

**BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION**

Petition of

Charter Fiberlink-Missouri, LLC for Arbitration
of Interconnection Rates, Terms, Conditions, and
Related Arrangements with the
CenturyTel of Missouri, LLC Pursuant to 47
U.S.C. § 252(b)

Case No. ____-____-____

**PETITION
OF
CHARTER FIBERLINK-MISSOURI, LLC FOR ARBITRATION
OF AN INTERCONNECTION AGREEMENT BETWEEN
CENTURYTEL OF MISSOURI, LLC AND CHARTER FIBERLINK-MISSOURI, LLC**

Date of § 252 Negotiation Request – February 22, 2008
135th day thereafter – July 6, 2008
160th day thereafter – July 31, 2008
270th day thereafter – November 18, 2008

Pursuant to Section 252(b)(1) of the Communications Act of 1934¹ (the “Act”), and the Missouri Public Service Commission (the “PSC” or “Commission”) rules of practice and procedure,² Charter Fiberlink-Missouri, LLC (“Charter”) hereby petitions the Commission for arbitration of unresolved issues arising out of the interconnection agreement negotiations between Charter and the CenturyTel of Missouri, LLC (“CenturyTel”).

As set forth in more detail below, by this petition (the “Petition”) Charter requests that the Commission arbitrate and resolve each issue identified herein by ordering the parties to incorporate Charter’s proposed language into the parties’ final interconnection agreement. In support of the

¹ 47 U.S.C. § 252(b)(1).

² See 4 CSR 240-36.040.

Petition, Charter states:

PARTIES

1. Charter is a Delaware limited liability company, with its primary place of business at 12405 Powerscourt Drive, St. Louis, MO 63131. Charter has a Certificate of Authority issued by the Commission that authorizes Charter to provide local exchange service and exchange access service in designated exchanges in the State of Missouri, including within the incumbent service area of CenturyTel.

2. Upon information and belief, Charter states that CenturyTel is a corporation organized and formed under the laws of Louisiana. The principal office address for CenturyTel is 100 CenturyTel Drive, Monroe, Louisiana, 71203. CenturyTel provides local exchange, exchange access and other services as the incumbent telephone company within certain parts of Missouri. CenturyTel is an “incumbent local exchange carrier” under the Act. *See* 47 U.S.C. § 251(h).

JURISDICTION

3. This Commission has jurisdiction over Charter’s Petition pursuant to Section 252(b)(1) of the Act. 47 U.S.C. § 252(b)(1). Under the Act, parties to a negotiation for interconnection, access to unbundled network elements, or resale of services may petition the state commission for arbitration of any unresolved issues. 47 U.S.C. § 252(b). Under Section 252(b)(1) of the Act, the request for arbitration may be made by either party at any time during the period from the 135th to the 160th day (inclusive) after the date on which the ILEC receives a request for negotiations under Section 251 of the Act. Under federal law, the arbitration is to be concluded no later than nine months after the request for negotiations. 47 U.S.C. § 252(b)(4)(C).

4. Charter first formally requested negotiations with CenturyTel for negotiation of a new interconnection agreement (to replace their existing agreement) on August 14, 2007. In the ensuing one hundred and sixty days the Parties attempted to resolve all open issues arising from the negotiations. However, because such issues were not resolved, the Parties agreed to extend negotiations on several occasions in an effort to resolve all of the open issues between the Parties.³ The most recent extension of the negotiations period occurred on July 6, 2008, when the Parties agreed to extend Day 160 of the negotiations window to July 31, 2008.

5. Thus, the Parties have extended their negotiations period on several occasions in a mutual good faith attempt to resolve disputed issues and avoid arbitration. However, despite such efforts, several issues remain unresolved.

6. Charter now files this timely Petition for resolution of disputed issues. Pursuant to Section 252(b)(4)(C) of the Act, this Commission is to resolve each issue set forth below.

LEGAL STANDARD

7. This arbitration must be resolved by the standards established in Sections 251 and 252 of the Act and the rules adopted by the Federal Communications Commission (“FCC”). *See* 47 U.S.C. § 252(c)(1).

8. Section 252(c) of the Act requires a state commission resolving open issues through arbitration to:

- (1) ensure that such resolution and conditions meet the requirements of section 251 of this title, including the regulations prescribed by the [FCC] pursuant to section 251 of this title; [and]
- (2) establish any rates for interconnection, services, or network elements according to subsection (d) of this section

³ Because the Parties agreed to extend the negotiations period, the new date upon which Charter effectively requested negotiations with CenturyTel pursuant to Section 252 occurred on February 22, 2008, as noted above.

47 U.S.C. § 252(c).

9. The Commission must make an affirmative determination that the rates, terms and conditions that it prescribes in the arbitration proceeding are consistent with the requirements of Sections 251 and Section 252(d) of the Act. 47 U.S.C. § 252(d).

10. The Commission may also, under its own state law authority, impose additional requirements pursuant to Section 252(e)(3) of the Act, as long as such requirements are consistent with the Act and the FCC's regulations. 47 U.S.C. § 252(e)(3).

11. Section 251 of the Act provides the minimum standards for CenturyTel in negotiating and providing interconnection to competitive carriers, including Charter. Under the Act, CenturyTel must provide interconnection that is at least equal in quality to that which CenturyTel provides to itself and "on rates, terms and conditions that are just, reasonable and nondiscriminatory" 47 U.S.C. § 251.

12. Section 252(d) of the Act sets forth the applicable pricing standards for interconnection and for the transport and termination of telecommunications traffic. 47 U.S.C. § 252(d).

13. Charter and CenturyTel have previously entered into an interconnection agreement that was approved by this Commission. As noted above, the term of that agreement recently expired, and it is now in "evergreen" status pending final resolution in this proceeding. For that reason, Charter submitted to CenturyTel a written request to initiate negotiations for a new interconnection agreement pursuant to Sections 251 and 252 of the Act.

BACKGROUND AND HISTORY

14. Negotiation of this interconnection agreement commenced on or about August 14, 2007, when Charter sent CenturyTel a request for interconnection pursuant to 47 U.S.C. §§ 251(a) and (b), a copy of which is set forth in **Exhibit A**.

15. Ms. Susan Smith and Mr. Todd Stein of CenturyTel negotiated terms on behalf of CenturyTel. Furthermore, counsel on certain legal issues was provided by CenturyTel's counsel, Mr. Gavin Hill of the law firm of K&L Gates. Charter's representatives during the negotiations included Mr. Clifford Williams, Mr. Bill Pruitt, both of Charter, and the undersigned counsel.⁴

16. Negotiations over the terms of a replacement agreement have addressed, among other things, issues arising in the general terms and conditions, interconnection, number portability, directory listings and ancillary services sections of the draft agreement. The parties have met by telephone conference, generally on a weekly basis, during the preceding months of October, November, and December of 2007, and January, February, March, April, May, June, and July of 2008.

RESOLVED ISSUES

17. The parties have been able to resolve numerous issues during negotiations, working from language from the prior interconnection agreement between the Parties. Generally speaking, those issues are described in the paragraphs below.

18. Specifically, the parties have resolved numerous issues relating to the general terms and conditions, interconnection, collocation, number porting, and 911 obligations of each party. With respect to the general terms and conditions, the Parties resolved issues surrounding: changes of

⁴ Please note, however, that local counsel, Mr. Comley, was not part of Charter's negotiating team.

law, amendments to the Agreement, dispute resolution processes, mutual obligations with respect to letters of authorization, coordinated actions in response to requests from law enforcement agencies, network management obligations and principles, and many other terms and conditions. With respect to the interconnection issues, the Parties resolved several issues, including: indemnity obligations associated with transited traffic, and notice obligations where new interconnection arrangements are established. The Parties resolved a number of other open issues in other parts of the negotiated draft interconnection agreement.

19. All issues that were the subject of the negotiations are embodied in the attached proposed interconnection agreement (the “Proposed Agreement”) set forth in **Exhibit B**. With respect to all disputed issues, Charter’s proposed language is shown in **bold**, and CenturyTel’s proposed language is shown as double underline. All language in **Exhibit B** that is not shown as “redline” language, or which otherwise is not identified as in dispute, represents language agreed upon by both Parties. Also, if within the three (3) business day period immediately preceding the filing of this Petition, disputed language in **Exhibit C** was resolved by agreement between the parties, or if Century Tel has indicated its agreement with any of the language in **Exhibit C**, there have been no changes to **Exhibits A, B or C** that would reflect such agreement, given the impracticability of modifying this Petition and the exhibits in time to make a timely filing.

UNRESOLVED ISSUES AND POSITIONS OF THE PARTIES

20. The unresolved issues between Charter and CenturyTel and their respective positions as to each unresolved issue are detailed in the attached Disputed Issues Matrix, attached hereto as **Exhibit C**. For purposes of this petition, Charter hereby incorporates by reference the disputed issues, statement of each Party’s position, and all other related information in **Exhibit C**.

DISCOVERY

Several of the disputed issues in this Petition involve issues of law and fact, and Charter believes it will be necessary to seek information from CenturyTel pursuant to the Commission's discovery rules⁵ to ensure that the record in this proceeding is adequately developed as to such issues.

The positions that CenturyTel has adopted in relation to several of the issues presented above will require discovery into several areas, including but not limited to, information concerning existing network architectures; costs (if any) associated with CenturyTel's obligations to port telephone numbers and respond to directory listing requests from Charter; 911 and directory operations; and, CenturyTel's practice with respect to the termination of other interconnection agreements.

Charter also anticipates that privileged, confidential and/or trade secret information may be exchanged in the course of this proceeding and therefore requests an appropriate Protective Agreement be entered to protect such information. Charter believes that the parties will be able to agree upon the terms applicable to such Protective Agreement.

⁵ 4 CSR 240-2.090 as applied to arbitrations by 4 CSR 240-36.040(6).

REQUEST FOR RELIEF

WHEREFORE, Charter respectfully requests that the Commission grant the following relief:

- A. Appoint an arbitrator or arbitration panel which shall convene a hearing to take evidence on and arbitrate the unresolved issues between Charter and CenturyTel within the timetable specified by the Act;
- B. Approve the Proposed Agreement between Charter and CenturyTel reflecting the agreed-upon language in **Exhibit B**, and resolve the issues presented in this proceeding by adopting the language proposed by Charter;
- C. Retain jurisdiction of this arbitration until the parties have submitted an agreement for approval in accordance with Section 252(e) of the Act;
- D. Retain jurisdiction of this arbitration and the parties hereto until CenturyTel has complied with all implementation timeframes specified in the arbitrated agreement and the agreement has been fully implemented and, if necessary, enforced; and
- E. Take such other and further actions as are just and reasonable.

Respectfully submitted,

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Attorneys for Charter Fiberlink-Missouri, LLC

Dated: July 31, 2008

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of July, 2008, I served the foregoing document on the following persons via electronic mail and via US Mail. Because this document was filed electronically it is being served both electronically and by hard copy, on the persons listed below, consistent with Commission rules and practice.

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EXHIBIT LIST

EXHIBIT A: Letter from Charter Requesting Negotiations of a New Interconnection Agreement Pursuant to Section 252

EXHIBIT B: Parties' Competing Proposed Interconnection Agreement Language

EXHIBIT C: Disputed Issues List (Matrix) Showing Parties' Respective Positions, and Proposed Contract Language, on All Disputed Issues