

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

In the Matter of the Application of CenturyTel	)	
Solutions, LLC, and CenturyTel Fiber Company	)	
II, LLC, d/b/a LightCore, for Adoption of an	)	
Approved Interconnection Agreement between	)	
Southwestern Bell Telephone, LP, d/b/a SBC	)	Case No. LK-2006-0095
Missouri, and Xspedius Management Co. of	)	
Kansas City, LLC and Xspedius Management Co.	)	
Switched Services, LLC.	)	

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and states:

1. On August 30, 2005, CenturyTel Solutions, LLC, and CenturyTel Fiber Company II, LLC, d/b/a LightCore (collectively “CenturyTel” or “Applicants”) applied for a Commission order allowing their adoption of an interconnection agreement between Southwestern Bell Telephone, L.P., d/b/a SBC Missouri (“SBC”), and Xspedius Management Co. of Kansas City, LLC and Xspedius Management Co. Switched Services, LLC (collectively “Xspedius”). The Commission approved the SBC/Xspedius interconnection agreement by order effective August 16, 2005, in Case No. TK-2006-0043.

2. Under 47 U.S.C. § 252(i), local exchange carriers are obligated to make available interconnection agreements to other carriers for adoption as follows:

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

The FCC’s regulations further provide at 47 C.F.R. § 51.809(a):

An incumbent LEC shall make available without unreasonable delay to any requesting telecommunications carrier any agreement in its entirety to which the

incumbent LEC is a party that is approved by a state commission pursuant to section 252 of the Act, upon the same rates, terms, and conditions as those provided in the agreement.

3. Adoptions of Interconnection Agreements are to be filed with the Commission pursuant to 4 CSR 240-3.513(4). If the adoption is signed by both parties, it is deemed approved on the date a letter of adoption and signature page are properly submitted to the Commission. If the adoption is not signed by both parties, 4 CSR 240-3.513(4)(B) provides that the adopting company shall submit an application to the Commission. If the non-filing party files an objection to the adoption within twenty days, the Commission “after following appropriate procedure, will determine whether to approve or reject the adoption.”

4. SBC did not sign the agreement in the present case, and therefore, the terms of 4 CSR 240-3.513(4)(B) apply. Accordingly, SBC timely filed its objection to the adoption in its Response of SBC Missouri to Application for Adoption of Interconnection Agreement. SBC argues in its Response that approval of the adoption would be unlawful and contrary to sound public policy, and urges the Commission to reject the adoption. The basis of SBC’s response is a Preliminary Injunction Order issued by the United States District Court for the Eastern District of Missouri.

5. On August 12, 2006, SBC filed a Complaint and Motion for Preliminary Injunction against the Commission and a number of competitive local exchange carriers. SBC’s Complaint seeks judicial review of the Commission’s Arbitration Order in Case No. TO-2005-0336, *Southwestern Bell Telephone, L.P., d/b/a SBC Missouri’s Petition for Compulsory Arbitration of Unresolved Issues for a Successor Interconnection Agreement to the Missouri 271 Agreement*, regarding SBC’s obligation to fill new orders for unbundled local switching and the

UNE-Platform, including such obligations arising under the SBC/Xpedius interconnection agreement.

6. On September 1, 2006, the United States District Court for the Eastern District of Missouri issued a Preliminary Injunction Order, pursuant to a jointly filed Consent Stipulation, enjoining the Order approving the SBC/Xpedius interconnection agreement to the extent it requires SBC Missouri to fill new orders for unbundled local switching or UNE-P. The injunction also applies to adoptions of the SBC/Xpedius interconnection agreement. The Preliminary Injunction Order states:

The PSC's July 11, 2005 Arbitration Order, as well as related orders approving interconnection agreements between Southwestern Bell Telephone, L.P. and each CLEC Defendant, are hereby enjoined to the extent they require SBC Missouri to fill new orders for unbundled local switching or UNE-P pursuant to the Federal Telecommunications Act of 1996 with respect to the CLEC Defendants or any other telecommunications carrier that adopts one of the interconnection agreements that are the subject of this injunction [footnotes omitted].¹

7. CenturyTel's application seeks to adopt an interconnection agreement that is subject to the injunction. Accordingly, the injunction extends to CenturyTel's adoption of the SBC/Xpedius interconnection agreement by order of the United States District Court.²

8. The Staff recommends that the Commission approve the adoption pursuant to 47 U.S.C. § 252(i) and 47 C.F.R. § 51.809(a), and issue an order concluding that the adopted interconnection agreement between SBC and CenturyTel is subject to the terms of the Preliminary Injunction Order.

¹ *Southwestern Bell Telephone, L.P. d/b/a SBC Missouri v. Missouri Public Service Commission*, Case No. 4:05-cv-01264-CAS (E.D. Mo), *Preliminary Injunction Order*, September 1, 2005, p. 2.

² *Id.*

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 21st day of September 2005.

/s/ Marc Poston
