

*Exhibit No.:*  
*Issue:* *Non-Impairment Determination for  
Dedicated Transport*  
*Witness:* *Arthur P. Martinez*  
*Sponsoring Party:* *Spectra Communications Group, LLC d/b/a  
CenturyTel and CenturyTel of Missouri, LLC*  
*Type of Exhibit:* *Direct Testimony/ Phase III*  
*Case No.:* *TO-2004-0207*  
*Date Testimony Prepared:* *January 12, 2004*

SPECTRA COMMUNICATIONS GROUP, LLC D/B/A  
CENTURYTEL

AND

CENTURYTEL OF MISSOURI, LLC

DIRECT TESTIMONY

OF

ARTHUR P. MARTINEZ

PHASE III

CASE NO. TO-2004-0207

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

STATE OF MISSOURI                    )  
  ) ss.  
COUNTY OF COLE                    )

**AFFIDAVIT**

I, **Arthur P. Martinez**, of lawful age and being duly sworn, state:


I am presently Director of Government Relations for CenturyTel.  
My business address is 220 Madison Street, Jefferson City,  
Missouri 65101.

Attached hereto and made a part hereof for all purposes is my  
Direct Testimony in Case No. TO-2004-0207, Phase III.

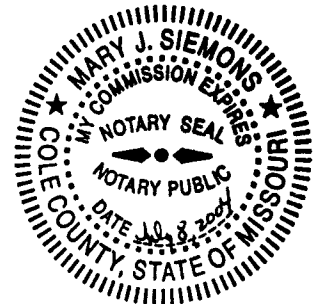
I hereby swear and affirm that my answers contained in the  
attached testimony to the questions therein propounded are true  
and correct to the best of my knowledge and belief.

  
**Arthur P. Martinez**

Subscribed and sworn to before me this 12<sup>th</sup> day of January, 2004.

  
Mary Siemons - Notary Public

My commission expires: July 8, 2004



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#### **Arthur P. Martinez**

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**PHASE III**  
**DIRECT TESTIMONY**  
**OF**  
**ARTHUR P. MARTINEZ**  
**CASE NO. T0-2004-0207**

**Identification of Witness**

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

A. My name is Arthur P. Martinez. My business address is 220 Madison Street, Jefferson City, Missouri 65101.

**Q. By whom are you employed and in what capacity?**

A. I am the Director of Government Relations for both Spectra Communications Group, LLC d/b/a CenturyTel and CenturyTel of Missouri, LLC (collectively referred to herein as "CenturyTel"), and I am testifying in this proceeding on their behalf.

**Q. Have you testified previously in this case?**

A. Yes, I submitted direct testimony in Phase I of this proceeding on December 18, 2003, and my educational background and business experience were fully set forth therein.

1 **Purpose of Testimony**

2  
3 **Q. What is the purpose of your testimony?**

4 A. The purpose of my testimony is to provide the Commission with information in support  
5 of CenturyTel's position regarding the determinations to be made by the Commission in  
6 Phase III of this proceeding. In the Commission's *Order Establishing Procedural*  
7 *Schedule* issued in this matter on December 1, 2003, the Commission describes the  
8 purpose or scope of Phase III as follows: "Determine whether FCC-defined triggers or  
9 potential deployment analysis for a finding of non-impairment have been met for specific  
10 types of high-capacity loops – dark fiber, DS3 or DS1 – at particular customer locations,  
11 and whether FCC-defined triggers or potential deployment analysis for a finding of non-  
12 impairment have been met for non-access to incumbent LEC transport on specific  
13 routes." Pursuant to the schedule adopted for Phase III in that *Order*, the Parties will not  
14 be filing the "list of issues" until March 16, 2004, after rebuttal testimony has been filed.  
15 My testimony will discuss the Federal Communications Commission's ("FCC") findings  
16 and analysis in the Triennial Review Order<sup>1</sup> ("TRO") concerning the dedicated transport  
17 unbundled network element, and the applicable triggers and potential deployment  
18 analysis that state commissions are to utilize in making non-impairment determinations.  
19 Second, my testimony will discuss and clarify CenturyTel's challenge to the FCC's  
20 finding of impairment for dedicated transport, relating to specific routes for determination

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<sup>1</sup> *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98 & 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. Aug.21, 2003) ("Triennial Review Order" or "TRO").

1 by the Missouri Commission. Finally, my testimony will support CenturyTel's position  
2 regarding the specific dedicated transport routes for which CenturyTel is seeking a non-  
3 impairment determination by this Commission.

4  
5 **The Unbundling Analysis for Dedicated Transport Pursuant to the TRO**

6  
7 **Q. Would you please explain your understanding of the analytical framework**  
8 **established in the Triennial Review Order or TRO concerning the dedicated**  
9 **transport unbundled network element, and the applicable triggers and potential**  
10 **deployment analysis that state commissions are to utilize in making non-impairment**  
11 **determinations?**

12 **A.** Yes. As I discussed in my testimony previously filed in Phase I of this proceeding, the  
13 FCC stated the following in its TRO executive summary concerning dedicated transport:

14 • **Dedicated Transport.** We redefine the dedicated transport network element  
15 as those transmission facilities that connect incumbent LEC switches or wire  
16 centers. The Commission conducted its impairment analysis of dedicated  
17 transport by capacity level. Specifically, we find that requesting carriers are  
18 not impaired without access to unbundled OCn level transport. Further, we  
19 find that requesting carriers are impaired without access to dark fiber, DS3 and  
20 DS1 transport, each independently subject to a granular route-specific review  
21 by the states to identify available wholesale facilities. Dark fiber and DS3  
22 transport also each subject to a granular route-specific review by the states to  
23 identify where transport facilities can be deployed.

1 The FCC’s discussion and analysis concerning Dedicated Transport is contained in  
2 Section C, Paragraphs 359-418 of the TRO. Summarized, the dedicated transport  
3 network element is defined by the FCC, for purposes of Section 251(c)(3), as those  
4 transmission facilities connecting incumbent LEC switches and wire centers within a  
5 LATA.<sup>2</sup> The granular route-specific review by the states to identify available wholesale  
6 facilities, as discussed in the executive summary, encompasses applicable triggers and  
7 potential deployment analysis.<sup>3</sup> The two triggers are “based on the two primary ways  
8 carriers can overcome impairment: (1) the ability to self-deploy facilities, and; (2) access  
9 to third party alternatives.” TRO, ¶399. The self-provisioning trigger is met when “three  
10 or more competing carriers, not affiliated with each other or the incumbent LEC, each  
11 have deployed non-incumbent LEC transport facilities along a specific route, regardless  
12 of whether these carriers make transport available to other carriers . . .” TRO, ¶400. In  
13 addition, the FCC recognized that this trigger does not address the *potential* ability of  
14 competitive LECs to deploy transport facilities along a particular route. As a result, state  
15 commissions are also directed to analyze potential deployment of competing transport  
16 through the application of specific economic characteristics. TRO, ¶410. The  
17 competitive wholesale facilities trigger is met “when there is evidence that two or more  
18 competing carriers, not affiliated with each other or the incumbent LEC, offer wholesale  
19 transport service completing that route.” TRO, ¶412.

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<sup>2</sup> TRO, ¶365.

<sup>3</sup> “We establish two ways for an incumbent LEC or other party to show where requesting carriers are not impaired without unbundled transport: (1) by identifying specific point-to-point routes where carriers have the ability to use alternatives to the incumbent LEC network, or (2) by identifying specific point-to-point routes where self-provisioning transport facilities is economic. We delegate to state regulators the authority to make findings of fact within the scope of these triggers to identify on a more granular scale where carriers are not impaired without access to incumbent LEC unbundled transport.” TRO, ¶360.

1 **The Specific Routes For Which CenturyTel Seeks A Non-Impairment Determination**  
2  
3

4 **Q. Has CenturyTel identified specific transport routes for which it seeks a non-**  
5 **impairment determination by this Commission?**

6 A. Yes. The specific transport routes for which CenturyTel seeks a non-impairment  
7 determination by the Missouri Commission are set forth in APM-Schedule A, attached  
8 hereto. These transport routes are identified by the Common Language Location  
9 Identifier (“CLLI”) code of each end of the transport route.

10 **Q. Has CenturyTel previously submitted similar information to the Commission?**

11 A. On November 12, 2003, CenturyTel filed a Response To Order Directing Filing in this  
12 matter, responding, to the extent possible, to this Commission’s *Order Creating Case and*  
13 *Establishing Filing Deadlines* entered one week before. That Order required that “any  
14 party or proposed intervenor that plans to challenge the FCC’s finding of impairment for  
15 mass market switching, loops and transport shall file a pleading stating that intent no later  
16 than November 12, 2003.” In addition, such pleadings were to include certain  
17 information, including the specific routes where ILECs would be challenging the finding  
18 of impairment for dedicated transport, and the identity of competitors that the ILEC  
19 asserts satisfies the impairment triggers. CenturyTel’s Response advised the Commission  
20 that CenturyTel intended to challenge the FCC’s finding of impairment for mass market  
21 switching, transport and loops, and that it was be providing the requested information, to  
22 the extent it was currently available. However, CenturyTel specifically reserved the right  
23 to amend, revise or supplement its proposals or information, based upon future discovery  
24 and analysis. Exhibits B and B-HC were attached to CenturyTel’s Response, with  
25 Exhibit B identifying the specific transport routes and Exhibit B-HC identifying the

CLECs on which CenturyTel would rely to demonstrate compliance with the triggers set forth in the FCC's TRO.

**Q. Are there any changes in the information depicted on APM-Schedule A from that previously submitted?**

The transport routes involve the same wire centers or CLLI codes, but I have clarified the origination and termination points for each route. In addition, as I discuss later in my testimony, the CLECs previously identified for purposes of demonstrating compliance with the triggers remain the same as those depicted in previous Exhibit B-HC. In the TRO, the FCC, for purposes of evaluating transport on a route-specific basis, defines a "route" as "a connection between wire center or switch 'A' and wire center or switch 'B.'" TRO, ¶401. Accordingly, APM-Schedule A reflects the three specific routes as those connecting all three of the previously identified wire centers, Wentzville, St. Peters and O'Fallon.

**Q. Has CenturyTel identified CLEC competitors that satisfy the FCC's impairment triggers for dedicated transport?**

A. Yes, the CLECs on which CenturyTel relies to demonstrate compliance with the FCC's impairment triggers, and the associated specific transport routes, are depicted on APM-Schedule B HC.

1 CenturyTel's Trigger Analysis

2 **Q. Please describe the factors and analyses leading to CenturyTel's position that a**  
3 **sufficient number of competing carriers each have deployed transport facilities on**  
4 **the identified routes.**

5 A. In terms of the self-provisioned facility trigger, each of the counted facilities along the  
6 three specific routes are operationally ready to provide transport into or out of  
7 CenturyTel's (the incumbent LEC) central office. The FCC has found that "the  
8 competitive transport facilities counted to satisfy this trigger must terminate in a  
9 collocation arrangement which may be arranged either pursuant to contract, tariff or,  
10 where appropriate, section 251(c)(6) of the Act." TRO, ¶406. I used the term  
11 "operationally ready," because CenturyTel has fully provisioned the collocation  
12 arrangements with each of the identified carriers (*e.g.*, provided space and power) at each  
13 central office. Further, the three competitive transport providers identified are  
14 unaffiliated with CenturyTel and each other. TRO, ¶408. In addition, each of the  
15 identified competitive transport providers has fiber connectivity with each central office,  
16 thereby providing route-specific capabilities on the identified routes. As the FCC  
17 explained in the TRO, the competitive providers must offer service connecting wire  
18 centers "A" and "Z," but they do not have to mirror the network path of the incumbent  
19 LEC. TRO, ¶401. We intend to confirm the competitive transport providers'  
20 deployment on these specific routes through discovery; however, CenturyTel is aware of  
21 the difficulty in obtaining information and data concerning specific transport routes (*e.g.*,  
22 SBC Missouri Motion to Schedule Proceeding filed December 19, 2003, to address

1 discovery disputes concerning data requests for information about transport routes, cost  
2 and revenue information, and requests for future plans to provide wholesale switching).

3 **Q. In addition to the self-provisioning trigger, is CenturyTel also advocating that**  
4 **competing carriers are not impaired regarding the three identified transport routes**  
5 **by virtue of the competitive wholesale facilities trigger?**

6 A. That is correct. In the TRO, the FCC provides this second means or test by which states  
7 can identify the fact that transport can readily be obtained from a firm using facilities that  
8 are not provided by the incumbent LEC. CenturyTel submits that the three identified  
9 competing carriers, not affiliated with each other or CenturyTel, offer wholesale transport  
10 service completing the routes, thereby meeting the trigger of “two or more competing  
11 carriers.” Again, this information will be confirmed through discovery, but we believe  
12 the evidence will show that the competitive transport providers are operationally ready  
13 and willing to provide the particular capacity transport on a wholesale basis along the  
14 specific routes, as envisioned by the FCC in the TRO. TRO, ¶414.

15 **Q. What transport capacities are included in CenturyTel’s analysis of non-impairment**  
16 **on the three specified transport routes?**

17 A. The FCC has determined that the self-provisioning trigger should not apply at the DS1  
18 level. TRO, ¶409. However, CenturyTel would submit that non-impairment exists on  
19 the three specified transport routes for Dark Fiber Transport, DS3 Capacity Transport,  
20 and DS1 Capacity Transport. Again, confirmation of this specific information will be  
21 obtained through discovery.

22 **Q. You have indicated that some of the underlying facts or information supporting**  
23 **your analysis must be obtained from the competing carriers themselves, in order for**

1        **the Commission to complete the granular analysis contemplated by the FCC. Can**  
2        **you explain the basis for this need?**

3        A.     Yes, I can. As I discussed previously, the FCC recognizes that alternative fiber providers  
4        offering service will have their facilities terminated or collocated in the incumbent LEC  
5        central office. For the three identified competing carriers, each carrier has obtained a  
6        switched CLLI code, which it has in all three of the identified central offices, Wentzville,  
7        St. Peters and O'Fallon. This enables the competing carrier, in turn, to request either  
8        switched ports and/or direct frame connectivity to enable direct plant access to customers.  
9        The competing carrier can utilize its own transport with which it currently has a point of  
10       termination into CenturyTel's central office, or it can utilize any of the other competing  
11       carriers' or wholesale providers' transport alternatives to the ILEC network. The three  
12       identified competing carriers have fiber terminals collocated within the listed CenturyTel  
13       central offices or wire centers, which allows the carriers to gain unbundled access at any  
14       OCn level, provided they install the optronic equipment to interface with. Although  
15       CenturyTel may interconnect with competing carries at a particular OCn level,  
16       CenturyTel has no way of knowing the service level going to any one end-user customer.  
17       This is to say that CenturyTel cannot tell, through its collocation arrangement, how a  
18       competitive carrier subdivides its bandwidth for delivery to a particular end-user.  
19       However, at the conclusion of this multi-phase proceeding, the Commission should  
20       possess the record necessary to complete the granular process contemplated by the FCC.

21       **Q.     Does this conclude your direct testimony?**

22       A.     Yes it does.

## **Transport Routes Identified For Non-Impairment St. Louis MSA**

<b>ROUTE</b>	
<b>WIRE CENTER CLLI A *</b>	<b>WIRE CENTER CLLI Z *</b>
WNVLMOXA	OFLNMOXA
WNVLMOXA	STPRMOXA
STPRMOXA	OFLNMOXA

\* CLLI A represents one end of a transport route, while CLLI Z represents the other end.