenced and incorporated
20 into the Interconnection Agreement. From a drafting standpoint, this is a substantive
21 issue that does not belong in the definition of a term. Rather, how a particular Tariff is
22 referenced and incorporated with respect to a particular service should be established as a

¹¹ Charter styles Issue 14 as: “Should CenturyTel be allowed to assess charges upon Charter for as yet unidentified and undefined, potential “expenses” that CenturyTel may incur at some point in the future?”

1 part of the other terms and conditions regarding that service. Charter's proposed addition
2 to the definition of Tariff should be stricken as inappropriate.

3 **Q. Did Charter include the language in Article II, Section 1.40 as agreed-upon in its**
4 **DPL?**

5 A. No. While Charter did not include this language as agreed-upon in its DPL, Charter did
6 agree to this language during negotiations. As to the merits, CenturyTel's proposed
7 language in Article II, Section 1.40 is clear and direct. The Commission should adopt
8 this language as it makes clear that a Tariff will apply to a Party only to the extent that (1)
9 it is specifically incorporated by reference into the Interconnection Agreement or (2) a
10 Party expressly orders a service pursuant to such Tariff, as opposed to the Interconnection
11 Agreement.

12 **Q. What is the problem with Charter's proposed language?**

13 A. Charter proposes that in all cases Tariffs apply only to the extent "that the Parties have
14 specifically and expressly identified in this Interconnection Agreement for the purpose of
15 incorporating specific rates or terms set forth in such document by mutual agreement."
16 This proposal is unworkable and inappropriate. For example, it does not take into
17 consideration any eventual Charter purchase of a service in a tariff that was not
18 "specifically and expressly identified in this Agreement for the purpose of incorporating
19 specific rates or terms." Such a purchase could take place because a) a new service is
20 offered by CenturyTel after the incorporated tariffs are agreed to, b) Charter subsequently
21 determines that it wants a service that it had not previously considered, or c) Charter
22 simply declines to identify a tariff from which it plans to purchase services after
23 execution of the Interconnection Agreement.

24 **Q. What would be the outcome of using Charter's proposal?**

1 A. Based on my experience in dealing with Charter’s multiple disputes, I can foresee Charter
2 claiming that because a tariff is not specifically referenced in the Interconnection
3 Agreement and because Charter is purchasing this service for use as a CLEC pursuant to
4 the Interconnection Agreement, Charter does not have to pay the tariff charges or abide
5 by the tariff terms. I know that on its face this seems ludicrous but it is consistent with
6 the type of claims Charter has previously made to CenturyTel and even testified to before
7 this Commission.¹²

8 **Q. Have the Parties tried to find a workable way for Tariffs to be referenced and**
9 **incorporated?**

10 A. The Parties have discussed various ways in which Tariffs may be referenced and
11 incorporated with respect to specific services. In some cases, only the rates from a Tariff
12 are intended to be incorporated with respect to a service to be provided under the
13 Interconnection Agreement, with the intent that the rates change when the Tariff changes.
14 In other cases, a Tariff is referenced for a specific purpose, such as the definition of Local
15 Calling Area in Article II, Section 2.86.

16 There are yet other cases in which a service is intended to be ordered and provided under
17 a Tariff. In these latter cases, Charter has insisted that “specific rates and terms” be
18 “specifically and expressly identified,” with the result apparently that any other
19 applicable rates and terms of the Tariff would not apply.

20 **Q. What is your opinion of Charter’s insistence that applicable rates and terms of the**
21 **Tariff that are not “specifically and expressly identified” would not apply?**

¹²Before the Missouri Public Service Commission in Complaint of Charter Fiberlink, LLC Seeking Expedited Resolution and Enforcement of Interconnection Agreement Terms Between Charter Fiberlink-Missouri, LLC and CenturyTel of Missouri, LLC, Case No. LC-2008-0049 regarding the applicability to Charter of tariffed service order charges.

1 A. I believe Charter's approach is unlawful. When a service is ordered and provided from a
2 Tariff, all of the terms, conditions and rates applicable to that service apply. The filed
3 rate doctrine prohibits CenturyTel from providing a tariffed service under a different set
4 of terms, conditions and rates.¹³

5 **Q. Are there other problems with Charter's intended approach?**

6 A. Yes. Charter's insistence on parsing Tariff terms and conditions creates unnecessary
7 complexity and potential disputes with an otherwise straightforward proposition. If, for
8 example, Charter orders additional directory listings out of CenturyTel's applicable
9 directory listing Tariff, it should take those listings under all of the terms and conditions
10 of the Tariff, not just the particular section or two that Charter would cite within the
11 Interconnection Agreement. Just as the FCC determined that a Section 251 agreement
12 can only be adopted by a CLEC in full and that any "pick and choose" of filed agreement
13 terms is not permitted, Charter cannot pick and choose only those sections of the Tariff
14 with which it is willing to comply. It would be a waste of CenturyTel's and the
15 Commission's time to develop a new set of terms and conditions for a tariffed service
16 when the Tariff already contains a complete set of filed and effective terms and
17 conditions.

18 **Q. Does Charter's proposal create ambiguity and the potential for increased disputes**
19 **that may well end up before this Commission?**

20 A. Yes. If only specific terms and conditions of a Tariff service are incorporated into the
21 Interconnection Agreement, ambiguity is created if other needed terms and conditions,
22 such as general ordering and provisioning terms from the Tariff, are not cited. Charter
23 apparently claims that it need not comply with CenturyTel's ordering and provisioning

¹³ See, *AT&T Co. v. Cent. Office Tel., Inc.*, 524 U.S. 214 (1998).

1 terms, leaving the parties' implementation of Charter's request without a set of
2 requirements to follow. Ambiguity would also be created because it would not be clear
3 as to whether changes to the parts of the Tariff "specifically and expressly identified"
4 would apply to the Interconnection Agreement, or whether the Interconnection
5 Agreement would need to be amended in order to incorporate the changes.

6 **Q. Other than the problems that you cite dealing with Charter's potential purchase of**
7 **tariffed services, does this issue have further significance to the drafting of a**
8 **conforming Interconnection Agreement?**

9 A. Yes. This issue affects many sections of the Interconnection Agreement, including the
10 general reference to Charter's own Tariff in Art. II, Section 30.4.2.

11 **Q. Can you summarize the problem to this point?**

12 A. First, and contrary to the Parties' agreement that tariffs must be specifically referenced
13 where and as necessary, Charter proposes to modify this otherwise agreed-upon language
14 to state that such tariffs apply only to the extent that "specific rates or terms set forth" in
15 the tariffs are incorporated into the Agreement. Charter's proposed change should be
16 rejected by the Commission because a) it opens the door to claims of non-applicability of
17 rates and terms to services ordered out of a tariff and b) it creates ambiguity and
18 uncertainty in instances where a service is offered pursuant to the terms of a tariff as
19 opposed to pursuant to the terms and conditions of the Agreement.

20 Second, Charter's proposal suggests that no tariff sections apply to Charter's ordering of
21 a service unless specific tariff section references are cited in the Agreement. If a service
22 is ordered pursuant to a tariff by either Party, the tariff's terms and conditions should
23 apply.

24 Third, Charter's proposal to incorporate references to specific sections of an applicable
25 Tariff is problematic and unnecessary, and would introduce potential ambiguity and

1 inconsistencies into the Agreement. CenturyTel agreed to incorporate the specific names
2 of the referenced tariffs because this was demanded by Charter in negotiations.
3 However, because the Agreement at issue in this arbitration is one agreement arising out
4 of a multi-state negotiation, CenturyTel expended considerable time researching and
5 confirming the specific names of the tariffs applicable to fourteen CenturyTel local
6 exchange carriers located across the three states that are involved. Despite this
7 acquiescence by CenturyTel, Charter now also demands that specific section references
8 within such tariffs be incorporated into the Agreement. That request is entirely
9 unreasonable and impractical and should be rejected. CenturyTel should not be required
10 to once again research its tariff provisions for Charter nor should CenturyTel be required
11 to modify and seek an amendment to the Agreement if, in the future, tariff section
12 numbering changes based on tariff reorganizations and other changes. Charter's proposal
13 ignores the fact that tariff provisions are subject to change independent of the process(es)
14 that govern changes or amendments to the Agreement. Thus, such changes to a tariff
15 could render obsolete references to specific tariff sections incorporated into the
16 Agreement, introducing unintended ambiguity into the Agreement and uncertainty with
17 respect to implementation of the changes.

18 **Q: What is the most efficient way to incorporate and reference tariff terms in the**
19 **Agreement?**

20 A. The most efficient manner to incorporate or reference such terms is by referencing the
21 entirety of the stand-alone tariff, not its individual sections. CenturyTel has already
22 agreed to identify the specific tariffs by referencing and incorporating the specific tariff
23 in the Agreement. The Commission should adopt CenturyTel's proposed language.

24 **Q. Is there any commission precedent in another state that provides the appropriate**
25 **resolution of this Issue?**

1 A. Yes. In Texas PUC Docket No. 28821, the Texas PUC determined that tariff references
2 in the Agreement are permissible. Further, "the Commission [found] that CLECs are not
3 allowed to mix the applicable rates, terms, and/or conditions between the tariff and this
4 Agreement."¹⁴ In my opinion, this is what Charter is trying to do in our Agreement--
5 selectively reference only the specific tariff terms it wants to apply to a service.
6 CenturyTel believes that when a reference is made to a tariff in the Agreement, Charter
7 must order the service via *all* applicable terms and conditions in the tariff.

8 **Q. Did the Texas PUC provide any further guidance in Texas PUC Docket No. 28821**
9 **decision?**

10 A. Yes. The Texas PUC also said that CLECs are subject to the tariff changes (even
11 unilateral changes initiated by ILEC) when tariffs are referenced in the Agreement.¹⁵

12 **Q. Is there any reason why this Commission should not use the Texas arbitration**
13 **precedent in Texas PUC Docket No. 28821 and reach the same decision on this**
14 **Issue?**

15 A. No.

16 **Q: Is there an issue with respect to a situation in which Charter asks CenturyTel to**
17 **provide a service or perform an act not otherwise provided for under the**
18 **Agreement and Charter pre-approves the quoted costs of CenturyTel's**
19 **performance?**

20 A: Yes. This is Issue 14.

21 **Q: Why is this issue related to the tariff discussion?**

22 A. This issue involves fundamental fairness and traditional cost-causation principles. By
23 analogy, the language proposed by CenturyTel is akin to a "Special Assemblies" tariff
24 provision or an "Individual Case Basis" offering. As such, if Charter requests
25 CenturyTel to perform a service or do something that is not otherwise provided in the

¹⁴ Texas PUC Docket No. 28821, Decision on Issue 15.

¹⁵ Texas PUC Docket No. 28821, Decision on Issue 13.

1 Agreement, and CenturyTel is otherwise willing to provide such service or engage in
2 some act for the benefit of Charter, Charter should pay the actual costs incurred by
3 CenturyTel. Moreover, CenturyTel's language makes clear that prior to undertaking any
4 effort, the Parties must first agree that the charges are reasonable. See CenturyTel
5 Proposed Section 22.1.

6 **Q. Why are these terms necessary?**

7 A. Absent CenturyTel's proposed Section 22.1, and given Charter's position that it should
8 not be required to pay any charge not expressly set forth in the Pricing Article, Charter
9 could request CenturyTel to perform, or induce CenturyTel to perform by approving
10 quoted charges, and then refuse to pay relevant charges after CenturyTel performed. This
11 result is unreasonable, but nonetheless, is consistent with my previous experiences with
12 Charter.¹⁶ CenturyTel's customers should not be required to subsidize Charter's
13 business, particularly where costs are incurred at Charter's request.

14 **Q. Regarding the issue of a service or facility offered under the Interconnection**
15 **Agreement but without a corresponding charge set forth in the Pricing Article, is**
16 **this also similar to a "Special Assemblies" tariff provision or an "Individual Case**
17 **Basis" offering?**

18 A. Yes.

19 **Q. What is the fundamental issue here?**

20 A. Effectively, Charter's position is that if a service or facility (or anything) is offered in the
21 Agreement, and it does not have a corresponding rate set forth in the Pricing Article,
22 CenturyTel must provide it without charge. In comparison, CenturyTel's position is that

¹⁶ In Case No. LC-2008-0049, Charter submitted porting orders, knowing that the CenturyTel ILEC charges for the administrative processing of such orders and submitted these orders on a form clearly marked "NOTE: CenturyTel will assess a service order charge for every order submitted as stated in our Service Order Guide." Charter refused to pay for these orders.

1 if a service or facility is offered in the Agreement, and, for whatever reason, it does not
2 have a corresponding rate set forth in the Pricing Article, such service or facility is
3 subject to “TBD” pricing.

4 **Q. What is the benefit of CenturyTel’s language?**

5 A. CenturyTel’s proposed language avoids subsidization of Charter’s business model by
6 CenturyTel’s customers, and requires the Parties to confer in an effort to develop a rate
7 before any service or facility for which a rate is not provided can be ordered.

8 **Q: Could Charter claim that CenturyTel could use a TBD to force an unreasonable**
9 **charge upon Charter?**

10 A: Charter could make such a claim, but it would be without basis. Given the terms of
11 Article III, Section 20 of the Agreement, any disputes over TBD rates would be resolved
12 through the dispute resolution process. As a result, the dispute provisions act as a “safety
13 net”.

14 **Q. Did the Parties attempt to make the Pricing Article as complete and all inclusive as**
15 **possible?**

16 A. Yes. The Parties have endeavored to specifically tie each and every potential service to a
17 specific rate. If there is anything missing from the Pricing Article it was an oversight by
18 both Parties and CenturyTel should not be held responsible.

19 **Q. In light of this effort, what is the need for CenturyTel’s language?**

20 A. The provision allows for the possibility of human error with respect to CenturyTel’s
21 efforts. It also allows for new services to be developed and ordered. Thus, it is, in
22 CenturyTel’s view, entirely reasonable and appropriate.

23 **Q. How should the Commission resolve Issues 3, 41 and 14?**

24 A. CenturyTel’s language is necessary and reasonable and should be adopted by the
25 Commission.

1 **Issue 4(a) Should a Party be allowed to suspend performance under or terminate the**
2 **Agreement when the other Party is in default, and the defaulting Party**
3 **refuses to cure such default within thirty (30) days after receiving notice of**
4 **such default? How should “default” be defined in the Agreement?**¹⁷

5 **Q. Do you agree with Charter’s characterization of Issue 4(a)?**

6 A. No. Charter attempts to inaccurately portray that this issue involves the possibility that
7 CenturyTel may terminate the Agreement without any justifiable reason. In fact, the
8 procedures that could result in termination of the Agreement would be triggered by a
9 “default” by Charter as such term is defined in Article III, § 2.6. However, termination
10 could only occur following the provision of written notice of default, and passage of
11 thirty (30) calendar days without the defaulting party affecting a cure of the default. The
12 effect of Charter’s position is that Charter would require the non-defaulting party to
13 invoke the dispute resolution procedures of Article III, § 20, including a declaration by
14 this Commission that a material breach has occurred, as a condition precedent to the non-
15 defaulting party’s right to suspend or terminate the Agreement. In simple terms,
16 Charter’s position means that a party could default and the aggrieved party might be
17 unable to take action for as much as a half year or more if the defaulting party forces the
18 issue through a formal hearing process. There must be more immediate consequences for
19 a Party’s default in the terms of the Agreement. As such, CenturyTel has re-worded this
20 issue to more accurately present the issue for the Commission’s decision.

21 **Q. Is the language at issue a standard and commercially reasonable contract term?**

22 A. Yes. This type of language which requires written notice of default to be given by the

¹⁷Charter’s formulation of Issue 4 (a) is: “Should the Agreement include terms that allow one Party to terminate the Agreement without any oversight, review, or approval of such action, by the Commission.”

1 non-defaulting party to the defaulting party and provides a stated cure period is
2 consistently found in commercial contracts, including Section 251 agreements.

3 **Q. Why do you believe this language is consistently found in contracts such as Section**
4 **251 agreements?**

5 A. This language provides the Party that is experiencing the negative effects of the other
6 Party's default a means to ameliorate those negative effects. This "stick," therefore,
7 creates an incentive for the Parties (or any other party adopting the terms of the
8 Agreement) to live up to their respective obligations under the Agreement, without
9 unnecessary Commission intervention.

10 **Q. Can you give the Commission an example of a problem created by omitting this**
11 **language as Charter proposes?**

12 A. Yes. If CenturyTel's language was not included and Charter failed to pay "undisputed"
13 billed amounts, CenturyTel would be obligated to go to the Commission, commence a
14 dispute proceeding and await a determination before it could suspend processing
15 Charter's orders for Charter's failure or refusal to pay *undisputed* charges. While
16 following this lengthy process, CenturyTel's financial exposure would increase and
17 CenturyTel would have no ability to stop the accumulation of the amounts owing from
18 Charter. Charter has not and cannot explain why such a result is appropriate or necessary,
19 let alone required under the Act or state law.

20 **Q. Could Charter argue that if CenturyTel prevailed in its dispute, it would be made**
21 **whole upon receiving Charter's payment?**

22 A. That would be an inaccurate statement. First, CenturyTel would incur additional costs
23 merely to initiate a dispute proceeding. CenturyTel would never recover these costs from
24 Charter and would therefore never be "made whole" for the work performed at Charter's
25 request and addressing receipt of payment for billing in its entirety. Next, there is the

1 time value of money. Receiving \$5000 six months from now does not have the same
2 financial value as receiving \$5000 today. Additionally, by not paying CenturyTel now,
3 Charter retains the funds it owes and could leverage those funds competitively against
4 CenturyTel in a manner not contemplated by applicable law. This would again increase
5 CenturyTel's costs as CenturyTel sought to respond to the increased competition
6 facilitated by Charter's unlawful retention of moneys owed. Finally, such an argument
7 presumes Charter would actually pay the full amount owed. In fact, despite being
8 ordered to pay a specific amount in a case with a CenturyTel affiliate, Charter continued
9 to withhold payment for approximately seven months – forcing that CenturyTel affiliate
10 to incur further legal costs and then when Charter paid, it offered something less than the
11 full amount.¹⁸

12 **Q. Your example referenced Charter failing to pay “undisputed” billed amounts. Has**
13 **Charter failed to pay undisputed charges before?**

14 A. Yes. Charter has previously failed to pay undisputed charges to CenturyTel.¹⁹

15 **Q. So absent this type of language, is there anything to prevent Charter from taking**
16 **advantage of CenturyTel or at least being able to take advantage of CenturyTel for**
17 **a greater length of time than is reasonable?**

18 A. No there is not. In contrast, Charter's proposed language creates an incentive for the
19 offending Party to violate the terms of the Agreement by placing the burden of initiating
20 and undertaking costly formal Commission proceedings on the non-offending Party

¹⁸Wisconsin AAA Case at p.9. Charter owed \$515,000 and offered to pay \$500,000 to forestall further legal action.

¹⁹ Complaint of Charter Fiberlink, LLC Seeking Expedited Resolution and Enforcement of Interconnection Agreement Terms Between Charter Fiberlink-Missouri, LLC and CenturyTel of Missouri, LLC., Case No. LC-2008-0049. Charter claimed after the fact that it had submitted monthly disputes for all billing but the records documented that this was not the case. For example, Charter did not file a dozen mid to late 2006 disputes until after Charter petitioned the Commission for escalated dispute resolution in 2008. A summary is provided as SCHEDULE GEM-4.

1 merely to obtain payment due for services rendered. This perverse incentive violates
2 elementary notions of contract law and sound public policy.

3 Additionally, even in those instances where the Parties are in agreement that there is a
4 failure to pay, Charter's proposed language still requires a Commission finding of default
5 before the non-defaulting Party may take action. Such a requirement is not necessary.
6 Charter's requirement simply adds expense and time to a billing issue and is a
7 disincentive to performance in accordance with the terms of the Agreement.

8 **Q. Do you view this language as compliance language rather than punitive language?**

9 A. Yes. CenturyTel's proposed language provides a reasonable incentive for the
10 defaulting Party to comply with the terms of the Agreement. CenturyTel's notice
11 requirement would provide Charter the opportunity to cure a default or to seek
12 appropriate relief from the Commission if Charter really does not believe it is in default.
13 Thus, *neither* Party would take disputes to the Commission unless there was a legitimate
14 need to do so.

15 **Q: Could Charter argue that under CenturyTel's proposed language defining**
16 **"default," CenturyTel has an incentive to claim a default where none exists in order**
17 **to stop processing Charter's orders?**

18 A: Charter could make that assertion but it would neither be an accurate representation of the
19 Agreement terms nor accurate portrayal of permitted CenturyTel action under those
20 terms. With respect to CenturyTel's proposed language in subsections (c) and (d) of
21 Section 2.6 ("violation of any material term or condition of the Agreement" and "refusal
22 or failure in any material respect properly to perform its obligations . . .", respectively),
23 such provisions are also standard, commercially reasonable terms.

24 **Q. Is there any commission precedent in another state that provides the appropriate**
25 **resolution of this Issue?**

1 A. Yes. In Texas PUC Docket No. 28821, the Texas PUC adopted SBC's language which
2 provides that either party may terminate ICA or provision of service under ICA "at the
3 sole discretion of the terminating party, in the event that the other party fails to perform a
4 material obligation or materially breaches a material terms of the Agreement," and the
5 other party fails to cure such breach within 45 days after receipt of written notice.²⁰
6 Further, Issue No. 39 of the same Docket concerned disconnection for non-payment. In
7 disposing of this issue, the PUC wrote:

8 The Commission finds that given the instability in the telecommunications
9 industry, it is reasonable to allow SBC Texas to have non-payment and
10 disconnection language included in the ICA. It is reasonable and accepted
11 business practice to issue final notices to a non-paying party and furthermore, to
12 disconnect services provided if payment of an invoice is not forthcoming in a
13 specified period of time. This position takes into account the concerns of both
14 SBC Texas, which argued that the ICA should include nonpayment and
15 disconnection language as well as SBC Texas's language regarding terms and
16 conditions that apply in the event a billed party does not pay or dispute its
17 monthly charges, and that of AT&T, which argued in part that SBC Texas should
18 not have the right to disconnect any service being provided to AT&T unless
19 written notice of the termination is given to both AT&T and the Commission and
20 the Commission expressly approves such disconnection.
21

22 **Q. Is there any reason why this Commission should not use the Texas arbitration**
23 **precedent in Texas PUC Docket No. 28821 and reach the same decision on this**
24 **Issue?**

25 A. No. The Commission should agree that CenturyTel's proposed language is consistent
26 with the decision reached in the SBC-Texas precedent.

27 **Q. How should the Commission decide Issue 4(a)?**

28 A. Consistent with the foregoing reasoning, the Commission should recognize that
29 CenturyTel's proposed language creates an incentive for both Parties (or any other party
30 adopting the terms of this Interconnection Agreement) to live up to their respective

²⁰ Texas PUC Docket No. 28821, Decision on Issue 17.

obligations under the Agreement, without unnecessary Commission intervention.

Issue 4(b) What terms should govern the right of a Party to terminate this Agreement upon the sale of a specific operating area?

Q. What is CenturyTel's position with regard to Issue 4(b)?

A. CenturyTel submits that the Commission should reject Charter's inappropriate attempt to bind unidentified third party transferees, to constrain CenturyTel's rights to freely contract and to reduce the value of CenturyTel's assets and operations. The Commission has the authority necessary to protect the interests of end users and to ensure service continuity in the event of any transfer of CenturyTel assets. Therefore, it is not necessary for Charter's proposed language to be added to the Agreement in order to protect these interests.

Q. Has Charter adopted a position in its Disputed Points Lists that is inconsistent with Charter's advocacy regarding Issue 4(b)?

A. Yes. CenturyTel notes that Charter's position in this regard is directly at odds with its position in Issue 5. In Issue 5, Charter states: "There is no reason for either Party to have the right to withhold consent to the assignment of this Agreement in a manner *that will have the effect of undermining the other Party's ability to freely contract with third parties . . .*" (emphasis added) Charter's "free to contract" position in Issue 5 undermines its position here in Issue 4(b). Indeed, the language that Charter proposes here restricts CenturyTel's right to freely contract, while the language CenturyTel properly proposes advances that right.

Q. Do you agree with Charter's characterization of this issue in its Petition?

A. No. Charter clearly misses the mark in relation to the impact of the language being proposed by CenturyTel. CenturyTel's terms only allow *CenturyTel* as the selling company to terminate *CenturyTel's* obligations under this Interconnection Agreement.

CenturyTel's termination of the Interconnection Agreement *has nothing to do* with the acquiring carrier's prospective obligations to Charter in the purchased exchanges. Given that explanation, the Commission should conclude that Charter's position is based upon a faulty premise and CenturyTel's language does in fact address the issue appropriately.

Q. What is CenturyTel's position on this issue?

A. CenturyTel's position is that Charter should not be allowed to impose a restraint on CenturyTel's ability to transfer its assets solely because Charter is a party to the Interconnection Agreement with CenturyTel.

Q. What do you believe is Charter's basic concern?

A. Charter appears to have a concern about service continuity for end users in the CenturyTel exchanges subject to transfer.

Q. Is the issue of service continuity a valid concern of Charter?

A. Service continuity is a valid concern for Charter, just as it is for CenturyTel. However, the language proposed by Charter in Section 2.7 to address this issue is inappropriate and unnecessary because the service continuity disruption Charter expresses as its justification could never come to pass.

Q. Why do you believe service could never be disrupted as a result of a CenturyTel asset sale?

A. Service continuity in a CenturyTel asset transfer to a third party would be fully protected in two ways:

1) The purchasing carrier's obligation to comply with existing statutes and rules relating to either a) its certification as a regulated carrier in Missouri or b) if an existing Missouri carrier, its incorporation of new exchanges, such as application for ETC status in a new

1 exchange, would amply afford Charter the opportunity to use the approval process to
2 protect its interest.

3 2) It is my understanding that in Missouri, the Commission can adequately safeguard the
4 interests of end users and ensure service continuity by requiring the purchasing carrier to
5 provide service continuity under interim arrangements (such as those provided for by 47
6 C.F.R. §51.715). These interim arrangements would continue pending the completion of
7 negotiations and approval of a new interconnection agreement. This is certainly how the
8 Commission handled the asset transfer from Verizon to CenturyTel.

9 **Q. Are there other reasons to support your view that Charter's proposal is**
10 **inappropriate?**

11
12 A. Yes. Charter's language attempts to bind unidentified third parties, and inject issues – in a
13 manner solely favorable to Charter – into future asset purchase transactions that
14 CenturyTel should be free to negotiate without including Charter as a third party.
15 Charter's language is also unworkable as it purports to require a third party to assume
16 provisions specific to CenturyTel and Charter's relationship with CenturyTel, some of
17 which may not even be capable of being assumed by a transferee in any practical manner.
18 Charter's proposal to contractually require that any purchasing party “unconditionally
19 and promptly” accept and assume terms of the Agreement is therefore unreasonable.

20 **Q. Is it your opinion then that Charter's position regarding Issue 4(b) is inconsistent**
21 **with operational realities?**

22
23 A. Yes. Charter's proposal appears based on a presumption of “absolutes” with respect to
24 carrier operations that is inconsistent with the myriad operational systems and issues that
25 may exist and, thus, may make wholesale imposition of an agreement impractical.

26 **Q. Do you have any other concerns regarding the inappropriateness of Charter's**
27 **position?**

1 A. Yes. The Charter language materially devalues CenturyTel assets by encumbering any
2 potential sale with the additional obligations of CenturyTel's Interconnection Agreement
3 with Charter. If a potential purchaser knows that its right to fashion intercarrier terms
4 and conditions that it believes to be appropriate for its operations is already contractually
5 constrained, that constraint will be used to argue for a downward adjustment to the
6 purchase price to be paid to CenturyTel since the purchaser is being asked to give up on
7 rights that it would otherwise have had.

8 **Q. Can Charter claim that a devaluation of CenturyTel's assets in a purchase due to an**
9 **obligation to assume an existing agreement is hypothetical and would never occur?**

10
11 A: Charter could claim such but it would not be true. As a member of CenturyTel's
12 acquisition due diligence team, my responsibility is to evaluate the selling company's
13 agreements and other contracts and to prepare a financial and risk assessment for senior
14 management's use in determining both the appropriateness and value of the potential
15 acquisition. I cannot provide specifics unless we go into a confidential testimony mode
16 but I can attest that there was a recent instance in which our offered purchase price was
17 reduced on the basis of our assessment of the economic impact of terms of
18 interconnection agreements that CenturyTel would have been required to assume in the
19 transaction.

20 **Q. You earlier said that the termination language only speaks to CenturyTel's**
21 **obligations. What about the acquiring LEC's obligations?**

22
23 A. Even without the Commission placing any obligations upon an acquiring LEC, as I
24 mentioned above, pursuant to the requirements of 47 C.F.R. § 51.715, Charter may obtain
25 immediate transport and termination of telecommunications traffic under an interim
26 arrangement with the acquiring LEC. It is proper for this Commission to decide how to

1 affect a smooth and appropriate continuation of service, not for Charter to dictate that
2 result or to contractually restrict CenturyTel's rights and obligations.

3 **Q. So are Charter's concerns and interests adequately protected under CenturyTel's**
4 **language and the normal regulatory approval process for a LEC sale of exchanges?**

5 A. Yes.

6 **Q. Is Charter's position regarding Issue 4(b) consistent with commercial**
7 **reasonableness?**

8 A. No. Charter has also failed to demonstrate why its proposed language in Section 2.7 is
9 proper. Specifically, Charter's proposed revisions provide the non-selling Party with an
10 effective "veto" over any sale. That result is unreasonable. In addition, by virtue of the
11 fact that any acceptance must be "memorialized in a form mutually agreed upon by both
12 Parties," Charter has effectively afforded itself the opportunity to trigger Section 20
13 dispute resolution if it withholds its approval, irrespective of whether such withholding is
14 reasonable or unreasonable. Such an arrangement impermissibly restricts the
15 fundamental right of free transferability of property and will, very likely, result in
16 devaluation of the property to be transferred.

17 **Q. How should the Commission decide issue 4(b)?**

18 A. For the reasons set forth above, CenturyTel requests that the Commission adopt and
19 approve CenturyTel proposed language for Article III, § 2.7 of the Agreement.

20 **Issue 7 Should Charter be required to "represent and warrant" to CenturyTel, or**
21 **simply provide proof of certification, that it is a certified local provider of**
22 **Telephone Exchange Service in the State?**

23 **Q. Can you establish the background of this issue for the Commission?**

24 A. Yes. Each Party's rights and obligations as set forth in this Interconnection Agreement
25 are predicated on its status under applicable law and continued compliance with such law.

1 In Missouri, Charter is not permitted to offer local exchange services as a CLEC unless it
2 holds a valid certificate of convenience and necessity (“CCN”).²¹ Thus, the requirement
3 to maintain a valid CCN should be and is a continuing obligation under the
4 Interconnection Agreement.

5 **Q. Why is Charter “simply provid[ing] proof of certification” insufficient in**
6 **CenturyTel’s view?**

7 A. CenturyTel is not required by law and should not be forced to extend Section 251
8 obligations to Charter unless Charter meets, and continues to meet, the federal and State
9 requirements for certification as a local exchange carrier.

10 Assuming Charter does currently meet the federal and State requirements, Charter’s
11 representation that it currently is a certificated provider, and the fact that Charter has
12 provided proof that it currently maintains a CCN, does not address the broader issue of
13 whether Charter’s obligation to remain certificated should run for the entire term of the
14 Interconnection Agreement. Again, CenturyTel is not required by law and should not be
15 forced to continue providing Section 251 obligations to Charter unless Charter continues
16 to meet the federal and State requirements for certification as a local exchange carrier.

17 **Q. Do you have any basis for your concern that Charter could change its status**
18 **subsequent to obtaining 251 obligations from CenturyTel?**

19 A. Yes. Charter is a cable CLEC and offers its voice service via the same broadband
20 connection that it also offers Internet service. Other cable CLECs in other states, most
21 notably Time Warner and Comcast, have obtained Section 251 agreements and then later
22 decided that their local service is now “VoIP” and that they are no longer subject to
23 regulation as a CLEC. Given Charter’s past unique and aggressive penchant for novel

²¹ See, RSMo § 392.410(1).

1 interpretation of interconnection agreement terms, it is not unreasonable to anticipate that
2 Charter might execute this Interconnection Agreement, subsequently claim a change of
3 status from CLEC to unregulated VoIP provider and then attempt to force CenturyTel to
4 abide by contractual obligations while at the same time claiming inapplicability of other
5 contractual obligations to Charter under its new status. I would point out to the
6 Commission that VoIP providers do claim that state commissions have no authority over
7 their services and this would play havoc with any complaints or dispute resolution that
8 needed to be submitted to the Commission for resolution under this Interconnection
9 Agreement.

10 **Q. Do you have any final thoughts for the Commission's consideration relative to this**
11 **Issue 7?**

12 A. Yes. The warranty being requested is not burdensome. CenturyTel's proposal merely
13 requires Charter to warrant the fact of its continuing compliance with Missouri law
14 throughout the term of the Interconnection Agreement, not just upon the effective date of
15 the Interconnection Agreement.

16 **Q. How should the Commission resolve Issue 7?**

17 A. The Commission should recognize the risks associated with Charter's proposed language
18 and accept the language provided by CenturyTel as consistent with applicable federal and
19 State law.

20 **Issue 11 Should certain business and operational processes and procedures set forth**
21 **in CenturyTel's "Service Guide" be incorporated by reference into the**
22 **Agreement?**²²

²²Charter contends that Issue 11 should be framed as follows: "Should CenturyTel be allowed to incorporate its Service Guide as a means of imposing certain process requirements upon Charter, even though Charter has no role

Parties' Agreed-to Statement of Sub-issues:

Should the CenturyTel Service Guide be incorporated for: establishing bill dispute processes?

Should the Century Tel Service Guide be incorporated for: providing escalation lists?

Should the Century Tel Service Guide be incorporated for: reporting and resolving circuit troubles or repairs?

Should the CenturyTel Service Guide be incorporated for: submitting LNP requests?

Should the CenturyTel Service Guide be incorporated for: “service ordering, provisioning, billing and maintenance processes and procedures”?

Q. Do you agree with the way Charter has styled Issue 11 (excluding the sub-issues)?

A. No. Charter mischaracterizes the role of the CenturyTel Service Guide, and misstates the issue. Charter attempts to further miscast the purpose of the Service Guide by using inflammatory and contextually inappropriate words and phrases such as “imposing [upon]” and “no role in developing [the terms].”

Q. What is the role of the Service Guide?

A. The role of the CenturyTel Service Guide is to assist CLECs, like Charter, by describing common operational procedures for interacting with CenturyTel. These procedures are maintained in an open and transparent document that is posted on CenturyTel’s website. Besides ease of interaction with CenturyTel, the Service Guide is also intended to ensure CenturyTel’s treatment of all CenturyTel CLEC customers will be the same through application of a set of common operating procedures. Thus, when viewed properly, the

in developing the process and procedural terms in the Service Guide?”

1 role of the Service Guide is to communicate, in a uniform manner, the various
2 CenturyTel procedures related to CenturyTel's commitments under applicable law and its
3 various interconnection agreements.

4 **Q. Can the service Guide change or override the terms of the Interconnection**
5 **Agreement?**

6 A. No. The terms of the Agreement set forth CenturyTel's obligations to Charter and those
7 obligations cannot be changed through the Service Guide.

8 **Q: Do you agree with Charter's assertion that CenturyTel will be able to impose**
9 **changes to the Service Guide that are inconsistent with the Agreement?**

10 A: No. The fact that Charter makes this assertion only shows that Charter is either not
11 paying attention to or is conveniently ignoring all relevant terms proposed by CenturyTel.

12 **Q. What do you mean?**

13 A. Specifically, CenturyTel proposed Article III, § 53 which states, in effect, that the Service
14 Guide will only supplement and not contradict or modify the terms of the Agreement.
15 As a result, Section 53 makes clear that the Agreement prevails over the Service Guide,
16 and that the Service Guide will apply only with respect to those matters for which it is
17 specifically referenced in the Agreement (i.e., billing disputes (Art. III, Sec. 9.4.1),
18 escalation lists (Art. III, Sec. 16), procedures for reporting circuit trouble (Art. VIII, Sec.
19 2.4), LNP ordering process (Art. IX, Sec. 1.2.2), and ordering/provisioning/billing/
20 maintenance processes (Art. X, Sec. 6.3)).

21 Additionally, Charter is provided with electronic notification of all Service Guide
22 changes and a 60-day period during which any changes are suspended if such change
23 adversely impacts Charter. This suspension period affords the Parties an opportunity to
24 resolve any potential conflicts.

25 53. CENTURYTEL SERVICE GUIDE

- 1 53.1 The CenturyTel Service Guide (“Guide”) is a handbook that contains
2 CenturyTel’s ***operating procedures*** for service ordering, provisioning,
3 billing, maintenance, trouble reporting and repair for wholesale services.
4 In addition to setting forth operational procedures to facilitate the
5 implementation of this Agreement, the Guide serves as ***a conduit for the***
6 ***conveyance of day-to-day information that **CLEC will need to operate***
7 ***under this Agreement*** (e.g., repository for CenturyTel’s contact and
8 escalation lists available to **CLEC). **CLEC agrees that, where the
9 terms of this Agreement specifically reference the Guide, **CLEC will
10 abide by the Guide with respect to such specifically-referenced matters.
11 **CLEC may receive email notification of any changes made to the Guide
12 so long as **CLEC subscribes to such electronic notification procedure,
13 which subscription is at no cost to **CLEC.
14
- 15 53.2 The Guide is intended to supplement the terms of this Agreement where
16 specifically referenced in the Agreement; however, ***the Guide shall not be***
17 ***construed as contradicting or modifying the terms of this Agreement,***
18 ***nor shall it be construed as imposing a substantive term unrelated to***
19 ***operational procedure (e.g., payment terms) upon **CLEC that is not***
20 ***otherwise contained in this Agreement.*** Where a dispute arises between
21 the Parties with respect to a conflict between the Guide and this
22 Agreement, ***the terms of this Agreement shall prevail.*** If Charter believes
23 that a change to the Guide materially and adversely impacts its business,
24 ***the implementation of such change, upon Charter’s written request, will***
25 ***be delayed as it relates to Charter for no longer than sixty (60) days to***
26 ***provide the Parties with an opportunity to discuss a resolution to the***
27 ***alleged adverse impact, including but not limited to other potential***
28 ***modifications to the Guide. If the Parties are unable to resolve the***
29 ***dispute regarding the change to the Guide, the Parties will resolve the***
30 ***dispute pursuant to the Dispute Resolution procedures*** set forth in
31 Section 20.3.
32
- 33 53.3 The Parties acknowledge that, under their prior interconnection agreement,
34 they have or have had disputes pertaining to the applicability and effect of
35 certain provisions in the Guide (“prior Guide disputes”). Section 53.2 is
36 intended to prevent such disputes on a going-forward basis under this
37 Agreement. Nevertheless, neither this Section 53 nor any of the
38 concessions reflected therein shall be considered an admission by either
39 Party with respect to any prior Guide dispute, and neither Party will
40 attempt to use Section 53.2 for that purpose. To that end, each Party
41 expressly reserves its rights with respect to any position taken in any prior
42 Guide dispute, and nothing in this Agreement shall be deemed or
43 construed to limit or prejudice any position a Party has taken or may take
44 before the Commission, the FCC, or a court of applicable jurisdiction
45 regarding any prior Guide dispute.
46

1 41. STANDARD PRACTICES

2 41.1 The Parties acknowledge that CenturyTel *shall be adopting some industry*
3 *standard practices and/or establishing its own standard practices* to various
4 requirements hereunder applicable to the CLEC industry which may be added
5 in the CenturyTel Service Guide, which is further described in Section 53. .
6 Charter agrees that CenturyTel may implement such practices to satisfy any
7 CenturyTel obligations under this Agreement. *Where a dispute arises*
8 *between the Parties with respect to a conflict between the CenturyTel*
9 *Service Guide and this Agreement, the terms of this Agreement shall*
10 *prevail.* [Emphasis added]
11

12 Consequently, CenturyTel believes that its Section 53 proposal, in conjunction with
13 CenturyTel's proposed language in Section 41.1, strikes the right balance by
14 accommodating Charter's concerns while at the same time accomplishing CenturyTel's
15 (indeed, both Parties') operational objectives. Charter should not be permitted to
16 challenge or call into question CenturyTel's system wide upgrades and changes which are
17 otherwise aimed at providing a benefit to the total universe of system users - all CLECs.

18 **Q:** **Is there a single response that addresses each of the additional sub-issues, (should**
19 **the CenturyTel Service Guide be incorporated for establishing bill dispute**
20 **processes, for providing escalation lists, for ordering processes and provisioning**
21 **intervals, for reporting and resolving circuit troubles or repairs, for submitting LNP**
22 **requests, and for service ordering, provisioning, billing and maintenance processes**
23 **and procedures)?**

24 **A.** Yes. These sub-issues all refer to common operational procedures for CLECs interacting
25 with CenturyTel. With limited exceptions, such as the LNP ordering process, operational
26 procedures are not addressed in federal law. That fact, in my view, is entirely reasonable
27 since it is unnecessary. As the Commission is likely aware, ILECs essentially follow
28 applicable industry standards such as those created by the Ordering and Billing Forum or
29 otherwise use similar internal methods such as the use of toll free numbers for trouble
30 reporting. By documenting all these procedures in the Service Guide, CenturyTel fulfills

1 its parity treatment obligation to all CenturyTel CLEC customers by applying a set of
2 common operating procedures to them.

3 **Q: What would be the implications of CenturyTel’s acquiescence in some non-standard**
4 **processes with regard to Charter?**

5 A: My opinion is that to the extent CenturyTel agreed to deviate from the standard process
6 for Charter, then it would have to either a) require every other CLEC with which
7 CenturyTel has an interconnection agreement to adapt to Charter’s process or b) offer
8 two (or more) optional processes and permit CLECs to pick and choose which to follow.
9 Neither situation is workable.

10 **Q. What is your opinion of Charter’s proposal (specific to the dispute in Section 9.4.1)**
11 **to incorporate as an attachment to the Interconnection Agreement a partial version**
12 **of the billing dispute procedures currently contained in the Service Guide?**

13 A. Charter’s proposal should be rejected. These operational processes and procedures may
14 change as CenturyTel (even in conjunction with input from the CLEC-community)
15 identifies further efficiencies and modifications to such processes and procedures.
16 Charter’s proposal would unnecessarily require the Parties to “amend” the Agreement to
17 take effect of any such changes to increase operational efficiencies.

18 **Q: Would this be true if other procedures such as billing and repair were actually made**
19 **a part of the Agreement?**

20 A: Yes. Any incorporation of currently standard operational procedures into the Agreement
21 would unnecessarily require the Parties to “amend” the Agreement to allow any such
22 changes to increase operational efficiencies.

23 **Q. Do other LECs commonly use an equivalent of the CenturyTel Service Guide to**
24 **establish their common processes?**

1 A. Yes. Like CenturyTel, I know that AT&T, Embarq, Qwest and Verizon, to name a few
2 well known examples, have documents that are the equivalent of the CenturyTel Service
3 Guide. These Guides are commonly referenced in those LECs' agreements.

4 **Q. Can the Commission review these documents to confirm that these LECs use their**
5 **Guides in the same manner as CenturyTel?**

6 A. With a simple electronic search, yes. The most recent version of the Verizon "Guide,"
7 for example, can be found in electronic form on the Verizon Partner Solutions website.
8 Staying with this same example, many Verizon agreements are actually GTE agreements
9 assumed when Verizon bought GTE. CenturyTel has affiliates which also assumed GTE
10 agreements pursuant to acquisitions of GTE territories and these agreements commonly
11 have definition language that states:

12 "GTE Guide- The GTE Open Market Transition Order/Processing Guide, LSR
13 Guide, and Products and Services Guide which contain GTE's operating
14 procedures for ordering, provisioning, trouble reporting and repair for resold
15 services and unbundled elements and GTE's CLEC Interconnection Guide which
16 provides guidelines for obtaining interconnection of GTE's Switched Network
17 with the networks of all certified CLECs for reciprocal exchange of traffic.
18 Except as specifically provided otherwise in this Agreement, service ordering,
19 provisioning, billing and maintenance shall be governed by the Guide which may
20 be amended from time to time by GTE as needed."²³

21 **Q. Has any other state commission previously determined that an incumbent LEC's**
22 **policies and processes are properly referenced in an interconnection agreement, and**
23 **may be unilaterally changed by the incumbent LEC?**

24 A. Yes, that was the Texas PUC's decision in Texas PUC Docket No. 28821, Issue No. 4, in
25 connection with which the Commission wrote as follows:

26 Birch/ionex argued that the ICA should contain language that would prevent SBC
27 Texas from making unilateral changes in policy, process, method, or procedure
28 used to perform its obligations under the ICA that causes operational disruption or
29 modification without first providing advance notice to Birch/ionex and having

²³ See for example Interconnection, Resale and Unbundling Agreement Between GTE Midwest Incorporated [and] GTE Arkansas Incorporated and New Edge Network, Inc. d/b/a New Edge Networks Missouri on file with this Commission.

Birch/ionex agree to the modification. Birch/ionex stated that based on several business experiences over the past three years under the existing ICA, SBC Texas made "policy" or "process" modifications unilaterally without notice to Birch, thereby materially and detrimentally affecting Birch's ability to obtain certain UNEs and services.

The Commission concludes that SBC Texas shall give a 45-day notice to Birch/ionex prior to making any unilateral changes in policy, process, method, or procedure that SBC Texas uses to perform its obligations under the ICA that would cause operational disruption or modification unless the implementation of such change or discontinuance of such policy, process, procedure or method is beyond the control of SBC Texas. The Commission finds that the 45-day notice provides sufficient time for Birch/ionex to implement any changes in its computer systems and operational procedures. *The Commission further determines that it is not reasonable for Birch/ionex to effectively have veto power over SBC Texas's changes in policy, process, method or procedures.* (emphasis added)

While not addressing a formal "Service Guide" per se, the Texas PUC acknowledged the ILEC's need and control over its operational policies and procedures, and suggests that CLECs must follow so long as they have advanced notice of changes.

Q. Is there any reason why this Commission should not use the Texas arbitration precedent in Texas PUC Docket No. 28821 and reach the same decision on this Issue?

A. No. The Commission should agree that CenturyTel's proposed language meets or even goes further than is required under the decision reached in the SBC-Texas precedent. Additionally, CenturyTel's proposed language is also consistent with other agreements that have been approved by this Commission.

Q. How should the Commission decide on Issue 11?

A. The Commission should recognize that CenturyTel's Service Guide sets forth common operating procedures for all CLECs and thereby ensures that CenturyTel fulfills its obligation to treat all CenturyTel CLEC customers impartially and that a failure to refer to the Service Guide would create a situation in which Charter could attempt to force non-standard, non-parity processes upon CenturyTel that would result in unnecessary

disputes being brought to this Commission. It is appropriate, necessary and common industry practice to refer to a Service Guide in an interconnection agreement, and, consistent with the Commission's decision in Texas PUC Docket No. 28821, the CenturyTel Service Guide should be referenced in the Agreement as the source for processes and procedures as proposed by CenturyTel.

Issue 13 (a) If the Parties are unable to resolve a "billing dispute" through established billing dispute procedures, should the billed Party be required to file a petition for formal dispute resolution within one (1) year of providing written notice of such dispute, or otherwise waive the dispute?

(b) To the extent a "Claim" arises under the Interconnection Agreement, should a Party be precluded from bringing such "Claim" against the other Party more than twenty-four (24) months from the date of the occurrence giving rise to the "Claim"? ²⁴

Q. Why did CenturyTel develop and propose the Interconnection Agreement language that is at dispute in Issue 13?

A. CenturyTel has proposed its language in Sections 9.4 and 20.4 to address the on-going issues that it has had with resolving billing disputes with Charter. In general, this language reflects the fact that, as the provider of the service, CenturyTel is obligated to investigate disputes regarding its service offerings and in good faith report its findings to Charter. Once an investigation is conducted and the conclusions reported to Charter, it is up to Charter to either accept those conclusions and follow them or escalate the issue to the Commission. Absent that approach, the dispute process acts as nothing more than a delay for the proper payment of charges under the Agreement and/or an effort to ensure

²⁴ Charter's framing of Issue 13 is: "Should the Parties agree to a reasonable limitation as to the period of time by

1 that unnecessary resources are expended by CenturyTel beyond those required to
2 investigate the dispute and report those results and conclusions to Charter. If Charter
3 believes that CenturyTel did not meet its obligation to investigate the dispute properly, it
4 can raise that issue before the Commission and the Commission can dispose of such
5 issue.

6 **Q. You mentioned you have had ongoing issues concerning the resolution of billing**
7 **disputes with Charter?**

8 A. Yes. Unfortunately, the experience of CenturyTel and its affiliates is that Charter simply
9 disputes Service Order charges for years and never seeks formal resolution of those
10 disputes. For example, in the summer of 2004, after CenturyTel provided notice to
11 Charter that it was in default of an agreement for non-payment, Charter invoked dispute
12 resolution terms with CenturyTel regarding the applicability of service order charges.
13 The Parties met and exchanged information, arguments and legal analyses regarding their
14 respective positions. Charter's position was not persuasive and CenturyTel sustained the
15 charges and continued billing the charges. Despite threatening to so do, Charter did not
16 avail itself of its right to escalate the dispute and CenturyTel rightly considered the
17 dispute closed. Then in 2007, Charter brought up this same dispute and filed it as an
18 escalated dispute before the Commission; three years after the informal dispute resolution
19 was held and presumed closed and it went to hearing in 2008, four years after the
20 informal dispute resolution was held and presumed closed. CenturyTel's language
21 addresses this circumstance and other experiences as well as properly places the
22 consequences of dilatory conduct by Charter upon Charter.

23 **Q. What does CenturyTel's language require of Charter?**

which claims arising under the Agreement can be brought?"

1 A. Specifically, CenturyTel's proposed language would require Charter to file a dispute
2 resolution petition pursuant to agreement terms if the Parties cannot resolve a billing
3 dispute through the normal billing dispute process within one hundred and eighty (180)
4 days of the first noticing of the dispute. If Charter fails to file such petition within a
5 maximum of one year, it waives the dispute and the billing stands. As explained below,
6 this provision is rational and avoids unnecessary expenditure of Party resources and those
7 of the Commission.

8 **Q. Have you had any experience with Charter regarding Charter's withholding of**
9 **payment for billed charges and is this experience considered in your proposed**
10 **language?**

11 A. Yes. In my experience, Charter's general policy seems to be to send a billing dispute
12 notice, which is not the same as invoking dispute resolution under interconnection
13 agreement terms, and usually doing so without sufficient explanation. Once this action is
14 taken, Charter proceeds to withhold payment for as long as it can. Charter should not be
15 permitted to withhold payment with a sense of impunity, knowing that the expense of
16 invoking the dispute resolution process before the Commission could reduce
17 CenturyTel's willingness to seek recovery of amounts that are less than the costs of
18 dispute resolution. CenturyTel's language would resolve this conduct by placing the
19 obligation to file a petition on Charter with the corresponding consequence of waiving
20 the dispute if it does not do so. Thus, CenturyTel's language creates incentives for
21 Charter to withhold only legitimately disputed charges in light of the fact that it will have
22 to justify its withholding of such charges to the Commission or risk waiving its alleged
23 entitlement to same.

24 **Q. Can you explain why CenturyTel opposes Charter's language in Section 20.4?**

1 A. Yes. Through its revisions to Section 20.4, Charter proposes language to the effect that
2 neither Party may bring a “claim” for disputes arising more than 24 months from the date
3 of the occurrence giving rise to the Claim. In my opinion, Charter’s intention is focused
4 on cutting off its potential liability for unpaid and potentially even undisputed charges
5 related to billing; in other words, if Charter stops payment for some billed item, or is not
6 billed for some item through human error, and CenturyTel does not make some “claim”
7 related to that non-payment within 24 months, Charter’s non-payment is legitimized as
8 correct and CenturyTel can never again claim that Charter owes payment for that
9 particular activity. Therefore, Charter’s language is too broad.

10 Charter also has not explained why it is reasonable to cover any potential claim a Party
11 might have against the other under this Agreement or why it is reasonable to waive any
12 applicable statute of limitation that may apply to a specific contract dispute arising under
13 the Agreement. For example, the courts may release an order that retroactively impacts
14 what a Party has billed and that retroactive impact may exceed 24 months. CenturyTel
15 should not be required to waive its right to address an issue that does not present itself
16 within 24 months.

17 **Q. How do you reconcile Charter’s proposed 24 month window for claims to**
18 **CenturyTel’s 12 month window in Section 9.4?**

19 A. CenturyTel’s Section 9.4 applies with respect to billing claims only and requires any
20 formal escalation be made within 12 months of initiating a normal billing dispute.
21 Charter’s proposed Section 20.4 is wide open and unrestricted. In other words, Charter’s
22 proposed Section 20.4 speaks to the *initiation* timeframe for *any* dispute rather than
23 obligating *escalation* of an *existing billing dispute* within a set timeframe as contemplated
24 by CenturyTel’s Section 9.4.

1 **Q. What are CenturyTel's overriding concerns with Charter's proposed language?**

2 CenturyTel biggest concerns with Charter's language are the opportunities for Charter to:

3 a) refuse to pay for certain invoices (perhaps without even disputing such), and/or

4 b) use CenturyTel property or otherwise obtain services from CenturyTel without

5 having been billed for such.

6 In addition, CenturyTel is concerned that Charter seeks to limit its liability by cutting off
7 liability after two (2) years unless CenturyTel incurred the cost to file a billing dispute
8 proceeding.

9 **Q. What is the desired outcome for Issue 13?**

10 A. CenturyTel seeks a finding by the Commission that Charter's proposed language is
11 inappropriate since it provides Charter latitude to avoid payment of valid charges without
12 limitation. The Commission should find that CenturyTel's language properly establishes
13 reasonable timeframes under which disputes must be raised and resolved, and that
14 CenturyTel's language prevents either Party from letting a dispute linger for years to its
15 benefit. Based upon these findings, the Commission should adopt CenturyTel's language
16 to resolve this Issue 13.

17 **Issue 17 Should the Interconnection Agreement contain terms setting forth the**
18 **process to be followed if Charter submits an "unauthorized" request to**
19 **CenturyTel to port an End User's telephone number, and should Charter be**
20 **required to compensate CenturyTel for switching the unauthorized port**
21 **back to the authorized carrier?**

22 **Q. Do you agree with the way Charter has framed Issue 17?**

1 A. No. Charter framed Issue 17 in such a way as to imply CenturyTel would be requiring
2 Charter to exceed its obligations under law. The true context of Issue 17 is just the
3 opposite - what happens when Charter fails to obtain the required customer authorization
4 before submitting a porting order? Since Charter misstates this issue in its issue
5 statement, CenturyTel presents a reformulation of this issue.²⁵

6 **Q: Is Charter's proposal to invoke the FCC's slamming rules (47 C.F.R. § 64.1100 et**
7 **seq.) insufficient to govern the Parties' relationship in the event Charter submits an**
8 **unauthorized request to port a customer's telephone number?**

9 A: Yes it is. The FCC's slamming rules are intended primarily to protect the interests of
10 consumers, not the carriers that are parties to an interconnection agreement. CenturyTel
11 notes that the slamming regulations provide for no compensation to an "executing
12 carrier" -- the term given to the carrier effecting a change request, see 47 C.F.R. §
13 64.1100(b) (which would be CenturyTel in the situation presented here), when it is
14 required under the rule to switch back an unauthorized change. Yet it is this same
15 executing carrier that expends time and resources and therefore incurs costs to rectify an
16 unlawful situation created by the porting carrier. Since CenturyTel's costs are not
17 addressed under the FCC's rules, the Agreement should provide for recovery of costs
18 incurred due to Charter slamming activities.

19 **Q. Can Charter claim this situation is all hypothetical and will never occur?**

20 A. Charter could claim such but it would not be true. First, Charter can not prevent
21 occasional mistakes from happening. Any carrier submitting the concentrated volume of
22 orders that Charter submits is going to type some orders in error. Even more tellingly,
23 CenturyTel has found several cable VoIP providers submitting unauthorized porting

²⁵ Charter's proposed Issue 17 was styled as "Should Charter be contractually bound by terms concerning liability for carrier change requests that exceed its obligations under existing law?"

1 orders. These VoIP providers submit orders in advance of canvassing a neighborhood;
2 presumably doing so in order to look good before a potential customer by shortening the
3 porting interval. I can provide specific detail to the Commission on a confidential basis if
4 such is required. Referring back to my testimony regarding Issue 7, I would point out to
5 the Commission that the cable VoIP providers caught engaging in this practice claim not
6 to be CLECs, and therefore, believe they can skirt federal regulations such as 47 U.S.C. §
7 64.1100 et seq with impunity.²⁶

8 **Q: Can CenturyTel take other actions to stop such improper porting order submission?**

9 A: No. CenturyTel can and has put processes in place that require legal attestations
10 consistent with applicable law. But CenturyTel cannot stop the submission of improper
11 porting requests since CenturyTel cannot control the actions of a carrier submitting such
12 requests. Dealing with legitimate porting carrier errors is burdensome, and CenturyTel
13 incurs significant costs in connection with corrections of such errors. Therefore, terms
14 should be included in the Agreement to allow CenturyTel to recover this type of cost.

15 **Q. How should the Commission find on Issue 17?**

16 A. The Commission should recognize that Charter should be liable for compensating
17 CenturyTel to correct any incorrect or improper slamming orders submitted by Charter
18 and therefore find for CenturyTel's position.

19 **Issue 28 Does CenturyTel have the right to monitor and audit Charter's access to its**
20 **OSS?**

21 **Q. Please describe the basis for the Parties' dispute regarding Issue 28.**

22 A. Charter has provided no basis to limit the ability of CenturyTel to monitor and track the
23 use of the information derived from its Operations Support Systems ("OSS").

²⁶ A non-CLEC VoIP provider submits orders via its CLEC numbering partner. This partner routinely claims no

CenturyTel's OSS and the information contained within them are confidential and remain the property of CenturyTel. The Agreement grants Charter a limited license to access and use such information solely for the purposes expressly stated in the Agreement (*see* Article X, Sections 8.1-8.2), and proper monitoring by CenturyTel of the OSS system is appropriate to ensure that Charter complies with this license.

Q. What is the basis for CenturyTel's right to audit or monitor Charter's access to CenturyTel's OSS?

A. CenturyTel has an interest in protecting the confidential nature of customer and carrier information held in its OSS systems. Recognizing its obligations under 47 U.S.C. § 222 (a) and (b) CenturyTel should have the right to audit/monitor Charter's access to its OSS to ensure compliance with the terms of the Agreement. Charter's refusal to agree to such audit/monitoring is commercially unreasonable and would reduce CenturyTel's ability to effectively ensure its compliance with applicable law and to protect its interests in proper operation, implementation and utilization of its OSS.

Q. Charter's position is that it will only agree to CenturyTel's monitoring and auditing proposals if such action is conditioned upon mutual consent. What is your reaction to that position?

A. I find Charter's position to be akin to asking the fox if it is OK to guard the henhouse. The whole purpose of an audit is to ensure that both Charter and CenturyTel are and remain in compliance with the confidentially regulations that the FCC takes very seriously. Any assertion by Charter that it will not deliberately use its OSS access in non-compliance with the law should be subject to CenturyTel's rights to audit compliance. These audit rights are necessary for at least the following two reasons – 1) people make errors and a Charter employee may mistakenly access information that

liability for the actions of the non-CLEC VoIP partner.

1 should not be accessible or use the OSS in a manner not permitted (such as access
2 without first obtaining customer consent), and 2) regardless of the best intentions of both
3 Parties, CenturyTel has the obligation to proactively assess and ensure its compliance
4 with Section 222.

5 **Q. Charter claims that CenturyTel’s language is “open-ended” and ambiguous.” How**
6 **do you respond to that assertion?**

7 A. In response to Charter’s criticisms of CenturyTel’s language set forth in Charter’s
8 Position Statement in the Joint DPL – that CenturyTel’s language is purportedly “open-
9 ended” and “ambiguous” – I note that the permissible scope of the audit is clearly set
10 forth in the Agreement:

11 8.3.2 Without in any way limiting any other rights CenturyTel may have under
12 the Agreement or Applicable Law, CenturyTel shall have the right (but not the
13 obligation) *to monitor **CLEC’s access to and use of CenturyTel OSS*
14 *Information* which is made available by CenturyTel to **CLEC pursuant to this
15 Agreement, *to ascertain whether **CLEC is complying with the requirements of*
16 *Applicable Law and this Agreement*, with regard to **CLEC’s access to, and use
17 and disclosure of, such CenturyTel OSS Information. The foregoing right shall
18 include, but not be limited to, the right (but not the obligation) to *electronically*
19 *monitor **CLEC’s access to and use of* CenturyTel OSS Information which is
20 made available by CenturyTel to **CLEC through CenturyTel OSS Facilities.

21
22 8.3.3 Information obtained by CenturyTel pursuant to this Section 8.0 *shall be*
23 *treated by CenturyTel as Confidential Information* of **CLEC pursuant to
24 Section 14.0, Article III of the Agreement; provided that, CenturyTel shall have
25 the right (but not the obligation) to use and disclose information obtained by
26 CenturyTel pursuant to this Article *to enforce CenturyTel’s rights under the*
27 *Agreement or Applicable Law*. [Emphasis added.]
28

29 **Q. Do you have any concerns regarding Charter’s access to CenturyTel’s OSS based on**
30 **Charter’s own admissions?**

31 A. Yes. One of the Data Requests that CenturyTel provided to Charter was as follows:

32 RFI No. 21: Admit that, under Charter’s proposed language for Art. III, § 8.4, Charter
33 would be in breach of the Agreement if Charter ceased to be a telecommunications carrier
34 certified by the Missouri Public Utilities Commission [sic] to provide local exchange
35 service in Missouri. To the extent that you deny this request for admission, please
36 explain your reasoning.

1 Charter's Supplemental Response to RFI No. 21 was:

2
3
4 Deny. Charter admits that under Section 8.4 of the draft agreement if Charter has not
5 obtained FCC Missouri [sic] Public Service Commission authorizations required by
6 Applicable Law, then "CenturyTel shall have no obligation to perform under this
7 Agreement." **However, whether Charter would be in breach of the agreement "if**
8 **Charter ceased to be a telecommunications carrier certified by the Missouri Public**
9 **Service Commission to provide local exchange service in Texas" is not specifically**
10 **addressed in Section 8.4. Charter believes that issues involving materiality, cure,**
11 **mitigating circumstances, and other facts or circumstances likely would come into**
12 **consideration under CenturyTel's hypothetical.** [Emphasis added.]

13
14 Charter is a cable CLEC and offers its voice service via the same broadband connection
15 that it also offers Internet service. Other cable CLECs in other states, most notably Time
16 Warner and Comcast, have obtained Section 251 agreements and then later decided that
17 their local service is now "VoIP" and that they are no longer subject to regulation as a
18 CLEC. Adherence to Section 222 is, of course, an obligation applicable only to
19 telecommunications carriers and as I reference in Issue 17, CenturyTel has experienced
20 situations where cable VoIP providers have ignored telecom regulations, including
21 Section 222. Whatever Charter may assert regarding its future actions, the Commission
22 should not establish any conditions under which Section 222 information cannot be
23 monitored and action taken to protect such information.

24 **Q. Is there any existing precedent that the Commission should consider?**

25 A. Yes. The following language is in the OSS appendix of the current Charter/SBC
26 agreement in Missouri:

27 3.7 In order to determine whether CLEC has engaged in the alleged misuse
28 described in the Notice of Misuse, and for good cause shown, SBC-13STATE
29 shall have the right to conduct an audit of CLEC's use of the SBC-13STATE
30 OSS. Such audit shall be limited to auditing those aspects of CLEC's use of the
31 SBC-13STATE OSS that relate to the allegation of misuse as set forth in the
32 Notice of Misuse. SBC-13STATE shall give ten (10) calendar days advance
33 written notice of its intent to audit CLEC ("Audit Notice") under this Section 3.7,

1 and shall identify the type of information needed for the audit. Such Audit Notice
2 may not precede the Notice of Misuse. Within a reasonable time following the
3 Audit Notice, but no less than fourteen (14) calendar days after the date of the
4 notice (unless otherwise agreed by the Parties), CLEC shall provide SBC-
5 13STATE with access to the requested information in any reasonably requested
6 format, at an appropriate CLEC location, unless otherwise agreed to by the
7 Parties. The audit shall be at SBC- 13STATE's expense. All information obtained
8 through such an audit shall be deemed proprietary and/or confidential and subject
9 to confidential treatment without necessity for marking such information
10 confidential. SBC-13STATE agrees that it shall only use employees or outside
11 parties to conduct the audit who do not have marketing, strategic analysis,
12 competitive assessment or similar responsibilities within SBC-13STATE.
13

14 9.2 Joint Security Requirements 15

16 9.2.1 Both Parties will maintain accurate and auditable records that monitor user
17 authentication and machine integrity and confidentiality (e.g., password
18 assignment and aging, chronological logs configured, system accounting data,
19 etc.).
20

21 9.2.2 Both Parties shall maintain accurate and complete records detailing the
22 individual data connections and systems to which they have granted the other
23 Party access or interface privileges. These records will include, but are not limited
24 to, user ID assignment, user request records, system configuration, time limits of
25 user access or system interfaces. These records should be kept until the
26 termination of this Agreement or the termination of the requested access by the
27 identified individual. Either Party may initiate a compliance review of the
28 connection records to verify that only the agreed to connections are in place and
29 that the connection records are accurate.
30

31 9.5.4 Authorized users must not develop, copy or use any program or code which
32 circumvents or bypasses system security or privilege mechanism or distorts
33 accountability or audit mechanisms.
34

35 9.11 Monitoring and Audit 36

37 9.11.1 To deter unauthorized access events, a warning or no trespassing message
38 will be displayed at the point of initial entry (i.e., network entry or applications
39 with direct entry points). Each Party should have several approved versions of this
40 message. Users should expect to see a warning message similar to this one:
41 "This is a (SBC-13STATE or CLEC) system restricted to Company official
42 business and subject to being monitored at any time. Anyone using this system
43 expressly consents to such monitoring and to any evidence of unauthorized
44 access, use, or modification being used for criminal prosecution."

1 9.11.2 After successful authentication, each session will display the last logon
2 date/time and the number of unsuccessful logon attempts. The user is responsible
3 for reporting discrepancies.
4

5 I know of no reason and Charter has not offered any reason why Charter should not have
6 audit terms in the CenturyTel Agreement when it voluntarily agreed to audit terms with
7 SBC.

8 **Q. What is the desired outcome for Issue 28?**

9 A. The criticisms of CenturyTel's position regarding Issue 28 as stated by Charter are
10 without basis. Accordingly, for that reason as well as the more importantly, the need to
11 ensure both Parties' continuing compliance with Section 222, CenturyTel's position
12 regarding Issue 28 should be sustained by the Commission.

13 **Issue 32 How should the Agreement define each Party's obligations with respect to**
14 **fulfilling directory assistance obligations consistent with Section 251(b)(3) of**
15 **the Act?**

16 **Q: Is CenturyTel in compliance with its obligation with respect to the provision of**
17 **access to Directory Assistance to Charter?**

18 A: Yes. CenturyTel's obligation is to provide Charter with non-discriminatory access to
19 Directory Assistance ("DA") and CenturyTel meets this obligation.

20 **Q. Can you define non-discriminatory access?**

21 A. 47 CFR § 51.217 provides the following definition:

22 "Nondiscriminatory access" refers to access to telephone numbers, operator
23 services, directory assistance and directory listings that is at least equal to the
24 access that the providing local exchange carrier (LEC) itself receives.
25 Nondiscriminatory access includes, but is not limited to: (i) Nondiscrimination
26 between and among carriers in the rates, terms, and conditions of the access
27 provided; and (ii) The ability of the competing provider to obtain access that is at
28 least equal in quality to that of the providing LEC.

29 **Q. Does CenturyTel have any obligation to accept and process Charter's listings**
30 **without charge?**

1 A. No, however that is what Charter appears to demand. Charter's proposed language
2 would have CenturyTel perform work for Charter without charge. This is not only
3 illogical, but further, it is contrary to everything the FCC has stated in numerous orders
4 regarding the cost causer being responsible for paying those costs. It is also contrary to
5 applicable regulation. The citation that I just provided from § 51.217 states that Charter
6 should be provided DA on the same "rates, terms, and conditions" that CenturyTel
7 obtains its own DA. CenturyTel bears an administrative processing cost for submitting
8 its own DA listings into the database. Charter is therefore required to pay that same cost
9 if it wants to use CenturyTel for its listing submission. Charter should not be allowed to
10 reduce its costs of doing business by forcing CenturyTel to do Charter's work without
11 compensation.

12 **Q. Does CenturyTel provide DA to its own customers via a CenturyTel DA platform?**

13 A. No. CenturyTel is not a DA provider. CenturyTel obtains DA services for its own
14 customers from a third party provider. CenturyTel's proposed language recognizes the
15 actual manner in which DA will be provided to end users and meets its obligation under
16 law by offering non-discriminatory access to Charter. Accordingly, CenturyTel's
17 proposed language in Section 8 should be adopted.

18 **Q. Is the DA obligation under Section 251 a reciprocal obligation?**

19 A. Yes. CenturyTel's proposed language requires each Party to comply with its DA
20 requirements and, in doing so, provides the mechanism by which each Party can obtain
21 access to other Party's DA information as required by applicable law.

22 **Q. Does Charter need CenturyTel's assistance to place its listings into the database**
23 **used for the provision of DA to CenturyTel's own customers?**

1 A. No. Although not included within the context of either Party's proposed Agreement
2 terms, Charter has several options to place its listings in the DA database. These are
3 essentially the same options that CenturyTel has to get its listings into the Charter DA
4 database. First, because CenturyTel's DA provider provides national listings, it
5 automatically dips the national database if no listings are found in the local database. To
6 the extent Charter already sends its listings to the national database, any dispute over this
7 issue is moot; Charter's listings are already being provided to CenturyTel's customers
8 and nothing further needs to be done. Additionally, CenturyTel's DA provider will be
9 eliminating the local database and dipping only the national database on a going forward
10 basis sometime later this year. Again, to the extent Charter is already submitting listings
11 to the national databases, Charter's listings already appear in the only database that
12 CenturyTel's provider will be dipping.

13 **Q. Do you know if Charter is in fact already sending its listings to a national database?**

14 A. Yes. Charter admits in its Data Request 17 response that it submits DA listings to Volt
15 Delta. CenturyTel's DA provider dips the Volt Delta / LSSI database so any submission
16 that Charter might make through CenturyTel is not only moot but could result in
17 duplicate listings and cause problems thereby. Further, CenturyTel's DA provider is
18 moving towards using Volt Delta / LSSI as its own and only database - further driving
19 home the point that Charter's demand that CenturyTel accept and process its DA listings
20 is moot and potentially problematic for end users.²⁷

21 **Q. You said Charter had several options, what is the next option?**

²⁷ This conversion to the sole use of the Volt Delta database is scheduled for January, 2009.

1 A. CenturyTel has a commitment from its provider to allow CLECs to directly insert listings
2 into the database on an automated basis without using CenturyTel as the middleman for
3 listing submission. This capability is scheduled to be available within a few weeks.
4 Charter can therefore contact CenturyTel's provider and use its direct electronic
5 submission. The last option is for Charter to use CenturyTel as a middleman and to
6 submit orders to CenturyTel for relay to CenturyTel's DA provider. I question whether
7 this is the best option for Charter.

8 **Q: Please explain your view that this is not the best option for Charter.**

9 A: First, if Charter is going to require CenturyTel personnel to perform manual work solely
10 for Charter's benefit, Charter is obligated to compensate CenturyTel for performing that
11 work. Next, CenturyTel's listings are submitted to its DA provider via the CenturyTel
12 billing system so every listing must be manually entered into that system. This would
13 cause delays in making listings available if large numbers are submitted at the same time.
14 Finally, as with any manual process, there is always a chance for human error. There is
15 already a chance for human error when Charter personnel type the listings, why add
16 another unnecessary point where another person has to re-type the same listings?

17 **Q. Has CenturyTel ever offered DA terms to Charter previously?**

18 A. Yes. In 2003, Charter asserted that CenturyTel was obligated to handle Charter's
19 Directory assistance (DA) needs even though there was no Bona Fide Request (BFR) for
20 DA and where the agreement required the separate negotiation of such terms if ever
21 required. At Charter's request, CenturyTel agreed to develop and offer Charter DA
22 terms. Charter never executed the offered agreement.

23 In 2007, Charter filed a complaint in Wisconsin in which Charter again asserted a right to
24 DA services where there was no BFR and where no agreement terms existed. The

1 Wisconsin CenturyTel affiliates offered DA solutions to Charter, including terms, and
2 Charter admitted before the Wisconsin Commission mediator that one offered solution
3 was an acceptable resolution to its issue but it never followed through to implement
4 anything offered.

5 **Q. So Charter has previously been offered acceptable DA terms by CenturyTel and its**
6 **affiliates yet Charter has never implemented such DA terms?**

7 A. Yes.

8 **Q. How are customers obtaining Charter's listings in the affected states?**

9 A. As Charter has confirmed for Missouri and also for Texas (in a Data Request response for
10 that State), presumably Charter is putting the listings in the national database where they
11 are found when requested by CenturyTel's customers.

12 **Q. In your opinion does Charter lack a need for any DA terms in this Interconnection**
13 **Agreement?**

14 A. In my opinion, Charter does not need DA terms.

15 **Q. What if Charter wanted CenturyTel to insert listings in the database "just to be**
16 **sure?"**

17 A. That would be a bad idea. In such a case, you are very likely to get duplicate listings. If
18 the listing is not identical, "Road" versus "Rd." for example or adding "St." where the
19 original listing does not have any such designator, the listing will be duplicated. This
20 could cause problems when the database is dipped. We recently had our provider do
21 some database checks for another CLEC that wanted its listings submitted into the
22 database. The provider found most of the listings already there but most not in an exact
23 match with the newly submitted listings. Interestingly enough, the "old" listings
24 appeared to be more accurate than the "new" listings – a movie theater information line
25 vs. a number that went to a person's voice mail, for example. Also, having CenturyTel

1 insert listings in the database “just to be sure” is just make work. There is a cost for
2 performing this work and it is a cost Charter should bear.

3 **Q. Do you see any other problems with Charter’s proposed language?**

4 A. Yes. Charter’s language also is inaccurate insofar as it states that CenturyTel will
5 “accept, include, and maintain” Charter’s end user listings. CenturyTel has no database
6 to accept, include and maintain any listings. Like Charter, CenturyTel only passes
7 listings to a contracted DA provider – including its own listings.

8 **Q. Does CenturyTel provide DA services without cost to any other CLEC?**

9 A. No. Several CLECs have inquired over the years and have been offered the same
10 nondiscriminatory terms and rates that Charter was offered in Missouri and Wisconsin.
11 After determining the true situation applicable to the dipping of listings in the national
12 database, every inquiring CLEC except one agreed that there was no need to use
13 CenturyTel as a middleman for listing submission. One CLEC with very limited DA
14 needs did recently decide to execute the DA terms and pay CenturyTel to place listings in
15 the DA database.

16 **Q. Did any of those inquiring CLECs believe that CenturyTel should process listings**
17 **without charge as Charter has requested with its proposed language?**

18 A. No. In fact, most CLECs also voluntarily indicated that CenturyTel’s charges for
19 performing such work were acceptable. Further, as I just indicated, the one CLEC that
20 did recently execute a DA agreement agreed to pay CenturyTel the same rate CenturyTel
21 has proposed to Charter.

22 **Q. How should the Commission rule on Issue 32?**

23 A. The Commission should recognize Charter’s position as contrary to applicable law in
24 requiring CenturyTel to perform work without compensating CenturyTel for that work.

1 The Commission should further recognize that Charter seeks to obligate CenturyTel to
2 perform work that is not needed and that Charter can obtain the desired results faster,
3 easier and likely without cost by using an available alternative. The Commission should
4 agree the CenturyTel's language best meets the obligations of law and should be used in
5 this Agreement.

6 **Issue 34 Should Charter be required to obtain certain specific routing parameters in**
7 **the event that it decides to use a third-party provider in the future?**
8

9 **Q. Have the Parties resolved this issue?**

10 A. Yes. The parties have agreed to incorporate the following language in Article VII,
11 Section 4.6.1:

12 If **CLEC uses a third-party database provider, and provides Nomadic VoIP Service, as
13 defined in Section 4.3.2 (above), **CLEC shall obtain its own routable but non-dialable
14 ESQKs for each PSAP to which CenturyTel provides or shall provide coverage, and shall
15 supply these ESQKs to CenturyTel for the Selective Routers servicing each such PSAP.
16 If warranted by traffic volume growth, or if upon request by a PSAP or other
17 governmental or quasi-governmental entity, **CLEC shall promptly obtain the
18 appropriate number of additional ESQKs to be allocated to each PSAP as may be
19 appropriate under the circumstances. The term "ESQK" as used herein, shall be defined
20 as an Emergency Services Query Key, which is used by the National Emergency
21 Numbering Association ("NENA") as a key to identify a call instance at a VoIP
22 Positioning Center, and which is associated with a particular selective router/emergency
23 services number combination.
24

25 **Q. Does CenturyTel request that the Commission resolve this issue by approving the**
26 **language noted above?**
27

28 A. Yes.

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

30 A. Yes, it does.

SCHEDULE GEM-1

SYNOPSIS OF PERSONAL HISTORY WITH CHARTER DISPUTES

In 2003, Charter asserted that CenturyTel of Missouri was obligated to handle Charter's directory assistance (DA) needs even though there was no Bona Fide Request (BFR) for DA and where the agreement required the separate negotiation of such terms if ever required. I was CenturyTel's lead representative in this dispute, which culminated in a discussion before a Missouri Commission Staff member in which CenturyTel's position was sustained and, at Charter's request, CenturyTel agreed to develop and offer Charter DA terms. Charter never executed the offered terms.

In 2004, Charter refused to pay service order administrative processing charges for several types of orders. I served as the CenturyTel negotiator for this dispute. The dispute outcome resulted in Charter ultimately paying the charges billed to date and CenturyTel sustaining the charges paid.

In 2006, I contacted Charter about its use of CenturyTel Network Interface Devices (NIDs) in Wisconsin and its failure to pay for that use. The NID issue was submitted to binding arbitration in which I appeared as a witness. The outcome was an award to the CenturyTel Wisconsin non-rural affiliates of approximately \$455,000. Charter did not perform as ordered in the arbitration award, which forced the CenturyTel affiliates to file litigation to confirm the award with the Dane County Circuit Court in Wisconsin. Charter ultimately paid \$500,000; the award amount plus an additional amount for interest.

In 2007, I was a member of the CenturyTel team handling Charter complaints in Wisconsin regarding both DA and directory listings (DL), again a situation in which Charter asserted a right to services where there was no BFR and where no agreement terms existed. In dispute resolution calls before a Wisconsin Commission Staff member, the CenturyTel affiliates took the position that if Charter wanted a 251 offering such as DA, Charter should start that process by submission of a BFR to the CenturyTel affiliates so the parties could

proceed to negotiate the rates, terms and conditions of such request in accordance with the Act. Instead, Charter continued to make demands and threats. Ultimately, the CenturyTel affiliates offered and Charter agreed to interim terms for DL and to negotiate permanent DL terms. The CenturyTel affiliates also offered a DA solution to Charter which Charter admitted was an acceptable resolution to its issue but never followed through to implement.

In 2007, Charter contacted me regarding a dispute in which Charter was submitting LNP orders to a CenturyTel Texas affiliate and CenturyTel stopped processing those orders because no agreement terms for LNP order submission existed. This dispute resulted in Charter signing an amendment to the applicable Texas interconnection agreement for LNP terms including the application of service order charges for processing LNP LSRs.

Most recently, in April 2008 I served as a witness in a dispute the Charter brought before the Missouri Public Service Commission regarding CenturyTel's billing to Charter of service order administrative processing charges for porting orders and other unspecified orders. Earlier in 2008, the parties settled a Wisconsin case similar to the Missouri case where it was determined that there were no applicable terms or rates for the submission of such LSRs in the contract.

SCHEDULE GEM-2

Lake Dallas Telephone Company, Inc.
General Exchange Tariff

Section 2
Second Revised Sheet No. 18
Cancels First Revised Sheet No. 18

GENERAL RULES AND REGULATIONS

XX. OWNERSHIP OF FACILITIES

Facilities and equipment furnished by the Telephone Company on the premises of a customer are the property of the Telephone Company.

XXI. OBLIGATION OF CUSTOMER

The customer shall permit employees of the Telephone Company to enter his premises at any reasonable hour for the purpose of installing, inspecting, maintaining, or repair the facilities: making collections from coin boxes, or upon termination of the service, removing such facilities.

If service is requested at locations, which are or may be hazardous or dangerous to the Telephone Company's employees, the Telephone Company may refuse to furnish such service. If such service is furnished by the customer, he may be required to indemnify and hold the Telephone Company harmless from any claims, loss, or damage by reason of his furnishing of such service.

XXII. ORDER OR PRECEDENCE FOR ESTABLISHING SERVICE

Applications for service in a particular exchange will be completed in accordance with the chronological order of their receipt depending upon the availability of facilities. Where facilities are limited, the following order or precedence shall apply:

- A. Applications for new business service shall be given priority over applications for residence service.
- B. All others.

XXIII. PAYMENT FOR SERVICE

A. General

The customer is responsible for payment of all charges for services and equipment furnished the customer, including charges for services originated and/or charges accepted at the customer's telephone. The services or facilities furnished by the Telephone Company may be suspended for failure of the customer to pay any sum due as set forth under Discontinuance of Service, Part XIII, of this section.

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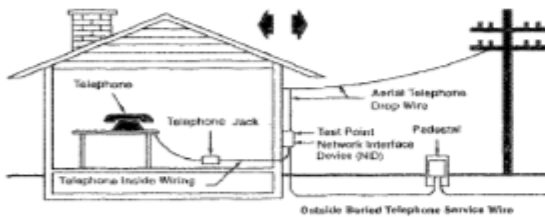
Issued: _____	Issued By: <u>Ms. Kitna Griggs, President</u>
Effective: _____	_____
Order No.: _____	_____

Repair

Calling Instructions

CUSTOMER'S RESPONSIBILITY

CENTURYTEL'S RESPONSIBILITY



LOCATING THE PROBLEM

Telephone service problems can be caused by customer provided equipment (CPE), inside wiring, jacks, telephones, security systems, wireless accessories, modems and any other devices within your premises or the CenturyTel network. We encourage you to follow the troubleshooting tips before you call Repair Service to determine if the problem is the CPE in your premises or with the CenturyTel network outside your home.

If the problem is found to be in the CenturyTel network (outside lines, switches etc.), the repair is completed at no charge.

If the source of the problem is your CPE, a trip charge may be applied and billed to your account. A trip charge applies when CenturyTel dispatches a technician who travels, at your request, to your premises and finds the trouble to be in customer provided equipment. The trip charge is not a repair charge; it is a fee for travel time. Repair of the equipment or wiring is based on the length of time required to perform the repairs and the cost of materials used.

SELF-CHECK/TROUBLESHOOTING

Before contacting CenturyTel for repair, save time and avoid a trip charge by double-checking your CPE to pinpoint the problem and testing for dial tone at the test point located in the Network

Interface Device (NID). This test point disconnects CPE from the CenturyTel network to allow testing directly with the telephone company.

It's CenturyTel's responsibility if:

- There is no dialtone when testing at the Network Interface Device (NID).
- The problem still exists when testing at the NID.

It's a customer's responsibility if:

- Testing at the NID indicates good, clear dial tone.
- A telephone works in one jack but not another.
- There is a loose or broken telephone jack.
- The push buttons are stuck.
- The cords are worn.
- The cord clips are broken.
- The receiver buttons are stuck.

TESTING WITH THE NETWORK INTERFACE DEVICE (NID)

See the inside cover of the NID for step by step instructions.

LOCAL CALLING

To make a local call, you don't need to dial 1 + area code. Simply dial the seven-digit telephone number.

LONG DISTANCE CALLING

DIRECT DIALING

Calls made without operator assistance are the most economical. Place the call by dialing 1 + the area code + the number and you will be charged the appropriate rate.

OPERATOR ASSISTED CALLS

There is an additional charge for calls requiring operator assistance. These calls are more expensive than calling card calls or calls dialed directly from your home or office. When away from home, you can choose the long distance company you want to handle your operator-assisted calls. Many companies provide collect, person-to-person, third number billed and credit card services. Their rates may vary. You may ask any operator for company identification and rate information before beginning your call.

Person-to-Person Calls

Dial 0 + the area code + this number. Tell the operator you're making a person-to-person call to a specific person. You will be charged for the call when that specific person answers. You can place a person-to-person call when you call collect, use your calling card, or charge your call to a third number.

Third Number Billing

Dial 0 + the area code + the number and tell the operator you want to charge your call to a third number. If you're calling from a public telephone, the operator will call the third number to make sure the charges will be accepted. The call will not go through if the operator cannot get approval.

Collect Calls

Dial 0 + the area code + the number and tell the operator you are making a collect call. The operator will hang up when someone at the number you have called accepts the charges.

BUSY LINE VERIFICATION

Some operator service providers offer busy line verification. There may be a charge for this service.

TIME AND CHARGES REQUEST

Dial 0 + the area code + the long distance number and tell the operator you want time and charges. When you finish the call, a computerized voice will return to the line to tell you what you will be charged.

CENTURYTEL CALLING CARDS

CenturyTel offers calling cards for a 99¢ monthly administration fee. You can enjoy the convenience of an 800 number that provides access to telephone service when you are away from home.

To place a call, dial the 800 access number noted on the front of your card. At the drive, enter your calling card number. You will then be prompted for the area code and number of the party you are calling.

If your calling card is lost or stolen, call our Customer Contact Center immediately. The customer is responsible for all calls made on a calling card.



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Installation and Service

REQUESTING SERVICE

Follow these simple steps when you need to order, change or stop your telephone service. Call our Customer Contact Center and speak with a customer service representative. Please be prepared to provide the following information:

- your full legal name
- your street address
- employment and credit information
- types of services you want
- your choice of long distance company
- information regarding your previous telephone number
- how you want your name to appear in the directory

COSTS TO BEGIN SERVICE

A one-time fee is charged to install or change your service. The use of telephone service for business purposes automatically subjects that service to business rates regardless of the type of premises where the telephone is installed. An advance payment or deposit may also be required.

If you need inside wiring or jacks, you have three options:

- You can have CenturyTel do the work at the cost of time and materials. Call our Customer Contact Center for a cost estimate.
- You can hire an independent contractor to do the work.
- You can do the work yourself.

CONNECTION CHARGES

Certain installation charges apply according to work performed. Charges could include:

- service order charge
- central office connection charge
- line connection charge
- wiring charge
- promise visit

ESTABLISHING CREDIT

If you are a new customer with CenturyTel, you may be asked for an advance payment or deposit to establish service. Customers requesting business telephone service may be required to demonstrate satisfactory credit that is appropriate for the service requested.

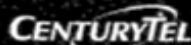
Deposits are based on local service and long distance charges. Any residential customer who furnishes a guarantor is not required to pay a deposit. Any CenturyTel residential customer with 12 months good credit qualifies as a guarantor.

Your deposit will be refunded with interest after 12 months if your telephone bills are paid on time. If service is discontinued during this time, the deposit and interest will be applied to your final bill. Interest rates are set periodically by the Public Utilities Commission of Texas.

DIRECTORY LISTING OPTIONS

Every customer may be listed once in the White Pages of the telephone directory without charge. Enhancement options can be added for a small additional monthly charge.

- **Notified Service:** Your name and telephone number would be available in directory assistance but not in the White Pages.
- **Nonpublished Service:** Your name and telephone number would NOT be listed with directory assistance or in the White Pages.
- **Additional Listings:** You can list the same number under a different name such as a roommate or spouse with a different last name. Fax Numbers, e-mail addresses and alternate cell listings (i.e. after 5 p.m. call...) can also be included.
- **Bold-face or Highlighted Listings:** These options are available to bring attention to your business.



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Installation and Service

ALLOWANCE FOR FAILURE OF SERVICE

The Telephone Company does not guarantee uninterrupted working of its lines and equipment. In case service is interrupted other than by negligence or willful act of the subscriber, an adjustment will, upon application by a subscriber, be made in the amount of charges for such service, equipment and facilities furnished as are rendered useless or ineffectual. Any adjustment shall apply only to the period the interruption continues beyond 48 hours after notice of the interruption is received by the Telephone Company. No other liability shall in any case attach to the Telephone Company. This failure of service applies only to local service within the subscriber's own exchange and does not apply to outages of toll lines or extended area service lines.

INSIDE WIRE MAINTENANCE PLAN

WireWatch is CenturyTel's optional inside wire maintenance plan for residential and small business customers. The plan includes the diagnosis, repair and/or replacement of inside wiring and/or jacks. There is a small monthly charge for the inside wire maintenance plan.

Extensions and Conditions

- Damage to wiring and/or jacks due to natural disaster or acts of God;
- Customer negligence, excessive abuse and/or additional wiring placed by the customer, which does not meet company standards;
- Repair of defective telephone cords, phones or equipment such as fax machines, answering machines or computers;
- Recreational vehicles, and other temporary or moveable structures are not covered;
- Lines terminating to a Ring/PRX, ISDN lines or other non-basic lines;

- The following may not be covered: Leased commercial facilities, multi-dwelling units (apartment buildings, nursing homes, etc.) The Telephone Company will provide maintenance to the protector at these locations. It may be the responsibility of the management of these facilities to monitor and notify each tenant of this policy;
- If you subscribe to more than one line, you must subscribe to WireWatch on all lines in order for them to be covered.

TELEPHONE PROTECTION PLAN (TPP)

Our Telephone Protection Plan provides coverage for all of your eligible home telephones and Caller ID units against mechanical or electrical failure due to normal wear and tear or power surge. If your phone becomes inoperable for one of these reasons, you only make one toll-free call to file a replacement request and a replacement phone is sent to you immediately for all covered requests. The process is convenient and easy. Call our Customer Contact Center for more information.

TECHNICAL STANDARDS FOR WIRING

Telephone wire carries both voice and data modulation. This is 22 or 24 AWG (gauge) unshielded twisted pair wire.

Category 3 - 4 pair quad conductor wire, up to 18 MHz premises with one telephone number, voice and low speed data.

Category 4 - Up to 20 MHz - Voice and medium speed data.

Category 5 - Up to 100 MHz - Voice and high speed data.

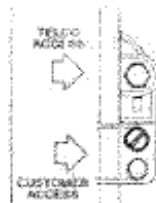


Dear Telephone Customer:

The telephone company has installed a housing called a Network Interface Device. This outdoor unit is located where your telephone wire enters your premises. This location is usually near the electric meter.

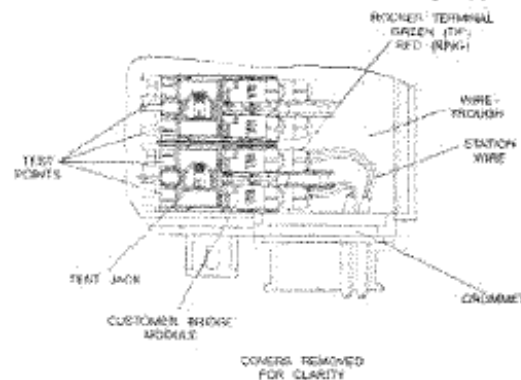
Purpose of this housing:

- Provides you a place to connect your telephone wires.
- Provides a convenient test jack which will help you to isolate telephone line troubles. This will help you when reporting troubles to your telephone company.



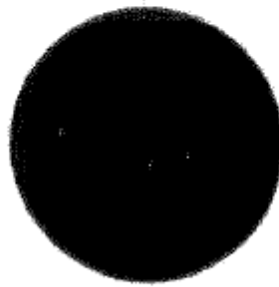
If you decide to connect your telephone wiring: Locate the new housing marked "Network Interface Device". Using a screwdriver, unscrew the fastener marked "Customer Access" and open the cover.

CAUTION: INSERT A RJ11 TYPE PHONE PLUG INTO TEST JACK PRIOR TO WIRING CHANGES.

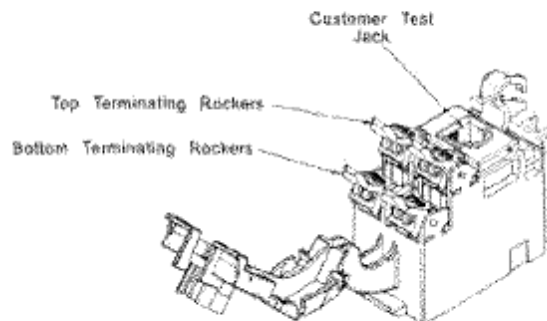


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CTL-D-31-003



Punch a hole through the grommet and pass your wire through grommet. Open the subscriber bridge cover to gain access to top/bottom terminating rockers. Note the lid can be removed from the base for ease of wire installation. Lift one unused wire rocker. Insert the wire pair into the TIP ("T" or Green) and RING ("R" or Red) rocker until fully seated (approx. 1/2" or 13mm). (Do not strip insulation from wire.) Note that if the wire was previously connected to the bridge, trim away the last inch (25mm) or so of wire, removing the area previously scored by the connectors. Press thumb firmly on rocker until it snaps shut. Route wires under lid. Repeat as required. Pull lightly on all wires to verify connection. Perform all customary tests.



* RJ-11 Plug is not required for normal operation

NOTE: If you have a special line, you may want to contact your vendor for assistance prior to equipment connections.

TESTING: Using a screwdriver, unscrew the fastener marked "Customer Access" and open the cover. Open the customer bridge module cover (pull the front tab upward). Plug a working phone directly into test jack. **WAIT ONE MINUTE.** Lift receiver. If dial tone is heard, the problem is in your premises' equipment or wiring. If no dial tone is heard, contact your telephone company.

Advance testing by you may prevent any unnecessary dispatch charges from your telephone company.

Once you finished your test, unplug the telephone from customer test jack. A telephone plug is not required for normal operation. Close the cover and screw the fastener down until the cover is snug and tight.

SCHEDULE GEM-3



TII MODEL

CAUTION: TO REDUCE THE RISK OF PERSONAL INJURIES
INSERT A RJ-11 PLUG INTO TEST JACK
PRIOR TO ANY WIRING CHANGES.

3711H-72-1101
09-08-5

CUSTOMER TELEPHONE WIRING:

Open the customer bridge module. Punch a hole through the appropriate grommet and pass wire through grommet. Remove 3 inches of jacket from that station wire. DO NOT strip wire insulation. Beginning with lower rockers, lift a T/R rocker terminal to full up position. Insert wires into appropriate rocker terminal holes. While assuring that wires are fully inserted, lower rocker to fully seated position. Dress excess wire in wiring trough. Disconnect plug from jack. Close and secure cover.

CUSTOMER COAXIAL CONNECTION: (OPTIONAL SERVICE)

Insert coax cable through grommet. Prepare the coax cable end with the appropriate coax connector. Terminate customer coax cable with CATV coax service connector. Close and secure cover.

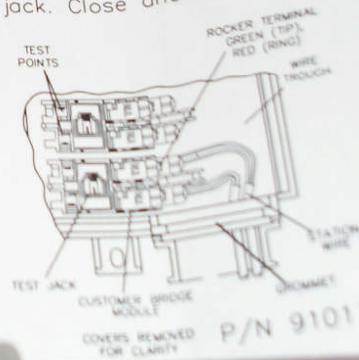
TESTING TELEPHONE LINE:

Open the customer bridge module cover (pull the front tab upward). Plug working phone directly into jack. WAIT ONE MINUTE. Lift receiver. If the phone does not operate call telephone company for repair. If phone operates fault is in customer wiring. Disconnect plug from jack. Close and secure cover.

LINE # _____

LINE # _____

LINE # _____



P/N 91011805

SCHEDULE GEM-4

Charter Missouri Disputes Summary

First Charter Account

Bill Date	Date Dispute Filed	
9/8/2002	6/3/2003	} Disputes not timely filed.
10/8/2002	6/3/2003	
11/8/2002	6/3/2003	
12/8/2002	6/3/2003	
1/8/2003	6/3/2003	
2/8/2003	6/3/2003	
3/8/2003	6/3/2003	
4/8/2003	6/3/2003	
5/8/2003	6/3/2003	
4/10/2006	2/8/2007	} Disputes not timely filed.
12/10/2006	2/19/2007	
1/10/2007	2/19/2007	
2/10/2007	3/12/2007	
5/10/2007	6/12/2007	
9/10/2007	9/20/2007	
9/10/2007	9/27/2007	
11/10/2007	11/27/2007	
5/10/2006	1/21/2008	} Disputes filed after direct testimony in Case No. LC-2008-0049 was filed
6/10/2006	1/21/2008	
7/10/2006	1/21/2008	
8/10/2006	1/21/2008	
9/10/2006	1/21/2008	
10/10/2006	1/21/2008	
11/10/2006	1/21/2008	
1/10/2008	1/21/2008	

Second Charter Account

Bill Date	Date Dispute Filed	
6/6/2006	1/29/2007	
6/6/2006	2/8/2007	
12/6/2006	2/19/2007	
1/6/2007	3/8/2007	
2/6/2007	3/21/2007	
3/6/2007	4/17/2007	
4/6/2007	7/9/2007	
5/6/2007	7/9/2007	
6/6/2007	7/9/2007	
7/6/2007	7/31/2007	
8/6/2007	8/23/2007	
9/6/2007	9/27/2007	
10/6/2007	10/12/2007	
10/6/2007	10/19/2007	
11/6/2007	11/27/2007	
12/6/2007	1/8/2008	
7/6/2006	1/22/2008	} Disputes filed after direct testimony in Case No. LC-2008-0049 was filed
8/6/2006	1/22/2008	
9/6/2006	1/22/2008	
10/6/2006	1/23/2008	
11/6/2006	1/23/2008	
1/6/2008	1/30/2008	