

Exhibit No.: _____
Issue: 4(a), 4(b), 6, 8 and 13
Witness: Peggy Giaminetti
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Charter Fiberlink-Missouri, LLC
Case No.: TO-2009-0037
Date Testimony Prepared: October 21, 2008

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

**In the Matter of the Petition of Charter Fiberlink-)
Missouri, LLC for Arbitration of an Interconnection) Case No. TO-2009-0037
Agreement Between CenturyTel of Missouri, LLC)
And Charter Fiberlink-Missouri, LLC.)**

**REBUTTAL TESTIMONY OF PEGGY GIAMINETTI
ON BEHALF OF CHARTER FIBERLINK-MISSOURI, LLC**

October 21, 2008

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SCHEDULE PG-3:	TESTIMONY OF MISSOURI PSC STAFF WITNESS MR. WILLIAM VOIGHT
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SCHEDULE PG-5:	INVOICE FROM CENTURYTEL SHOWING DISPUTED CHARGES

I. INTRODUCTION

1
2
3 **Q. PLEASE IDENTIFY YOURSELF.**

4
5 A. My name is Peggy Giaminetti, and I am a Vice President of Fiscal Operations and
6 Financial Planning at Charter Communications, Inc., and its subsidiary Charter
7 Fiberlink-Missouri, LLC, the petitioner in this case (collectively “Charter”).

8
9 **Q. ARE YOU THE SAME PEGGY GIAMINETTI WHO FILED DIRECT**
10 **TESTIMONY ON SEPTEMBER 30, 2008 IN THIS MATTER?**
11

12 A. Yes, I am.
13

14 **II. PURPOSE AND SUMMARY OF TESTIMONY**

15
16 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

17
18 A. This testimony responds to the Direct Testimony of Guy E. Miller, III on disputed
19 issues numbered 4(a), 4(b) and 13 of this arbitration, along with responding to the
20 Direct Testimony of Pam Hankins on disputed issues 6 and 8(b), and responding to
21 the Direct Testimony of Steven E. Watkins on disputed issue 8(a). Finally, I will also
22 respond to Mr. Miller’s testimony on Issue 13(b). Ms. Hankins and Messrs. Miller
23 and Watkins all submitted their direct testimony on behalf of CenturyTel in this
24 matter. I will address each issue in ascending numerical order.
25

26 **III. ISSUE 4(a):**

27
28 **SHOULD THE AGREEMENT INCLUDE TERMS THAT ALLOW ONE**
29 **PARTY TO TERMINATE THE AGREEMENT WITHOUT ANY**
30 **OVERSIGHT, REVIEW, OR APPROVAL OF SUCH ACTION, BY THE**
31 **COMMISSION?**
32

1 **Q. HAVE YOU READ THE TESTIMONY OF MR. MILLER REGARDING**
2 **ISSUE 4(a)?**

3
4 A. Yes, I have.

5 **Q. DO YOU HAVE A RESPONSE?**

6 A. Yes, I do. I see at least four problems with Mr. Miller's testimony on this issue.

7 **Q. HOW DO YOU RESPOND TO MR. MILLER'S ASSERTION (PAGE 30,**
8 **LINES 18-20, PAGE 31, LINES 1-2) THAT CHARTER'S PROPOSAL**
9 **PROVIDES DISINCENTIVES FOR COMPLIANCE WITH THE**
10 **AGREEMENT?**

11
12 A. In asserting that the "defaulting party" has an incentive to tie up the "non-defaulting
13 party's" resources with a Commission procedure prior to terminating the agreement,
14 (page 30, lines 18-20, page 31, lines 1-2) Mr. Miller completely overlooks the fact
15 that the "defaulting party" would have its resources equally tied up at the
16 Commission. There is no incentive, or competitive advantage, to the allegedly
17 defaulting party in invoking the Commission option suggested by Mr. Miller. Indeed,
18 if a party were to breach the Agreement by not paying an undisputed amount, that
19 presumably would be owing to its own financial distress. A party in financial distress
20 would not rationally take on additional financial exposure by going to the
21 Commission.

22 **Q. ARE THERE SUFFICIENT INCENTIVES BUILT INTO THE AGREEMENT**
23 **TO AVOID THE OUTCOME THAT MR. MILLER ALLUDES TO?**

24
25 A. Yes. Assuming for argument's sake, that Charter was the "defaulting party" and
26 CenturyTel was seeking to terminate the agreement, there are already sufficient
27 remedies to protect the non-defaulting party. For example, under that scenario if
28 CenturyTel prevailed in a dispute proceeding, pursuant to contract language already
29 agreed to by both Parties, the agreement with Charter could be terminated, and

1 Charter could be ordered to pay the amounts in dispute, *plus* 18% annual accrued
2 interest on those amounts. Under any perspective, that level of interest is a very
3 generous and guaranteed return on an undisputed amount. And the 18% accrued
4 interest is intended to make the prevailing party whole, despite Mr. Miller's
5 implication to the contrary.

6 **Q. MR. MILLER ARGUES THAT CENTURYTEL'S PROPOSED TERMS ARE**
7 **COMMON IN "COMMERCIAL" CONTRACTS. (PAGE 28, LINES 21-22,**
8 **PAGE 29, LINES 1-9) DO YOU AGREE?**

9
10 A. No. Specifically, I disagree with Mr. Miller's premise that this interconnection
11 agreement is analogous to a commercial contract. Mr. Miller's testimony ignores the
12 fact that this Agreement is *not* a typical commercial contract. The Agreement is a
13 statutorily-mandated document that governs not only the parties' rights but directly
14 impacts the interests of end user subscribers. Although I am not an attorney, I do not
15 think it would make sense to attempt to write into a contract the right of unilateral,
16 immediate termination that could result in loss of service for end users when neither
17 party has that right under governing law. In fact, Charter's attorneys tell me that
18 there are rules at the FCC¹ that require a carrier to obtain permission prior to
19 discontinuing most telecommunications services. CenturyTel's proposed language
20 appears to establish a right to unilaterally terminate the agreement, in a manner that
21 seems to conflict with those rules.

22 **Q. HOW DO YOU RESPOND TO MR. MILLER'S ASSERTIONS THAT**
23 **CHARTER HAS FAILED TO PAY "UNDISPUTED" CHARGES IN**
24 **MISSOURI (PAGE 30, LINES 12-14)?**

25
26 A. First, let me make it clear for the record, although Mr. Miller and other CenturyTel
27 witnesses assert that Charter does not properly pay its invoices, that is simply false.

1 Charter has **never** defaulted on an interconnection agreement with CenturyTel, or any
2 other provider. In fact, Charter has consistently paid its invoices to CenturyTel, and
3 Charter has properly disputed those CenturyTel invoices that were assessed in error.

4 **Q. HAS CHARTER FAILED TO MAKE PAYMENT FOR ANY NON-DISPUTED**
5 **CHARGES IN MISSOURI?**

6
7 **A.** No. Charter has consistently remitted payment to CenturyTel for all non-disputed
8 charges in a timely manner since entering into its interconnection agreement with
9 CenturyTel in 2003. In addition, CenturyTel has not requested that a deposit be
10 established or maintained.

11 **Q. DOES CHARTER EXPEND ANY RESOURCES TO REVIEW AND HANDLE**
12 **THE INVOICES RECEIVED FROM CENTURYTEL?**

13
14 **A.** Yes. The fact is, Charter spends significant time and resources reviewing
15 CenturyTel's invoices each month. Those invoices are often inaccurate, and
16 repeatedly assess charges which are not provided for under the parties' existing
17 agreements, or which simply have nothing to do with the arrangements between
18 Charter and CenturyTel.

19 **Q. DO YOU HAVE AN EXAMPLE OF AN INCORRECT INVOICE FROM**
20 **CENTURYTEL?**

21
22 **A.** Yes. As an example, the October 2008 invoice from CenturyTel for arrangements
23 between the parties in Missouri contained several errors. Charter was billed usage
24 in error. In addition, an end user payment of \$110.26 was applied by CenturyTel to
25 this bill in error. These types of mistakes have generally been the case on the
26 CenturyTel bills for Missouri, Texas and Wisconsin. Virtually every month Charter
27 is billed incorrect/miscellaneous usage charges and one or more end user payments

¹ 47 C.F.R. § 63.62.

1 are applied to the Charter bills in error. A copy of the October bill and the associated
2 bill dispute pages are attached as Schedule PG-5.

3 **Q. IS THERE ANY EVIDENCE, BEYOND YOUR TESTIMONY, THAT**
4 **CENTURYTEL'S INVOICES ARE NOT ALWAYS ACCURATE?**

5
6 A. Yes. Interestingly, although Charter and CenturyTel have been involved in numerous
7 billing disputes, CenturyTel has never attempted to recover those charges by initiating
8 a proceeding at the relevant state commissions to recover those charges. Instead,
9 when a significant billing dispute arises, CenturyTel simply threatens to terminate the
10 existing interconnection agreement, in an attempt to force Charter to pay the improper
11 invoices.

12 That very scenario occurred just last year. In 2007, CenturyTel sent letters to
13 Charter's affiliated companies in Missouri and Wisconsin threatening to terminate
14 service with Charter, conditioned only on Charter's willingness to pay disputed
15 invoices that had accrued between the parties. In other words, CenturyTel told
16 Charter: "pay up or we will stop porting telephone numbers to your network." A
17 copy of one of those letters is attached as Schedule PJG-1.

18 **Q. WAS THAT THREAT BASED ON INVOICES THAT WERE DISPUTED OR**
19 **UNDISPUTED AMOUNTS?**

20
21 A. The threat was an attempt to collect on invoice amounts that Charter had properly
22 disputed.

23 **Q. HOW WAS THAT DISPUTE RESOLVED?**

24
25 A. Charter was forced to initiate a complaint proceeding before the Wisconsin and
26 Missouri Commissions to ensure that CenturyTel did not terminate service pending
27 the billing dispute. Both of those state commissions issued "standstill" orders which

1 ordered CenturyTel **not** to terminate service pending the dispute. A copy of those
2 orders are attached as Schedule PG-2.

3 **Q. HOW WAS THE WISCONSIN DISPUTE RESOLVED?**

4
5 A. Those cases proceeded along two different tracks. As Mr. Miller notes in his schedule
6 GEM-1, in Wisconsin, CenturyTel agreed to settle the case rather than having to take
7 the dispute to a hearing at the Wisconsin PSC.

8 **Q. HOW WAS THE MISSOURI DISPUTE RESOLVED?**

9
10 A. The Commission just issued an order deciding those billing disputes in Charter's
11 favor. In fact, CenturyTel's billing improprieties were clearly established early in
12 that case when the Staff of the Commission filed testimony asserting that CenturyTel
13 had no contractual basis for assessing the charges it assessed upon Charter.
14 Specifically, Commission Staff Member Mr. William Voight testified that there was
15 no contractual basis for CenturyTel to assess a number porting charge upon Charter.
16 Based upon this conclusion, Mr. Voight concluded in his recommendation to the
17 Commission that "CenturyTel has *improperly billed* Charter for telephone number
18 porting" and that "the Parties *Interconnection Agreement does not authorize* either
19 Party to bill the other for telephone number porting." See Rebuttal Testimony of
20 William L. Voight, MO PSC Staff Witness at 15-16, Case No. LC-2008-0049, filed
21 Feb. 15, 2008 (emphasis added). A copy of Mr. Voight's testimony is attached hereto
22 as Schedule PG-3.

23 **Q. WHAT WAS THE OUTCOME OF THAT PROCEEDING?**

24
25 A. On October 21, 2008, the Commission issued a report and order concluding that
26 CenturyTel was not entitled to assess porting charges under the parties'
27 interconnection agreement. The docket number for this case is LC-2008-0049. The

1 Commission ordered CenturyTel to refund nearly \$70,000 in disputed charges to
2 Charter, and found that Charter had **properly** disputed these unauthorized charges,
3 “as early as June of 2003.” (PSC Report and Order, LC-2008-0049 at paras. 27, 30,
4 and pp. 12, 15) In addition, the Commission specifically noted that the accuracy of
5 certain other disputed charges assessed by CenturyTel remains an “ongoing concern.”

6 **Q. IS THE COMMISSION’S DECISION RELEVANT TO THIS ISSUE?**

7
8 A. Yes. CenturyTel’s approach is often to render overreaching or inaccurate invoices and
9 then threaten to cut-off the other party (e.g., stop porting numbers) if those invoices
10 are not paid in full. For example, this Commission just released its findings that
11 CenturyTel began charging for number porting requests based upon a CenturyTel
12 employee’s mistaken belief that a UNE port charge should be applied to Charter.
13 (Report and Order at 10.). Indeed, the Commission ruled that “[a]lthough CenturyTel
14 knew that the \$19.78 charge was incorrect, it continued to charge this amount for
15 three years.” (*Id.*) One might call this a “bill first, and ask questions later” approach.
16 But, as the Commission’s decision today in LC-2008-0049 illustrates, CenturyTel’s
17 presumption that it can bill unauthorized charges or that its invoices are accurate is
18 simply not true.

19 Under CenturyTel’s proposed language for this Issue 4(a), CenturyTel will be in
20 precisely the same position that it has been in the past. If its contract language is
21 adopted, CenturyTel will be able to continue this reckless “bill first, and ask questions
22 later” approach. We have seen, in both Wisconsin and Missouri, the results of that
23 approach. This Commission should avoid the same result by adopting Charter’s more
24 reasonable termination language.

1 **Q. ARE THERE OTHER CONCERNS YOU HAVE WITH MR. MILLER'S**
2 **TESTIMONY?**

3
4 A. Yes, I have several concerns with the statements made in his exhibits, which appears
5 to be a self-serving compilation of information that does not tell the entire story. For
6 instance, in Schedule GEM-1 Mr. Miller states that: "In 2004, Charter refused to pay
7 service order administrative processing charges for several types of orders. I served as
8 the CenturyTel negotiator for this dispute. The dispute outcome resulted in Charter
9 ultimately paying the charges billed to date and CenturyTel sustaining the charges
10 paid." *See* Schedule GEM-1.

11 **Q. PLEASE DISCUSS YOUR CONCERNS.**

12
13 A. When he refers to a 2004 dispute, I assume Mr. Miller is referring to a dispute
14 between the parties in Missouri, since Charter was not interconnected with
15 CenturyTel in Texas or Wisconsin at that time. If that is correct, then his statement is
16 simply wrong when he says that the "dispute outcome resulted in Charter ultimately
17 paying the charges billed to date." This can not be correct because as Mr. Miller
18 himself notes, on page 48, lines 17-22, that dispute was not resolved in 2004. Instead,
19 it was escalated to the Missouri Commission in 2007, when Charter petitioned the
20 Commission to request that it resolve the parties' billing dispute. Further, as noted
21 above, the Commission today ruled that Charter properly disputed number porting
22 service charges under the parties' current interconnection agreement, and that the
23 number porting service charges were not authorized by that agreement.

24 **Q. DO YOU HAVE ANY RESPONSE TO MR. MILLER'S ASSERTION IN**
25 **FOOTNOTE 19 THAT CHARTER DID NOT TIMELY FILE BILL DISPUTES**
26 **IN 2006?**
27

1 A. The first group shown for bill dates 9-8-2002 through 3-8-2003 were not filed within
2 the usual filing window because CenturyTel mailed those bills to an invalid address.
3 Therefore, we did not receive those bills until CenturyTel re-mailed them to Charter
4 at the correct address. We received those re-mailed invoices on May 20, 2003.
5 Immediately thereafter my staff analyzed, audited and promptly disputed those
6 invoices on June 3, 2003, less than two weeks after we received them.

7 **Q. DO YOU HAVE ANY RESPONSE TO MR. MILLER'S ASSERTION IN**
8 **FOOTNOTE 19 THAT CHARTER DID NOT TIMELY FILE BILL DISPUTES**
9 **IN 2006?**

10
11 A. As for the second group of charges, for the months of May 2006 through November
12 2006, there are several reasons that those disputes were not filed in the usual
13 timeframe.
14 First, at that same time, CenturyTel had developed a new mechanical filing process
15 and any new claims would have to be filed using that new process. In an effort to be
16 more responsive to bill dispute obligations, and related obligations, we brought in a
17 contract employee starting August 2006, to assist with the bill dispute filing process.
18 We initially began by filing the less complex disputes to get her up to speed,
19 graduating to the more complex disputes. In addition to the complexity of dispute
20 issue, we also had to work through the requirements to obtain account log-on codes,
21 passwords, etc., set up for the CenturyTel mechanized dispute process. Once this was
22 done, the April, 2006 bill month disputes were filed electronically on February 8,
23 2007. Notably, CenturyTel rejected those disputes because they were not filed within
24 90 days, even though there was no such limitation in the parties' interconnection
25 agreement. We went back to CenturyTel and told them we did not see this
26 requirement in our ICA. They referred us to their online Service Guide which said

1 disputes must be filed within 90 calendar days. So rather than waste more valuable
2 time filing the disputes that were outside the 90 day window, we focused on filing the
3 disputes for the bill months that were still recoverable within the 90-day window.
4 Accordingly, we filed December, 2006 and January, 2007 disputes on February 19,
5 2007, and continued filing each month going forward. In the interest of time, let me
6 provide my remaining thoughts in summary fashion for the Commission's
7 consideration:

- 8 • Note that if CenturyTel had not denied the April 2006 bill dispute because it was
9 outside the 90-day window, Charter would have filed every one of them at that
10 time.
- 11
- 12 • As I have explained, these disputes are extremely time consuming to file in that
13 every telephone number, page number and individual amount disputed must be
14 entered into the system, despite of the fact that the dispute is for the entire class of
15 charges, not specific telephone numbers billed.
- 16
- 17 • Also, Charter had already told CenturyTel month after month that Charter
18 disputed this class of charges prospectively on a going forward basis in the emails
19 that transmitted the disputes filed on the original CenturyTel Spreadsheet Dispute
20 Request. So it is clear that CenturyTel knew Charter was disputing this class of
21 charges.
- 22
- 23 • The total amount of these 2006 disputes bills that were submitted in January 2008,
24 during the Missouri complaint proceeding was \$16,349.76. Contrast this with the
25 total amount of charges disputed (\$278,323.91), and one can see that these
26 represent less than 6% of the total disputed.
- 27

28 **IV. ISSUE 4(b):**

29
30 **WHAT TERMS SHOULD GOVERN THE RIGHT OF A PARTY TO TERMINATE**
31 **THIS AGREEMENT UPON THE SALE OF A SPECIFIC OPERATING AREA??**

32
33 **Q. HAVE YOU READ THE TESTIMONY OF MR. MILLER REGARDING**
34 **ISSUE 4(b)?**

35
36 **A.** Yes, I have.

37 **Q. WHAT IS YOUR RESPONSE?**

1 A. I completely disagree that the modest condition that Charter seeks regarding
2 CenturyTel's termination of the Agreement upon sale of an operating area to another
3 carrier is in any way unreasonable. In fact, Mr. Miller's own testimony, combined
4 with the parties' partial agreement on conceptually similar assignment language,
5 undermines CenturyTel's position on this disputed issue.

6 **Q. PLEASE CONTINUE.**

7 A. It is critical to recall what facts prompt this disagreement. Section 2.7 will only come
8 into play if either party sells or transfers an operating area within Missouri that is
9 covered by the Agreement, and that party seeks to terminate the Agreement with
10 respect to that operating area. In that circumstance, Charter has suggested that the
11 seller/transferor would be required to make sure that the Agreement runs, in its
12 entirety, to the buyer/transferee. As Mr. Miller suggests at page 34, lines 17-23 and
13 page 35, lines 1-2, of his testimony, only a certified local exchange carrier would
14 qualify as a third party buyer or transferee. But that is not the same as assuring that
15 such third party assumes the Agreement in its entirety. The Agreement is lengthy,
16 complex and negotiated in good faith by Charter. Charter should receive the benefit
17 of its efforts and expense to negotiate and arbitrate an interconnection agreement for
18 the duration of the Agreement's term, no matter what company assumes the role of
19 incumbent LEC.

20 **Q. DO YOU HAVE OTHER CONCERNS?**

21 A. Yes. Mr. Miller acknowledges that Charter would have to re-negotiate with the third
22 party, and perhaps participate in a Commission proceeding, to assure the same terms
23 and conditions of the Agreement would continue after a sale or transfer. Charter
24 should not bear the burden of additional resource expenditure, nor should this

1 Commission, simply because CenturyTel decides to sell one or more of its Missouri
2 properties. Additionally, while CenturyTel expresses concern that Charter's
3 reciprocal contract language somehow devalues CenturyTel's franchise, that
4 sentiment overlooks the fact that the value of its franchise is dependent in part on the
5 revenues and benefits it derives from interconnection.

6 **Q. DO YOU AGREE THAT CHARTER'S PROPOSAL BENEFITS ONLY**
7 **CHARTER?**

8

9 A. Absolutely not. Charter's proposed Section 2.7 is expressly reciprocal. And to the
10 extent that a transferee might not be able to assume the terms and conditions of the
11 Agreement, as Mr. Miller suggests at page 34, lines 10-16, of his direct testimony, I
12 respectfully submit that such company would not merit this Commission's approval
13 as an incumbent local exchange carrier. Thus, by conditioning a sale or transfer of all
14 or part of CenturyTel's service territory upon the transferee meeting the obligations of
15 this Agreement, the Commission and the public interest benefit, as the Agreement's
16 terms themselves establish certain operational requirements that any competent ILEC
17 should meet.

18 **Q. BUT MR. MILLER ARGUES THAT CHARTER'S POSITION ON THIS**
19 **ISSUE IS INCONSISTENT WITH ITS POSITION ON ISSUE 5,**
20 **CONCERNING ASSIGNMENTS (PAGE 33, LINES 12-21). DO YOU**
21 **AGREE?**

22

23 A. No, I do not agree. Mr. Miller claims that Charter's position on this issue and Issue 5
24 (Assignments) are inconsistent because in the assignment area, Charter has argued
25 that there should be no limitation on assignments that will have the effect of
26 undermining the other Party's ability to contract with third parties to assign this
27 agreement. But Mr. Miller ignores the fundamental distinction between these two
28 issues. Namely, that the assignment provision of the agreement contemplates that the

1 interconnection agreement *will be assigned* to a third-party. On the other hand,
2 CenturyTel's language for Section 2.7 would allow CenturyTel to sell an operating
3 area, without also assigning the terms of this agreement to the acquiring entity. So,
4 Charter's position on the assignment issue contemplates that the obligations of this
5 contract will continue with the third party that the agreement is assigned to. That is
6 precisely the outcome that Charter seeks on this issue as well. So there is no internal
7 inconsistency as Mr. Miller argues.

8 **V. ISSUE 6:**

9 **UNDER WHAT CONDITIONS MAY ONE PARTY DEMAND THAT THE**
10 **OTHER PARTY PROVIDE DEPOSITS, OR ASSURANCE OF**
11 **PAYMENTS?**

12 **Q. HAVE YOU READ THE TESTIMONY OF MS. HANKINS REGARDING**
13 **ISSUE 6?**

14
15 A. Yes, I have.

16 **Q. BEFORE WE DISCUSS MS. HANKINS TESTIMONY, CAN YOU PLEASE**
17 **REMINDE THE COMMISSION WHETHER CHARTER HAS A DEPOSIT**
18 **WITH CENTURYTEL AT THIS TIME?**

19
20 A. No, we do not. Despite Ms. Hankins best efforts to paint a dismal picture of
21 Charter's financial health, it is instructive to note that CenturyTel has never requested
22 a deposit from Charter. That, in and of itself, seems to demonstrate that we have not
23 presented any real risk to CenturyTel.

24 **Q. DO YOU HAVE ANY GENERAL THOUGHTS BEFORE WE DISCUSS THE**
25 **SPECIFICS OF THE TESTIMONY OFFERED BY CENTURYTEL**
26 **WITNESSES ON THIS ISSUE?**

27
28 A. Yes, I am frankly surprised with the tone of Ms. Hankins' testimony, and her
29 assertion that in the past four years CenturyTel's experience with Charter dictates that
30 they are required to have a "firm set of business rules" with Charter. I would assert

1 that Charter holds the same view of CenturyTel's practices. The purpose of this
2 arbitration is to ensure that our new agreement clearly states the processes and rates
3 by which the two companies will operate. I hope that this will also eliminate the
4 significant time and expense we incur on a monthly basis to dispute charges from
5 CenturyTel which are clearly not billed in accordance with our current
6 interconnection agreement.

7 **Q. WHAT IS YOUR RESPONSE TO MS. HANKINS' CRITICISM OF**
8 **CHARTER'S PROPOSAL FOR THIS ISSUE?**

9
10 A. The testimony of CenturyTel witnesses Ms. Hankins mischaracterizes Charter's
11 position by suggesting that Charter objects to the concept of a dispute or assurance of
12 payment provision in this agreement. That, of course, is not the case. The dispute
13 between the parties surrounds how those deposit terms should be established, not
14 whether there should be any deposit requirement at all.

15 **Q. PLEASE EXPLAIN.**

16
17 A. In my direct testimony I noted that Charter was concerned that CenturyTel's proposed
18 language in Section 6.1.1 (along with Section 6.1.2, 6.2 and 6.3) gives CenturyTel
19 unilateral authority over deposits but lacked additional explanation concerning what
20 CenturyTel believes to be "other relevant information" that it would or could use to
21 determine whether a deposit is required. Ms. Hankins' direct testimony gives a sense
22 of that "other relevant information." Namely, Ms. Hankins indicates that CenturyTel
23 would use public statements by or concerning Charter's *parent* to determine when
24 Charter must supply a deposit. (Page 4, lines 14-22, Page 5, lines 1-20, Page 6, lines
25 1-15) Presumably, given the tenor of Ms. Hankins' testimony, CenturyTel would
26 demand deposits as soon as the Agreement is executed.

1 **Q. MS. HANKINS ASSERTS THAT CHARTER’S DEPOSIT LANGUAGE IS**
2 **SIMPLY INTENDED AS MEANS OF AVOIDING PAYMENT TO**
3 **CENTURYTEL. DO YOU AGREE?**
4

5 A. No, and frankly, I’m concerned with the repeated attempts by CenturyTel to
6 mischaracterize Charter’s position. I would like to reiterate that Charter has *never*
7 defaulted on an interconnection agreement. Further, no other ILEC in Missouri has
8 required a deposit from Charter. Finally, I would repeat the fact that, on a monthly
9 basis, Charter has consistently remitted payment for non-disputed charges to
10 CenturyTel in a timely manner. This is demonstrated by the fact that CenturyTel has
11 never believed it necessary to put a deposit requirement in place for our account.

12 **Q. WITH RESPECT TO SECTION 6.1.2, IS CENTURYTEL CORRECT THAT**
13 **CHARTER IS SIMPLY TRYING TO “BUY TIME” BEFORE MAKING A**
14 **DEPOSIT?**
15

16 A. No. Ms. Hankins’ direct testimony at page 9 presumes that a deposit will be required;
17 her testimony only addresses deposit levels, not whether a deposit is proper in the
18 first place. Casting the dispute resolution protections of the Agreement in that light,
19 she proceeds to criticize Charter’s proposed contract language. But Charter’s
20 language in Section 6.1.2 is intended to guard against exactly this type of adverse
21 presumption. It may be that the parties disagree as to whether a deposit is required at
22 all. Ms. Hankins entirely ignores this possibility. Charter believes that both parties
23 should have the ability to contest and negotiate the requirement of a deposit using the
24 dispute resolution provisions from the Agreement. In addition, Ms. Hankins argues
25 that it is “illogical” for CenturyTel to continue providing service if the parties
26 disagree as to the need for a deposit. Charter submits that it is illogical to ask it to be
27 subject to denial of service while the very fact of whether a deposit is actually
28 necessary is under discussion. In short, CenturyTel seeks to put the cart before the

1 horse by presuming a deposit is needed. That is not fair, or necessary, given the
2 relationship here.

3 **Q. DO YOU HAVE ANY REACTION TO MS. HANKINS' TESTIMONY**
4 **REGARDING SECTION 6.2?**

5
6 A. Yes, I do. Ms. Hankins identifies two "major flaws" with Charter's proposed
7 language. First, Ms. Hankins' claims that "there is no standard by which to measure
8 Charter's proposed language", *i.e.*, what two months should be used by the Parties to
9 establish a required deposit, the highest two billing months or the lowest. Second,
10 Ms. Hankins claims that the lack of a standard will cause "additional disputes"
11 between the parties. To address Ms. Hankins' concerns, Charter would like to make
12 it clear here that it would accept an average of the highest two months' worth of
13 billing from the immediately prior six (6) months billing period as the basis of the
14 deposit requirement. This clarification eliminates Ms. Hankins' initial concerns with
15 Charter's proposed language for Section 6.2.

16 **Q. WHAT ABOUT MS. HANKINS' TESTIMONY REGARDING USE OF**
17 **FORECAST DATA TO ESTABLISH DEPOSITS?**

18
19 A. I do not believe that a forecast will be any more reliable than actual historic data, for
20 purposes of establishing a required deposit. In all likelihood, the parties would look
21 to historic experience as a foundation for such a forecast, and obviously the most
22 recent billing data would be the most reliable. Now that Charter has clarified that it is
23 willing to use an average of the highest two months with the prior six months worth
24 of billing, I believe CenturyTel's concerns are adequately addressed by Charter's
25 proposed language for Section 6.2.

26 **Q. DO YOU CARE TO RESPOND TO MS. HANKINS' TESTIMONY**
27 **REGARDING SECTION 6.3?**

28

1 A. Yes, I would. As noted in my direct testimony, CenturyTel proposes to amend
2 Section 6.3 by importing authority to examine “conditions” related to Charter’s actual
3 billing (not payment) history and/or credit rating in determining whether to modify a
4 deposit. Ms. Hankins argues that such a requirement is necessary because other
5 CLECs may opt into the Agreement. I remind the Commission that this proceeding is
6 between Charter and CenturyTel, and the terms and conditions of the agreement that
7 Charter has negotiated or proposed are advanced in good faith and based upon facts
8 specific to Charter, not other CLECs.

9 **Q. DO YOU AGREE THAT CENTURYTEL SHOULD USE THE BOND**
10 **RATINGS OF CHARTER’S PARENT AS THE GAUGE FOR WHEN**
11 **DEPOSITS ARE REQUIRED?**

12
13 A. No, I do not. Charter stands on its own as a service provider in Missouri. When
14 Charter applied for operating authority, we indicated that we would rely upon the
15 considerable financial resources of Charter Communications, Inc., our parent, to
16 verify our its financial ability to provide services in Missouri. Given Charter’s status
17 as a start-up company in 2000-2001, that representation was accurate and responsible,
18 and obviously the Commission found the representation acceptable, as it granted
19 Charter operating authority in Docket No. TA2001346XXX, specifically finding that
20 Charter had demonstrated the requisite financial standing to hold CLEC
21 authorization.

22 **Q. WHAT CAN YOU TELL US ABOUT CHARTER’S CURRENT FISCAL**
23 **SITUATION?**

24
25 A. In the spring of this year, Charter completed financing transactions to raise over \$1
26 billion in additional liquidity for the company. As a result, the company has
27 sufficient liquidity to fund operations through 2009, and the company’s next major

1 maturity occurs in the fall of 2010. In addition, Charter continues to achieve solid
2 revenue growth each quarter. We have achieved double-digit cash flow (*pro forma*
3 adjusted EBITDA) growth for seven consecutive quarters, and we maintain an
4 industry-leading ARPU (average revenue per unit/customer) growth rate.

5 **Q. IS THIS A RESULT OF CONTINUED GROWTH IN CHARTER'S VOICE**
6 **SERVICE OFFERINGS?**

7
8 A. In part, yes. Beyond Missouri, we have successfully expanded our voice service
9 offerings into 20 states, nationwide. Those service offerings have proven to be very
10 successful, in that subscriber growth continues on a very strong trend. In fact, earlier
11 this year, the company recently exceeded the 1 million subscriber benchmark.

12 **Q. IS THE COMPANY ALSO INVESTING IN THE FUTURE?**

13 A. Yes. In each of the past four years we've invested approximately \$1 billion in capital
14 to better serve our customers. For example, Charter continues to increase the number
15 of its call center agents. We have added over 2,000 since 2006. Also, Charter has
16 converted its call centers to Centers of Excellence, ensuring calls are routed to
17 specially-trained agents based on the nature of the call. In addition, Charter has
18 implemented automated workforce management systems which allows dynamic
19 dispatching to route technicians based on skill-set and availability. This has resulted
20 in significant reductions in average time to repair, and all service and repair calls
21 scheduled in 2 or 4 hour windows.

22 **Q. WHAT DO YOU BELIEVE THE SIGNIFICANCE OF THIS DATA IS?**

23 A. I believe that the data demonstrate that Charter is financially sound and that we
24 communicated accurate and reliable information to the Commission. I also believe
25 the data confirms that Charter is and should be treated as an autonomous business in

1 Missouri for the purposes of this Agreement. While in start-up mode Charter might
2 have had to call on its parent's resources, but in just three years Charter has
3 demonstrated managerial, technical and financial prowess and established itself as a
4 profitable concern. Consequently, I think it is inappropriate to look to Charter's
5 parent to gauge whether a deposit is required in Missouri for Charter's
6 telecommunications operations.

7 **Q. WHAT IS CENTURYTEL'S CURRENT RISK PROFILE?**

8 A. I am in no way a financial analyst, but my understanding is that CenturyTel itself is
9 "on watch" by Moody's for a possible downgrade of its bond rating. I attach a copy
10 of Moody's ratings report from June 24, 2008 as an exhibit to my testimony
11 (Schedule PG-4), and I let the report speak for itself. I would guess that, despite this
12 ratings watch and potential credit downgrade, CenturyTel would still characterize
13 itself as a financially viable company able to meet its current and likely obligations.
14 My point here is merely that bond ratings are not always perfect indicators for future
15 performance, or the need for deposits, or other assurances of payment.

16 **Q. ARE THERE ANY OTHER POINTS YOU WOULD LIKE TO ADDRESS?**

17
18 A. Yes, I note that Ms. Hankins cites to the Texas Commission's decision in Arbitration
19 Case No. 28821. While I am not an attorney, I read the Texas Commission's ruling
20 on Deposits (DPL Issue No. 35) to pertain to *new entrants*: "The Commission finds
21 that it is reasonable to allow SBC Texas to request a deposit from a new entrant..."
22 (emphasis added). Obviously Charter is not a "new entrant" in Missouri; the
23 company has provided service since 2002, and has never defaulted on an obligation
24 to any Missouri ILEC. Thus, it would appear to me that the Texas Commission's
25 final statement on DPL Issue No. 35 would pertain here:

1 The Commission disagrees that SBC Texas may require a deposit from
2 a billed party with a good payment history but who has impaired
3 credit. Impairment of credit does not necessarily indicate future
4 delinquency in payment, especially when the payment history shows
5 that the billed party has continued to timely pay amounts due.
6

7 Ms. Hankins' direct testimony completely ignores the distinction between new
8 entrants and established providers like Charter. Thus, it is Charter, not CenturyTel,
9 whose proposed Agreement language more closely hews to what the Texas
10 Commission has done previously.

11 **Q. MS. HANKINS CRITICIZES CHARTER'S PROPOSAL IN SECTION 6.1.1**
12 **(PAGE 7, LINES 11-22). HOW DO YOU RESPOND?**

13
14 A. CenturyTel criticizes the criteria that Charter uses in its proposal for determining
15 when a deposit would be required. Specifically, Charter has proposed that a deposit
16 is appropriate where Charter fails to timely pay an undisputed invoice, or if it initiates
17 a bankruptcy proceeding.

18 **Q. DO YOU HAVE A RESPONSE TO MS. HANKINS'S ARGUMENT THAT**
19 **CENTURYTEL HAS THE SAME CONCEPT ALREADY INCORPORATED**
20 **BY CHARTER IN SECTIONS 1.7.2.1 AND SECTION 1.7.6 OF CHARTER**
21 **FIBERLINK-MISSOURI, LLC LOCAL EXCHANGE TARIFF P.S.C. MO-NO.**
22 **1 IN CALLING FOR DEPOSITS FROM CHARTER?**

23
24 A. Yes, I do. First, I don't accept Ms. Hankins' premise that a regulated interconnection
25 agreement needs to mirror the terms of our retail end user tariff. Second, Ms.
26 Hankins is exactly right that, in certain circumstances, Charter requires a deposit from
27 new or continuing end user customers ordering tariffed services in Missouri. What
28 Ms. Hankins conveniently overlooks, however, is that Charter cancels the deposit
29 requirement—and returns the deposit with interest—whenever a customer pays all
30 charges for a period of 12 consecutive months. This concept is captured in 1.7.9.3 of

1 Charter's local exchange tariff.² Put another way, even when Charter assesses
2 commercial credit data and past account history, Charter will not require a deposit if
3 the end user customer stays current for 12 consecutive months.

4 **Q. IS CHARTER'S PROPOSED LANGUAGE IN SECTION 6.1.1 OF THE**
5 **AGREEMENT CONSISTENT WITH CHARTER'S LOCAL EXCHANGE**
6 **TARIFF?**

7
8 A. Yes. Charter's proposed language for Section 6.1.1 of the Agreement provides that
9 CenturyTel may request a deposit upon Charter's failure to timely pay an undisputed
10 invoice or enters bankruptcy. That approach matches Charter's local exchange tariff,
11 which says that Charter can look at past payment history in determining whether a
12 deposit is appropriate. Similarly, Charter's Section 6.1.1 of the Agreement provides
13 that CenturyTel may not request a deposit if Charter's payment history is positive.
14 That matches Charter's local exchange tariff, which says that Charter will return a
15 deposit, with interest, when the end user customer experiences 12 months of timely
16 payments.

17 **Q. WOULD CENTURYTEL BE ABLE TO DEMAND A DEPOSIT FROM**
18 **CHARTER UNDER MS. HANKINS' APPROACH?**

19
20 A. No. As I mentioned in my direct testimony, Charter has never defaulted on an
21 interconnection agreement obligation. Thus, using Ms. Hankins' suggestion—the
22 Charter tariff “test” for credit worthiness—CenturyTel would not be able to request a
23 deposit from Charter, because Charter has many more than 12 consecutive months of
24 timely payments of undisputed invoices.

25

26

² It appears that Charter's local exchange tariff contains numbering errors. Section 1.7.5 entitled

1 **VI. ISSUE 8(a):**

2 **SHOULD THE BILL PAYMENT TERMS RELATED TO INTEREST ON**
3 **OVERPAID AMOUNTS BE EQUITABLE?**

4
5 **Q. HAVE YOU READ THE TESTIMONY OF MR. WATKINS REGARDING**
6 **ISSUE 8(a)?**

7
8 A. Yes, I have.

9 **Q. WHAT IS YOUR RESPONSE?**

10 A. Mr. Watkins completely ignores the fact that Charter's proposed Section 9.4.2 is
11 simply to make the provision *reciprocal* in nature. That is, the interest calculation
12 which Charter has agreed will apply to either party for any **underpayment** of
13 invoices, should also apply equally to either party that has **overpaid** an invoice, (and
14 who then prevails in a billing dispute).

15 **Q. PLEASE EXPLAIN.**

16 A. Mr. Watkins fundamentally misunderstands (or perhaps, intentionally
17 mischaracterizes) Charter's position on this issue. As I explained in my direct
18 testimony, Charter's proposed language for Section 9.4.2 is simple. If CenturyTel
19 improperly invoices Charter for a service, and Charter pays the invoice, but later
20 determines that the invoice was improper, Charter should have the right to initiate a
21 process to seek a refund of that payment. If, and only if, that process is resolved in
22 Charter's favor, then CenturyTel would be required to refund amounts overpaid, at
23 the very same interest rate that CenturyTel assess for amounts underpaid. That is not
24 only equitable, it is logical.

25 **Q. IS MR. WATKINS CORRECT THAT CHARTER PROPOSES A REFUND**
26 **PLUS INTEREST APPROACH FOR UNRESOLVED DISPUTES?**

"Establishment and Maintenance of Credit" should be Section 1.7.8. Section 1.7.6 entitled "Deposits" should be Section 1.7.9. I use the correct numbering in my rebuttal testimony.

1
2 A. No. Mr. Watkins states on page 11, lines 7-11, that “Charter wants the billing party
3 to return the disputed portion of the bill that the billed party previously paid in error,
4 plus interest, while the Parties pursue dispute resolution over the disputed bill.”

5 But this is simply not accurate. It is clear from the language that Charter proposes for
6 Section 9.4.2 that a billed party may request return of an overpayment, plus interest,
7 *only after* a billing dispute has been “resolved.” Here is what Charter’s language in
8 Section 9.4.2 actually says:

9 If any portion of an amount paid to a Party under this Agreement is subject to
10 a bona fide dispute between the Parties (“Disputed Paid Amount”), the billed
11 Party may provide written notice to the billing Party of the Disputed Paid
12 Amount, and seek a refund of such amount already paid, at any time prior to
13 the date that is one (1) year after the date of the invoice containing the
14 disputed amount that has been paid by the billed Party (“Notice Period”). If
15 the billed Party fails to provide written notice of a Disputed Paid Amount
16 within the Notice Period, the billed party waives its rights to dispute its
17 obligation to pay such amount, and to seek refund of such amount. **At the**
18 **billed Party’s request, the billing Party will refund the entire portion of**
19 **any Disputed Paid Amounts resolved in favor of the billed Party, subject**
20 **to a rate of interest equal to one and one half (1 ½%) per month or the**
21 **highest rate of interest that may be charged under Applicable Law,**
22 **compounded daily, for the number of days from the Bill Date until the**
23 **date on which such payment is made.**
24

25 Note that Charter’s language includes the clause: “the billing Party will refund the
26 entire portion of any Disputed Paid Amounts *resolved in favor of the billed Party,*
27 *subject to a rate of interest. . . .*” That language clearly shows that any refund, and
28 interest payment, would only be due after the bill dispute was “resolved”, completed,
29 or finished. So Mr. Watkins characterization of Charter’s proposal is simply not
30 accurate.

1 **Q. MR. WATKINS SUGGESTS THAT CHARTER’S PROPOSAL DEFIES**
2 **COMMON SENSE (PAGE 11, LINE 20-23, PAGE 12, LINE 1-4). DO YOU**
3 **AGREE?**

4
5 A. No, absolutely not. Charter’s proposal merely allows each party to correct oversights
6 in a timely, reasonable manner at the **same** rate of interest. Charter’s proposed
7 interest calculation on overpayments mirrors CenturyTel’s own proposal for unpaid
8 or underpaid amounts. Charter will not “avoid timely review” of its bills or seek to
9 use CenturyTel as some sort of bank.

10 **Q. BUT WHY DOES CHARTER PROPOSE THAT THE PARTIES HAVE A**
11 **YEAR TO RAISE DISPUTES ON AMOUNTS THAT HAVE ALREADY BEEN**
12 **PAID?**

13
14 A. Let me clear up another point of confusion in Mr. Watkins’ testimony. The concept
15 that either party can initiate a dispute for a period of a year after the invoices are
16 rendered, and paid, is not disputed language. CenturyTel has already agreed to that
17 language, as you can see from the language in Section 9.4.2 which is shown as
18 “normal” text above.

19 **Q. DO YOU AGREE THAT CHARTER SHOULD HAVE TO RESORT TO A**
20 **COMMISSION PROCEEDING TO COLLECT OVERPAYMENTS?**

21
22 A. No. What we’re talking about here are *undisputed* overpayments. It makes no sense,
23 and would be a waste of Commission resources, to force a party to the Agreement to
24 seek Commission aid in getting such undisputed overpayments returned. Moreover,
25 such an approach would leave the innocent party less than whole, as it would have to
26 expend considerable resources before the Commission to collect monies to which it is
27 undisputedly entitled. I do not know whether the Commission can order a losing
28 party in a complaint proceeding to reimburse the winning party for its costs, but I am
29 told such a result is rare. I would also note that overpayments qualify for a slightly

1 different treatment than underpayments or nonpayments in one regard. That is,
2 Charter is not proposing that any service disruption accompany true-up of an
3 overpayment situation.

4 **VII. ISSUE 8(b):**

5 **SHOULD THE BILL DISPUTE PROVISIONS ENSURE THAT NEITHER PARTY**
6 **CAN IMPROPERLY TERMINATE THE AGREEMENT IN A MANNER THAT**
7 **COULD IMPAIR SERVICE TO THE PUBLIC?**

8
9 **Q. HAVE YOU READ THE TESTIMONY OF MS. HANKINS REGARDING**
10 **ISSUE 8(b)?**

11
12 A. Yes, I have.

13 **Q. WHAT IS YOUR RESPONSE?**

14 A. I believe that Ms. Hankins mischaracterizes both the actual language Charter has
15 proposed in Agreement Section 9.5.1, and the intent of that language. The language
16 is plain and direct:

17 If the billed Party does not remit payment of all undisputed charges on
18 a bill by the Bill Due Date, the billing Party **may initiate dispute**
19 **resolution procedures under Section 20 of this Agreement.**

20
21 This language does not render a payment date meaningless or provide the billed party
22 with “free service” as Ms. Hankins claims in her direct testimony. Charter’s
23 proposed language for Section 9.5.1 permits the discontinuance of order processing
24 and accepting new orders and, ultimately, termination of service. But Charter’s
25 Section 9.5.1 ensures that the billing Party cannot discontinue service—which would
26 ultimately impact end users—without the Commission’s knowledge and permission.

27 **Q. BUT MS. HANKINS ASSERTS THAT THIS ONLY ARISES WHERE THE**
28 **PARTIES HAVE “UNDISPUTED” AMOUNTS THAT HAVE NOT BEEN**
29 **PAID (PAGE 17, LINES 3-8). WHY SHOULD “UNDISPUTED” AND**
30 **UNPAID INVOICES BE SUBJECT TO DISPUTE RESOLUTION, AS**
31 **CHARTER PROPOSES?**
32

1 A. The problem with CenturyTel's proposal is that there is a long and contentious
2 history between Charter and CenturyTel as to what constitutes a properly disputed
3 invoice. I have discussed some of the parties' billing disputes earlier in this rebuttal
4 testimony, and during those disputes CenturyTel asserted that Charter had not
5 properly disputed invoices rendered by CenturyTel. Based upon that assertion, that
6 Charter had not properly disputed invoices, CenturyTel took unilateral action to try
7 and terminate service with Charter. As I explained above, both the Wisconsin and
8 Missouri commissions issued standstill orders to stop that unilateral action. In
9 addition, in both Wisconsin and Missouri, the evidence (including the Commission
10 Staff's testimony) showed that CenturyTel did not have a proper basis to assess
11 charges against Charter.

12 **Q. HOW DO CENTURYTEL'S PAST BILLING ERRORS RELATE TO THIS**
13 **ISSUE?**

14
15 A. First, it tells us that it is possible for the parties to have a dispute over what constitutes
16 a properly disputed invoice. Second, it demonstrates that billing disputes can be
17 complicated matters which may require formal, or informal, adjudication by the state
18 commission or other appropriate authority. Either way, those options are available if
19 the parties use dispute resolution terms of the agreement to resolve bill disputes, as
20 Charter has proposed.

21 **Q. ARE THERE ANY OTHER LESSONS TO LEARN FROM CENTURYTEL'S**
22 **PAST BILLING ERRORS?**

23
24 A. Yes, the most important lesson is that CenturyTel is not entitled to a presumption that
25 its invoices are always accurate. That is clearly not the case, and the Commission
26 Staff agreed with that conclusion. Ironically, most of CenturyTel's proposals with

1 respect to billings, deposits, and disputes seem to be based upon that faulty premise.

2 As I have explained, I know from personal experience that this simply is not correct.

3 **Q. DO YOU BELIEVE CHARTER'S CONTRACT LANGUAGE CONFORMS**
4 **TO THE TEXAS COMMISSION'S DECISION IN ARBITRATION CASE NO.**
5 **28821?**

6
7 A. Yes, I do. Again, I am not an attorney, but it appears to me that the Texas
8 Commission's policy to allow service discontinuance in certain circumstances was
9 based on "instability" in the telecommunications market when this case was initiated
10 in 2003. As I've testified above, Charter is not unstable. Charter is a substantial,
11 reliable and solid market participant in Missouri, and across the country. But more to
12 the point here, the Texas Commission's decision in Arbitration Case No. 28821 with
13 respect to DPL Issue 39 expressly conditioned service termination on notice to the
14 Texas Commission and end users. Ms. Hankins conveniently overlooks this fact in
15 her direct testimony, and CenturyTel similarly overlooks this finding in its proposed
16 language in Sections 9.5.1 and 9.5.2. By contrast, Charter's language, which
17 obligates the parties to enter the dispute resolution process, achieves the very thing
18 that the Texas Commission required in the SBC case, namely, Texas Commission
19 knowledge and acquiescence to any end user service change or disruption.

20

21 **VIII. ISSUE 13:**
22 **SHOULD THE PARTIES AGREE TO A REASONABLE LIMITATION AS**
23 **TO THE PERIOD OF TIME BY WHICH CLAIMS ARISING UNDER THE**
24 **AGREEMENT CAN BE BROUGHT?**

25
26 **Q. HAVE YOU READ THE TESTIMONY OF MR. MILLER REGARDING**
27 **ISSUE 13(b)?**

28
29 A. Yes, I have.

30 **Q. WHAT IS YOUR RESPONSE?**

1 A. I continue to be concerned with the very broad, and unsupported, assertions that Mr.
2 Miller makes with respect to Charter bill review practices. They are simply not true.

3 **Q. WHAT STATEMENT(S), SPECIFICALLY, ARE YOU REFERRING TO?**

4 A. Well, first Mr. Miller claims on page 48, lines 8-22, that Charter simply disputes
5 invoices without any basis, or intent to resolve the matter. That is not true.

6 **Q. PLEASE EXPLAIN.**

7 A. Mr. Miller's statement refers to the dispute that I have already discussed at the
8 beginning of my testimony between the parties in Missouri. As I explained in earlier
9 portions of this testimony, Charter consistently disputed CenturyTel's invoices in
10 Missouri.

11 **Q. BUT MR. MILLER STATES THAT CHARTER'S POSITION "WAS NOT**
12 **PERSUASIVE." (PAGE 48, LINE 14) IS THAT CORRECT?**

13
14 A. No. As explained above, the Commission issued a Report and Order in docket LC-
15 2008-0049 today agreeing with Charter's claims. Based upon my review of the
16 Commission's Report and Order I believe that the Commission found Charter's
17 evidence of CenturyTel's improper charges persuasive. The Commission's decision
18 shows that Charter was correct in disputing the invoices in Missouri, and that it took
19 the proper course of action. CenturyTel, in fact, was the entity that had "improperly
20 billed" Charter for services which the parties agreement "does not authorize." So Mr.
21 Miller's assertion that Charter improperly disputed the CenturyTel Missouri invoices
22 is contradicted by the Commission's conclusion on that question.

23 **Q. MR. MILLER STATES THAT CHARTER HAS A "GENERAL POLICY" TO**
24 **SEND A BILL DISPUTE WITHOUT SUFFICIENT EXPLANATION, AND**
25 **THEN SIMPLY WITHHOLD PAYMENT FOR AS LONG AS IT CAN (PAGE**
26 **49, LINES 11-14). IS THAT ACCURATE?**
27

1 A. No, that is in fact completely inaccurate. Charter has a very specific bill dispute
2 process in place, which we tailor to our specific interconnection agreements.

3
4 **Q. HAS CHARTER EVER DISPUTED CENTURYTEL'S CHARGES?**

5
6 A. Yes. Charter has a practice of formally disputing what it believes to be improper
7 charges that have been assessed upon it by CenturyTel. In fact, where Charter has
8 found it appropriate to dispute CenturyTel's charges, it has done so formally in
9 accordance with the terms of the existing interconnection agreements between the
10 parties via two different methods.

11 **Q. PLEASE EXPLAIN HOW CHARTER NORMALLY PROVIDES BILL**
12 **DISPUTE NOTICES TO CENTURYTEL.**

13
14 A. The first form of notice, Charter's monthly bill dispute statements, is the standard
15 process used in the telecommunications industry, and has been specifically required
16 in existing interconnection agreements between the parties.

17 Generally speaking, virtually every month CenturyTel assesses improper charges on
18 Charter. And each month (within a reasonable time after receiving CenturyTel's
19 bills), Charter provides to CenturyTel detailed statements providing notice of
20 Charter's dispute of the charges, and the basis for such disputes. Charter's bill
21 dispute statements are delivered to the designated CenturyTel representative
22 electronically (thereby providing prompt notice to the billing Party - CenturyTel), and
23 each of the dispute statements provides specific details as to the reason for the
24 dispute.

25 As I noted, this process has been required by existing interconnection agreements
26 between the parties. And through these monthly notices, Charter has complied with

1 the terms of those agreements by consistently providing notice of its dispute of
2 CenturyTel's charges.

3 **Q. WHAT ABOUT THE SECOND FORM OF NOTICE HOW DOES CHARTER**
4 **PROVIDE THAT NOTICE?**

5
6 **A.** The second form of notice is also contemplated by many of our existing
7 interconnection agreements with ILECs. Under the terms of those agreements, a
8 party is permitted to dispute an entire "class" of charges prospectively by simply
9 providing a single notice to the billing party. Charter has provided such a notice to
10 CenturyTel by formal correspondence in the past. In addition, Charter has provided
11 this prospective notice in other ways, including on several of the monthly bill dispute
12 statements it has submitted to CenturyTel.

13 **Q. MR. MILLER CLAIMS THAT IN 2004 CHARTER DID NOT PROPERLY**
14 **ESCALATE A BILL DISPUTE WITH CENTURYTEL. IS THAT CORRECT?**

15
16 **A.** No, that is not correct. Again, the Commission determined that Charter has complied
17 with bill dispute provisions in the current Charter-CenturyTel interconnection
18 agreement. (Report and Order, LC-2008-0049 at 12.)

19 **Q. BUT MR. MILLER CLAIMS THAT CHARTER NEVER SEEKS FORMAL**
20 **RESOLUTION OF BILLING DISPUTES (PAGE 48, LINE 8-10). DO YOU**
21 **AGREE?**

22
23 **A.** No. We obviously did seek formal resolution of the bill disputes in both Wisconsin
24 and Missouri as I have already explained.

25 **Q. WHAT IS THE SPECIFIC PROCESS THAT IS NECESSARY TO DISPUTE**
26 **CENTURYTEL'S BILLS?**

27
28 **A.** Charter is forced to undertake a very time consuming process to sort through
29 CenturyTel's invoices and identify billing errors made by CenturyTel. Specifically,
30 Charter has to enter billing disputes into its invoice processing system. These

1 disputes (as well as invoice charges) are assigned a general ledger coding in the
2 invoice processing system. The disputed charges are then short-paid, and are entered
3 into Charter's dispute tracking database, which consists of an excel spreadsheet that
4 lists each Billing Telephone Number ("BTN"), invoice page number, charge amount
5 and the reason for each disputed charge.

6 The process of entering this information into Charter's dispute tracking database
7 helps to then facilitate the process of entering those disputed charges into
8 CenturyTel's dispute portal. In fact, Charter is required to enter disputes into
9 CenturyTel's dispute portal and each entry must contain the BTN, invoice page
10 number, charge being disputed and the reason for the dispute (e.g., service order,
11 usage, matchmaker, non-pub, customer record research, etc.). Charter is then
12 responsible for periodically checking CenturyTel's dispute portal to ensure that there
13 were no notifications sent by CenturyTel to inform Charter that the dispute has been
14 acknowledged or processed for invoice credit or denial. And Charter, on a monthly
15 basis, analyzes the total open disputes entered into its dispute tracking database and
16 then creates an entry for the estimated amount of reserve related to the CenturyTel
17 disputes.

18 **IX. CONCLUSION**

19
20 **Q: WHAT ACTION DOES CENTURYTEL REQUEST THAT THE**
21 **COMMISSION TAKE WITH RESPECT TO ISSUES 4, 6 and 8?**

22
23 A. Charter respectfully requests that the Commission adopt Charter's proposed language
24 and revisions to Article III, Sections 2.6 (Issue 4(a)); 2.7 (Issue 4(b)); 6.1.1, 6.1.2, 6.2
25 (Issue 6): and 9.4.2, 9.5.1 and 9.5.2 (Issue 8(b)), and reject CenturyTel's opposition to
26 Charter's proposed language.

1

2 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

3 A. Yes.

4