

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

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**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**

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**CHARTER FIBERLINK-MISSOURI, LLC'S  
MOTION TO COMPEL THE PRODUCTION OF INFORMATION AND  
DOCUMENTS FROM CENTURYTEL**

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March 6, 2008

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**COMES NOW** Charter Fiberlink-Missouri, LLC (“Charter”) by and through its attorneys and hereby moves for an order from the Commission to compel CenturyTel of Missouri, LLC (“CenturyTel”) to produce information and documents requested in Charter’s first set of data requests to CenturyTel. Due to the pending deadline for surrebuttal testimony in this case on Friday, March 14,<sup>1</sup> Charter asks the Commission to consider this motion on an expedited basis, and to order CenturyTel to produce the information herein as soon as possible.

## **I. INTRODUCTION**

Charter served its first set of data requests (“data requests” or “DRs”) on CenturyTel on February 12, 2008. On February 22, 2008 CenturyTel delivered its objections to more than half of the roughly forty requests posed by Charter. CenturyTel supplemented its objections on March 3, 2008, by stating that it intends to “stand” on certain objections but “will be providing substantive responses” to certain other Charter data requests. At the same time, however, CenturyTel’s counsel would not confirm that CenturyTel will answer Charter DRs, 2, 3, 7, 8 and 32, all of which seek cost data from CenturyTel.

Subsequent to the receipt of CenturyTel’s objections, and as required by 4 CSR 240-2.090(8), Charter’s counsel contacted and conferred with CenturyTel’s counsel on February 28, 2008 by telephone and made a good faith effort to resolve this dispute. Because the dispute could not be resolved, the Parties conferred with Judge Benjamin Lane on March 5, 2008, as required by 4 CSR 240-20908(B). However, the Parties’ efforts did not resolve the dispute. Accordingly, Charter moves for an order compelling CenturyTel to respond to Charter’s data requests identified herein.<sup>2</sup>

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<sup>1</sup> The Parties in this proceeding have filed a joint consent motion requesting that the current deadline for filing surrebuttal testimony be extended to March 14<sup>th</sup>, rather than the current deadline of March 7<sup>th</sup>.

<sup>2</sup> Attached hereto is an Appendix which identifies (and restates) all of the Charter DRs, along with the CenturyTel objections, that are the subject of this Motion.

The Commission's discovery rules provide that "Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action."<sup>3</sup> Production is required "if the information sought appears to be reasonably calculated to lead to the discovery of admissible evidence."<sup>4</sup>

To that end, in ruling on an objection to a discovery request, the Commission must "not only consider questions of privilege, work product, relevance, and the tendency of the request to lead to discovery of admissible evidence, it must also balance the need of the interrogator to obtain the information against the responding party's burden in furnishing it."<sup>5</sup> These standards for discovery require CenturyTel to respond to the requests at issue here because the requests are relevant to CenturyTel's defense of its service order charges, are likely to lead to the discovery of admissible evidence, and would not unduly burden CenturyTel. Indeed, CenturyTel itself raised the cost issues by claiming that its charges "cover" the company's costs of responding to Charter's requests for number porting. For the reasons set forth below the Commission should grant Charter's Motion to Compel as to the data requests identified herein.

## **II. CENTURYTEL SHOULD BE COMPELLED TO RESPOND TO DATA REQUESTS SEEKING INFORMATION ABOUT ITS ALLEGED COSTS, PROCESSES, AND ASSERTED "SERVICES" OFFERED OUT OF ITS LOCAL EXCHANGE TARIFF**

In its DRs Charter requested that CenturyTel provide information regarding the following categories of information: (1) alleged costs that CenturyTel incurs when responding to port requests from Charter (DRs, 2, 3, 7, 8, and 32); (2) the process that CenturyTel undertakes when it performs certain functions that it charges Charter for (DRs 5, 9, and 12); and (3) types of

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<sup>3</sup> *Missouri Rule of Civil Procedure 56.01(b)*.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 208 (citing *Nolan*, 692 S.W.2d at 328). Significantly, Commission Rule 4 CSR 240-2.090(1) provides that discovery may be obtained by the same means and under the same conditions as in civil actions in the circuit court.

services that CenturyTel contends are provided to Charter in Missouri pursuant to CenturyTel's local exchange tariff (DR 30). Data request 30 seeks information regarding specific services that CenturyTel allegedly provides to Charter pursuant to CenturyTel's Missouri local exchange services tariff.

**A. Charter's Data Requests Seek Information Concerning the Alleged Costs Incurred by CenturyTel**

Several Charter data requests raise the question of what costs, if any, CenturyTel incurs when responding to (or processing) local service requests for number porting. The information sought is specifically tied to statements in the Direct Testimony of CenturyTel's primary witness, Mr. Guy E. Miller. A principle argument offered by CenturyTel (through Mr. Miller's testimony) is that CenturyTel is entitled to impose a service order charge upon Charter for the provision of local number portability, and other functions, in order to recover its alleged "costs." This raises the question of precisely what alleged "costs" Mr. Miller speaks of, and whether the charges that CenturyTel imposes upon Charter have any relation to the alleged costs referenced in Mr. Miller's testimony.

Specifically, Mr. Miller states that CenturyTel incurs costs when it processes an LSR for a CLEC, including "costs associated with the employees who perform this work...", (Miller Direct, Page 10, Lines 5-10), and that CenturyTel's "Service Order Charges covers the administrative order processing costs" allegedly incurred by CenturyTel. (Miller Direct, Page 25, lines 18-19). Further, Mr. Miller asserts that having the cost-causer (allegedly Charter) pay for alleged costs that it causes other carriers to incur is a fundamental part of the industry. (Miller Direct, Page 19, lines 8-10). Thus, because CenturyTel asserts that it incurs costs in responding to number porting requests from Charter, and that its charges "cover" the company's costs,

discovery of CenturyTel's alleged costs is relevant and likely to lead to the discovery of admissible evidence.

In addition, if the Commission were to conclude that CenturyTel's service order charges are, in fact, related to the recovery of its alleged costs, the Commission would need to consider evidence of the specific costs at issue to evaluate whether CenturyTel's rates are rationally related to such costs, in order to determine whether the charges are just and reasonable. For these reasons, Charter asks the Commission to compel CenturyTel to produce information concerning the costs (if any) that CenturyTel asserts are the basis for the service order charges in dispute in this proceeding.

There are five separate data requests (DRs) posed by Charter that seek information (if any exists) concerning CenturyTel's alleged costs of responding to requests for porting, and the basis for their rates. Specifically, Charter sought such information in DRs 2, 3, 7, 8 and 32. Each of Charter's requests, CenturyTel's objections thereto, and Charter's argument in support of its motion to compel CenturyTel's responses to the DRs, are addressed separately below.

**Data Request No. 2:** Identify and quantify the specific operational "administrative order processing cost" identified on page 25, line 19 of Mr. Miller's testimony that CenturyTel incurs when processing port requests from Charter. Explain how CenturyTel determined the specific pecuniary amounts associated with such costs.

**CenturyTel Response:** In addition to the general objections stated above and incorporated herein, CenturyTel objects to the extent Data Request No. 2 is written such that it assumes that the charges at issue in this matter are something other than the contractually agreed upon rates contained within the Commission-approved tariffs on file with the State of Missouri. Moreover, it would be inappropriate for the Commission to require CenturyTel to furnish this information to a direct competitor, and in any event, CenturyTel would need more than the allotted time to analyze and produce this information.

**Charter Argument:** As is evident from the plain language of DR 2, Charter seeks specific information concerning the particular types of costs identified on page 25, line 19 of Mr. Miller's

testimony. According to Mr. Miller, CenturyTel's Service Ordering Charge "covers" the "administrative order processing costs" incurred by CenturyTel in responding to port requests from Charter. Charter seeks information regarding these alleged costs in an effort to evaluate the legitimacy of CenturyTel's charges, the relation (if any) of these alleged costs to the rates assessed upon Charter, and whether these alleged costs can legitimately be recovered via assessments upon Charter.

CenturyTel raises three separate objections to this request, which Charter responds to in turn, as follows:

1) CenturyTel first objects on the basis that the request "assumes that the charges at issue in this matter are something other than the contractually agreed upon rates contained within the Commission-approved tariffs on file with the State of Missouri."

This objection is without merit. Charter's request does not make any assumptions about the "charges at issue." Indeed, it does not even seek information about such charges, but instead seeks information concerning the *costs* (not charges) which Mr. Miller testifies about. Given that CenturyTel, through Mr. Miller, raises the issue of its costs and asserts that these costs "cover" the charges at issue in this proceeding, information concerning these alleged costs is likely to lead to the discovery of admissible evidence.

2) CenturyTel also objects on the grounds that it would be "inappropriate" for the Commission to require CenturyTel to furnish this information to a direct competitor.

Notwithstanding the fact that "inappropriateness" is not a valid ground for objecting to a data request, this objection is baseless. In fact, there is nothing inappropriate about CenturyTel providing cost data to Charter to determine whether its rates are cost-justified. State commissions routinely require incumbent LECs to present cost data to support the LEC's

proposed assessment of rates upon its competitors. Indeed, it is well accepted that a LEC who proposes to assess charges upon another LEC must bear the burden of demonstrating that its charges are justified. As such, it is appropriate to require CenturyTel (the proponent of its charges) to produce such information here. Moreover, CenturyTel has produced cost information to competitors in recent proceedings before this Commission. Indeed, in a 2006 arbitration proceeding CenturyTel acknowledged (actually argued) that it “produced a cost study” to justify certain resale rates it sought to impose on a direct competitor.<sup>6</sup> Therefore, CenturyTel’s objections do not stand up to scrutiny, and are inconsistent with their own past conduct.

3) CenturyTel’s third, and final, objection is that it would need more than the allotted time to analyze and produce this information.

This objection fails for several reasons. Given that these charges were first assessed upon Charter in 2003, and that CenturyTel has continued to assess charges for the last five years, one would expect CenturyTel to already have this cost information in hand. Indeed, because CenturyTel asserts that it has a right to assess these charges based upon rates identified in its tariffs, it should already have such information to support these tariffed rates. Beyond the five years it has had to gather such data, as of the filing of this motion, it has been approximately three weeks since these requests were posed. If CenturyTel had any information about its costs, it surely could have gathered such information in that three week period. Moreover, Charter has granted CenturyTel an extension of time to produce the information requested. CenturyTel has therefore had sufficient opportunity to gather any information it may have. If, on the other hand,

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<sup>6</sup> See *Petition of Socket Telecom for Compulsory Arbitration for Arbitration of Interconnection Agreements with CenturyTel of Missouri, LLC and Spectra Communications, LLC*, Case No. TO-2006-0029, 2006 Mo. PSC LEXIS 1380, at ¶ \* 69 (PSC 2006).



CenturyTel has no cost information or data concerning the alleged costs referenced in Mr. Miller's testimony, it must so state.

Accordingly, because each of CenturyTel's objections are without merit, and because Charter's request is likely to lead to the discovery of admissible evidence, the objections should be overruled and CenturyTel should be compelled to produce the information requested in Charter's DR 2.

**Data Request No. 3:** Identify and quantify the specific "technical or materials cost" referenced on page 25, line 20 of Mr. Miller's testimony that CenturyTel incurs when processing port requests from Charter. Explain how CenturyTel determined the specific pecuniary amounts associated with such costs.

**CenturyTel Response:** In addition to the general objections stated above and incorporated herein, CenturyTel objects to the extent Data Request No. 3 is written such that it assumes that the charges at issue in this matter are something other than the contractually agreed upon rates contained within the Commission-approved tariffs on file with the State of Missouri. Moreover, it would be inappropriate for the Commission to require CenturyTel to furnish this information to a direct competitor, and in any event, CenturyTel would need more than the allotted time to analyze and produce this information. Finally, this Request is objected to for the reason that Charter mis-states or misconstrues Mr. Miller's direct testimony to the extent that it implies that CenturyTel is attempting to recover or otherwise charge Charter for any "technical or material" costs that it may have incurred.

**Charter Argument:** With respect to this request, CenturyTel raises the same objections that it raised in response to Charter DR 2 (above). Charter incorporates herein, its response to the objections that: (1) its request "assumes" something about the charges at issue here; (2) that it would be inappropriate for the Commission to require CenturyTel to furnish this information; and, (3) that CenturyTel would need more time to produce this information. For all of the reasons set forth in Charter's previous response (above), these objections are without merit.

CenturyTel raises another objection to this DR, that Charter "mis-states or misconstrues Mr. Miller's direct testimony to the extent that it implies that CenturyTel is attempting to recover or otherwise charge Charter for any 'technical or material' costs that it may have incurred."

Charters' request makes no such implication. It simply asks CenturyTel to identify and quantify the specific "technical or material costs" that CenturyTel recovers through other charges. This information is relevant because it would help Charter, and the Commission, understand precisely what costs CenturyTel claims to recover through its number porting service charges, and what alleged costs fall *outside of* those charges. In other words, it is necessary to understand the entire "universe" of costs which CenturyTel allegedly incurs, in order to understand precisely which alleged costs it proposes to recover from Charter.

**Data Request No. 32:** Identify the "transmittal system" costs referenced on page 16, lines 5 and 6 of Mr. Miller's testimony. Explain how those costs are recovered through any end user tariff charges that have been assessed upon end users.

**CenturyTel Response:** CenturyTel objects to Data Request No. 32 for the reasons expressed in its objections to Data Request No. 3, which objections are incorporated herein by reference.

**Charter Argument:** Charter request DR 32 posed a request similar to DR 3. Indeed, CenturyTel's objections to DR 32 are identical to its objections to DR 3 (see above). Thus, Charter incorporates its points and arguments in response to CenturyTel's objections to DR 3 here.

**Data Request No. 7:** Identify the basis for the rate in the amount of \$19.78 and \$23.44 that CenturyTel has billed Charter to process port requests. Explain how these rates are calculated, and describe in detail how this rate recovers the costs identified in response to the "administrative order processing costs" referenced in Mr. Miller's testimony. Provide all documents, analyses, discussions, or other tangible items which quantify document, demonstrate, analyze, or in any other way, address, the costs associated with the processing of port requests from Charter.

**CenturyTel Response:** Om (sic) addition to the general objections stated above and incorporated herein, CenturyTel objects to the extent Data Request No. 7 is written such that it assumes that the charges at issue in this matter are something other than the contractually agreed upon rates contained within the Commission-approved tariffs on file with the State of Missouri. Moreover, it would be inappropriate for the Commission to require CenturyTel to furnish this information to a direct competitor, and in any event, CenturyTel would need more than the allotted time to analyze and produce this information.

**Data Request No. 8:** Identify, and provide, all cost studies prepared by (or on behalf of) CenturyTel related to the costs associated with the processing of port requests from Charter. Produce any and all documents referring to, relating to, or constituting any such cost study and the dates that such cost study was conducted. If no cost study has been conducted, please so state.

**CenturyTel Response:** In addition to the general objections stated above and incorporated herein, CenturyTel objects to the extent Data Request No. 8 is written such that it assumes that the charges at issue in this matter are something other than the contractually agreed upon rates contained within the Commission-approved tariffs on file with the State of Missouri. Moreover, it would be inappropriate for the Commission to require CenturyTel to furnish this information to a direct competitor, and in any event, CenturyTel would need more than the allotted time to analyze and produce this information.

**Charter Argument:** With respect to CenturyTel's rates for number porting service order charges, Charter also seeks information in DRs 7 and 8 concerning the proper basis for those rates. CenturyTel again raises the same objections that it raised in response to Charter DRs 2, 3 and 32. Charter incorporates its responses to those objections here. Further, because each of CenturyTel's objections are without merit, and because Charter's requests are likely to lead to the discovery of admissible evidence, the objections should be overruled and CenturyTel should be compelled to produce the information requested in Charter DRs 7 and 8.

**B. Data Requests Seeking Information Concerning CenturyTel's Process for Performing Certain Functions**

Charter requested that CenturyTel provide information regarding the process that CenturyTel follows when it performs certain functions to respond to local service requests ("LSR"). With respect to such processes, Charter's argument in support of its motion, are as follows:

**Data Request No. 5:** Explain in detail how a CenturyTel "provisioning representative", after finishing the "administrative work" in connection with processing LSR orders for port requests, sends or transmits such order information to another CenturyTel employee to perform the "actual porting" as referenced on page 14, lines 3-11 of Mr. Miller's testimony.

**CenturyTel Response:** In addition to the general objections stated above and incorporated herein by reference, CenturyTel objects to any requirement that it explain in "detail" how the process work, as such request is overly broad and unduly burdensome. A general description will be provided.

**Charter Argument:** DR 5 seeks a detailed explanation of the process that CenturyTel allegedly follows after its "provisioning representative" (as that term is used in CenturyTel's Direct Testimony (Page 14, Line 3)) completes the administrative work (in connection with the processing of a LSR order for number porting) and sends (or transmits) the LSR order to another CenturyTel employee to perform the actual porting function. An understanding of this process is relevant and necessary for Charter and the Commission to evaluate the basis (if any) for CenturyTel's charges. Mr. Miller asserts in his Direct Testimony that CenturyTel is not charging Charter for alleged costs that CenturyTel incurs that are *directly* related to providing number porting; rather, Mr. Miller asserts that CenturyTel is simply charging Charter for the administrative "costs" that CenturyTel allegedly incurs in processing LSRs.

CenturyTel claims that there is a clear distinction between the administrative functions that it performs when processing LSRs for number porting, and the functions that it performs when undertaking the actual porting process. If, in fact, such a distinction exists, then CenturyTel should have no problem explaining to the Commission (and Charter) how this process works. Thus, the process that CenturyTel follows in connection with the provision of number portability is relevant to whether the functions that CenturyTel performs are not, in fact, directly related to providing number porting.

Nevertheless, CenturyTel objected to Charter's DR 5 on the grounds that such a request is "overly broad and unduly burdensome." This objection is without merit. In its testimony CenturyTel explains in detail the process that it goes through to submit an LSR order for number porting (i.e. the so called administrative function), but stops short of explaining how the

provisioning representative sends the order-entry work to another CenturyTel employee to perform the actual port. Charter does not seek an explanation in response to DR 5 that is any more detailed than the overview that CenturyTel already provides to explain the process for performing administrative functions. Thus, CenturyTel should be compelled to produce the information requested in Charter' DR 5.

**Data Request No. 9:** Provide a detailed description of the process that CenturyTel follows when it provides certain "unique" directory listing changes for Charter, including an account of each function performed by CenturyTel to respond to Charter's LSR for such change.

**CenturyTel Response:** In addition to the general objections stated above and incorporated herein, CenturyTel objects to this Data Request on the grounds that the Data Request is not reasonably calculated to lead to the discovery of admissible evidence and is otherwise intended to annoy, oppress and harass. CenturyTel does not maintain Charter's directory listings and there are no "unique" directory listing charges in dispute in this action.

**Data Request No. 12:** Provide a detailed description of the process that CenturyTel follows when it conducts customer record searches for Charter, including an account of each function performed by CenturyTel to respond to Charter's LSR for such search.

**CenturyTel Response:** CenturyTel objects to Data Request No. 12, as the same is overly burdensome and unduly oppressive to the extent it requests a "detailed" description of "each function" performed by CenturyTel in response to a customer records search requested by Charter. Further, this Data Request is not reasonably calculated to lead to the discovery of admissible evidence.

**Charter Argument:** DRs 9 and 12 seek a detailed description of the process that CenturyTel follows when it provides certain "unique" directory listing changes and customer record searches for Charter. CenturyTel has stated that LSRs are submitted to CenturyTel when another carrier requests any type of local exchange service (e.g., directory listing changes, customer record searches, etc.) from CenturyTel. And CenturyTel has gone to great lengths to stress its claim that it assesses charges for processing these LSRs to recover its costs from the alleged cost causers – the CLECs. As discussed above, CenturyTel argues that the administrative functions

that it performs when processing LSRs for number porting are *not* directly related to number portability, thus, it has a right to assess charges upon Charter. Implicit in this argument, however, is the notion that because the functions performed are *not* directly related to the service (e.g. number portability) the administrative functions that CenturyTel performs in processing any LSR are fairly routine and consistent across the board regardless of the nature of the request (i.e., directory listing changes, customer record searches, local number portability, etc.). On the other hand, if the administrative functions that CenturyTel performs are unique to each specific type of request, then it stands to reason that such functions would be directly related to that request and CenturyTel would thereby have no basis for assessing charges upon Charter for number portability. It therefore follows that questions pertaining to the process that CenturyTel undertakes for processing LSRs orders for directory listing changes and customer record searches are germane to this proceeding and relevant to the resolution of whether CenturyTel is entitled to assess charges upon Charter for number porting.

CenturyTel's objections to DRs 9 and 12 are largely identical and are therefore discussed together in this motion. CenturyTel objects to DRs 9 and 12 on the grounds that the data requests are "not reasonably calculated to lead to the discovery of admissible evidence" and are "overly burdensome and unduly oppressive." Both of these objections fail. First, with respect to CenturyTel's objection to DR 9 on the grounds that "unique" directory listing charges are not at issue in this proceeding, there is no dispute that Charter specifically alleged improper billings related to directory listings in its complaint. *See* Charter Complaint at ¶ 10(c). Second, Charter witness Mr. Schremp testified that CenturyTel has improperly "assessed monthly recurring charges associated with certain 'unique' directory listings." Direct Testimony of Ted Schremp on behalf of Charter Fiberlink – Missouri, LLC at Page 11, Lines 6-8 (filed Jan. 18, 2008).

Further, the information that Charter seeks is plainly discoverable as the question of what process CenturyTel follows when performing certain functions is a core element of CenturyTel's claims that it has a right to assess charges upon Charter for processing porting requests. Indeed, the information sought by Charter is also essential to evaluating the merits of the alleged distinction that CenturyTel attempts to make between administrative functions and actual porting functions. Thus, the information concerning CenturyTel's process for responding to directory listing change requests and customer record search requests is likely to lead to the discovery of admissible evidence.

Moreover, the information sought by Charter would not be "overly burdensome" or "unduly oppressive" to CenturyTel because Charter simply seeks an *explanation* of the process that CenturyTel follows when responding to LSRs for directory listing changes and customer record searches. Charter anticipates that CenturyTel's explanation would be similar (in terms of the level of detail) to the explanation that CenturyTel has already provided for processing LSRs for number porting. (Miller Direct, Page 12, Lines 11-22; Page 13, Lines 1-20). If CenturyTel was able to gather that information for one of the processes in dispute in this proceeding, then surely it could do the same for the other processes at issue before the Commission. Accordingly, the Commission should therefore order CenturyTel to respond to the data requests and explain the processes that it follows.

**C. Data Request Seeking Information Concerning CenturyTel's Tariffs**

The last category of data requests that CenturyTel has refused to respond to concern the tariffed "local exchange services" that CenturyTel asserts are provided to Charter in Missouri. With respect to the local exchange services (if any) that CenturyTel provides to Charter,

Charter's request, CenturyTel's objections thereto, and Charter's argument in support of its motion, are as follows:

**Data Request No. 30:** Identify all of the "local exchange services" (as that term is used by Mr. Miller on page 9, line 15) provided by CenturyTel to Charter in the state of Missouri arising out of the Agreement, or for any other reason.

**CenturyTel Response:** In addition to the general objections stated above and incorporated herein, CenturyTel objects to this Data Request on the grounds that it is overly broad and unduly burdensome, to the extent would require CenturyTel to investigate all end user records throughout the State of Missouri over the course of the past five years to determine each and every instance in which CenturyTel provided Charter any form of "local exchange services" within this state or any of its exchangers. CenturyTel further objects to this Data Request on the grounds that the Data Request is not reasonably calculated to lead to the discovery of admissible evidence and is otherwise intended to annoy, oppress and harass. Moreover, CenturyTel would need more time than the allotted time to analyze and produce this information.

**Charter Argument:** The question of what (if any) tariffed "local exchange services" CenturyTel provides to Charter under the terms of the Interconnection Agreement is directly relevant to whether CenturyTel's local exchange tariff applies to Charter, and is incorporated into the Agreement (as CenturyTel argues).

According to Mr. Miller, whenever another carrier submits to CenturyTel a form called a local service request (LSR), that carrier does so whenever it "requests any type of local exchange services from CenturyTel." (Miller Direct, Page 9, Lines 14-16). And Mr. Miller also testifies that "the Service Order charges in the local exchange tariff apply to LSR service orders submitted by Charter for any and all order-processing work done to satisfy a Charter request." (Miller Direct, Page 22, Lines 20-22). Mr. Miller also testifies that it "is entirely appropriate, therefore, to use the local exchange Service Order charge in the approved tariff to recover any cost associated with the administrative processing of a local exchange order submitted by any entity for any purpose." (Miller Direct, Page 23, Lines 15-17). To evaluate this claim Charter seeks information regarding any specific local exchange services that CenturyTel asserts that it



provides to Charter. Such information will be necessary and relevant to evaluate the legitimacy of CenturyTel's claim that its local exchange tariff (and the rates therein) is applicable to Charter.

CenturyTel raises three objections to this request, which Charter responds to immediately below.

1) CenturyTel first objects because the request "is overly broad and unduly burdensome, to the extent [it] would require CenturyTel to investigate all end user records throughout the State of Missouri over the course of the past five years to determine each and every instance in which CenturyTel provided Charter any form of 'local exchange services' within this state or any of its exchangers."

This objection is without merit. Charter does not ask CenturyTel to research end user records for the last five years. Rather, Charter simply seeks an explanation of the specific types of tariffed local exchange services, if any, that CenturyTel believes it provides to Charter in Missouri pursuant to the parties' Interconnection Agreement. All this requires is for CenturyTel to review the terms of its tariff, and consider its contractual obligations with Charter (Mr. Miller and the company's lawyers have clearly already given that question some thought), and then tell us what services satisfy this DR. That is simply not a burdensome request, and does not require the researching of records for the last five years.

2) CenturyTel also objects to this request on the grounds that the DR "is not reasonably calculated to lead to the discovery of admissible evidence and it otherwise intended to annoy, oppress, and harass."

This objection also fails. Given that, CenturyTel, through Mr. Miller, argues that CenturyTel's local exchange tariff sets forth the rates that CenturyTel is allegedly entitled to

charge Charter for processing number porting requests, information concerning whether that tariff actually applies to Charter is likely to lead to the discovery of admissible evidence. It is therefore entirely appropriate to require CenturyTel to identify all of the local exchange services, if any, it believes it provides to Charter.

3) CenturyTel's final objection is that it would need more than the allotted time to analyze and produce this information.

This objection is baseless. Because CenturyTel asserts that its local exchange tariff is applicable to Charter, it must have already identified the local exchange services that it provides to Charter to support the applicability of its tariff. If CenturyTel had any information about the local exchange services that it provides to Charter, it surely could have gathered such information in the three weeks that it has had since these requests were posed. Moreover, Charter has granted CenturyTel an extension of time to produce the information requested. CenturyTel has therefore had sufficient opportunity to gather any information it has. If, on the other hand, CenturyTel has no information concerning the local exchange services that it allegedly provides to Charter, it must so state.

Accordingly, CenturyTel's objections are without merit and should be overruled.

### **III. CONCLUSION**

**WHEREFORE**, Charter prays that its Motion to Compel be granted and that CenturyTel Missouri be ordered to provide responses to the DRs discussed herein. Due to the very upcoming filing deadlines in this proceeding Charter asks the Commission to treat this motion on an expedited basis and to order CenturyTel to produce the information identified herein immediately.

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Dated: March 6, 2008

**APPENDIX**  
**Charter Data Requests Subject to the Motion to Compel**  
**Case No. LC-2008-0049**

**Charter Data Request No. 2**

Identify and quantify the specific operational "administrative order processing cost" identified on page 25, line 19 of Mr. Miller's testimony that CenturyTel incurs when processing port requests from Charter. Explain how CenturyTel determined the specific pecuniary amounts associated with such costs.

**CenturyTel Response:**

In addition to the general objections stated above and incorporated herein, CenturyTel objects to the extent Data Request No. 2 is written such that it assumes that the charges at issue in this matter are something other than the contractually agreed upon rates contained within the Commission-approved tariffs on file with the State of Missouri. Moreover, it would be inappropriate for the Commission to require CenturyTel to furnish this information to a direct competitor, and in any event, CenturyTel would need more than the allotted time to analyze and produce this information.

**Charter Data Request No. 3**

Identify and quantify the specific "technical or materials cost" referenced on page 25, line 20 of Mr. Miller's testimony that CenturyTel incurs when processing port requests from Charter. Explain how CenturyTel determined the specific pecuniary amounts associated with such costs.

**CenturyTel Response:**

In addition to the general objections stated above and incorporated herein, CenturyTel objects to the extent Data Request No. 3 is written such that it assumes that the charges at issue in this matter are something other than the contractually agreed upon rates contained within the Commission-approved tariffs on file with the State of Missouri. Moreover, it would be inappropriate for the Commission to require CenturyTel to furnish this information to a direct competitor, and in any event, CenturyTel would need more than the allotted time to analyze and produce this information. Finally, this Request is objected to for the reason that Charter mis-states or misconstrues Mr. Miller's direct testimony to the extent that it implies that CenturyTel is attempting to recover or otherwise charge Charter for any "technical or material" costs that it may have incurred.

**Charter Data Request No. 5**

Explain in detail how a CenturyTel "provisioning representative", after finishing the "administrative work" in connection with processing LSR orders for port

requests, sends or transmits such order information to another CenturyTel employee to perform the "actual porting" as referenced on page 14, lines 3-11 of Mr. Miller's testimony.

**CenturyTel Response:**

In addition to the general objections stated above and incorporated herein by reference, CenturyTel objects to any requirement that it explain in "detail" how the process work, as such request is overly broad and unduly burdensome. A general description will be provided.

**Charter Data Request No. 7**

Identify the basis for the rate in the amount of \$19.78 and \$23.44 that CenturyTel has billed Charter to process port requests. Explain how these rates are calculated, and describe in detail how this rate recovers the costs identified in response to the "administrative order processing costs" referenced in Mr. Miller's testimony. Provide all documents, analyses, discussions, or other tangible items which quantify document, demonstrate, analyze, or in any other way, address, the costs associated with the processing of port requests from Charter.

**CenturyTel Response:**

Om (sic) addition to the general objections stated above and incorporated herein, CenturyTel objects to the extent Data Request No. 7 is written such that it assumes that the charges at issue in this matter are something other than the contractually agreed upon rates contained within the Commission-approved tariffs on file with the State of Missouri. Moreover, it would be inappropriate for the Commission to require CenturyTel to furnish this information to a direct competitor, and in any event, CenturyTel would need more than the allotted time to analyze and produce this information.

**Charter Data Request No. 8**

Identify, and provide, all cost studies prepared by (or on behalf of) CenturyTel related to the costs associated with the processing of port requests from Charter. Produce any and all documents referring to, relating to, or constituting any such cost study and the dates that such cost study was conducted. If no cost study has been conducted, please so state.

**CenturyTel Response:**

In addition to the general objections stated above and incorporated herein, CenturyTel objects to the extent Data Request No. 8 is written such that it assumes that the charges at issue in this matter are something other than the contractually agreed upon rates contained within the Commission-approved tariffs on file with the State of Missouri. Moreover, it would be inappropriate for the Commission to require CenturyTel to furnish

this information to a direct competitor, and in any event, CenturyTel would need more than the allotted time to analyze and produce this information.

**Charter Data Request No. 9:**

Provide a detailed description of the process that CenturyTel follows when it provides certain "unique" directory listing changes for Charter, including an account of each function performed by CenturyTel to respond to Charter's LSR for such change.

**CenturyTel Response:**

In addition to the general objections stated above and incorporated herein, CenturyTel objects to this Data Request on the grounds that the Data Request is not reasonably calculated to lead to the discovery of admissible evidence and is otherwise intended to annoy, oppress and harass. CenturyTel does not maintain Charter's directory listings and there are no "unique" directory listing charges in dispute in this action.

**Charter Data Request No. 12**

Provide a detailed description of the process that CenturyTel follows when it conducts customer record searches for Charter, including an account of each function performed by CenturyTel to respond to Charter's LSR for such search.

**CenturyTel Response:**

CenturyTel objects to Data Request No. 12, as the same is overly burdensome and unduly oppressive to the extent it requests a "detailed" description of "each function" performed by CenturyTel in response to a customer records search requested by Charter. Further, this Data Request is not reasonably calculated to lead to the discovery of admissible evidence.

**Charter Data Request No. 30:**

Identify all of the "local exchange services" (as that term is used by Mr. Miller on page 9, line 15) provided by CenturyTel to Charter in the state of Missouri arising out of the Agreement, or for any other reason.

**CenturyTel Response:**

In addition to the general objections stated above and incorporated herein, CenturyTel objects to this Data Request on the grounds that it is overly broad and unduly burdensome, to the extent would require CenturyTel to investigate all end user records throughout the State of Missouri over the course of the past five years to determine each and every instance in which CenturyTel provided Charter any form of "local exchange services" within this state or any of its exchangers. CenturyTel further objects to this

Data Request on the grounds that the Data Request is not reasonably calculated to lead to the discovery of admissible evidence and is otherwise intended to annoy, oppress and harass. Moreover, CenturyTel would need more time than the allotted time to analyze and produce this information.

**Charter Data Request No. 32:**

Identify the "transmittal system" costs referenced on page 16, lines 5 and 6 of Mr. Miller's testimony. Explain how those costs are recovered through any end user tariff charges that have been assessed upon end users.

**CenturyTel Response:**

CenturyTel objects to Data Request No. 32 for the reasons expressed in its objections to Data Request No. 3, which objections are incorporated herein by reference.

## CERTIFICATE OF SERVICE

I hereby certify that on the 6<sup>th</sup> day of March, 2008, I served the foregoing Charter Fiberlink's Motion to Compel the Production of Information and Documents from CenturyTel on behalf of Charter Fiberlink-Missouri, LLC, on the following persons via electronic mail and via first class mail. Because this document was filed electronically it is being served both electronically and by hard copy, on the persons listed below, consistent with Commission rules and practice.

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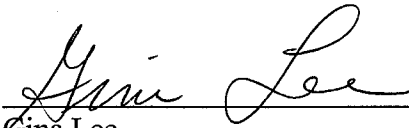
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