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July 28, 2008

**VIA ELECTRONIC MAIL AND FEDERAL EXPRESS**

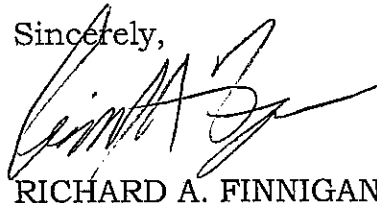
Filing Center  
Oregon Public Utility Commission  
550 Capitol Street NE Ste 215  
Salem, OR 97301-2551

Re: ARB 830 – Surreply Brief of CenturyTel of Oregon, Inc.

Dear Sir/Madam:

Enclosed are the original and five copies of the Surreply Brief of CenturyTel of Oregon, Inc. and Certificate of Service for the above-referenced matter.

Sincerely,



RICHARD A. FINNIGAN

RAF/km  
Enclosures

cc: Service List (via e-mail or e-mail and Federal Express)  
ALJ Wallace (via e-mail)  
Paul Schudel (via e-mail)  
Tom Moorman (via e-mail)  
James Overcash (via e-mail)  
Clients (via e-mail)

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**ARB 830**

In the Matter of

SPRINT COMMUNICATIONS COMPANY  
L.P.

Petition For Arbitration of an Interconnection  
Agreement with CENTURYTEL OF  
OREGON, INC.

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**SURREPLY BRIEF OF**

**CENTURYTEL OF OREGON, INC.**

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Date: July 28, 2008

By an order issued July 24, 2008, Administrative Law Judge Sarah K. Wallace granted Sprint Communications Company L.P. (“Sprint”) a one day extension to file its Reply Brief.<sup>1</sup> Based on the fact that CenturyTel of Oregon, Inc. (“CenturyTel”) had already filed and served its Reply Brief prior to the time Sprint requested the extension of time to file its Reply Brief, which meant Sprint had the opportunity to review CenturyTel’s Reply Brief prior to the completion of the Sprint Reply Brief, Judge Wallace gave CenturyTel the opportunity to file a surreply brief to address items that are “in Sprint’s reply brief that CenturyTel believes may have been included because Sprint had the opportunity to review CenturyTel’s reply brief prior to filing its own.”<sup>2</sup>

CenturyTel agrees with Judge Wallace’s description that the failure of Sprint to timely file its brief or timely request an extension of time was “inexcusable.”<sup>3</sup> Thus, CenturyTel very much appreciates the opportunity to file a surreply brief.

Upon receipt of Sprint’s Reply Brief, CenturyTel undertook a side-by-side comparison of the Sprint Reply Brief in Oregon with the reply brief on the same issues that Sprint filed in the Arkansas arbitration that is similar to this proceeding. That comparison reflected a large amount of additional material in Sprint’s Oregon Reply Brief that was not included in the reply brief filed by Sprint in Arkansas.<sup>4</sup> The inclusion of this material casts significant doubt on the basis for the extension offered by Sprint, namely, that its legal counsel had the reply brief due date in Oregon calendared for July 28, 2008. The implication from Sprint’s offered rationale was that

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<sup>1</sup> Ruling issued July 24, 2008.

<sup>2</sup> *Id.*, 2.

<sup>3</sup> *Id.*, 1.

<sup>4</sup> This occurs primarily in the discussion of Issues 4 through 7, although it also occurs to a lesser extent in the discussion of other issues.

Sprint's counsel was scrambling on July 23<sup>rd</sup> to complete drafting of the reply brief, but just could not do it. The additional, significant new material within the one-day extension suggests that Sprint had ample time to complete the reply brief in a timely manner.

In light of the Judge's above-quoted direction as to the limited scope of this surreply brief, and after reviewing Sprint's Reply Brief, CenturyTel cannot in good faith ascertain with certainty whether or not particular points raised by Sprint derive from Sprint's opportunity to review CenturyTel's Reply Brief. There may be different wording or different emphasis given, but without access to Sprint's drafts pre- and post-CenturyTel's filing, there is no way that CenturyTel can definitively ascertain whether changes were made in Sprint's Reply Brief as a result of the opportunity to review CenturyTel's Reply Brief.

However, what is obvious is that the warning that CenturyTel raised in its Reply Brief has become reality in light of Sprint's Reply Brief.<sup>5</sup> Instead of addressing the entirety of CenturyTel's positions stated in the record within the Sprint Opening Brief, Sprint held back arguments from the Sprint Opening Brief in a "cat and mouse" maneuver, raising a number of points and arguments for the first time in its Reply Brief. Sprint addresses record evidence and raises new arguments in its Reply Brief, particularly Issues 4 through 7. Even though Sprint's new arguments and citations only act to cloud the record and misstate the law, this form of "sandbagging" effectively precludes CenturyTel from responding to these new arguments.<sup>6</sup> Accordingly, due to Sprint's gamesmanship, CenturyTel respectfully requests that the Commission give no or little weight to Sprint's Reply Brief.

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<sup>5</sup> CenturyTel's Reply Brief, 3-4.

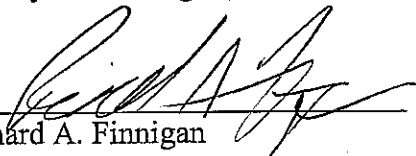
<sup>6</sup> Again, given the limited scope provided by Judge Wallace's ruling with respect to the CenturyTel's surreply brief, CenturyTel was not given permission to address new arguments and citations in its surreply, no matter how inappropriate such material may be in Sprint's Reply Brief.

CenturyTel again thanks the Commission for the opportunity to submit this surreply brief.

Dated this 28th day of July, 2008.

Respectfully submitted,

CenturyTel of Oregon, Inc.

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**CERTIFICATE OF SERVICE**

I certify that I have this day sent the attached Surreply Brief by electronic mail and Federal Express to the following:

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puc.filingcenter@state.or.us

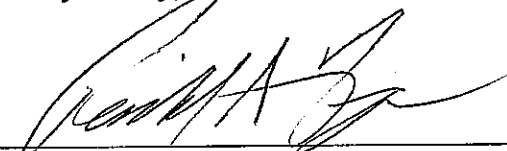
I further certify that I have this day sent the attached Surreply Brief by the delivery methods indicated below and electronic mail pursuant to OAR 860-013-0070, to the following parties or attorneys of parties:

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Dated at Olympia, Washington, this 28th day of July, 2008.

  
\_\_\_\_\_  
Richard A. Finnigan, OSB #965357  
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