

In the Matter of:

**SOCKET TELECOM, LLC**

**v.**

**CENTURYTEL of MISSOURI, LLC d/b/a CENTURYLINK**

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**TC-2020-0333, VOL. I**

*July 21, 2020*

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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Procedural Conference

July 21, 2020

Jefferson City, Missouri

Volume 1

WebEx

Socket Telecom, LLC,                     )  
   )  
Complainant,                                 )  
   )  
vs.   ) File No. TC-2020-0333  
   )  
CenturyTel of Missouri,                     )  
LLC d/b/a CenturyLink,                     )  
   )  
Respondent.                                 )

NANCY DIPPELL, Presiding  
REGULATORY LAW JUDGE

REPORTED BY:  
Beverly Jean Bentch, CCR No. 640  
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P R O C E E D I N G S

JUDGE DIPPELL: I think we can go ahead and go on the record. This is Case No. TC-2020-0333, Socket Telecom, LLC, Complainant, vs. CenturyTel of Missouri, LLC, d/b/a CenturyLink, Respondent. My name is Nancy Dippell, and I'm the Regulatory Law Judge assigned to this case. We've come here today for a prehearing conference/settlement conference, and I have attorneys and witnesses on this videoconference which we are doing via WebEx teleconference due to the COVID-19 pandemic.

We'll begin then with entries of appearance. Can I start with Socket, please?

MR. LUMLEY: Thank you, Judge.

JUDGE DIPPELL: You're cutting out again, Mr. Lumley. Can I get you to start from the beginning?

MR. LUMLEY: Yes. This is Carl Lumley entering his appearance on behalf of Socket.

JUDGE DIPPELL: Thank you. Mr. England?

MR. ENGLAND: Thank you, Judge. William R. England of the law firm Brydon, Swearngen & England appearing on behalf of CenturyLink.

JUDGE DIPPELL: And Staff?

MS. PAYNE: Whitney Payne on behalf of the Staff of the Missouri Public Service Commission.

JUDGE DIPPELL: And as far as I know, Public

1 Counsel wasn't taking part in this today. No one  
2 contacted me indicating that they would be. I wasn't  
3 expecting them.

4 Okay. So first of all, let me just say that  
5 we're planning to go ahead and set this also as a  
6 hearing via WebEx. I know it's not ideal, but the  
7 Commission feels pretty strongly about keeping everybody  
8 at home and away if we can. And truly when we're  
9 dealing with telecoms, we can figure out a way to make  
10 it technically feasible. So we'll go ahead and plan. I  
11 will send out an order about that.

12 That means that exchange of exhibits will need  
13 to take place electronically as well. So I will be  
14 sending out information about that as well. I wasn't  
15 sure if you all wanted me to mediate your settlement  
16 discussions at all or if you were just intending to come  
17 together today to discuss that with each other.

18 MR. ENGLAND: Judge, this is Trip England. I  
19 think initially we assumed after the prehearing  
20 conference wrapped up that we would talk informally  
21 among ourselves to see if there's room for settlement.  
22 I don't know if we need help mediating it. I suppose  
23 that is something we could come to later. As I recall,  
24 under the rules if you become the mediator you're no  
25 longer the law judge; is that right?

1 JUDGE DIPPELL: Well, there is a difference  
2 between mediation and settlement. Our rules do provide  
3 for both. And yeah, I wasn't trying to get out of doing  
4 the hearing and I wouldn't do that to somebody else at  
5 this late date, but I wasn't sure because of the way  
6 that it was titled I just wanted to make sure that that  
7 wasn't an expectation.

8 MR. LUMLEY: We do not have that expectation,  
9 and we certainly -- I've worked with Mr. England for  
10 basically my whole career. I'm sure if we can't settle  
11 it --

12 JUDGE DIPPELL: Okay. All right then. Are  
13 there any outstanding discovery issues or anything that  
14 you really need then to bring to my attention on the  
15 record?

16 MR. ENGLAND: Judge, I do have --

17 MR. LUMLEY: No.

18 MR. ENGLAND: I'm sorry. Go ahead, Carl.

19 MR. LUMLEY: I was going to say no from my  
20 perspective.

21 JUDGE DIPPELL: Mr. England?

22 MR. ENGLAND: I've got some questions since  
23 this is going to be my first time with a video hearing.  
24 You mentioned something about exchanging exhibits. We,  
25 of course, have prefiled testimony and I would imagine

1 we would premark that prior to the hearing or you'd  
2 assign hearing numbers for that. Is that how that's  
3 going to work?

4 JUDGE DIPPELL: Yes. And I hadn't thought  
5 about the fact that I hadn't assigned exhibit numbers  
6 yet. So I can do that. We have set up an email address  
7 for exhibits at the PSC. What we have been doing is  
8 requiring any exhibits that you know you're going to  
9 offer to be submitted to that email address ahead of  
10 time, and that would include if you know of exhibits  
11 that you're going to use in cross-examination to go  
12 ahead and submit those. If you don't know of those  
13 exhibits until the time, then what we will do is during  
14 the hearing we actually have you email those to the  
15 parties and to that email address, and then those will  
16 be the -- those electronic exhibits that have been  
17 emailed to that address end up being the official  
18 exhibit as if just like the paper exhibit at the  
19 hearing. When you send it to that email, it's like  
20 you're handing it to the court reporter and that's what  
21 we will attach to the transcript and put in EFIS after  
22 the hearing. We will then mark them electronically. So  
23 one good thing about all of this remote items is we're  
24 maybe getting away from all those exhibits we have in  
25 the hearing room, cutting out a little paper. I will

1 explain that in a little more detail in an order, I'll  
2 put that out, and I will probably -- since we actually  
3 have a week, right, or part of a week from the issues  
4 list time to the hearing time, we've got a little more  
5 time to work with electronic exhibits than a lot of  
6 hearings those things kind of come right on the heels of  
7 the other.

8 MR. ENGLAND: Sure. Given my limited ability  
9 with technology and hearing exhibits ahead of time, I  
10 can tell you that the exhibits that I plan to offer at  
11 the hearing are going to be vastly fewer than I would if  
12 this were in person.

13 You mentioned about the issues list. I  
14 believe the deadline for that is this Friday. Our  
15 statement of position would be Monday. Is there any  
16 possibility we could move that to the following Friday,  
17 simply because I'm not sure what the issues list --  
18 we've circulated a draft but haven't coalesced on a main  
19 list yet. I was wondering if we could get some  
20 additional time. I know the Commission likes to get  
21 those ahead of time, but we've got limited parties and I  
22 think limited issues. So I'm not sure how far in  
23 advance you really need to see those position  
24 statements.

25 JUDGE DIPPELL: Well, because that's what I'm



1 going to go off of to brief the Commissioners, I'm  
2 willing to give you a little more time than just Monday  
3 but I don't want to give up the whole week.

4 MR. ENGLAND: Okay.

5 JUDGE DIPPELL: Let's see. I'm looking at the  
6 calendar here. So how about Thursday instead? Would  
7 that work?

8 MR. ENGLAND: That would be great. Thank you.

9 JUDGE DIPPELL: That's the 30th. I'll extend  
10 that in my procedural order that I put out with the  
11 exhibits.

12 MR. ENGLAND: Do you want Carl and I to get  
13 together, I don't think this is going to be an issue,  
14 but also give you an order of witnesses as part of the  
15 issue list?

16 JUDGE DIPPELL: Yes, if you could. Well, I  
17 guess the order of cross-examination is pretty simple  
18 here. That's usually included.

19 MR. ENGLAND: Okay. I think those are all the  
20 questions that I had. I appreciate the information.

21 JUDGE DIPPELL: Any other questions?

22 MR. LUMLEY: Judge, as you may recall, maybe  
23 you don't, the interconnection agreement fairly  
24 unrealistically called for the case to be decided within  
25 60 days of filing, which even in a non-COVID world

1 obviously is, like I said, somewhat unrealistic, but it  
2 does show the spirit of the agreement is to try to reach  
3 --

4 JUDGE DIPPELL: You're cutting out again,  
5 Mr. Lumley. Hang on just a second, Mr. Lumley. The  
6 spirit of the agreement is the last thing we heard.  
7 We're still having trouble.

8 MR. LUMLEY: -- looking at the difference  
9 between oral arguments at the end of the hearing versus  
10 briefing, raising the issue of oral arguments at the end  
11 of the hearing versus briefing.

12 JUDGE DIPPELL: In order to speed the  
13 decision; is that correct?

14 MR. LUMLEY: Correct.

15 JUDGE DIPPELL: I'm not sure how I feel about  
16 that. Mr. England, do you have thoughts on that?

17 MR. ENGLAND: I've got mixed thoughts, mixed  
18 emotions. Can we get back to you on that? I think it  
19 depends on if we're able to either narrow or resolve the  
20 issues ahead of time, but there's been a lot of  
21 reference in the testimony to the interconnection  
22 agreement. I think it might be helpful if we could  
23 recite that to you in more of a written brief. Might be  
24 willing to do just one set of briefs instead of initial  
25 and reply. Let us talk some more on that. If you have

1 a strong opinion, let us know ahead of time. That may  
2 be the answer.

3 JUDGE DIPPELL: Well, yeah, I think you guys  
4 should discuss that. I'm a little hesitant because  
5 briefs are really better for me in trying to put the big  
6 picture together because they're organized because you  
7 guys have thought about them. I'm sure you'd think  
8 about your closing arguments, but then I have to read it  
9 from the transcript and that's a little more difficult.

10 One round is probably appropriate in this case  
11 I would think. I don't think after the hearing there  
12 will be too much need for reply, but you guys discuss  
13 that. There was another case scheduled for hearing that  
14 I had the week after this, and I do believe now that  
15 that's going away. So that takes the pressure off of me  
16 to be able to focus on this and get it out quickly.

17 So if you want to maybe think about one brief  
18 and maybe a short time. The other thing is the  
19 transcripts, our standard is 10 days, and we've been  
20 trying -- 10 business days for turnaround from the  
21 transcripts. We've been trying not to expedite those if  
22 we don't have to just because of the cost and especially  
23 now in these budget crunch times we're especially not  
24 wanting to incur the extra expense of that. So you  
25 might consider that too when you're thinking about a

1 briefing schedule, and so forth. Those transcripts will  
2 be due now -- They typically on a one to two-day hearing  
3 like this is going to be, we should probably get those  
4 back quicker. Ms. Bentch is usually quick about that,  
5 if she's the one assigned. But we can't guarantee  
6 because the contract says 10 business days. Just  
7 something else to think about when you're looking at  
8 that.

9 Any other issues or things that I need to know  
10 about?

11 MR. ENGLAND: Not so much that you need to  
12 know about, but what CenturyLink has done is set up a  
13 conference, a video WebEx or Microsoft meeting for the  
14 parties to get together after the prehearing conference.

15 JUDGE DIPPELL: Okay.

16 MR. ENGLAND: Obviously Carl and his clients  
17 are going to want to participate. We're going to hope  
18 they're going to want to participate. Before we get  
19 off, Whitney and John and Carrie, if you all want to  
20 participate in that I can forward the call-in and  
21 connecting information if that's the case.

22 MS. PAYNE: I would say yes, we'd like to.  
23 We're trying to maintain as much knowledge about the  
24 case as we can in this time for the sake of any advisory  
25 opinions that we might be called upon for.

1           MR. ENGLAND: Okay. Could we set a time, say,  
2 I don't know, 10:45 to get together and that will give  
3 me time to make sure I get it to everybody. Obviously I  
4 need to send it to Carl, the call-in information, and  
5 you, Whitney. If there's anybody else, let me know.

6           MS. PAYNE: I think that would be fine.

7           MR. ENGLAND: Once we get off the call, either  
8 I or Brook Villa will forward that information to you.  
9 Again, she's more technologically capable than I am.

10          MS. PAYNE: Thank you. I'll make sure that  
11 John and Carrie get it as well.

12          MR. ENGLAND: Okay.

13          JUDGE DIPPELL: Well, then with that I think I  
14 had something else. Oh, I know what it was. The  
15 interconnection agreement, I think parts of it are set  
16 out in testimony but not the entire thing; is that  
17 correct?

18          MR. ENGLAND: Yes.

19          MR. LUMLEY: Yes.

20          JUDGE DIPPELL: I want to make sure when we  
21 get to the hearing that we have the relevant sections of  
22 the interconnection agreement in the record. So that's  
23 just something to keep in mind. We can take official  
24 notice of it or whatever, but it might be good to have  
25 those set out as an exhibit or something.

1           MR. ENGLAND: You raise a good point, Judge.  
2 I prefer to have the entire agreement because there are  
3 some I think references that I may refer to either in  
4 brief or cross-examination that may not be in the  
5 excerpts that are attached to the witness's testimony.  
6 In preparation for this early on, I downloaded a copy of  
7 what the Commission calls the Final Conforming  
8 Interconnection Agreement that was filed on September  
9 15, 2006. What I like about it is that it's numbered  
10 from one to or one hundred and something at the bottom  
11 middle page and I thought for purposes of referencing  
12 that at the time of hearing if we're asking questions of  
13 a witness it might be helpful if we've got a Commission  
14 copy in front of everybody so we can just refer to that  
15 page number. Otherwise, it gets awkward when we start  
16 talking about article so and so, section such and such.

17           JUDGE DIPPELL: I agree. That sounds good.  
18 Let's plan then to get that, make sure that that's an  
19 exhibit, either one of the parties' exhibits or  
20 Commission exhibit. Let's make sure that that's part of  
21 the record then.

22           MR. ENGLAND: Very good. Thank you.

23           JUDGE DIPPELL: All right. Anything else  
24 before we sign off?

25           MR. LUMLEY: There are several -- Can you hear

1 me?

2 JUDGE DIPPELL: You cut out. There are  
3 several?

4 MR. LUMLEY: Can you hear me?

5 JUDGE DIPPELL: Now we can hear you. Now we  
6 can't.

7 MR. ENGLAND: I think Carl is referencing  
8 there are amendments. Again, we don't have a problem  
9 with those as well being part of the record.

10 MR. LUMLEY: There are several amendments to  
11 the agreement.

12 JUDGE DIPPELL: All right. Mr. England is  
13 aware of that and I think we'll make sure that we have  
14 the agreement and the amendments.

15 MR. LUMLEY: Everybody is froze and I don't  
16 know if you can hear me. There's several amendments to  
17 the agreement.

18 JUDGE DIPPELL: Yes, there are several  
19 amendments and we will make sure that the entirety of  
20 the agreement then is included. Anything else?

21 MR. ENGLAND: No.

22 MR. LUMLEY: No.

23 JUDGE DIPPELL: Okay. We'll try to figure out  
24 also in the meantime maybe Mr. Lumley's connection. I  
25 don't know if that's just his connection today or if

1 that's something to do with the WebEx connection and he  
2 was just the lucky recipient. We'll try to figure that  
3 out ahead of time too.

4 All right. Seeing nothing further then, I'm  
5 going to go ahead and go off the record. Thank you all  
6 very much for the call and good luck with your  
7 discussions.

8 MR. ENGLAND: Thanks.

9 MR. LUMLEY: Thank you.

10 MS. PAYNE: Thank you, Judge.

11 (Off the record.)  
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