

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

**In the Matter of the Petition of Charter)
Fiberlink-Missouri, LLC for Arbitration)
of an Interconnection Agreement)
Between CenturyTel of Missouri, LLC)
And Charter Fiberlink-Missouri, LLC)**

Case No. TO-2009-0037

DIRECT TESTIMONY

OF

James D. Webber

On behalf of

CHARTER FIBERLINK MISSOURI, LLC.

September 30, 2008

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Petition of Charter Fiberlink-)
Missouri, LLC for Arbitration of an Interconnection) Case No. TO-2009-0037
Agreement Between CenturyTel of Missouri, LLC)
And Charter Fiberlink-Missouri, LLC.)

AFFIDAVIT OF JAMES D. WEBBER

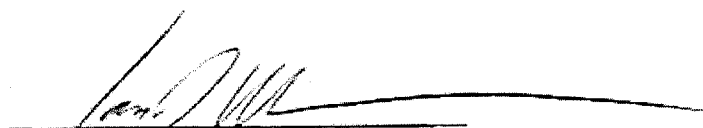
STATE OF ILLINOIS)
COUNTY OF Will) ss.

James D. Webber, being first duly sworn on his oath, states:

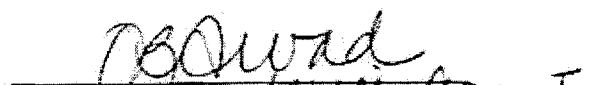
1. My name is James D. Webber. I am presently Senior Vice President for QSI Consulting, Inc.

2. Attached hereto and made a part hereof for all purposes is my direct testimony on behalf of Charter Fiberlink-Missouri, LLC.

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.


James D. Webber

Subscribed and sworn before me this 30 day of September, 2008.


Notary Public for Will County
My Commission expires: 9-22-2010

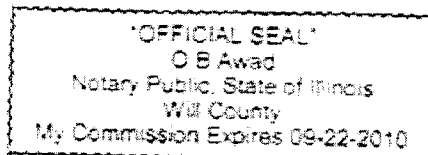




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Exhibits

Exhibit JDW-1: Curriculum Vitae of James D. Webber



INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.

A. My name is James D. Webber. My business address is: QSI Consulting, Inc. 4515 Barr Creek Lane, Naperville, Illinois 60564.

Q. WHAT IS QSI CONSULTING, INC. AND WHAT IS YOUR POSITION WITH THE FIRM?

A. QSI Consulting, Inc. ("QSI") is a consulting firm specializing in regulated industries, econometric analysis and computer-aided modeling. I currently serve as Senior Vice President.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE.

A. I earned both a Bachelor of Science degree in Economics (1990) and a Master of Science degree in Economics (1993) from Illinois State University. I have approximately 15 years of experience in the regulated utility industries, with the last 13 years specifically focused on competitive issues within the telecommunication industry.

Prior to accepting my current position with QSI Consulting, Inc., I was employed by ATX/CoreComm as the Director of External Affairs. In that capacity, my responsibilities included: management and negotiation of interconnection agreements and other contracts with other telecommunications carriers; management and resolution of operational impediments (including, for example, the unavailability of shared transport for purposes of intraLATA toll traffic and problems associated with persistent failed hot cut



1 processes); management of financial disputes; design and implementation of cost
2 minimizations initiatives; design and implementation of regulatory strategies; and
3 management of the company's tariff and regulatory compliance filings. I was also
4 involved in the company's business modeling as it related to the use of Resale services,
5 UNE-Loops and UNE-Platform .

6 Before joining CoreComm, I was employed by AT&T from November 1997 to October
7 2000 where I held positions within the company's Local Services and Access
8 Management organization and its Law and Government Affairs organization. As a
9 District Manager within the Local Services and Access Management organization, I had
10 responsibilities for local interconnection and billing assurance. Prior to that position, I
11 had served as a District Manager – Law and Government Affairs, where I was
12 responsible for implementing AT&T's policy initiatives at the state level.

13 Prior to joining AT&T, I was employed (July 1996 to November 1997) as a Senior
14 Consultant with Competitive Strategies Group, Ltd. ("CSG"), a Chicago-based consulting
15 firm that specialized in competitive issues in the telecommunications industry. While
16 working for CSG, I provided expert consulting services to a diverse group of clients,
17 including telecommunications carriers and financial services firms.

18 From 1994 to 1996, I was employed by the Illinois Commerce Commission ("ICC")
19 where I served as an economic analyst and, ultimately, as manager of the
20 Telecommunications Division's Rates Section. In addition to my supervisory
21 responsibilities, I worked closely with the ICC's engineering department to review Local



1 Exchange Carriers' – and to a lesser extent Interexchange Carriers' ("IXCs") and
2 Competitive Local Exchange Carriers' – tariffed and contractual offerings as well as the
3 supporting cost, imputation and aggregate revenue data.

4 From 1992 to 1994, I was employed by the Illinois Department of Energy and Natural
5 Resources, where I was responsible for modeling electricity and natural gas consumption
6 and analyzing the potential for demand-side management programs to offset growth in
7 the demand for, and consumption of, energy. In addition, I was responsible for analyzing
8 policy options regarding Illinois' compliance with environmental legislation.

9 A more detailed discussion of my educational and professional experience can be found
10 in Exhibit JDW-1, attached to this testimony.

11
12 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY BEFORE THE PUBLIC**
13 **UTILITY COMMISSION OF TEXAS ("COMMISSION")?**

14 **A.** No, I have not. A list of the state and federal proceedings in which I have testified or
15 provided written reports can be found in Exhibit JDW-1, attached to this testimony.

16 **Q. ON WHOSE BEHALF WAS THIS TESTIMONY PREPARED?**

17 **A.** This testimony was prepared on behalf of Charter Fiberlink–Missouri, LLC ("Charter").

18 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

19 **A.** My testimony describes Charter's positions with respect to arbitration issues 3, 13, 14,
20 29, 33, 39, and 41.



ISSUES 3 and 41:

Q. WHY HAVE YOU IDENTIFIED TWO ISSUES IN THIS SECTION OF YOUR TESTIMONY?

A. Issues 3 and 41 both deal with how the parties should incorporate tariffs into the Agreement. Because the parties agree that these issues are interrelated, it is not only efficient but appropriate to address them together. Hence, I address Issues 3 and 41 simultaneously.

ISSUE 3(A):
HOW SHOULD THE AGREEMENT DEFINE THE TERM "TARIFF"?

Q. PLEASE EXPLAIN CHARTER'S POSITION WITH RESPECT TO ISSUE 3(A).

A. Charter's position is that the term "Tariff" should be defined in such a manner that makes clear the Parties intend to incorporate only those tariff provisions that are identified in the Agreement with specificity rather than by some vague reference to the complete tariff(s) of, primarily, CenturyTel. Without an express statement by both parties of their mutual intent to incorporate certain specific provisions from either party's tariffs, the Agreement should not be construed as incorporating such provisions.

Q. HOW DOES CHARTER'S POSITION DIFFER FROM CENTURYTEL'S POSITION?

A. It is my understanding that CenturyTel has taken the position that there is no need to specifically identify specific provisions from either party's tariff that the parties intend to incorporate into the Agreement, because doing so would be unworkable and



1 inappropriate. Rather, CenturyTel appears to prefer general references to their tariff(s)
2 to allow them to use any of the terms and conditions in the applicable tariff that may
3 benefit them rather than the negotiated and/or arbitrated provisions of the interconnection
4 agreement. Moreover, CenturyTel claims that, as a matter of contract construction, the
5 concerns raised in Charter's proposal should not be addressed in the Agreement's
6 definitions; rather, the company has stated that how a tariff is referenced and incorporated
7 with respect to a particular service should be established only as part of the other terms
8 and conditions regarding that particular service.

9
10 **Q. PLEASE IDENTIFY THE PARTIES' PROPOSED LANGUAGE ON THIS ISSUE.**

11 **A.** At Article II, Section 2.140, Charter has proposed that the ICA read as follows:

12 Any applicable filed and effective Federal or state tariff (and/or
13 State Price List) of a Party, as amended from time-to-time, **that**
14 **the Parties have specifically and expressly identified in this**
15 **Agreement for the purpose of incorporating specific rates or**
16 **terms set forth in such document by mutual agreement.**

17 CenturyTel, however, has proposed the following:

18 Any applicable filed and effective Federal or state tariff (and/or
19 State Price List) of a Party, as amended from time-to-time. Either
20 Party's Tariffs shall not apply to the other Party except to the
21 extent that this Agreement expressly incorporates such Tariffs by
22 reference or to the extent that the other Party expressly orders
23 services pursuant to such Tariffs.

24
25 **Q. WHAT IS CHARTER'S CONCERN WITH CENTURYTEL'S POSITION?**

26 **A.** Charter's concern is that CenturyTel's proposals as they relate to issues 3(A), 3(B) and
27 41 create ambiguity concerning specifically which tariff, and which tariff provisions, the



1 parties intended to incorporate into the agreement. This contrasts with Charter's view
2 that incorporation of tariffs should occur in a precise fashion, and those provisions that
3 the Parties desire to incorporate into the Agreement should be specifically identified.
4 Including Charter's proposed language in the definition of the term "Tariff" would help
5 minimize potential disputes between the Parties concerning obligations arising under the
6 Agreement or the tariff, particularly when read with Charter's language proposals for
7 issues 3(B) and 41. Contrary to CenturyTel's assertions, Charter's proposal is both
8 reasonable and workable as it would ensure that the administration of the Agreement is
9 consistent and logical by making clear that no material contractual obligations of either
10 Party can be increased or reduced through the application of the tariff in an overbroad
11 manner.

12
13 **Q. CENTURYTEL SUGGESTS THAT CHARTER'S DEFINITION IS**
14 **IMPROPERLY BROAD. HOW DO YOU RESPOND?**

15
16 **A.** With respect to whether this point should be addressed in the definition of the term
17 "Tariff," it makes sense to define the term in this manner and to use the precise
18 definition, as provided under Charter's proposal, in conjunction with contractual terms
19 that are clear and that identify both the tariff and specific provisions to be incorporated
20 into the Agreement. In other words, it is internally consistent, from a drafting standpoint,
21 to define the term "Tariff" in a clear-cut manner to ensure that any specific tariff
22 provisions that are incorporated into the Agreement are interpreted clearly and
23 specifically and that, therefore, they comply with the definition.



1 **Q. HOW DOES THIS AFFECT CHARTER'S OTHER TARIFF PROPOSALS?**

2
3 **A.** The fact that specific tariffs are incorporated with respect to a particular service
4 elsewhere in the Agreement does not negate the significance of having this overarching
5 principle expressly set forth within the Agreement's definitions. For these reasons,
6 Charter believes that it is entirely appropriate to define the definition of the term "Tariff"
7 precisely.
8

9 **ISSUE 3(B) AND ISSUE 41:**

10 **ISSUE 3(B) - HOW SHOULD SPECIFIC TARIFFS BE INCORPORATED INTO THE**
11 **AGREEMENT?**

12
13 **ISSUE 41 - HOW SHOULD SPECIFIC TARIFFS BE INCORPORATED INTO THE**
14 **AGREEMENT?**
15

16 **Q. PLEASE EXPLAIN CHARTER'S POSITION ON THESE TWO ISSUES.**

17 **A.** Charter's position is that only the specific tariff provisions that the Parties intend to be
18 bound by should be incorporated into the Agreement. This is accomplished by
19 specifically and expressly identifying those provisions in the Agreement. Moreover,
20 Charter is not trying to interfere with CenturyTel's ability to modify its tariffs or to
21 negotiate any particular tariff changes with Charter. What Charter is trying to do is close
22 potential loopholes which CenturyTel may subsequently try to exploit. Specifically,
23 Charter wants to make clear that CenturyTel may not use a tariff filing to do an "end run"
24 around its obligations in the Agreement. So, with respect to the obligations that are
25 addressed by the parties' negotiated and arbitrated Agreement, Charter's position is that it
26 must be the *Agreement*, not unilaterally-filed tariffs, that controls the parties' obligations.



Q. PLEASE IDENTIFY CHARTER'S PROPOSED LANGUAGE WITH RESPECT TO 3(B).

A. At Article I, Section 3 Charter proposes:

Unless otherwise specifically determined by the Commission, in case of conflict between the Agreement and either Party's Tariffs relating to ILEC and CLEC's rights or obligations under this Agreement, then the rates, terms and conditions of this Agreement shall prevail. In no event shall a Tariff alter, curtail, or expand the rights or obligations of either Party under this Agreement, except by mutual consent. Either Party's Tariffs and/or State Price Lists shall not apply to the other Party except to the extent that this Agreement expressly incorporates **specific rates or terms set forth in** such Tariffs by reference or to the extent that the other Party expressly orders services pursuant to such Tariffs and/or State Price Lists.

CenturyTel's proposal is to exclude the bolded language "specific rates or terms set forth in" in the paragraph above.

Q. PLEASE PROVIDE AN EXAMPLE OF THE SPECIFIC REFERENCES CHARTER PROPOSES UNDER ISSUE 41.

A. At Article II, DEFINITIONS, Charter proposes:

2.79 IntraLATA Toll Traffic

Telecommunications traffic between two locations within one LATA where one of the locations lies outside of the CenturyTel Local Calling Area as defined in **Section(s) 3 and 4 of** CenturyTel of Missouri, LLC, PSC No. 1, General and Local Exchange Tariff, on file with the Commission. Optional EAS Traffic is included in IntraLATA Toll Traffic.



1 CenturyTel, on the other hand, would exclude the bolded language above, thereby
2 introducing ambiguity to the language. There are numerous examples of the ambiguity
3 CenturyTel proposes to interject into the agreement by omitting specific details as in 2.79
4 above. Those contract sections are fully contained at issue 41 of the Joint DPL as filed
5 before the Commission on September 2, 2008.

6
7 **Q. WOULD YOU PLEASE PROVIDE AN EXAMPLE OF THE POTENTIAL**
8 **PROBLEM?**

9
10 **A.** Yes. Charter and CenturyTel have agreed on many aspects of how they will handle
11 physical interconnection arrangements. It would be inappropriate for CenturyTel to try to
12 modify or supersede those agreements by filing a tariff purporting to cover the same
13 subject matter either in whole or in part. CenturyTel's language might permit such a
14 result, or may give rise to another circumstance where CenturyTel may interpret its tariff
15 to apply to a situation that Charter believes inapplicable. Specific references to limited
16 tariff language, will dramatically reduce subsequent disputes, will minimize Parties' time
17 and expense in terms of interpreting the Agreement and may well save this Commission
18 time in having to resolve such disputes between the Parties.

19
20 **Q. HOW DOES CHARTER'S POSITION DIFFER FROM CENTURYTEL'S**
21 **POSITION?**

22
23 **A.** CenturyTel makes several points on this issue. First, CenturyTel claims that simply
24 referencing either Party's tariff in the Agreement is sufficient to incorporate all the terms
25 therein into the Agreement. Second, CenturyTel asserts that Charter's proposal is



1 unlawful as it would cause CenturyTel to violate the filed rate doctrine, which prohibits
2 CenturyTel from providing a tariff service under a different set of terms, conditions and
3 rates. Third, CenturyTel inaccurately claims that Charter's proposal creates unnecessary
4 complexity and would cause CenturyTel to waste its time developing a new set of terms
5 and conditions for a tariffed service when the Tariff already contains a complete set of
6 filed and effective terms and conditions. Fourth and finally, CenturyTel claims that
7 ambiguity is created if only specific terms and conditions of a tariff service are
8 incorporated into the Agreement.

9
10 **Q. DOES CHARTER HAVE A RESPONSE TO THESE POINTS?**

11 **A.** Yes, taking them in the order presented, Charter responds as follows.

12 First, the Parties should incorporate only those specific tariff provisions that they intend
13 to be operative under the Agreement. Incorporating only the specific tariff provisions
14 that the Parties deem to be effective under the Agreement will ensure that the tariff is not
15 applied in an overbroad manner which, in turn, will limit disputes between the Parties
16 that can be resolved only with burdensome litigation. As such, it does not make sense to
17 follow CenturyTel's proposal to simply incorporate tariffs, in their entirety, as it would
18 inevitably lead to disputes that could largely be avoided by specifically identifying
19 applicable tariff provisions.

20
21 Second, CenturyTel's filed rate doctrine argument is a red herring. Although I am not an
22 attorney, I understand that the filed rate doctrine stands for the proposition that



1 companies that have published tariffs are prohibited from charging their customers rates
2 and terms that differ from the rates and terms stated in the tariff. But Charter is not
3 asking CenturyTel to provide a tariffed service to Charter at some rate or term that is
4 different from the tariffed rate or term. In fact, Charter proposes that the parties'
5 agreement identify the *specific* rates and terms that will be incorporated in to the
6 agreement. Therefore, if the agreement specifically sets forth the tariffed rates or terms
7 that are applicable to Charter, there is little chance that CenturyTel would provide the
8 service at something *other than* that specifically identified rate and term (which would
9 seem to violate the doctrine). In other words, Charter's proposal, by incorporating
10 specific rates and terms, actually reduces any remote possibility that the filed rate
11 doctrine would come into question.

12
13 Third, there is nothing complex or wasteful about specifically identifying tariff provisions
14 in the Agreement. In fact, just the opposite is true, by specifically identifying which tariff
15 provisions to incorporate into the Agreement, the Parties avoid confusion by having
16 certainty with respect to the terms and conditions that govern a tariffed service.
17 Providing additional detail in this regard would minimize these disputes and thereby save
18 the Parties' time.

19
20 Moreover, from a practical perspective, the Agreement is organized in such a way that it
21 is not unduly complicated for CenturyTel to spell out what terms will be binding upon
22 Charter by simply specifying the section number for rates, terms and conditions that



1 apply to each tariffed service. In fact, Charter has already performed this extremely
2 manageable task and has proposed it to CenturyTel. It is also worth mentioning that most
3 of the tariff incorporation issues are simply for purposes of defining calling areas, or
4 other similar purposes. For these reasons, there is no reason not to identify those terms
5 specifically, and precisely.

6
7 Fourth and finally, CenturyTel's claim that Charter's proposal would create ambiguity
8 strains reason. As I have previously explained in my testimony, Charter's proposal will
9 provide the parties with certainty and there is nothing ambiguous about having clear
10 direction as to what terms and conditions of a tariff service are incorporated into the
11 Agreement. As such, CenturyTel's contention is completely without merit.

12 **ISSUE 13:**

13 **SHOULD THE PARTIES AGREE TO A REASONABLE LIMITATION AS TO**
14 **THE PERIOD OF TIME BY WHICH CLAIMS ARISING UNDER THE**
15 **AGREEMENT CAN BE BROUGHT?**

16
17 **Q. WHAT IS CHARTER'S POSITION ON THIS ISSUE?**

18
19 **A.** Charter's position is that the Parties should agree to a reasonable limitation on the time
20 period by which a Party can bring claims arising under the Agreement. Specifically,
21 Charter proposes that a party can bring a claim for disputes arising under the Agreement
22 within twenty-four (24) months of the date of the occurrence giving rise to the dispute.
23 As a result, any potential claims arising under the Agreement that are not brought by a
24 Party prior to the expiration of that time-frame would be deemed to be waived.
25



1 **Q. PLEASE PROVIDE CHARTER'S PROPOSED LANGUAGE WITH RESPECT**
2 **TO THIS ISSUE.**

3 A. Charter proposes to include the following:

4
5 9.4 Disputed Amounts. The following shall apply where a
6 Party disputes, in good faith, any portion of an amount billed under
7 this Agreement ("Disputed Amounts"). Both **CLEC and
8 CenturyTel agree to expedite the investigation of any Disputed
9 Amounts, promptly provide all documentation regarding the
10 amount disputed that is reasonably requested by the other Party,
11 and work in good faith in an effort to resolve and settle the dispute
12 through informal means prior to initiating formal dispute
13 resolution.

14
15 20.4 Except as otherwise specifically provided in this
16 Agreement, no Claims will be brought for disputes arising
17 from this Agreement more than twenty-four (24) months from
18 the date of the occurrence which gives rise to the dispute.
19 Notwithstanding the foregoing, Claims for indemnification
20 will be governed by the applicable statutory limitation period.
21
22
23
24

25 **Q. PLEASE PROVIDE CENTURYTEL'S PROPOSED LANGUAGE WITH**
26 **RESPECT TO THIS ISSUE.**

27 A. CenturyTel has proposed that the ICA include:

28 9.4 Disputed Amounts. The following shall apply where a
29 Party disputes, in good faith, any portion of an amount billed under
30 this Agreement ("Disputed Amounts"). Both **CLEC and
31 CenturyTel agree to expedite the investigation of any Disputed
32 Amounts, promptly provide all documentation regarding the
33 amount disputed that is reasonably requested by the other Party,
34 and work in good faith in an effort to resolve and settle the dispute
35 through informal means prior to initiating formal dispute
36 resolution. If the Parties cannot resolve the dispute through
37 established billing dispute procedures within 180 days of the billed
38 Party providing written notice of Disputed Amounts to the billing
39 Party, the billed Party shall file a petition for formal dispute
40 resolution pursuant to Section 20.3 of this Article (without regard



for any further informal dispute resolution negotiations that may be referenced in Section 20.3). If the billed Party fails to seek formal dispute resolution pursuant to Section 20.3 within one (1) year of the billed Party providing written notice to the billing Party of such Disputed Amounts, the billed Party waives its alleged entitlement to and/or right to withhold such Disputed Amount.

20.4 [Intentionally omitted]

Q. HOW DOES CHARTER'S POSITION DIFFER FROM CENTURYTEL'S POSITION?

A. Although CenturyTel appears to disagree, at least in part, with Charter's proposal, it does not propose language that directly relates to the issue raised by Charter. Rather, CenturyTel proposes a process that is effectively one-sided (to CenturyTel's benefit) that it would have the Parties adhere to in the event of a billing dispute.

Q. PLEASE EXPLAIN.

A. Under CenturyTel's proposal, if the Parties are unable to resolve a billing dispute through the established billing dispute procedures, within 180 days of providing written notice of the disputed amounts to the billing Party, the **billed** Party would be required to file a petition for formal dispute resolution within one year of providing notice of such dispute or otherwise waive the billed Party's right to withhold the disputed amount. It is worth noting, at this point, that Charter is normally the "billed party" under its interconnection arrangements with CenturyTel. Therefore, under CenturyTel's proposal, it is effectively up to Charter to either accept CenturyTel's conclusions regarding its investigation of



1 disputed amounts, or escalate the dispute to the Commission. CenturyTel claims that this
2 approach is logical because it prevents Charter from “improperly delaying” the payment
3 of charges under the Agreement.

4
5 **Q. WHAT IS CHARTER’S CONCERN WITH CENTURYTEL’S POSITION?**

6 **A.** Charter’s concern with CenturyTel’s proposal is that it presupposes CenturyTel always
7 renders accurate, or correct, invoices/billing statements to Charter, and therefore that
8 CenturyTel is always entitled to payment for every item or service set forth on its
9 invoices. CenturyTel claims that its proposal is also based on the presumption that
10 Charter is simply seeking a “sense of impunity” from having to pay otherwise
11 legitimately billed amounts. First, as described in Ms. Giaminetti’s direct testimony, the
12 reality is that there have been a multitude of errors found in CenturyTel’s past billing
13 statements/invoices to Charter that have resulted in several billing disputes between the
14 companies. Indeed, several of these billing disputes have even been escalated to this
15 Commission. Thus, the presumption that CenturyTel always renders proper billing
16 statements/invoices is simply not true and it clearly should not form the basis for contract
17 language which imposes a burden upon Charter.

18
19 Second, as discussed by Ms. Giaminetti, Charter’s dispute of CenturyTel invoices have
20 consistently been made in good faith. Put simply, Charter is not in the business of
21 disputing CenturyTel’s invoices simply to avoid paying them, and has only disputed such
22 invoices when there is a well founded basis to do so. In fact, in a number of instances,



1 CenturyTel admitted to the errors that it made in billing statements/invoices that it
2 rendered to Charter. For example, as Ms. Giaminetti testifies in her accompanying
3 testimony on this issue, CenturyTel has removed hundreds of credits that had been
4 erroneously applied to Charter's invoices by CenturyTel rather than applying those
5 credits to the correct end-user customers.

6
7
8 **Q. DOES CHARTER HAVE ANY OTHER CONCERNS WITH CENTURYTEL'S**
9 **POSITION?**

10
11 **A.** Yes. The primary concern is that CenturyTel's proposed language places the burden of
12 proof on Charter, rather than on CenturyTel. Under that arrangement, CenturyTel's bills
13 are presumptively accurate, and the burden is on Charter to prove that CenturyTel's bills
14 are inaccurate, or improper. There is no basis to presume that CenturyTel invoices are
15 always accurate, and as Ms. Giaminetti's testimony demonstrates, they are often not
16 accurate. For that reason, CenturyTel should bear the ultimate burden of proof to show
17 that the bills that it had rendered to Charter are, in fact, accurate. It seems to me that
18 CenturyTel is in the best position to demonstrate that its billing statements are accurate,
19 and should therefore bear the burden of proof. Moreover, CenturyTel's proposed
20 language creates incentives for it to oppose legitimately-disputed charges beyond the
21 180-day time frame, knowing that the expense of dispute resolution would inhibit
22 Charter's willingness to seek formal dispute resolution for billing disputes that are of
23 lesser amounts.

24
25 **Q. HOW WOULD CHARTER'S PROPOSAL WORK, IN PRACTICE?**



1 A. Charter's proposal would work in the following way. First, when CenturyTel performs
2 some action under the agreement for which it is entitled to payment, it will then render an
3 invoice to Charter. Second, upon receipt of the invoice Charter will review the invoice to
4 ensure that it is accurate (the correct rate is used, the service was in fact rendered, etc.).
5 If accurate, Charter would pay the invoice in a timely manner. If the invoice is not
6 accurate, Charter would send a notice to CenturyTel of Charter's intent to dispute the
7 invoice. That notice would be provided within the time frame required under the
8 agreement (30 days),¹ and would need to include sufficient information explaining the
9 basis for the dispute, and any supporting data. Fourth, upon receipt of the notice of
10 dispute, the parties would then have the option to engage in informal or formal dispute
11 resolution processes. Fifth, and finally, if those dispute resolution processes did not
12 result in an acceptable resolution, then CenturyTel would be required to bring a claim, or
13 initiate a formal action, against Charter to recover the charges for which it believes it is
14 entitled to payment.

15
16 This process illustrates the fact that Charter cannot simply dispute an invoice for no good
17 reason. Moreover, there are significant opportunities for the parties to resolve their
18 differences over a disputed invoice. After that process is concluded, however,
19 CenturyTel should be forced to pursue its claims for payment, or ultimately give up its
20 rights to payment.
21

¹ See sections 9.2 (Bill Due Date) and 9.4.1 (Disputed Amounts) of Article III of the proposed ICA.



1 **Q. WHAT ARE THE BENEFITS OF CHARTER'S PROPOSAL?**

2 **A.** First, Charter's proposed language places the burden upon CenturyTel to initiate a formal
3 dispute resolution for any disputed invoices/billing statements that it believes are entitled
4 to payment. Second, Charter's proposal eliminates the need for reserves, and accruals,
5 with longstanding disputes that are unresolved between the parties. This is important
6 because it ensures that the parties can operate under an environment of certainty, so that
7 there are not a number of unresolved disputes pending for an unreasonable period of
8 time(i.e. no longer than two years). Third, Charter's proposed language would provide
9 the business and operations units of each Party with greater assurance in the resolution of
10 intercompany disputes. Charter needs certainty and reliability to plan and manage its
11 business so that it can effectively compete. Further, CenturyTel has admitted in its
12 position statement on this issue that Charter's language could bring both parties a greater
13 degree of financial certainty. Nevertheless, CenturyTel has refused to agree to include
14 Charter's proposed language (or some variation thereof) unless the Agreement also
15 includes CenturyTel's language regarding processes for resolving billing disputes.

16
17
18 **ISSUE 14:**

19 **SHOULD CENTURYTEL BE ALLOWED TO ASSESS CHARGES UPON**
20 **CHARTER FOR AS YET UNIDENTIFIED AND UNDEFINED, POTENTIAL**
21 **"EXPENSES" THAT CENTURYTEL MAY INCUR AT SOME POINT IN THE**
22 **FUTURE?**

23
24 **Q. WHAT IS CHARTER'S POSITION ON THIS ISSUE?**
25



1 A. Charter's position is that neither Party should be permitted to recover costs or "expenses"
2 from the other Party unless specifically and expressly authorized to do so under the terms
3 of the Agreement. Specifically, the parties should be limited to recovering their
4 respective costs or "expenses" in accordance with the corresponding rates expressly
5 identified in the Pricing Article of the Agreement. Without a specific and express
6 statement by both parties of their mutual intent to set corresponding rates for the
7 performance of certain functions, the Agreement should not be construed as allowing
8 either Party to assess charges for such functions.

9
10 Q. HOW DOES CHARTER'S POSITION DIFFER FROM CENTURYTEL'S
11 POSITION?

12
13 A. First, in Section 22.1, Article III, CenturyTel proposes that the Agreement should allow
14 for CenturyTel to impose a charge upon Charter to recover costs that it incurs when
15 performing certain functions for Charter that are not otherwise provided for in the
16 Agreement. Second, in Section 3, Article I, CenturyTel proposes that in the event a
17 service or facility is offered in the Agreement and there is no corresponding rate set forth
18 in the Pricing Article, such service or facility should be subject to "TBD" pricing.
19 CenturyTel's specific proposal is contained below in the underscored language.

20 **22. EXPENSES**

21 22.1 In performing under this Agreement, if **CLEC makes a request
22 not already provided for in this Agreement, CenturyTel may be required to
23 make expenditures or otherwise incur costs that are not otherwise
24 reimbursed under this Agreement. In such event, CenturyTel is entitled to
25 reimbursement from **CLEC for all such reasonable and necessary costs
26 to the extent pre-approved by **CLEC. For all such costs and expenses,
27 CenturyTel shall receive through nonrecurring charges ("NRCs") the



actual costs and expenses incurred, including labor costs and expenses, overhead and fixed charges, and may include a reasonable contribution to CenturyTel's common costs. If **CLEC makes a request that involves expenditures or costs not otherwise covered under this Agreement, CenturyTel will provide a quote to **CLEC in a timely manner and **CLEC must agree in writing to accept the quoted charges prior to CenturyTel's initiation of work.

Article I, § 3:

Notwithstanding any other provision of this Agreement, neither Party will assess a charge, fee, rate or any other assessment (collectively, for purposes of this provision, "charge") upon the other Party except where such charge is specifically authorized and identified in this Agreement, and is (i) specifically identified and set forth in the Pricing Article, or (ii) specifically identified in the Pricing Article as a "TBD" charge. Where this Agreement references a Tariff rate or provides that a specific service or facility shall be provided pursuant to a Tariff, the Tariff rates associated with such specifically referenced service or facility shall be deemed a charge that has been specifically authorized under this provision. If a service or facility otherwise offered under the Agreement does not have a corresponding charge specifically set forth in the Pricing Article, or is not specifically identified in the Pricing Article as being subject to "TBD" pricing, such service and/or facility is not available to **CLEC under this Agreement.

Q. WHAT IS CHARTER'S CONCERN WITH CENTURYTEL'S POSITION?

A. Allowing CenturyTel to have the discretion to impose charges upon Charter for performing functions not otherwise provided for in the Agreement is problematic because it creates uncertainty as to Charter's contractual obligations. In addition, that approach could also lead to disputes between Charter and CenturyTel in the future over whether a charge is authorized by the Agreement. I believe it is fair to say that both CenturyTel and Charter (indeed any service provider) seeks certainty and specificity in its contracts. But



CenturyTel's proposal produces the opposite result since it would allow CenturyTel to assess charges upon Charter to perform functions that are not otherwise provided for in the Agreement or that CenturyTel alleges are not contemplated in the Agreement. The Agreement should be clear and unequivocal as to what rates apply to Charter for the performance of certain functions. Obtaining clear language on this issue will help avoid future disputes between the parties. With those objectives in mind, Charter has proposed the following:

22.1 [INTENTIONALLY LEFT BLANK]

Article I, § 3:

Art. I, § 3 Notwithstanding any other provision of this Agreement, neither Party will assess a charge, fee, rate or any other assessment (collectively, for purposes of this provision, "charge") upon the other Party except where such charge is specifically authorized and identified in this Agreement, and is (i) specifically identified and set forth in the Pricing Article, or (ii) specifically identified in the Pricing Article as a "TBD" charge. Where this Agreement references a Tariff rate or provides that a specific service or facility shall be provided pursuant to a Tariff, the Tariff rates associated with such specifically referenced service or facility shall be deemed a charge that has been specifically authorized under this provision. **The Parties do not intend for this provision to be construed to create any obligation upon CenturyTel to provide, or for **CLEC to pay, for a service that is not otherwise identified in this Agreement.**

Q. IS CHARTER OPPOSED TO COMPENSATING CENTURYTEL FOR PERFORMING FUNCTIONS NOT OTHERWISE PROVIDED FOR IN THE AGREEMENT?

A. No. Charter does not dispute the notion that CenturyTel may be entitled to compensation for performing certain functions that are not currently set forth in the Agreement. In the



1 event that CenturyTel performs such functions, Charter believes that the contract
2 amendment process set forth in Sections 4 and 12 of the Agreement provides a means by
3 which CenturyTel can propose an amendment to the Agreement that specifically details
4 the costs and expenses it seeks to recover, and the basis for requiring Charter to
5 compensate CenturyTel. Under the Charter proposal, CenturyTel will have ample
6 opportunity to propose an amendment with terms that require Charter to compensate
7 CenturyTel for performing certain functions not previously contemplated by the parties.
8 If the terms of such amendment are reasonable, the parties should be able to reach an
9 agreement and then implement the amendment with the Commission's prior approval.
10 Furthermore, to the extent that any dispute did arise between the parties, CenturyTel
11 would have the right to use the Section 252 arbitration process to arbitrate its preferred
12 amendment terms. Charter's proposal is reasonable because it is consistent with industry
13 practice, governing law, and general principles of fairness.

14
15 **Q. DOES CHARTER HAVE ANY CONCERNS WITH CENTURYTEL'S**
16 **PROPOSAL TO USE "TBD" PRICING FOR SERVICES OR FACILITIES**
17 **OFFERED UNDER THE AGREEMENT WITH NO CORRESPONDING RATE?**

18
19 **A.** Yes. Charter also has concerns with CenturyTel's proposal that the parties use "TBD"
20 pricing for services or facilities offered under the Agreement with no corresponding rate.
21 Under CenturyTel's proposal, CenturyTel would have unfettered discretion to claim that
22 its performance under the Agreement constitutes a "service" to Charter. And if there is
23 no corresponding rate associated with such performance, then CenturyTel could assert
24 that it has no obligation to provide such performance without compensation. This result



1 could occur even in circumstances where the parties never actually intended to assess
2 charges for such performance. Moreover, this problem is exacerbated by the fact that
3 CenturyTel has declined to specifically identify the Sections of the Agreement that
4 constitute the provision of "service" as referenced in CenturyTel's proposal. For these
5 reasons I believe that the ambiguities presented by CenturyTel's proposed language could
6 invite potential disputes between the parties in the future.

7 **ISSUE 29:**

8 **SHOULD THE AGREEMENT PRESERVE CENTURYTEL'S RIGHTS TO RECOVER**
9 **FROM CHARTER CERTAIN UNSPECIFIED COSTS OF PROVIDING ACCESS TO**
10 **"NEW, UPGRADED, OR ENHANCED" OSS?**

11
12 **Q. PLEASE EXPLAIN CHARTER'S POSITION ON THIS ISSUE.**

13
14 **A.** Charter's position on this issue is very similar to its position on Issue 14. As I explained
15 in my testimony on that issue, Charter's position is that neither Party should be permitted
16 to recover costs or "expenses" from the other Party unless specifically and expressly
17 authorized to do so under the terms of the Agreement. Specifically, the parties should be
18 limited to recovering their respective costs or "expenses" in accordance with the
19 corresponding rates expressly identified in the Pricing Article of the Agreement. Without
20 a specific and express statement by both parties of their mutual intent to set
21 corresponding rates for the performance of certain functions, the Agreement should not
22 be construed as allowing either Party to assess charges for such functions.

23
24 **Q. HOW DOES CHARTER'S POSITION DIFFER FROM CENTURYTEL'S**
25 **POSITION?**
26



1 A. CenturyTel proposes to include language in the Agreement that “preserves” its rights to
2 recover “costs” with respect to upgrades and enhancements to its OSS. Specifically,
3 Charter proposes the following:

4 15.2 CenturyTel is entitled to recover its unrecovered costs of providing
5 access to new, upgraded or enhanced CenturyTel Operations Support
6 Systems via the CenturyTel OSS Services, CenturyTel Pre-OSS Services,
7 or CenturyTel OSS Facilities, or other means pursuant to rates or other
8 charges (“OSS charges”) determined by or otherwise approved by the
9 Commission upon CenturyTel’s submission in accordance with
10 Applicable Law. Should CenturyTel incur the costs of providing access to
11 new, upgraded or enhanced CenturyTel Operations Support Systems
12 during the Term of this Agreement, **CLEC will be responsible for
13 paying such OSS charges under this Agreement only if and to the extent
14 determined by the Commission.
15

16 However, CenturyTel has not explained to Charter (or this Commission) when, or
17 whether, it proposes to upgrade or enhance its OSS during the term of this Agreement or
18 for what purpose. Nor has CenturyTel explained precisely what such costs may entail,
19 how such costs would be recovered or the extent to which the proposed recovery of such
20 cost would require an examination of and potential changes to the existing rate structure
21 and rate elements. Hence, CenturyTel has essentially asked Charter to agree to an open-
22 ended provision that could impose greater, perhaps even duplicative, liability on Charter
23 in the future.

24
25 **Q. WHAT IS CHARTER’S CONCERN WITH CENTURYTEL’S POSITION?**

26 A. Allowing CenturyTel to have the discretion to impose charges upon Charter for
27 performing functions not otherwise provided for in the Agreement is problematic because
28 it creates uncertainty as to Charter’s contractual and financial obligations. In addition,



1 that approach could also lead to disputes between Charter and CenturyTel in the future
2 over whether a charge is authorized by the Agreement.

3
4 **Q. DOES CENTURYTEL'S PROPOSAL CREATE MORE UNCERTAINTY AND**
5 **AMBIGUITY IN THE AGREEMENT?**

6
7 **A.** Yes. It is reasonable to assume that both parties seek and expect certainty and specificity
8 in their contracts. But, CenturyTel's proposal produces the opposite result because it
9 would allow CenturyTel to assess charges upon Charter for alleged costs that CenturyTel
10 has not identified, or quantified. The Agreement should be clear and unequivocal as to
11 Charter's obligations for compensating CenturyTel.

12
13 **Q. COULD CHARTER'S PROPOSAL ALLOW CENTURYTEL TO RECOVER**
14 **COSTS ASSOCIATED WITH UPGRADING ITS OSS?**

15
16 **A.** Yes, under appropriate circumstances, and in accordance with applicable laws and
17 regulations. Just to be clear, Charter would not likely agree to such additional charges
18 unless they were mandated either by this Commission or the FCC. The proper way to
19 address that possibility is for CenturyTel to request an amendment to the agreement
20 through the contract amendment process set forth in Sections 4 (AMENDMENTS) and
21 12 (CHANGES IN LAW) of the Agreement. Those provisions provide a means by
22 which CenturyTel can propose an amendment to the Agreement that specifically
23 identifies, and quantifies, the costs it seeks to recover. Further, the amendment would
24 also (presumably) provide the basis for requiring Charter to compensate CenturyTel.



1 **Q. BUT CHARTER DOES NOT PROPOSE ANY LANGUAGE FOR SECTION 15.2.**
2 **HOW CAN CENTURYTEL RECOVER SUCH COSTS WITHOUT LANGUAGE**
3 **IN SECTION 15.2?**

4
5 A. As noted, under the Charter proposal, CenturyTel will have the opportunity to propose an
6 amendment with terms that require Charter to compensate CenturyTel for performing
7 certain functions. If the terms of such amendment are reasonable, and consistent with
8 applicable laws and regulations, the parties should have no problem reaching an
9 agreement and then implementing the amendment, with this Commission's prior
10 approval. Furthermore, to the extent that a dispute arises between the parties, CenturyTel
11 would have the right to use the Section 252 arbitration process to arbitrate its preferred
12 amendment terms. So, under Charter's proposal, CenturyTel could use the contract
13 amendment and/or the change of law process to seek to recover any future costs it
14 believes it is entitled to recover. As I have previously explained (in my testimony on
15 Issue 14), that process is reasonable because it is consistent with industry practice,
16 governing law, and general principles of fairness.

17
18 **ISSUE 33:**

19 **Should CenturyTel be required to make 911 facilities available to Charter at**
20 **cost-based rates pursuant to Section 251(c)?**

21
22 **Q. PLEASE EXPLAIN THE PARTIES' DISPUTE ON THIS ISSUE.**

23 A. The dispute revolves around the question of whether Charter is entitled to lease 911
24 facilities from CenturyTel at cost-based rates.



1 **Q. WHAT IS CHARTER'S POSITION ON THIS ISSUE?**

2 A. This seems to be one of those disputes about contract drafting that is better left for the
3 attorneys to argue in the briefs. For that reason, I will offer only a brief comment at this
4 time.

5 Charter has proposed that the interconnection facilities that carry 911 traffic should be
6 provided at TELRIC-based rates, as required under Section 251(c) of the
7 Telecommunications Act. CenturyTel, offering a complex theory reliant upon state law
8 obligations surrounding its 911 obligations, opposes this request.

9
10 **Q. PLEASE PROVIDE CHARTER'S PROPOSED LANGUAGE FOR ISSUE 33.**

11 A. Charter's proposed language for Issue 33 is as follows:

12
13 CenturyTel shall provide and maintain sufficient dedicated E911
14 circuits/trunks from each applicable Selective Router to the
15 PSAP(s) of the E911 PSAP Operator, according to provisions of
16 the applicable State authority, applicable NENA standards and
17 documented specifications of the E911 PSAP Operator.
18 CenturyTel will permit **CLEC to lease 911 facilities from
19 **CLEC's network to CenturyTel's Selective Router(s) at the rates
20 set forth in Article XI (Pricing). **The rates for 911 facilities set**
21 **forth in Section IV. B of Article XI (Pricing) are TELRIC-**
22 **based rates as required under Section 251(c).** **CLEC has the
23 option to secure alternative 911 facilities from another Provider to
24 provide its own facilities.

25
26
27 **Q. PLEASE PROVIDE CENTURYTEL'S PROPOSED LANGUAGE FOR ISSUE 33.**

28 A. CenturyTel's proposed language for Issue 33 is as follows:

29
30 CenturyTel shall provide and maintain sufficient dedicated E911 circuits/trunks
31 from each applicable Selective Router to the PSAP(s) of the E911 PSAP
32 Operator, according to provisions of the applicable State authority, applicable
33 NENA standards and documented specifications of the E911 PSAP Operator.



CenturyTel will permit **CLEC to lease 911 facilities from **CLEC's network to CenturyTel's Selective Router(s) at the rates set forth in Article XI (Pricing). **CLEC has the option to secure alternative 911 facilities from another Provider to provide its own facilities.

Q. WHAT IS CHARTER ASKING THIS COMMISSION TO DECIDE ON THIS ISSUE?

A. Charter asks the Commission to adopt its contract language, which makes clear that facilities used to deliver 911 traffic should be made available to Charter at TELRIC-based rates under Section 251(c).

ISSUE 39:

Should CenturyTel be entitled to assess certain additional 911-related fees and assessments upon Charter?

Q. PLEASE EXPLAIN THE PARTIES' DISPUTE ON THIS ISSUE.

A. The dispute on this issue centers around the potential applicability of certain charges that CenturyTel has proposed in the price list, Article XI (Pricing Attachment). The parties appear to disagree about the specific charges that Charter would be subject to under this agreement.

Q. WHY DO YOU SAY THAT THE PARTIES "APPEAR" TO DISAGREE ON THAT POINT?

A. Because CenturyTel's explanation of its charges in the Joint DPL filing implies some of these charges would not apply to Charter. However, the language itself appears to apply to Charter. CenturyTel's position is unclear and has not been adequately explained as to



1 how its proposed charges would, or would not, apply to Charter. Therefore, the issue is
2 still in dispute, but with some additional explanation from CenturyTel, the confusion
3 might be resolved.

4
5 **Q. PLEASE PROVIDE CHARTER'S PROPOSED LANGUAGE FOR ISSUE 39.**

6 A. Charter's proposed language for Issue 39 is as follows:

7
8 A. **Intentionally Left Blank.**

9
10 B. 911 Facilities from the Provider's owned or leased network to
11 CenturyTel's Selective Router (if provided by CenturyTel)

12
13 911 Facilities from Monthly Recurring
14 Nonrecurring
15 Provider network to
16 CenturyTel Selective
17 Router **Cost based rates / (MRC) and**
18 **(NRC)**

19
20 C. **Intentionally Left Blank..**
21
22

23 **Q. PLEASE PROVIDE CENTURYTEL'S PROPOSED LANGUAGE FOR ISSUE 39.**

24 A. CenturyTel's proposed language for Issue 39 is as follows:

25
26 A. The following trunk charges will be paid to CenturyTel for each E911 PSAP to which the Provider
27 connects.

28
29 911 Trunk Charge Monthly Recurring Nonrecurring
30 Channel (Each) \$85.00 per trunk \$170.00 per trunk

31
32
33 B. 911 Facilities from the Provider's owned or leased network to CenturyTel's Selective Router (if
34 provided by CenturyTel)

35
36 911 Facilities from Monthly Recurring Nonrecurring
37 Provider network to
38 CenturyTel Selective
39 Router



<u>Special Access Circuits</u>	<u>Per State Access</u>	<u>Per State Access Tariff</u>	<u>Tariff</u>
	<u>PSC Mo. No. 2</u>	<u>PSC Mo. No. 2</u>	

C.	<u>Automatic Location Identification</u>	<u>Monthly</u>	<u>Nonrecurring</u>
	<u>(ALI) Database</u>	<u>Recurring</u>	
i.	<u>Per Article VII 3.4.5 – If **CLEC uses</u>		
	<u>CenturyTel's E911 gateway</u>	<u>No Charge</u>	<u>\$ 380.00²</u>
ii.	<u>If **CLEC does not utilize CenturyTel's E911 Gateway</u>		
	<u>a. Database Administration, per database</u>	<u>\$ 380.00</u>	<u>\$--</u>
	<u>b. Database</u>	<u>Monthly</u>	<u>Nonrecurring</u>
		<u>Recurring</u>	
	<u>1) each non-CENTURYTEL subscriber</u>		
	<u>record for which CENTURYTEL will</u>		
	<u>verify via the MSAG</u>	<u>.04</u>	<u>.35</u>
iii.	<u>Third Party FRAD Connectivity</u>		
	<u>Third Party Frame Relay Access Device (FRAD) Connectivity provides for</u>		
	<u>retrieval of ALI Database Information for wireless and competitive Local</u>		
	<u>Providers using a non-CenturyTel Third Party Database Provider over a Non-Call</u>		
	<u>Associated Signaling (NCAS) solution.</u>		
	<u>1) FRAD Access</u>	<u>63.44</u>	<u>--</u>
	<u>2) Steerable ALI Software</u>	<u>71.42</u>	<u>1000.00</u>
iv.	<u>Selective Routing Port Charges</u>		
	<u>for Connecting Companies</u>		
	<u>1) Selective Router Port Connection,</u>		
	<u>per trunk</u>	<u>47.19</u>	<u>150.00</u>
	<u>2) CMRS/VOIP Additive, per</u>		
	<u>wireless or nomadic VOIP service trunk</u>	<u>82.54</u>	<u>--</u>
D.	<u>Additional file copy of the MSAG</u>	<u>--</u>	<u>\$250.00</u>

Q. WHAT IS CHARTER'S POSITION ON THIS ISSUE?

A. Charter's position is that it should not be subject to the various charges that are set forth in CenturyTel's proposed price list. CenturyTel has not explained how these charges

² A one-time charge that applies to new CLECs when establishing gateway connection.



1 would apply to Charter, nor has it justified these charges in any way. Indeed, in its Joint
2 DPL position statement, CenturyTel suggests that *some* of these charges may not, in fact,
3 apply to Charter. *See* Parties' Joint Revised Statement of Unresolved Issues, at p. 118.
4 But the problem is that it is not clear, from reading this price list which of these charges
5 would apply to Charter. For that reason, Charter has proposed simple, and direct,
6 language that establishes that Charter will compensate CenturyTel for 911 facilities
7 provided by CenturyTel, at the TELRIC-based rates that apply to other interconnection
8 facilities that Charter may lease from CenturyTel.

9
10 **Q. WHICH OF THE CHARGES SHOWN ABOVE DOES CENTURYTEL PROPOSE**
11 **TO ASSESS UPON CHARTER?**

12 A. Again, that is somewhat of a difficult question to answer because of CenturyTel's
13 inability, or unwillingness, to offer any specifics. Note that in its position statement in
14 the parties' Joint DPL, CenturyTel says that Charter should be required to pay "the
15 monthly recurring charges for each trunk that is established by Charter at the CenturyTel
16 selective router for each PSAP served." *See* Parties' Joint Revised Statement of
17 Unresolved Issues, at p. 118. However, just below that statement CenturyTel states that
18 "none of the additional charges would apply to Charter today." *Id.*

19
20 **Q. DO YOU HAVE SPECIFIC CONCERNS WITH ANY OF THESE CHARGES?**

21 A. Yes, it appears that CenturyTel does intend to assess, at least, the monthly recurring 911
22 "trunk charges" upon Charter, as shown in subsection A of CenturyTel's proposed



1 language. If that is correct, then this means that CenturyTel is proposing to charge
2 Charter for both 911 "facilities" and "trunks" that are used to deliver 911 traffic to a
3 PSAP. But doing so is improper because it amounts to a double recovery.
4

5 **Q. PLEASE EXPLAIN.**

6 A. To the extent that Charter is forced to pay for the facilities that deliver 911 traffic to the
7 appropriate PSAP, and is also required to pay for the trunks or capacity that ride those
8 facilities, to each PSAP, it would be paying two charges for that functionality. Moreover,
9 Charter is only obligated to ensure that its 911 traffic reaches the CenturyTel selective
10 router. The facilities that carry 911 traffic from the CenturyTel selective router to each
11 PSAP are CenturyTel's responsibility. Indeed, CenturyTel itself states that "in Missouri
12 all costs for the trunks and facilities from its selective router to the appropriate PSAP are
13 recovered from the entity operating the PSAP." *See* Parties' Joint Revised Statement of
14 Unresolved Issues, at p. 118.

15 However, immediately preceding this statement, CenturyTel also states that Charter
16 should be required to pay "the monthly recurring charges for each trunk that is
17 established by Charter at the CenturyTel selective router for each PSAP served." *Id.* It's
18 important to reiterate that CenturyTel has indicated that those costs are the *PSAP's*
19 responsibility. *See* statement quoted immediately above. ("all costs for the trunks and
20 facilities from its selective router to the appropriate PSAP are recovered from the entity
21 operating the PSAP"). Therefore, CenturyTel is either attempting double recovery from



1 both Charter and the PSAP operator, or its proposed language and position statement are
2 unclear if not inaccurate.

3
4 **Q. WHAT IS CHARTER ASKING THIS COMMISSION TO DECIDE ON THIS**
5 **ISSUE?**

6 A. Charter asks that the Commission adopt Charter's proposed contract language for the
7 price list, Article XI (Pricing), and affirm that Charter is not required to pay CenturyTel
8 for 911 trunking charges as proposed by CenturyTel.

9
10 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

11
12 A. Yes, it does.