

Exhibit No.: _____
Witness: Ted Schremp
Type of Exhibit: Direct Testimony
Sponsoring Party: Charter Fiberlink, LLC
Case No.: LC-2008-0049
Date Testimony Prepared: January 18, 2008

**BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION**

**Charter Fiberlink-Missouri, LLC Seeking
Expedited Resolution and Enforcement of
Interconnection Agreement Terms Between
Charter Fiberlink-Missouri, LLC and CenturyTel
of Missouri, LLC**

Case No. LC-2008-0049

**DIRECT TESTIMONY OF TED SCHREMP
ON BEHALF OF CHARTER FIBERLINK-MISSOURI, LLC**

January 18, 2008

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

Complaint of Charter Fiberlink-Missouri LLC)
Seeking Expedited Resolution and Enforcement of)
Of Interconnection Agreement Terms Between)
Charter Fiberlink-Missouri, LLC and CenturyTel)
of Missouri, LLC.)

Case No. LC-2008-0049

AFFIDAVIT OF TED SCHREMP


STATE OF MISSOURI)
) ss.
COUNTY OF ST. LOUIS)

Ted Schremp, being first duly sworn on his oath, states:

1. My name is Ted Schremp. I am presently Senior Vice President and General Manager of Telephone Operations for Charter Fiberlink-Missouri, LLC, complainant in the referenced matter.

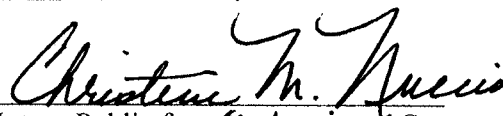
2. Attached hereto and made a part hereof for all purposes is my direct testimony.

3. 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 personal knowledge, information and belief.



Ted Schremp

Subscribed and sworn before me this 18th day of January, 2008.



Notary Public for St. Louis County, Missouri
My Commission expires: 8/21/2010



CHRISTINE M. NUCCIO
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis County
My Commission Expires: Aug. 21, 2010
Commission # 06430036

EXECUTIVE SUMMARY

Set forth below is the Direct Testimony of Mr. Ted Schremp, Senior Vice President and General Manager of Telephone Operations for Charter Fiberlink-Missouri, LLC, complainant in the above-referenced proceeding. Mr. Schremp currently oversees all of the company's telephone operations and offers testimony of facts relevant to issues in dispute in this proceeding. Specifically, Mr. Schremp will testify that:

(1) number portability, or "porting", is a vital functionality essential to Charter's ability to compete for telephone service subscribers, and for telephone service subscribers to exercise consumer choice, in Missouri;

(2) to compete in Missouri, Charter relies upon other telephone companies to fulfill their obligations to port subscriber telephone numbers to Charter, when requested;

(3) Charter has always operated in a manner that assumes the current interconnection agreement with CenturyTel requires both parties to provide number porting, when telephone customers so request, and, that each company has the obligation to provide such number porting, without charge to the other party;

(4) Charter has properly disputed all of the improper charges assessed by CenturyTel in Missouri; and

(5) finally, that Charter has incurred significant expense and operational uncertainty because of CenturyTel's failure to comply with the terms of the Parties' interconnection agreement.

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1 **I. INTRODUCTION**

2
3 **Q. PLEASE STATE YOUR NAME, POSITION, EMPLOYER, AND BUSINESS**
4 **ADDRESS.**

5
6 **A.** I am Senior Vice President and General Manager of Telephone Operations at Charter
7 Communications, Inc., and its subsidiary Charter Fiberlink-Missouri, LLC, the
8 Complainant here (collectively “Charter”). My business address is 12405
9 Powerscourt Drive, St. Louis, Missouri, 63131. I am filing this testimony on behalf
10 of Charter.

11
12 **Q. WHAT ARE YOUR DUTIES AS VICE PRESIDENT AND GENERAL**
13 **MANAGER OF TELEPHONE OPERATIONS?**

14
15 **A.** As the Senior Vice President and General Manager of Telephone Operations, I have
16 overall responsibility for the launch and successful operation of telephone related
17 products and services across Charter’s national footprint, and in Missouri my duties
18 include oversight, control, and decision-making on the day to day aspects of Charter’s
19 telephone operations, including legal, carrier relations, billing and customer service
20 matters. I therefore have a basis to testify to the facts surrounding the dispute
21 between Charter and CenturyTel of Missouri that is the subject of this proceeding.

22
23 **Q. PLEASE DISCUSS YOUR RELEVANT WORK EXPERIENCE AND**
24 **EDUCATION.**

25
26 **A.** Prior to my employment with Charter, I was employed by Hewlett Packard where I
27 co-founded its Cable, Media and Entertainment organization and headed up
28 development and strategy for the segment. Before joining Hewlett Packard, I worked
29 for PNV, Inc. where I developed and executed telecommunications sales and
30 marketing strategies, including voice over IP. In addition to these positions, I have

1 worked for Comcast Cellular, WinStar Communications, and Cable and Wireless,
2 Inc. I received Bachelor of Arts degree in Economics and Business from the
3 University of Pittsburgh in 1993. I received a Masters of Business Administration
4 from Pennsylvania State University in 2003.

5

6 **II. PURPOSE AND SUMMARY OF THIS TESTIMONY**

7

8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9 **A.** In my testimony I will discuss the basic concepts behind number porting, and why it
10 is so important to Charter (indeed, to all competitive LECs). In addition, I will
11 explain why Charter believes that CenturyTel of Missouri, LLC (“CenturyTel”) is not
12 honoring the terms of the parties’ interconnection agreement (“Agreement”), and why
13 we believe the Commission should grant the relief requested in Charter’s complaint.

14

15 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

16 **A.** My testimony is offered in this proceeding to demonstrate that number portability, or
17 “porting”, is a vital functionality essential to Charter’s ability to compete for
18 telephone service subscribers, and for telephone service subscribers to exercise
19 consumer choice, in Missouri. Further, because of the importance of number porting,
20 Charter dedicates significant resources to ensure that other telephone companies
21 fulfill their obligations to port subscriber’s telephone numbers to Charter, when so
22 requested.

23 My testimony also establishes that Charter has always operated in a manner wherein
24 both parties provide number porting under the Agreement and federal regulations,

1 when telephone customers so request; and, that each company has the obligation to
2 provide such number porting, without charge to the other party.

3 Further, I testify that CenturyTel has improperly billed Charter for these number
4 porting charges, and three other categories of charges for which CenturyTel is not
5 entitled to compensation.

6 Finally, my testimony demonstrates that Charter has incurred significant expense and
7 operational uncertainty because of CenturyTel's failure to comply with the terms of
8 the Agreement.

9

10 **III. BACKGROUND**

11

12 **Q. WHAT IS NUMBER PORTABILITY?**

13 **A.** Number portability, or porting, is the term we use to describe a telephone subscriber's
14 ability to retain use of his, or her, existing telephone number when he stops
15 purchasing service from one telephone company and begins to purchase service from
16 another company. Porting occurs where the two telephone companies work together,
17 at the customer's request, to transfer the telephone number from the "old" service
18 provider to the "new" service provider. The process ensures that customers can
19 transition from their old provider to their new provider, without having to change
20 their telephone number.

21

22 **Q. WHY IS NUMBER PORTING IMPORTANT TO CONSUMERS?**

23

24 **A.** Number porting is important because consumers want to be able to retain their
25 existing telephone numbers when switching providers. Retaining your telephone
26 number is important for obvious reasons: consumers do not want to have to alert their

1 friends and family of new telephone numbers, and change billing statements,
2 stationery, business cards, and other items every time they switch telephone
3 providers. For these reasons (and others) number porting is very important to
4 consumers of telephone service.

5

6 **Q. WHY IS NUMBER PORTING IMPORTANT TO COMPETITORS?**

7

8 **A.** With the increase in competitive choices for local telephone service, subscribers have
9 the ability to purchase their service from a variety of different companies, not just the
10 incumbent local telephone company. Competitors like Charter now offer significant
11 competitive alternatives by competing vigorously on rates, terms and conditions with
12 the incumbents.

13 While those competitive rates, terms and conditions are key to Charter's success, they
14 can all be negated if number porting is not available to consumers. Consumers are
15 highly unlikely to change telephone service providers and purchase competing service
16 offerings if they must give up their existing telephone numbers when switching
17 providers. The inconvenience of losing a telephone number that has become
18 identified with the consumer is, as noted above, simply too great. In other words,
19 essentially all of Charter's efforts to compete with incumbents are moot if the
20 customer can not port their telephone number.

21

22 **Q. PRECISELY HOW DOES THE NUMBER PORTING PROCESS WORK?**

23 **A.** In order for a consumer to move his existing telephone number from the network of
24 their old service provider to the network of their new service provider, both providers
25 must work together to ensure the number is properly "ported" from one network to

1 the other. Without getting into an overly technical explanation of that process, I can
2 say that it generally involves a few basic steps.

3 First, after a consumer has determined that he or she would like to switch carriers,
4 that person will contact the new service provider who will in turn inform the old
5 service provider of the decision to switch carriers, and participate in porting the
6 telephone number from the old provider's network to the new provider's network.
7 The new service provider typically notifies the old service provider by delivering a
8 notice which is known as the "local service request" (or "LSR").

9 Second, once the new service provider delivers the LSR to the old service provider,
10 the old service provider must respond to the request and issue a firm order
11 commitment, or "FOC", which serves as an acknowledgement of receipt of the LSR.
12 Note that current rules for porting require the executing carrier to issue a FOC within
13 24 hours of receiving that request and porting the number within three days of the
14 FOC, unless the requesting provider requests a longer interval for the port.

15
16
17 **IV. NUMBER PORTING AND OTHER SPECIFIC CHARGES IN DISPUTE**

18 **A. THE CURRENT DISPUTE BETWEEN THE PARTIES**

19
20 **Q. WHAT IS THE BASIC DISPUTE BETWEEN CHARTER AND CENTURYTEL?**

21
22 **A.** The basic dispute is whether CenturyTel has an obligation to port telephone numbers
23 from its network to Charter's network, without charges. Charter believes that the
24 parties' Agreement clearly establishes that CenturyTel has an obligation to port
25 telephone numbers to Charter without assessing charges on Charter. CenturyTel has
26

1 argued that it has a right to assess charges upon Charter, irrespective of the explicit
2 terms of the parties' Agreement, and has threatened to stop porting if Charter does not
3 pay currently disputed charges.

4

5 **Q. TO THE BEST OF YOUR KNOWLEDGE, IS CENTURYTEL'S PORTING**
6 **PROCESS LIKE THE PROCESS YOU HAVE PREVIOUSLY DESCRIBED?**

7

8 **A.** Yes, their procedure is essentially the same as that which I have previously described
9 above. At its core, that means CenturyTel is responding to port requests by receiving
10 the LSR from Charter, responding to the LSR with a firm order commitment
11 ("FOC"), and on the scheduled day, actually porting the number to Charter's network.

12

13 **Q. DOES CHARTER FOLLOW THIS SAME PROCESS?**

14 **A.** Yes. When consumers decide to leave Charter's telephone service for that of another
15 provider, and including CenturyTel, Charter follows the same basic process described
16 above.

17

18 **Q. PLEASE DESCRIBE THE PORTING CHARGES CENTURYTEL HAS**
19 **ATTEMPTED TO ASSESS UPON CHARTER.**

20

21 **A.** The dispute arises out of the question of whether CenturyTel can assess a charge upon
22 Charter for completing this porting process, conducting customer records searches,
23 maintaining directory listings, and collect for other miscellaneous items which have
24 been billed in error. With respect to the charges for porting, CenturyTel asserts that
25 its charges are only assessed as a means to recover its "administrative" costs of
26 responding to the Charter port request (via the LSR), -- a service order charge if you
27 will. But the charge is, in reality, a charge or tax against Charter and ultimately

1 consumers for porting numbers away from CenturyTel's network. It is important to
2 remember that CenturyTel assesses the charge for every instance in which it must
3 engage in the provision of local number portability to effectuate the customer's
4 decision to switch carriers.

5 In fact, when this dispute first arose (and for some time thereafter) CenturyTel
6 actually called this assessment a "switch port" charge. Tellingly, CenturyTel has
7 since modified the label they use for this charge to reflect their new legal arguments
8 about the recovery of administrative costs.

9

10 **Q. DOES CHARTER ASSESS ANY CHARGE UPON CENTURYTEL**
11 **PURSUANT TO THIS PROCESS?**

12

13 **A.** No.

14

15 **Q. WHY NOT?**

16 **A.** Well, for several reasons. First, there is no contractual basis for Charter to assess a
17 porting charge upon CenturyTel. Second, Charter does not assess such charges upon
18 other service providers because, as I understand the situation, such charges are
19 prohibited by federal law. Third, as matter of practicality and fairness, we believe
20 that there is no need for carriers to assess each other a charge for performing LNP
21 functions, because carriers are mutually obligated to perform this function for each
22 other and routinely do so.

23

24 **B. CENTURYTEL'S IMPROPER CHARGES AND BILLING ERRORS**

25 **Q. PLEASE DESCRIBE ALL OF THE SPECIFIC CHARGES THAT**
26 **CENTURYTEL HAS IMPROPERLY ASSESSED UPON CHARTER.**

1
2 **A.** Generally speaking, CenturyTel assessed upon Charter a variety of different charges
3 that were either: a) not authorized under the agreement; b) charges that CenturyTel
4 was not entitled to recover; or, c) specifically prohibited under federal law. More
5 specifically, CenturyTel has improperly billed Charter for hundreds of thousands of
6 dollars over the course of the last five years. The improper and unauthorized charges
7 generally fall into one of four categories, as follows:

- 8 1) The first, and by far the largest, category of charges are those assessed on
9 Charter every time that CenturyTel ports a telephone number to Charter's
10 network;
11 2) The second category of charges involves so-called customer records
12 searches that are necessary to ensure subscribers are properly listed in
13 telephone directories;
14 3) The third category of charges are monthly recurring charges associated
15 with certain unique directory listings, for example requests by subscribers
16 for non-publish or non-list status in CenturyTel directories; and
17 4) The fourth category of charges cover a variety of miscellaneous billing
18 charges which do not fall within any of the three other categories, but
19 which clearly constitute billing error by CenturyTel.

20 As of the date of this testimony, the total amount of charges that CenturyTel has
21 billed, and which Charter has disputed, in all four of these categories, is \$254,731.59.

22
23 **Q. PLEASE EXPLAIN THE NUMBER PORTING CHARGE THAT**
24 **CENTURYTEL HAS ASSESSED UPON CHARTER.**
25

1 **A.** Of the total amount at issue here, approximately two hundred and sixteen thousand
2 dollars (\$216,000) are charges associated with CenturyTel's provision of local
3 number portability to telephone subscribers in Missouri. Number portability is, of
4 course, the act of "porting" (or transferring) a subscriber telephone number when that
5 subscriber discontinues service from one carrier and initiates service with another
6 carrier. Although number porting does not occur for every subscriber that changes
7 service providers, many subscribers that switch providers also wish to port their
8 numbers. Therefore, when a telephone subscriber seeks to change service providers,
9 both providers must act in concert to ensure that the number is ported according to the
10 customer's wishes. When that happens between the parties in this dispute, Charter
11 must inform CenturyTel of the subscriber's request to port the number, and
12 CenturyTel must confirm receipt of the Charter request and then actually port the
13 number.

14

15 **Q. HOW FREQUENTLY ARE THESE NUMBER PORTING CHARGES**
16 **ASSESSED?**

17

18 **A.** CenturyTel bills Charter *each and every time* that Charter wins a subscriber from
19 CenturyTel, and that subscriber wishes to port their number. For requests made by
20 Charter on behalf of a subscriber in Missouri, CenturyTel attempts to shift its costs
21 associated with porting the number by assessing a service order charge upon Charter.
22 Specifically, when Charter submits an LSR form notifying CenturyTel that a
23 subscriber seeks to port a number, CenturyTel assesses a \$19.78 charge on Charter.
24 (Oddly, within the last several months CenturyTel has begun to assess a different rate,
25 of \$23.44, for number porting.) CenturyTel began billing Charter for these charges

1 on, or about, June of 2003, and has continued to do so to this day. Accordingly,
2 Charter has disputed these improper charges associated with porting numbers from
3 CenturyTel to Charter. The total disputed amount of charges in this category, at the
4 time of this filing, is \$216,677.80.

5
6 **Q. PLEASE EXPLAIN THE OTHER CHARGES THAT CENTURYTEL HAS**
7 **ASSESSED UPON CHARTER.**

8
9 **A.** As noted above, aside from the charges for porting, there are three other categories of
10 improper charges. They are as follows:

11 ✍ Charges for customer records research: CenturyTel assesses these charges
12 upon Charter when CenturyTel reviews customer records to ensure that
13 Charter's subscriber information is accurately listed in public directories.
14 These charges were assessed by CenturyTel during the period of about one
15 year, from March, 2003 to March, 2004. CenturyTel assessed a charge of
16 \$4.21 for every records search made that was associated with such requests.
17 More recently, in 2007, CenturyTel has begun to assess these charges again.
18 The purpose of the records research was to ensure that Charter's subscriber
19 information held in CenturyTel's databases would be properly listed in public
20 telephone number directories produced by CenturyTel. Charter has disputed
21 all of these charges because CenturyTel did not fulfill its obligations under the
22 Agreement to properly list Charter's subscribers in the CenturyTel directory.
23 During the period prior to 2007 in which CenturyTel assessed these charges
24 Charter submitted directory listing information to CenturyTel in reliance upon
25 the information obtained by CenturyTel through the records research process.

1 However, CenturyTel never performed the work necessary to effectuate
2 Charter's directory listing requests (which utilized the records research that
3 Charter requested). That is why Charter disputed the charges associated with
4 the work CenturyTel failed to perform. The total disputed amount of charges
5 in this category, at the time of this filing, is \$8,550.04.

6 ✍ **Charges for "unique" directory listings:** CenturyTel also assessed monthly
7 recurring charges associated with certain "unique" directory listings, for
8 example requests by subscribers for non-publish or non-list status in
9 CenturyTel directories. However, as noted above, CenturyTel failed to
10 actually perform the work that Charter had requested in conjunction with
11 these charges. Accordingly, Charter disputed the charges associated with the
12 work that CenturyTel failed to perform. The total disputed amount of charges
13 in this category, at the time of this filing, is \$7,382.83.

14 ✍ **Charges for miscellaneous end user charges:** Since June of 2003
15 CenturyTel has assessed a variety of miscellaneous billing charges which do
16 not fall within any of the three other categories, but which clearly constitute
17 billing error by CenturyTel. Specifically, every month CenturyTel continues
18 to bill miscellaneous charges that should be applied to end users (not a co-
19 carrier like Charter) such as: telephone toll (or long distance) charges,
20 directory assistance charges, taxes and surcharges (of varying kinds), caller ID
21 and call forwarding charges, federal universal service fund charges, Yellow
22 Pages advertising, and *even* local telephone service charges. These are clearly
23 charges that CenturyTel intended to assess against its own subscribers, but
24 which were improperly attributed (and billed) to Charter.

1 Notably, when Charter disputes these charges, CenturyTel often does adjust
2 future billings to acknowledge its billing errors. However, because the
3 adjustments do not indicate the charge type being adjusted and the amounts
4 adjusted do not match amounts disputed, Charter's billing personnel can not
5 determine if full credit has been given for disputes in this category. More
6 troubling, though, is the fact that when CenturyTel makes these adjustments it
7 frequently applies payments made by CenturyTel subscribers to the Charter
8 bill. In other words, CenturyTel is using payments made by Missouri
9 telephone subscribers to credit Charter's account (when it should be crediting
10 that particular subscriber's CenturyTel account). Some of these payments
11 have been removed from the Charter account, but others have not. Therefore,
12 it is not possible to calculate and balance precisely the actual amounts due
13 against those amounts billed, and later credited or adjusted.

14
15 **C. CHARTER HAS FORMALLY DISPUTED ALL OF CENTURYTEL'S IMPROPER**
16 **CHARGES**

17
18 **Q. HAS CHARTER DISPUTED CENTURYTEL'S CHARGES?**

19
20 **A.** Yes. Upon receipt of the first invoices containing these charges Charter reviewed the
21 terms of its Agreement with CenturyTel and determined that there was no contractual
22 basis for the charges. Further, upon reviewing applicable federal law, Charter also
23 determined that the charges were prohibited under federal law. Because the charges
24 were impermissible under the parties' Agreement, and/or prohibited by federal law,
25 Charter determined that it was not liable for the charges and that CenturyTel was not
26 entitled to payment for such charges. Accordingly, and consistent with the

1 Agreement's bill dispute provisions, Charter formally disputed the number porting
2 charges, and the other charges that I discuss in my testimony. In fact, Charter has
3 formally disputed these charges via two different methods.

4

5 **Q. PLEASE EXPLAIN HOW AND WHEN CHARTER PROVIDED THESE TWO**
6 **DIFFERENT BILL DISPUTE NOTICES TO CENTURYTEL.**

7

8 **A.** The first form of notice, Charter's monthly bill dispute statements, is the standard
9 process used in the telecommunications industry, and is specifically required by
10 Section 9.3 of the Parties' interconnection agreement ("Agreement").

11 Generally speaking, each month CenturyTel assesses these improper charges on
12 Charter. And each month (some short time after receiving CenturyTel's bills),
13 Charter provides to CenturyTel detailed statements providing notice of Charter's
14 dispute of the charges, and the basis for such disputes. Charter's bill dispute
15 statements are delivered to the designated CenturyTel representative electronically
16 (thereby providing prompt notice to the billing Party - CenturyTel), and each of the
17 dispute statements provides specific details as to the reason for the dispute.

18 As I noted, this process is required by Section 9.3 of the Agreement. And through
19 these monthly notices, Charter has complied with that provision by consistently
20 providing notice of its dispute of the CenturyTel's charges.¹ Thus, Charter has
21 provided these monthly bill dispute notices for nearly every month between June of
22 2003 to the present.

23

¹ These bill dispute statements are delivered on a monthly basis to CenturyTel. There are several short periods during the last four years in which Charter did not, for a number of reasons, deliver a bill dispute statement to CenturyTel. However, even then, there can be no doubt that CenturyTel was on notice of Charter's dispute of

1 **Q. WHAT ABOUT THE SECOND FORM OF NOTICE; WHY (AND WHEN)**
2 **DID CHARTER PROVIDE THAT NOTICE?**

3
4 **A.** The second form of notice is also contemplated by Section 9.3 of the Agreement.
5 Section 9.3 also allows a Party to dispute an entire “class” of charges prospectively
6 by simply providing a single notice to the billing Party. The contract states: “[a]
7 Party may also dispute prospectively with a single notice a class of charges that it
8 disputes.” Charter provided such a notice to CenturyTel by formal correspondence
9 dated July 26, 2004. A copy of that correspondence, with the notice of Charter’s
10 prospective dispute of the charges, is attached to my testimony as TS Schedule 1. In
11 addition, Charter has provided this prospective notice in other ways, including on
12 several of the monthly bill dispute statements it has submitted to CenturyTel.

13
14 **Q. WHAT OTHER EFFORTS HAS CHARTER MADE WITH RESPECT TO**
15 **DISPUTING THESE CHARGES?**

16
17 **A.** In addition to the monthly dispute notices, and the prospective notice, in 2004 Charter
18 also engaged in a lengthy negotiations and dispute resolution discussions with
19 CenturyTel. During the 2004 negotiations, Charter delivered several formal letters to
20 CenturyTel explaining in painstaking detail each and every item disputed on the
21 CenturyTel bills, the basis for each of Charter’s dispute, the legal rationales for the
22 positions Charter took on these disputes, and other matters related to the resolution of
23 this dispute. CenturyTel provided written responses to many of those
24 communications, and the Parties’ representatives ultimately engaged in several
25 telephone conferences in attempts to resolve these disputes. Unfortunately, those

these charges. In fact, Charter is currently in the process of submitting disputes for the few remaining invoices that have not already been disputed.

1 negotiations were not successful, and the billing dispute between the Parties
2 *continues to this day.*

3

4 **Q. PLEASE EXPLAIN WHY CHARTER ENGAGED IN THOSE**
5 **NEGOTIATIONS.**

6

7 **A.** In the spring of 2004 CenturyTel issued the same threat to Charter that precipitated
8 this complaint. Specifically, CenturyTel stated that Charter must pay all of the
9 pending, disputed charges billed to date (through June, 2004), or CenturyTel would
10 discontinue porting to Charter, and thereby denying consumers the ability to change
11 service providers. Forced with this threat of discontinuance, Charter felt as if it had
12 no other option but to accede to CenturyTel's demands. Thus, on June 16, 2004,
13 Charter paid \$68,867.61 to CenturyTel, under duress, simply to ensure that
14 CenturyTel would continue honoring port requests, and other service orders from
15 Charter. In making such payments, Charter did not admit liability for the charges and
16 specifically reserved the right to seek a refund of the payment.

17 And following that event, Charter invoked the formal dispute resolution provisions of
18 the Agreement in an effort to resolve the parties' then-developing billing disputes.
19 Specifically, through various correspondence, Charter invoked the dispute resolution
20 provisions, Section 14, of the parties' Agreement, to initiate a dialogue with
21 CenturyTel management concerning the propriety of the charges. During this dispute
22 resolution process, the parties exchanged formal and informal correspondence (in the
23 form of letters and electronic mail), and engaged in several telephone conferences and
24 conversations in June, July, August and September of 2004. And, during this process,
25 Charter provided to CenturyTel a detailed explanation of the basis for its dispute of

1 the charges, including an explanation of why it believes that the Agreement does not
2 authorize such charges, why CenturyTel was not entitled to payments, and an analysis
3 of why federal law prohibits certain charges. Despite this intensive discussion and
4 dialogue, and the significant time and energy of both parties, the parties could not
5 resolve their dispute. For that reason Charter never conceded its dispute of these
6 charges to CenturyTel, or the basis for such charges. Instead, the dispute resolution
7 process continued via communications between each parties' billing and carrier
8 relations personnel.

9

10 **Q. PLEASE DESCRIBE THE TIME AND EXPENSE ASSOCIATED WITH**
11 **DISPUTING CENTURYTEL'S CHARGES?**

12

13 **A.** Charter has committed significant time and expense to the process of disputing each
14 of CenturyTel's improper charges, on a monthly basis, for the last four years. As
15 noted above, CenturyTel has continued to bill Charter for the number portability
16 charges, the records search and directory charges, and the miscellaneous charges for
17 the last four years. And Charter continued to dispute each of these different
18 categories of invalid charges. Charter has provided specific notice to CenturyTel of
19 Charter's dispute of the improper charges. The notice was provided to CenturyTel in
20 two separate ways. First, by submitting to CenturyTel monthly bill dispute
21 statements; and, second, by providing CenturyTel a single, prospective statement
22 indicating that Charter disputed the entire "class" of charges associated with
23 CenturyTel number porting obligations.

24

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

1
2 **A.** Charter is forced to undertake a very time consuming process to sort through
3 CenturyTel's invoices and identify billing errors made by CenturyTel. Specifically,
4 Charter has to enter billing disputes into its invoice processing system. These
5 disputes (as well as invoice charges) are assigned a general ledger coding in the
6 invoice processing system. The disputed charges are then short-paid, and are entered
7 into Charter's dispute tracking database, which consists of an excel spreadsheet that
8 lists each Billing Telephone Number (BTN), invoice page number, charge amount
9 and the reason for each disputed charge.

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

22
23 **Q. HAS CENTURYTEL THREATENED UNILATERAL TERMINATION OF**
24 **THE AGREEMENT IF CHARTER DID NOT PAY THE DISPUTED**
25 **CHARGES?**
26

1 **A.** Yes. Just before this case began CenturyTel decided to take unilateral action, and
2 ignoring the process in the Agreement, attempted to force Charter to pay these
3 disputed charges under threat of disconnection. CenturyTel's employees sent
4 correspondence and e-mail to Charter employees in the weeks leading up to the filing
5 of Charter's complaint. First, CenturyTel sent a letter to Charter on July 11, 2007,
6 demanding payment of certain disputed charges. Following that, and after ensuing
7 discussions between the parties' representatives, on August 14, 2007, CenturyTel
8 Corporate Carrier Relations Manager Pam Hankins indicated in an e-mail that it was
9 CenturyTel's position that Charter is in default of the Agreement because Charter has
10 not paid certain properly disputed charges to CenturyTel. Ms. Hankins also made
11 clear that if Charter did not pay all disputed charges within ten business days of her e-
12 mail, on or before August 28, 2007, that CenturyTel would stop processing all
13 Charter orders.

14
15 **Q. PLEASE EXPLAIN THE IMPLICATIONS OF CENTURYTEL'S**
16 **UNILATERAL ACTIONS.**

17
18 **A.** What this essentially means is that unless Charter agreed to pay all of the disputed
19 charges to CenturyTel before the August 28 of last year, CenturyTel would no longer
20 accept number porting requests made by Charter on behalf of telephone subscribers
21 that wish to transfer service to Charter. Of course, the Commission's order on interim
22 relief ensured that CenturyTel's threats would not occur. But that situation illustrates
23 the manner in which CenturyTel attempts to leverage its role as the incumbent
24 provider in a manner that harms competition, and consumers. CenturyTel's unilateral
25 threats to stop processing all of Charter's number porting orders may have also

1 affected Charter's ability to order trunks or interconnection facilities under the
2 Agreement, and it could also have impaired Charter's ability to provide certain
3 directory listing information to its subscribers. CenturyTel's threatened actions were
4 outside the scope of the dispute provisions of the Agreement, and contrary to billing
5 dispute processes of the Agreement.

6
7 **V. THE PARTIES' CONTRACT (INTERCONNECTION AGREEMENT) DOES**
8 **NOT AUTHORIZE THESE CHARGES**

9
10 **Q. ARE YOU FAMILIAR WITH THE INTERCONNECTION AGREEMENT**
11 **BETWEEN CENTURYTEL AND CHARTER AT ISSUE IN THIS CASE?**

12
13 **A.** Yes, I have reviewed the agreement, and I am familiar with its terms.

14
15 **Q. WHAT IS YOUR UNDERSTANDING AS TO THE QUESTION OF**
16 **WHETHER THE AGREEMENT ALLOWS FOR PORTING CHARGES?**

17
18 **A.** Leaving detailed contract interpretation questions to my lawyers, I can tell you that
19 when I reviewed the Agreement I saw no provision authorizing either party to assess
20 porting charges on the other party. My discussions with my billing and finance staff
21 confirm this review.

22
23 **Q. SETTING ASIDE THE INTERCONNECTION AGREEMENT, WHY DOES**
24 **CHARTER OPPOSE PORTING CHARGES?**

25
26 **A.** Charter believes that federal law prohibits these kinds of porting charges. My
27 understanding of the FCC's number portability cost recovery orders is that incumbent
28 telephone companies can only recover their costs of implementing number portability
29 (which includes the costs of actually porting numbers) via tariffed end user charges.

1 And, in a 2002 decision, the FCC specifically prohibited the types of charges that
2 CenturyTel is attempting to impose upon Charter here.

3

4 **Q. WHY DOES THE FCC DECISION TO PROHIBIT SUCH CHARGES MAKE**
5 **SENSE?**

6

7 **A.** It recognizes that the “cost-causer” in number porting situations is the customer,
8 rather than the requesting carrier. When a company like Charter submits a port
9 request to a telephone company like CenturyTel, Charter is merely performing an
10 activity on behalf of the customer, by presenting the customer’s porting request and
11 facilitating the porting process.

12

13 **Q. WHAT IS THE RELEVANCE OF CHARTER’S OPERATIONS UNDER THE**
14 **AGREEMENT?**

15

16 **A.** It would seem that the Commission can draw some conclusions about the meaning of
17 certain terms in the Agreement by considering how each Party has conducted itself
18 under the terms of the Agreement. If you assume that each Party will act in a
19 rational manner, and conduct its operations in a manner consistent with their
20 contractual obligations, then it makes sense to review the Party’s actions under this
21 Agreement.

22

23 **Q. HAS CENTURYTEL ALWAYS CHARGED CHARTER FOR NUMBER**
24 **PORTING REQUESTS?**

25

26 **A.** No. As I have previously described, after CenturyTel assumed operation and control
27 of the systems from Verizon, Charter sent its initial number porting request to
28 CenturyTel. Specifically, Charter sent its first porting request to CenturyTel in

1 September, 2002 and CenturyTel did not assess a charge for such requests until June,
2 2003. The fact that CenturyTel initially did not assess number porting charges upon
3 Charter indicates that its decision to levy the charge was an afterthought and
4 inconsistent with the intention of the parties at the inception of the relationship.

5
6 **Q. WHAT IS CHARTER'S UNDERSTANDING OF THE INTENTION OF**
7 **PARTIES UNDER THE AGREEMENT WITH RESPECT TO CHARGES**
8 **FOR NUMBER PORTING?**

9
10 **A.** Charter has never understood the Agreement to require Charter to pay CenturyTel to
11 port numbers to Charter. That is borne out in its dispute over payment of those
12 charges. For the life of the Agreement Charter has always disputed any charges by
13 CenturyTel for number porting. And aside from Charter's June 16, 2004 payment of
14 \$68,867.61, which was made under duress for the sole purpose of ensuring that
15 CenturyTel would continue honoring port requests, Charter has not paid any number
16 porting charges over the past four years. This indicates that Charter has never
17 understood the Agreement to require Charter to pay CenturyTel to port numbers to
18 Charter.

19
20 **Q. IF CENTURYTEL CLAIMS IT IS OWED THESE MONIES, WHY IS**
21 **CHARTER FILING THIS CLAIM?**

22
23 **A.** Because CenturyTel threatened to stop porting numbers, which put Charter's ability
24 to provide competitive service and the consumer's ability to seek competitive services
25 at risk. When CenturyTel made those threats Charter was put in a position of having
26 no choice but to seek redress at the Commission. It is curious that CenturyTel did not
27 file a complaint with the Commission itself, if it in fact believed these charges were
28 owed under the Agreement. That would have been the usual course for a company

1 who believed it was owed monies under an interconnection agreement when it was
2 unable to resolve the issue through informal and formal dispute processes.
3

4 **Q. DID CHARTER DISPUTE THE NUMBER PORTABILITY, RECORDS**
5 **SEARCH, DIRECTORY AND MISCELLANEOUS CHARGES?**
6

7 **A.** Yes. As noted above, Charter has submitted bill dispute statements to CenturyTel
8 ever since these charges were initially assessed upon Charter, beginning in the second
9 quarter of 2003. Charter has methodically followed the bill dispute process set forth
10 in the Agreement. Specifically, Charter has provided CenturyTel with bill dispute
11 statements over the past few years that have given notice to CenturyTel of the amount
12 that Charter disputes. Those bill dispute statements also provided specific details as
13 to the reasons for disputing each item (*i.e.* the charges are not allowed under the
14 Agreement, and they are prohibited by federal law).
15 Even though Charter delivered bill dispute statements to CenturyTel (in most
16 instances) on a monthly basis, there were a few occasions during the four year period
17 in which Charter did not, for various reasons, deliver a bill dispute statement to
18 CenturyTel. Nevertheless, and as discussed more fully below, there was no lapse in
19 CenturyTel's notice of the fact that Charter disputed these improper charges.
20

21 **Q. DOES THE AGREEMENT PERMIT CHARTER TO DISPUTE**
22 **CENTURYTEL'S CHARGES IN ANY OTHER MANNER?**
23

24 **A.** I consider the Agreement appear to be very clear on the point that Charter may
25 dispute an entire "class of charges" prospectively by providing a single notice to
26 CenturyTel.
27

1 **Q. HAS CHARTER PROVIDED A SINGLE PROSPECTIVE NOTICE TO**
2 **CENTURYTEL TO DISPUTE THESE CHARGES AS PERMITTED UNDER**
3 **THE AGREEMENT?**

4
5 **A.** Yes. In correspondence dated July 26, 2004, Charter provided CenturyTel with a
6 single notice to prospectively dispute each of the three different classes of charges in
7 dispute here. As such, CenturyTel has effectively been on notice, throughout the life
8 of the Agreement, of the charges that Charter disputes.

9
10
11 **Q. CENTURYTEL CONTENDS THAT PROVIDING NUMBER PORTING (OR**
12 **RESPONDING TO PORTING REQUESTS) IS A SERVICE FOR WHICH IT**
13 **MUST BE COMPENSATED. HOW DO YOU RESPOND?**

14
15 **A.** I have two responses.

16 First, when CenturyTel ports a number to Charter's network it does so because of its
17 statutory obligations to do so. Specifically, CenturyTel is required to port numbers
18 pursuant to Section 251(b)(3) of the Act. Further, the express terms of this Agreement
19 require CenturyTel to port numbers to Charter. Thus, when CenturyTel ports a
20 number from its network to Charter's network, it does so because of its legal duties to
21 do so, not because it is providing a "service" to Charter.

22 Second, Charter provides the same functionality to CenturyTel, without charges. The
23 parties provide porting to one another because they are required to do so. I want to
24 note that porting between carriers is required under federal law, but there is no
25 requirement for an agreement to be negotiated between porting carriers. The fact that
26 there is an agreement in this case is convenient, but the parties would be required to
27 port even if there were not an agreement in place. In fact, Charter ports with many

1 other carriers without agreement. The parties' exchange porting procedures and
2 porting is established. Likewise, no charges are asserted by either party.
3
4
5

6 **Q. IS THE FACT THAT YOU DON'T HAVE AN AGREEMENT FOR PORTING**
7 **WITH OTHER COMPANIES THE REASON THAT THERE ARE NO**
8 **CHARGES ASSESSED?**
9

10 **A.** Not at all. The reason no charges are assessed between carriers who port numbers is
11 that they are not allowed to do so under federal law. Even if we had an agreement
12 with these carriers, there would be no basis for number porting charges.
13

14 **Q. DID CHARTER INTEND TO INCORPORATE THE CENTURYTEL**
15 **SERVICE GUIDE INTO THE AGREEMENT?**
16

17 **A.** The Agreement that Charter operates under with CenturyTel today is an agreement
18 that was opted into by Charter when Verizon owned the CenturyTel exchanges.
19 In that respect, there was no negotiation that occurred between Charter and Verizon
20 as to the terms of the Agreement. I can tell you that when I reviewed the Agreement,
21 I saw no provision that would require Charter to comply with the terms of the specific
22 CenturyTel Service Guide that CenturyTel attempts to make apart of the Agreement.
23 In fact, there is no specific reference in the Agreement to the CenturyTel Service
24 Guide that CenturyTel claims is applicable here. It stands to reason that if the Parties'
25 had intended to incorporate the CenturyTel Service Guide, they would have
26 specifically stated that it was their intent to do so.

1 It has always been my understanding that the underlying purpose of entering into a
2 contract is to bind the parties to the precise terms set forth in that contract unless the
3 parties have *mutually* agreed otherwise. CenturyTel seeks to undermine this rationale
4 by changing the terms of a final agreement by adding terms and conditions via
5 extraneous documents that were not mutually agreed upon, or even contemplated, by
6 the Parties.

7

8 **Q. IS IT POSSIBLE THAT CHARTER COULD HAVE CONSENTED TO PORT**
9 **CHARGES IMPOSED THROUGH THE SERVICE GUIDE?**

10

11 **A.** No, absolutely not.

12 It would have been irrational for Charter to have agreed to incorporate a Service
13 Guide that included such language, because doing so would have completely
14 undermined (and negated) the express terms of the Agreement that provide for the
15 provision of number portability without charge. Such a result would have been
16 nonsensical and contrary to standard and usual business practice.

17

18 **Q. CENTURYTEL ALSO CONTENTS THAT ITS TARIFF SETS FORTH THE**
19 **RATES THAT CENTURYTEL MAY IMPOSE ON CHARTER FOR**
20 **NUMBER PORTING. IS THAT CORRECT?**

21

22 **A.** The tariff in question, CenturyTel of Missouri, LLC Local Exchange Tariff No. 1
23 (“Local Exchange Tariff”) is not and can not be made apart of the Agreement. There
24 is no specific reference in the Agreement to the Local Exchange Tariff that
25 CenturyTel is trying to impose upon Charter.

26

27 **Q. WHY WOULD IT BE PROBLEMATIC TO INCORPORATE THE TARIFF,**
28 **AS CENTURYTEL HAS SUGGESTED?**

1

2 **A.** The Local Exchange Tariff that CenturyTel refers to does not and can not apply to
3 Charter. Significantly, it is a tariff for *local exchange service*, applicable to
4 CenturyTel's own end user customers. A brief review makes clear that the Local
5 Exchange Tariff sets forth rates, terms, and conditions for end user customers that
6 purchase telephone service from CenturyTel. Charter is a co-carrier, not an end-user
7 of services; it does not purchase local telephone service from CenturyTel.
8 CenturyTel's Local Exchange Tariff does not make any specific references to number
9 porting obligations between carriers.

10 It is interesting that the Local Exchange Tariff that CenturyTel claims is applicable to
11 Charter contains a service order charge that is completely different from the charge
12 that CenturyTel has assessed upon Charter. There are two rates set forth in the Local
13 Exchange Tariff: \$23.44 and \$23.48, which are said to apply when a business places
14 an order for a discreet service. However, CenturyTel has until very recently
15 attempted to impose a charge of \$19.78 for each number porting request submitted by
16 Charter over a period of approximately four years. This charge in the amount of
17 \$19.78 is not reflected in the tariff that CenturyTel claims is applicable. There is ***no***
18 ***correlation*** to the rates in the Local Exchange Tariff, and the charges assessed upon
19 Charter.

20

21 **VI. REMEDIES AND RELIEF THAT CHARTER SEEKS FROM THE**
22 **COMMISSION**

23

24 **Q. WHAT COSTS HAS CHARTER INCURRED IN ENFORCING ITS RIGHTS**
25 **UNDER THIS AGREEMENT?**

26

1 **A.** Charter filed the complaint in this proceeding to ensure that CenturyTel would honor
2 its commitments under the Agreement by porting numbers to Charter without charge.
3 In so doing, Charter has incurred significant legal and operational costs simply to
4 enforce terms of an Agreement that are plain on their face. Those costs are
5 widespread, and include the time and expense associated with Charter employees
6 reviewing and disputing all of the CenturyTel invoices (that contained these porting
7 charges), communications related to these disputes, and other resources spent in an
8 attempt to demonstrate that CenturyTel has no right to assess these charges. One can
9 appreciate the volume of work associated with disputing these charges when
10 considering all of the dispute statements submitted electronically and manually by
11 Charter to CenturyTel. Indeed, a representative sample of those dispute statements is
12 attached hereto as TS Schedule 2. And, if necessary, Charter will submit all of those
13 statements into the record to show the scope and volume of CenturyTel's non-
14 compliance.

15 It is very disconcerting to think that Charter must incur hundreds of thousands of
16 dollars of legal and operational costs to ensure that other companies honor their
17 contractual obligations under these types of agreements.

18
19 **Q. WHAT RESULT DOES CHARTER SEEK FROM THIS PROCEEDING?**

20
21 **A.** Charter seeks an order from the Commission that requires CenturyTel to comply with
22 the terms of the Agreement. Specifically, to ensure that these problems are resolved,
23 the Commission should order CenturyTel to: (1) port numbers to Charter, upon
24 request, without charge; (2) discontinue assessing upon Charter the improper number
25 charges; and, (3) discontinue assessing upon Charter the other categories of improper

1 charges that are the subject of Charter's complaint. Charter also seeks an order from
2 the Commission finding that CenturyTel has not complied with the Agreement and is
3 liable for penalties and damages.

4

5 **VII. CONCLUSION**

6

7 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

8 **A.** Yes.