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June 4, 2008

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Filing Center
Oregon Public Utility Commission
550 CAPITOL ST NE STE 215
SALEM, OR 97301-2567

Re: ARB 830 – Rebuttal Testimony on Behalf of CenturyTel of Oregon,
Inc.

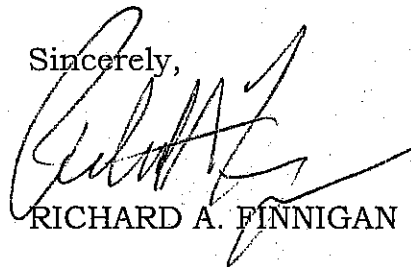
Dear Sir/Madam:

Enclosed you will find the original and five copies of the Rebuttal
Testimony of Guy E. Miller, III, the Rebuttal Testimony of Ted M. Hankins, the
Rebuttal Testimony of Steven E. Watkins and Certificate of Service.

The Rebuttal Testimony of Ted M. Hankins has attachments that have
been designated “confidential” pursuant to ORCP 36(C)(7) and the General
Protective Order issued in this docket.

Thank you for your attention to this matter.

Sincerely,



RICHARD A. FINNIGAN

RAF/km
Enclosures

cc: Service List (via e-mail and Federal Express, w/encl.)
Paul Schudel (via e-mail, w/encl.)
Tom Moorman (via e-mail, w/encl.)
James Overcash (via e-mail, w/encl.)
Clients (via e-mail, w/encl.)

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CERTIFICATE OF SERVICE
ARB 830

I certify that I have this day sent the attached Rebuttal Testimony of Guy E. Miller, III, Rebuttal Testimony of Ted M. Hankins and Rebuttal Testimony of Steven E. Watkins by electronic mail and Federal Express to the following:

FILING CENTER
PUBLIC UTILITY COMMISSION OF OREGON
550 CAPITOL ST NE STE 215
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puc.filingcenter@state.or.us

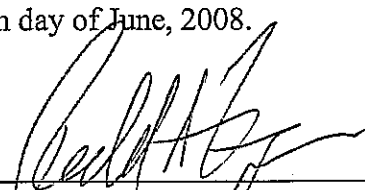
I further certify that I have this day sent the attached Rebuttal Testimony of Guy E. Miller, III, Rebuttal Testimony of Ted M. Hankins and Rebuttal Testimony of Steven E. Watkins to all parties of record in this proceeding by sending a copy properly addressed by Federal Express, and by electronic mail pursuant to OAR 860-013-0070, to the following parties or attorneys of parties:

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Dated at Olympia, Washington, this 4th day of June, 2008.


Richard A. Finnigan, OSB #965357
Attorney for CenturyTel of Oregon, Inc.

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

IN THE MATTER OF SPRINT)
COMMUNICATIONS COMPANY L.P.)
PETITION FOR ARBITRATION OF AN) ARB 830
INTERCONNECTION AGREEMENT)
WITH CENTURYTEL OF OREGON,)
INC.)

REBUTTAL TESTIMONY OF

GUY E. MILLER, III

ON BEHALF OF CENTURYTEL OF OREGON, INC.

JUNE 4, 2008

**REBUTTAL TESTIMONY OF
GUY E. MILLER, III
ON BEHALF OF CENTURYTEL OF OREGON, INC.¹**

1 **Q. Please state your name and business address.**

2 A. My name is Guy E. Miller, III. My business address is 100 CenturyTel Drive, Monroe,
3 LA 71203.

4 **Q. Are you the same Guy Miller that submitted opening testimony for CenturyTel in**
5 **this proceeding?**

6 A. Yes.

7 **Q. What is the purpose of your rebuttal testimony?**

8 A. The purpose of my rebuttal testimony is to point out inconsistencies in the testimony of
9 Sprint witness Mr. Burt.

10 **Q. Have there been any changes to the Parties' positions since the filing of the Parties'**
11 **opening testimony?**

12 A. Yes. Some issues have been resolved or narrowed. I will identify when such is the case
13 when I address each separate issue. Further, to the extent that there is any variation
14 between the CenturyTel position or statements in our filed DPL, this testimony represents
15 the most current position of CenturyTel based on the continuing negotiations between the

¹ The Parties have continued to negotiate since the filing of the arbitration and the Parties' Disputed Points Lists (DPLs). If there are any discrepancies between my testimony filed on May 5, 2008 and CenturyTel's DPL filed in this Docket on April 4, 2008, this testimony is controlling as it represents the most current state of negotiations and CenturyTel's position thereunder. CenturyTel plans to file an updated and current interconnection agreement and DPL prior to the hearing.

1 Parties and should be regarded as superseding any contrary position in CenturyTel's DPL
2 and opening testimony.

3 **Issue# 1 Should the dispute resolution procedures, including commercial arbitration,**
4 **be included in the Interconnection Agreement (Agreement)? (Article III,**
5 **Sections 20.1, 20.1.1, 20.1.2, 20.2, 20.3, 20.3.1 and 20.3.2)**

6 **Q. Have the parties narrowed their differences with regard to Issue #1?**

7 A. Yes. First, as stated in Mr. Burt's Direct Testimony, p. 11, lines 291-292, Sprint does not
8 object to CenturyTel's proposed § 20.1.2. Therefore, that section is not in controversy,
9 and the Administrative Law Judge (ALJ) should direct the parties to include § 20.1.2 in
10 the Agreement. Second, Sprint also accepts CenturyTel's proposed deletion of § 20.4
11 (Burt Testimony, p. 12, lines 301-304). This section is likewise no longer in controversy
12 and should be excluded from the Agreement. Third, CenturyTel agrees with Sprint's
13 statement that "[t]he remaining issue in dispute is whether commercial arbitration should
14 be mandatory or mutually agreeable if the Commission chooses not to address disputes
15 through its dispute resolution process." (Burt Testimony, pp. 10-11, lines 277-280)
16 Fourth, Sprint accepts CenturyTel's template § 20.2 language, but accepts the additional
17 language proposed by CenturyTel as a result of negotiations only on condition that
18 Sprint's proposed language in § 20.3 be accepted. (Burt Testimony, p. 11, lines 292-295)
19 Fifth, Sprint indicates that it accepts CenturyTel's proposed addition to § 20.5. (Burt
20 Testimony, p. 12, lines 320-321)

21 **Q. Does CenturyTel accept Sprint's proposed wording of § 20.3?**

22 A. No. The ALJ should reject Sprint's proposed § 20.3 and instead adopt CenturyTel's
23 proposed wording of this section. Sprint relies heavily on § 252(e)(5) and the FCC's

1 decision in *Starpower*.² (Burt Testimony, p. 12, lines 315-317 and p. 15, lines 366-373)
2 However, neither *Starpower* nor § 252(e)(5) require Sprint's proposed wording of § 20.3.
3 Sprint advocates that based on *Starpower*, because the FCC (and by extension, this
4 Commission) has jurisdiction over some interconnection disputes, the FCC is the
5 mandatory forum for resolution of *all* disputes arising from the Agreement even those for
6 which this Commission either lacks or declines to exercise jurisdiction. This position is
7 without merit. As an example, many interconnection agreement disputes involve non-
8 payment for services and other financial disputes. The FCC has made clear that it is not
9 the appropriate forum for a collection action.³ Thus, if this Commission lacks or declines
10 jurisdiction over a payment dispute, the FCC would also likely lack jurisdiction, leaving
11 the parties to seek relief from courts lacking expertise in telecommunication matters. The
12 ability to arbitrate the dispute before an expert arbitrator solves this problem.

13 **Q. What is Sprint's position regarding use of commercial arbitration, and how does**
14 **CenturyTel respond to that position?**

15 A. Sprint nowhere denies the benefits of commercial arbitration in the limited circumstance
16 where this Commission lacks or declines jurisdiction. However, Sprint asks that
17 commercial arbitration only be the venue for dispute resolution if the parties mutually
18 agree. CenturyTel believes that if the Commission lacks jurisdiction or declines to take
19 jurisdiction over a dispute between the parties, commercial arbitration should be
20 mandatory. Commercial arbitration can provide a number of significant advantages over

² *In re Starpower Communications LLC Petition for Preemption of Jurisdiction of the Virginia State Corp Comm'n Pursuant to § 252(e)(5) of the Telecommunications Act of 1996*, 15 FCC Rcd 11277, 2000 WL 767701 (rel'd June 14, 2000).

³ *In re Qwest Communications Corp v Farmers and Merchants Mutual Telephone Company*, 22 FCC Rcd 17,973; 2007 WL 28727554 (rel'd October 2, 2007), ¶ 29.

1 other forms of dispute resolution when dealing with telecommunication matters,
2 including, but not limited to, cost savings, selection of an expert arbitrator, privacy, and
3 speed. Sprint does not contend otherwise. Thus, CenturyTel's proposed language for §
4 20.2 and § 20.3 should be adopted.

5 **Q. Sprint seems concerned about an arbitrator "misinterpreting" a Commission**
6 **decision or otherwise rendering a decision "inconsistent with the intent" of the**
7 **Commission. (Burt Testimony, p. 14, lines 352-357.) Is this a valid concern?**

8 **A.** No. First, Sprint's assertion is a bit of a red herring. Given that commercial arbitration
9 would only be used if the Commission either lacks or declines to exercise jurisdiction, I
10 fail to understand what Commission decisions or intent an arbitrator is likely to
11 misinterpret or be inconsistent with. Second, Sprint fails to recognize that a selected
12 commercial arbitrator will be experienced in telecommunications law and regulation and
13 will be definitely more so than a state or federal court judge. In a recent arbitration in
14 which I was a witness, the selected judge was a former state utility commissioner and the
15 other arbitrator choices included several persons whose backgrounds included great
16 experience with telecommunications law, regulation and adjudicating interconnection
17 agreement disputes.

18 **Q. Mr. Burt also seems concerned about the lack of a right to appeal in the**
19 **commercial arbitration process. (Burt Testimony, p. 13, lines 330-336.) How do**
20 **you respond to that position?**

21 **A.** Again, I think Sprint is attempting to portray an issue as more of a problem than it really
22 is. Any lack of right to appeal an arbitrated decision cuts both ways. An arbitrated
23 decision is equally binding upon Sprint and CenturyTel. Either party would know that

1 fact and take it into consideration prior to initiating any arbitration. Additionally, if a
2 party's position is truly valid, then it has nothing to fear from binding arbitration. To
3 me, Sprint's claim seems to be a concern that CenturyTel could "call its hand" by
4 initiating arbitration and thereby require Sprint to live up to its obligations instead of
5 being permitted to delay or otherwise evade its obligation through legal machinations.

6 **Q. What is the appropriate outcome for Issue 1?**

7 A. The ALJ should adopt CenturyTel's proposed language for § 20.2 and § 20.3, including
8 sub-sections 20.3.1 and 20.3.2.

9 **Issue #2 What are the appropriate terms for Indemnification? (Article III, Section**
10 **30.1)**

11 **Q. Has the current state of negotiations on this issue changed since the filing of the**
12 **opening testimonies?**

13 A. No. The disputed language relating to this issue remains in Section 30.1, first paragraph.
14 The dispute is over indemnification for claims of defamation, libel or slander arising out
15 of content transmitted by the Indemnifying Party's end users or wholesale customer's end
16 users, plus claims of interference with or misappropriation of proprietary or creative
17 right, or any other injury to any person or property arising out of content transmitted by
18 the Indemnifying Party's or its wholesale customer's end users.

19 **Q. At page 16 of his testimony, lines 405-407, Mr. Burt asserts that CenturyTel wants**
20 **language to "cover issues that arise in a commercial relationship but are not**
21 **relevant in an interconnection agreement." Do you agree with Mr. Burt?**

22 A. No. Actually, I believe that through Mr. Burt's statements, Sprint has made CenturyTel's
23 point for me. Mr. Burt has made clear that Sprint proposes to use this Agreement to

1 provide wholesale services to one or more non-CLEC cable companies that seek to
2 compete with CenturyTel. As was also made clear in my earlier testimony, CenturyTel
3 will have no agreement or direct relationship with the cable competitor(s). It is only
4 Sprint who will have a relationship with the cable competitor(s) and will be doing so
5 under a commercial arrangement. To the extent that this commercial relationship is being
6 used for competition against CenturyTel pursuant to the Federal Telecommunications Act
7 and this Agreement, it is proper that Sprint be held liable for all actions of its commercial
8 partner and should accordingly indemnify CenturyTel. This result is accomplished by the
9 language of the Agreement that CenturyTel supports in connection with this issue.

10 **Q. Sprint asserts that it does not control the content of its end users and this is an**
11 **underlying basis for its position. How do you respond?**

12 A. As I previously testified, under Sprint's proposal, Sprint would have no obligation to
13 indemnify CenturyTel if Sprint's end users or wholesale customer's end users transmitted
14 defamatory content that infringed a copyright or invaded a person's privacy and resulted
15 in a claim against CenturyTel. From CenturyTel's standpoint as a party to the Agreement
16 with Sprint, such a distinction is without a rational basis. CenturyTel has no ability to
17 prevent content that infringes a copyright from being transmitted by Sprint's end users or
18 Sprint's wholesale customer or the wholesale customer's end users. Accordingly,
19 CenturyTel has a legitimate interest in obtaining indemnification from Sprint whether the
20 content that gives rise to the claim against CenturyTel is based on defamation, copyright
21 infringement, invasion of privacy or any other injury to person or property.

22 **Q. You previously testified that the provisions of the Agreement supported by Sprint**
23 **represent an attempt to limit Sprint's responsibility for wrongful actions by end**

1 users because the end users will, in turn, be the customers of the entity purchasing
2 Sprint's wholesale services (including Sprint's non-carrier business partners). Do
3 you still believe that is the crux of the dispute in Issue 2?

4 A. Yes. CenturyTel's contractual relationship under the Agreement is with Sprint, not with
5 the entity that purchases Sprint's wholesale services. To the extent that Sprint has
6 concerns as to the breadth of CenturyTel's indemnity provision, it can and should
7 negotiate a similar scope of indemnity from its third party business partners in its
8 commercial arrangements with the same. This simple solution would shift any risk to
9 which Sprint objects.

10 **Q. Is Sprint's position regarding this Issue #2 inconsistent with Sprint's stated position**
11 **concerning its responsibility for intercarrier compensation for traffic originated by**
12 **end users of its wholesale customer(s)?**

13 A. Yes, I certainly think so. Sprint unequivocally acknowledges that the traffic originated
14 by its retail end users and its wholesale customers is Sprint's traffic for intercarrier
15 compensation purposes in accordance with the FCC's *Time Warner* ruling.⁴ (Burt
16 Testimony, p. 38, lines 893-900) However, Sprint seeks to disavow any responsibility to
17 indemnify CenturyTel against third party claims that may arise in connection with the
18 content of the very same traffic (including third party claims that may be made by
19 Sprint's own wholesale customers). The ALJ should reject Sprint's position because it is
20 wholly inconsistent with *Time Warner*.

21 **Q. How would you summarize this issue for the ALJ?**

⁴ *In re Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under § 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers*, DA 07-709, 22 FCC Rcd 3513; 2007 WL 623570 (rel'd March 1, 2007).

1 A. As noted in my opening testimony, Sprint's proposal to delete certain language and
2 narrow the scope of indemnification is contrary to common industry practice, its own
3 practices regarding indemnification language, and language included in other
4 interconnection agreements executed by Sprint. CenturyTel's proposed terms are
5 consistent with all the above points as well as justified and necessary to cover
6 indemnification needs due to Sprint's wholesale business model. Sprint must be fully
7 accountable for all end user actions involved with its business model, *i.e.*, *both* Sprint's
8 end users and the end users of the entity of entities purchasing Sprint's wholesale
9 services. It is neither appropriate nor reasonable to allow Sprint to compete with
10 CenturyTel under this wholesale business model and then allow Sprint to evade typical
11 industry indemnification obligations.

12 **Q. What is CenturyTel's desired outcome for Issue 2?**

13 A. CenturyTel requests that the ALJ adopt the language proposed by CenturyTel in Article
14 III, § 30.1, which applies to both Parties and is consistent with Sprint's tariffs, schedules
15 and end user terms and conditions, and other interconnection agreements. Such
16 provisions would require indemnification for claims based on the content transmitted by
17 the Parties, their end users or end users of the Parties' wholesale customers.

18
19 **Issue#3 How should the Bill and Keep arrangement be incorporated in the**
20 **Agreement or should it accurately reflect what is agreed to in Section 4.4.2**
21 **and 4.2.3? (Article VII I.A) ⁵**

22
23 **Q. In your opening testimony, you confirmed that Sprint and CenturyTel resolved this**
24 **issue subsequent to the filing of Sprint's DPL, correct?**

25 A. Yes. The issue has been resolved by the Parties.

⁵ Prior to issue resolution, CenturyTel had changed Sprint's framing of Issue 3, "How should the bill and keep arrangement be incorporated in the agreement?" to that shown in this testimony.

1
2 **Issue #8** **Should Sprint be required to enter into traffic exchange agreements with a**
3 **third-party Telecommunications Carriers for traffic that transits through**
4 **CenturyTel's network to reach a third-party Telecommunications Carrier?**
5 **Should CenturyTel be indemnified by Sprint, if Sprint does not have a traffic**
6 **exchange agreement with the third-party for any actions or complaints,**
7 **including any attorney's fees and expenses, against CenturyTel concerning**
8 **the non-payment of charges levied by such third-party Telecommunications**
9 **Carrier for Sprint's traffic? (Article IV Sections 3.3.1.3 and 4.6.4.2)**

10
11 **Q.** **Has CenturyTel ever directly or indirectly proposed in its negotiation of this issue**
12 **with Sprint, that it intends or desires to be an intermediary or broker between**
13 **Sprint and a third party carrier seeking payment for terminating Sprint's traffic or**
14 **would ever willingly perform such a role upon request?**

15 **A.** No. CenturyTel has never proposed to be a "broker" for or otherwise insert itself into the
16 payment of third party carrier termination services on Sprint's behalf as claimed by Mr.
17 Burt. (Burt Testimony, p. 36, lines 854-859) To the contrary, CenturyTel seeks to avoid
18 being caught in the middle of a dispute between Sprint and another carrier. CenturyTel
19 has no interest in serving as an intercarrier compensation clearinghouse for Sprint and
20 other carriers.

21 **Q.** **Has Sprint acknowledged its financial responsibility for traffic it terminates to third**
22 **party carriers?**

23 **A.** Yes. Sprint readily admits its responsibility to pay intercarrier compensation to
24 terminating carriers for traffic that Sprint originates, and Sprint agrees that CenturyTel
25 has no duty to compensate the terminating carrier for Sprint's traffic. (Burt Testimony, p.
26 38, lines 898-900) However, an agreement between Sprint and CenturyTel that
27 CenturyTel is not liable to the terminating carrier for transited traffic is not sufficient to
28 fully address the issue. As the carrier delivering Sprint's transit traffic to the terminating

1 carrier, CenturyTel is an obvious target for an intercarrier compensation claim in the
2 event of a billing dispute between Sprint and the terminating carrier. If CenturyTel
3 becomes involuntarily enmeshed in such a dispute, CenturyTel needs assurance that it
4 will not suffer adverse financial consequences of a dispute for which CenturyTel has no
5 financial responsibility. Sprint offers no valid reason why CenturyTel should be left
6 holding the bag in the event of a claim against CenturyTel over Sprint-originated transit
7 traffic for which Sprint does not dispute financial responsibility. Sprint is willing to
8 indemnify CenturyTel in a whole host of different situations (see Article III, § 30.1).
9 Consequently, Sprint's unwillingness to indemnify CenturyTel in a situation where Sprint
10 agrees CenturyTel should have no financial responsibility lacks any merit.

11 **Q. Mr. Burt suggests that Sprint generally does not enter into agreements with third**
12 **parties because such traffic is not subject to an agreement and is, in effect, bill and**
13 **keep. (Burt Testimony, p. 38, lines 904-906.) Do you agree with Mr. Burt's**
14 **assertion?**

15 **A.** Mr. Burt's assertion seems to be a clear violation of federal law under 47 C.F.R. § 251:

16 (b) Obligations of all local exchange carriers

17 Each local exchange carrier has the following duties:

18 (5) Reciprocal compensation

19 The duty *to establish* reciprocal compensation *arrangements* for the
20 transport and termination of telecommunications. [Emphasis added.]

21
22 Mr. Burt's testimony implies that Sprint does not have to make arrangements for the
23 termination of its traffic because the local termination is automatically presumed to be at
24 bill and keep. CenturyTel objects strongly to that position. In CenturyTel's experience,
25 some CLECs attempt to avoid making interconnection arrangements just so they can
26 terminate out of balance traffic without rendering due compensation. Wireless

1 companies, for example, often seek to avoid their 251(b)(5) obligation and terminate their
2 out of balance traffic indirectly without making compensation arrangements. Such
3 avoidance can create a huge cost burden for an ILEC such as those connected to a
4 CenturyTel tandem.

5 Bill and keep is certainly an acceptable compensation arrangement but only if both
6 parties agree. Further, the terms of 251(b)(5) support the conclusion that such a formal
7 memorialization is required. All CenturyTel's proposed language does is to acknowledge
8 that a local exchange carrier has a duty under 251(b)(5) and that CenturyTel should be
9 indemnified if Sprint fails to perform that duty.

10 **Q. You said that wireless companies often seek to terminate their out of balance traffic**
11 **indirectly without making compensation arrangements. Does Sprint have a wireless**
12 **affiliate that could use this agreement for indirect traffic termination to third**
13 **parties?**

14 A. Yes. Further, as I related in my opening testimony (page 34, line 13 to page 35, line 8)
15 Sprint and an ILEC in Kentucky are currently involved in a dispute over Sprint's
16 termination of wireless traffic under an agreement. This Kentucky case shows that Sprint
17 does use its agreements for the transport and termination of wireless traffic.

18 **Q. Mr. Burt claims that under CenturyTel's proposed language, Sprint could end up**
19 **paying termination charges for traffic that is otherwise subject to bill and keep, pay**
20 **non-cost based rates or not receive any compensation for third party traffic**
21 **terminating to Sprint. (Burt Testimony, p. 37-38, lines 878-887.) Is this possible?**

1 A. No. If Sprint has actually made arrangements for the termination of its traffic as required
2 by 251(b)(5), then there would be no third party seeking compensation from CenturyTel
3 for such traffic. Mr. Burt's assertion does not make sense.

4 **Q. How should the Commission resolve Issue 8?**

5 A. As stated in my Direct Testimony, Sprint should be required to enter into traffic exchange
6 agreements (or some other fundamental network arrangement) with the third parties for
7 the termination of its traffic. If Sprint fails to do so, since it is the carrier responsible for
8 the traffic that CenturyTel is delivering to the subtending carrier's network, Sprint should
9 be required to indemnify CenturyTel for any payments that CenturyTel is required to
10 make to such third party and for any attorneys' fees or costs incurred by CenturyTel in
11 connection therewith.

12
13 **Issue #9 Should the Interconnection Agreement permit the Parties to combine traffic**
14 **subject to reciprocal compensation charges and traffic subject to access**
15 **charges on the interconnection trunks? (Article IV Sections 3.2.5.6, 3.3.2.1,**
16 **3.3.2.8, 3.3.2.8.1, 3.3.2.8.3, 4.5.1.3, 4.5.2.2, and Article VII I.C.)**

17
18 **Q. Have the Parties resolved Issue 9 subsequent to the filing of the opening testimony?**

19 A. Yes. The Parties recently agreed to resolve Issue 9 by Sprint's acceptance of
20 CenturyTel's proposed language. This issue has been resolved by the Parties as follows:

21 3.3.2.8 Sprint and CenturyTel shall, where applicable, make reciprocally
22 available, the required trunk groups to handle different traffic types. Sprint and
23 CenturyTel will support the provisioning of trunk groups that carry combined or
24 separate Local Traffic. Notwithstanding the above, CenturyTel requires separate
25 trunk groups from Sprint to originate and terminate Non-Local Traffic calls and to
26 provide Switched Access Service to IXCs. To the extent Sprint desires to have
27 any IXCs originate or terminate switched access traffic to or from Sprint, using
28 jointly provided switched access facilities routed through a CenturyTel access
29 tandem, it is the responsibility of Sprint to arrange for such IXC to issue an ASR
30 to CenturyTel to direct CenturyTel to route the traffic. If CenturyTel does not
31 receive an ASR from the IXC, CenturyTel will initially route the switched access
32 traffic between the IXC and Sprint. If the IXC subsequently indicates that it does

1 not want the traffic routed to or from Sprint, CenturyTel will not route the traffic.

2
3 3.3.2.8.1 Each Party agrees to route traffic only over the proper
4 jurisdictional trunk.

5
6 3.3.2.8.3 Initially, Sprint will not use this interconnection arrangement to
7 exchange traffic subject to access charges. If Sprint intends to use this
8 interconnection arrangement to exchange traffic subject to access, the Parties will
9 work cooperatively to develop mutually agreed upon processes and terms
10 necessary to affect such exchange. Such processes shall address, but not be
11 limited to, the identification and measurement of traffic that goes over each trunk,
12 the use of factors, auditing provisions, the type of traffic, the jurisdiction of
13 traffic, and the amount or volume of traffic. If the Parties are unable to agree upon
14 such terms and processes, the Dispute Resolution Procedures under Section 20 of
15 Article III will be invoked. Until such time, neither Party shall route Switched
16 Access Service traffic over local connection trunks or Local Traffic over
17 Switched Access Service trunks.

18
19 Sprint's proposed language in Article IV, §§ 3.2.5.6, 3.3.2.1 and 4.5.1.3 is to be deleted
20 in its entirety. The wording of Article IV, §§ 3.3.1.4 and 4.5.2.2, and Article VII. C is
21 now addressed in the context of Issue 16. Issue 16 is primarily discussed by Mr.
22 Watkins in his Rebuttal Testimony but I will also address Mr. Burt's comments regarding
23 the use of an SS7 system, originally part of Issue 9 and now moved to Issue 16, later in
24 this testimony in the context of Issue 16.

25
26 **Issue #10 What terms for virtual NXX should be included in the Interconnection**
27 **Agreement? (Article II section 2.135, Article IV sections 4.2.2.2)**

28
29 **Q. What is your opinion of Sprint's stated position on VNXX in Mr. Burt's testimony?**

30 **A.** I believe that Mr. Burt has completely mischaracterized this issue.

31 **Q. Can you elaborate upon that opinion?**

32 **A.** There are two concerns that I have with Sprint's testimony. First, Mr. Burt would have
33 the Commission believe that CenturyTel's proposed language is only addressing the use
34 of VNXX for ISP traffic and that since Sprint claims no intent to use VNXX for ISP

1 traffic, CenturyTel's language is not appropriate. (Burt Testimony, pp. 44-45, lines 1052-
2 1060) Sprint's position in this regard is misleading because a) although VNXX can be
3 used for more than ISP traffic, this Commission limits its use to ISP traffic⁶ (begging the
4 question of why Sprint wants a VNXX placeholder if not for ISP traffic) and b) Sprint
5 fails to address the fact that this Agreement will be available for adoption by other
6 telecommunications carriers under 47 U.S.C. § 252 (i) and that an adopting CLEC may
7 very well desire to use VNXX for ISP traffic. To that extent, it does not matter what
8 Sprint's claimed intention may be, it only matters that the Agreement accommodates both
9 CenturyTel's needs pursuant to any future adoption and the Commission's rulings on
10 VNXX.

11 **Q. CenturyTel's language does address the use of VNXX for ISP traffic. Since Sprint**
12 **has declared that it will not use VNXX for ISP traffic, under that stipulated**
13 **condition, is Sprint's assertion valid that CenturyTel's ISP language is not needed?**

14 **A.** No. Nothing in the language of the Agreement actually prohibits the use of VNXX for
15 ISP traffic by Sprint or any future adopting CLEC. Accordingly, it is perfectly
16 reasonable for CenturyTel to include VNXX language that conforms to this
17 Commission's orders on the use of VNXX for ISP traffic. That is what CenturyTel has
18 proposed. CenturyTel's proposed language is consistent with this Commission's orders
19 on the use of VNXX services. The Commission has consistently ruled that the use of

⁶ This Commission has issued very clear direction and rulings with regard to treatment of VNXX traffic, see, e.g., In the Matter of Level 3 Communications, LLC Petition for Arbitration of an Interconnection Agreement with Qwest Corporation, Pursuant to Section 252(b) of the Telecommunications Act, ARB 665, Order No. 07-098 (entered 03/14/07).

1 VNXX services by a CLEC violates the operating conditions of the CLEC's certificate to
2 provide telecommunications service in Oregon.⁷

3 **Q. You said that you had two concerns about Sprint's testimony. I believe you have**
4 **addressed only the first. What is your second concern?**

5 A. My second issue with Mr. Burt's testimony is that he appears to be trying to equate
6 VNXX and FX services as one and the same. (Burt Testimony, p. 44, lines 1032-1040)
7 In fact, VNXX and FX are two very different services. With FX, an end user purchases
8 local service and then also purchases an interexchange circuit to transport calls from the
9 originating calling area to some distant location. The LEC transporting the calls made to
10 an FX number does receive compensation for its transport costs in the form of the
11 monthly recurring charge for the leased interexchange circuit. With VNXX, CLECs
12 often seek to avoid paying access charges for calls that terminate on an interexchange
13 basis by falsely claiming that the calls are local merely because a seven digit number was
14 dialed. If the CLEC prevails with such a claim, then the transporting LEC incurs the
15 costs of such transportation with no recovery of costs from the cost-causing end user or
16 his service provider.

17 **Q. On page 45 of his testimony, Mr. Burt requests the Commission to ensure that**
18 **Sprint can use "virtual NXX or FX" service for voice traffic. What is your reaction**
19 **to this request?**

20 A. I think this is unnecessary and inappropriate. First, this Commission has already given
21 guidance on the use of both VNXX and FX in the State of Oregon. For example, in

⁷ See, e.g., *In the Matter of the Investigation into the use of Virtual NPA/NXX Calling Patterns*, Docket No. UM 1058, *Order Closing Investigation*, Order 04-504 (entered 09/07/04), *confirmed in Order on Clarification*, Order 04-704 (entered 12/08/04) and *In the Matter of Qwest Corporation's Petition for Arbitration of Interconnection Rates, Terms, Conditions and Related Arrangements with Universal Telecommunications, Inc.*, ARB 671, *Order*, Order No. 06-190 (entered 04/19/06).

1 2004, the Commission summarized the law relating to FX service as follows: "By Order
2 No. 83-869, issued almost 21 years ago, the Commission prohibited incumbent carriers
3 from offering FX services to any new customers or adding additional FX lines for
4 existing customers.⁸ And, the previously referenced Commission Order 07-098 (see
5 footnote 6) does not permit VNXX for any purpose except ISP use under specific
6 conditions. Sprint's proposed language should not be approved based upon a nebulous
7 assertion of its future use of VNXX that could be contradictory to the Commission's
8 guidance. Second, there is no need for terms in this Agreement to address any provision
9 of FX service by Sprint because Sprint cannot actually provide FX service in Oregon
10 unless it is as a resale of an existing discontinued service, which is not very likely since
11 the service was frozen twenty-five years ago.

12 **Q. If Sprint did resell an existing grandfathered FX service, would Sprint be required**
13 **to keep the service "as is" to conform to Oregon regulation?**

14 A. Yes, I believe that would have to be the case. Sprint's acquired end user would need to
15 maintain the interexchange circuit from the originating exchange to the customer's
16 distant location and all calls to that end user number would be handed off to Sprint in the
17 same exchange and forwarded on the purchased circuit. If Sprint intends to pick up calls
18 to the resold FX end user anywhere other than the originating exchange, then its service
19 does not meet the definition of an FX service under industry and FCC definitions and, in
20 my opinion, would therefore not qualify for resale of grandfathered FX service. If Sprint
21 acquires an existing FX customer and eliminates the purchased interexchange circuit, it is
22 clear to CenturyTel that this becomes a VNXX service and the Commission's Order No.

⁸ Order 04-504 at p. 2. The Commission went on to confirm that VNXX service offered by CLECs was also prohibited.

1 07-098 has defined how this situation should be appropriately addressed. Under the
2 Commissions' Order, the VNXX service is to be used only for dial-up ISP access and the
3 CLEC pays the applicable tariff rate for interexchange/interstate trunks used to transport
4 VNXX-routed traffic from the Oregon local calling areas where calls originate to the
5 CLEC's media gateway. (Order at pages 5-6). By Mr. Burt's request, Sprint seeks to
6 exempt itself from that Order. Sprint must not be allowed to do so.

7 **Q. In your opening testimony, you reference Sprint having VNXX terms in current**
8 **Oregon interconnection agreements despite seeking to eliminate VNXX terms in this**
9 **Agreement, correct?**

10 A. Yes. As I previously testified, there are VNXX terms in the *Master Interconnection*
11 *Agreement* for the State of Oregon between Sprint Communications Company, LP and
12 United Telephone Company of the Northwest, dated February 1, 2005 (Docket ARB 240)
13 and in the Interconnection Agreement By And Between Pioneer Telephone Cooperative
14 And Sprint Communications Company, L.P., ARB 833, Order 08-233, approved March,
15 2008.

16 **Q. What should the Commission decide on this issue?**

17 A. CenturyTel's proposed VNXX language is consistent with the Commission's rulings on
18 VNXX and should be adopted for use in the final Agreement between the Parties.

19
20 **Issue #11 What are the appropriate terms for reciprocal compensation under the bill**
21 **and keep arrangement agreed to by the Parties? (Article IV Sections 4.4.3.1,**
22 **Article VII Sections I.A and I.B)**

23
24 **Q. In your opening testimony, you confirmed that Sprint and CenturyTel resolved this**
25 **issue subsequent to the filing of Sprint's DPL, correct?**

26 A. Yes. The issue has been resolved by the Parties.

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Issue 12 **Should the Performance Review terms include language for refunds and dispute resolution if appropriate remedies are not agreed to when performance is not adequate? (Article VI, Section 5.0)**

Q. **Have the Parties resolved Issue 12 subsequent to the filing of the opening testimony?**

A. Yes. The Parties recently agreed to resolve Issue 12 as follows:

Article III, 9.4 Disputed Amounts. If any portion of an amount billed by a Party under this Agreement is subject to a good faith dispute between the Parties, including disputes related to Sec. 1.2 of Article VI, the billed Party shall give written notice to the billing Party of the amounts it disputes (“Disputed Amounts”) and shall include in such notice the specific details and reasons for disputing each item.

Article VI, Section 5.0: (vi) the specific steps taken or proposed to be taken to remedy such problem. In addition to the foregoing, the Parties may meet to discuss any matters that relate to the performance of this Agreement, as may be requested from time to time by either of the Parties. This meeting is in addition to the normal day-to-day business to business discussions, including those with the respective accounts teams.

Issue #15 **If CenturyTel sells, assigns or otherwise transfers its territory, or a portion of its territory, should CenturyTel be required to assign the Agreement to the purchasing entity or permitted to terminate the Agreement in those areas? (Article III, Section 2.7)**

Q. **Do you agree with Sprint’s characterization of this issue in its testimony?**

A. No. Sprint is attempting to characterize this issue as one where CenturyTel’s termination of the Agreement terms and service arrangements in exchanges that are sold or otherwise transferred to a successor company will automatically result in service interruption or problems for Sprint and its end users. In reality, nothing could be further from the truth. I have personally been involved in several acquisitions of territory or sales of territories and I have never seen any issues arise that are even remotely like those postulated by Sprint.

1 **Q. In your opening testimony you clarified that the termination language only speaks**
2 **to CenturyTel's obligations and then went on to discuss the acquiring LEC's**
3 **obligations under applicable law and typical commission action. Do you believe that**
4 **the acquiring LEC's obligations as discussed in your testimony account for the**
5 **reason that you have never seen any of Sprint's "suggested" problems arise in a**
6 **territory sale and agreement transfer?**

7 A. Yes. It is generally understood that a state commission is likely to place obligations upon
8 an acquiring LEC for a smooth and appropriate continuation of service, either on its own
9 or pursuant to intervention by competitors in the territory at issue. And there is no
10 escaping 47 C.F.R. § 51.715, whereby, upon request, Sprint may obtain immediate
11 transport and termination of telecommunications traffic under an interim arrangement
12 with the acquiring LEC.

13 **Q. Mr. Burt suggests that if the Agreement is terminated, Sprint may be unable to**
14 **obtain or retain numbering resources from the North American Numbering Plan**
15 **Administrator (NANPA). Do you agree that this is a valid concern for Sprint?**

16 A. Absolutely not. Any one of a) approval of LEC status by the Commission, b) interim
17 arrangements under 51.715, or c) service continuation arrangements ordered by the
18 Commission would clearly prevent an occurrence of the alarmist assertion made by Mr.
19 Burt at page 58, lines 1368-1373 of his testimony. I do not believe that NANPA is going
20 to refuse to assign telephone number resources or demand the return of numbering
21 resources it has already assigned while Sprint is operating under interim arrangements
22 during the service continuity period between one interconnection agreement and another.
23 As further proof of the lack of any basis for Mr. Burt's claim, I point out that 47 C.F.R.

1 §51.715 refers to interim arrangements for transport and termination of traffic pending
2 the negotiation of an interconnection agreement by a CLEC *without an existing*
3 *interconnection agreement*. Clearly a CLEC would have no traffic to transport and
4 terminate if it did not have numbering resources to assign to end users. In my experience,
5 NANPA assigns numbers to a CLEC upon its obtaining or claiming CLEC status in a
6 state, not upon the tendering of an interconnection agreement for approval.⁹

7 **Q. In CenturyTel's First Set of Data Requests (DRs) to Sprint that was submitted on**
8 **May 13, 2008, DR 11 asked Sprint to "[p]rovide a list by LEC in Oregon where the**
9 **agreement between Sprint and the LEC permits one or both parties to terminate the**
10 **Agreement as to exchanges that are sold or otherwise transferred to a successor**
11 **company..." How did Sprint answer that DR?**

12 A. After listing its general objections, Sprint stated "Sprint's response is as follows: None."

13 **Q. Contrary to Sprint's response to DR 11, did you not note in your opening testimony**
14 **that Sprint is a party to an interconnection agreement in Oregon that gives Sprint**
15 **the same rights as it seeks to deny CenturyTel in this issue?**

16 A. Yes. As I previously related, in the *Master Interconnection Agreement for the State of*
17 *Oregon* between Sprint Communications Company, LP and United Telephone Company
18 of the Northwest, dated February 1, 2005 (Docket ARB 240), the termination terms read
19 in part as follows:

⁹ See for example NANPA's assignment of numbers to Charter FiberLink, LLC sometime prior to June 10, 2005 in the exchanges of CenturyTel of Wisconsin, LLC and other rural affiliated operating companies. The ICA between those companies was not filed until August 4, 2005- two months after the CenturyTel affiliates became aware of Charter's receipt of numbers. It must be noted that Charter did not even invoke 51.715 in this case. As an interesting twist, Charter did have certification to operate in some exchanges in Wisconsin prior to June 2005 but did not have certification to operate in the rural CenturyTel exchanges until November 23, 2005. NANPA assigned numbers to Charter in this case not only prior to the approval of the ICA and without any 51.715 interim status but also prior to certification to operate.

1 5.5. Notwithstanding the above, should Sprint sell or trade substantially all the
2 assets in an exchange or group of exchanges that Sprint uses to provide
3 Telecommunications Services, then Sprint may terminate this Agreement in
4 whole or in part as to that particular exchange or group of exchanges upon sixty
5 (60) Days prior written notice.
6

7 **Q. How do you react to Sprint's answer to DR 11 in light of the terms of its**
8 **interconnection agreement with United?**

9 A. It certainly appears that Sprint is ignoring the existence of terms that Sprint itself enjoys
10 under the United interconnection agreement and seeks to deny the same benefits it
11 receives under that agreement to CenturyTel.

12 **Q. What is the appropriate outcome for Issue 15?**

13 A. CenturyTel believes that the correct outcome for Issue 15 is as stated in my opening
14 testimony. The Commission should reject Sprint's overreaching, unworkable and
15 unnecessary language, and reject Sprint's inappropriate attempt to bind unidentified third
16 party transferees and to constrain CenturyTel's rights and the value of its assets and
17 operations. The Commission has the authority necessary to protect the interests of end
18 users and ensure service continuity in the event of any transfer of CenturyTel assets. It is
19 not necessary for Sprint's proposed language to be added into the Agreement in order to
20 protect these interests. Further, the Commission should agree with CenturyTel that
21 CenturyTel is entitled to the same terms that Sprint itself has negotiated and enjoys in
22 another interconnection agreement in this State.

23 **Issue # 16 -- Do terms need to be included when Sprint utilizes indirect interconnection,**
24 **and CenturyTel is not provided detailed records, nor is CenturyTel able to**
25 **identify and bill calls based upon proper jurisdiction? (Article IV Sections**
26 **3.3.1.4, 4.5.2.2)**

1 **Q. In Mr. Burt's testimony, he implies that Sprint should not have to furnish PLUs**
2 **because CenturyTel should be able to bill using its SS7 system. (Burt Testimony, p.**
3 **60, lines 1411-1413.) Does CenturyTel use its SS7 for billing?**

4 A. No. Mr. Burt claims that CenturyTel should be able do so but his assertion does not
5 make it possible much less make it possible for CenturyTel. CenturyTel does not and can
6 not use our existing SS7 system to bill access calls so we cannot meet this request with
7 any current capability.

8 **Q. Mr. Burt goes on to imply that CenturyTel can and should purchase an SS7 billing**
9 **capability which would eliminate any need for Sprint to provide PLUs. (Burt**
10 **Testimony, p. 60, lines 1413-1424.) Is such a purchase reasonable for CenturyTel?**

11 A. No. Regarding any ability to upgrade CenturyTel's capability as implied by Mr. Burt,
12 CenturyTel estimates that the cost of the Tekno SS7 system referenced by Sprint would
13 likely be in the six digits at a minimum. Additionally, CenturyTel would need to incur
14 the costs of revising all its translations in all its switches to accommodate the type of call
15 processing contemplated by Sprint with this new SS7 system. It is my understanding that
16 Sprint only intends to begin competition with CenturyTel in the one exchange of Depoe
17 Bay. Sprint is therefore implying that it is acceptable for CenturyTel to incur hundreds of
18 thousands of dollars of cost (or more) to potentially save Sprint the expense of
19 determining one PLU.

20 **Q. Setting aside the cost issue, could CenturyTel actually implement the suggested SS7**
21 **solution?**

22 A. No. Setting aside the cost recovery issue, CenturyTel already has an SS7 vendor whose
23 service is completely integrated with our network and Operations Support systems. Our

1 operations personnel do not believe the Tekno system suggested by Sprint is compatible
2 with our current SS7 system and, regardless, we have contractual restrictions that would
3 prevent us from using another SS7 vendor or integrating another vendor's SS7 capability.
4 All of this shows that Sprint's implied solution is both economically and technically
5 infeasible for CenturyTel.

6 **Q. Do you have anything further to address on Issue 16?**

7 A. No. I will refer the ALJ to Mr. Watkins' testimony for further discussion of this issue.

8 **Q. Does this conclude your testimony?**

9 A. Yes, it does.

CenturyTel/15
Steven E. Watkins/1

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

**IN THE MATTER OF SPRINT)
COMMUNICATIONS COMPANY L.P.)
PETITION FOR ARBITRATION OF AN) ARB 830
INTERCONNECTION AGREEMENT)
WITH CENTURYTEL OF OREGON,)
INC.)**

REBUTTAL TESTIMONY OF

STEVEN E. WATKINS

ON BEHALF OF CENTURYTEL OF OREGON, INC.

JUNE 4, 2008

1 Commission on March 11, 2008. Therefore, most of the thoughts that Mr. Burt has
2 included in his testimony have already been addressed and rebutted in my Opening
3 Testimony. As are a result, I will use this Rebuttal Testimony to respond to some of Mr.
4 Burt's points, as necessary, and will in some cases merely refer to my Opening
5 Testimony discussion which I will refer to as the "Watkins Testimony."

1 **Issue # 4 -- What direct interconnection terms should be included in the Interconnection**
2 **Agreement?**

3
4 **Q. Did Mr. Burt explain in his testimony where the Point of Interconnection between**
5 **Sprint and CenturyTel would be for the anticipated competitive service traffic**
6 **exchange between the parties?**

7 **A.** No. Without a specific proposal, any discussion of the Point of Interconnection ("POI")
8 issue and what the resulting trunking arrangements would be is relegated to discussion of
9 hypothetical possibilities and positions. The determination of the POI and trunking
10 arrangements which may be needed by the parties depends on several factors which
11 CenturyTel has set forth in the contract proposal. *See* Watkins Testimony at p. 6, lines 4-
12 7 and p. 17, line 5 through p. 19, line 2. A concrete example of the POI and network
13 arrangements must be described because it creates, in the context of evaluation this
14 arbitration issue, the point where the parties will exchange competitive local exchange
15 traffic between their networks. Moreover, throughout its arbitration petition and
16 testimony, Sprint has unfortunately confused the specific issue of the location of the POI
17 in its discussion of Issue #5 and its interpretation regarding the applicable requirements
18 associated with the recovery of the costs of transport facilities. As explained in the
19 context of Issue #5, Sprint's separate facility charge arguments cannot be reconciled with
20 the requirement that the POI must be on the incumbent network of CenturyTel and the
21 fact that transport *rate* for transport from that POI to the terminating location of a call

1 already addresses the facilities used for such transport. *See, generally*, Watkins
2 Testimony at p. 23, line 5 through p. 26, line 21 and p. 29, line 19 through p. 31, line 16.

3 While Mr. Burt states in the context of Issue #5 that Sprint may want to connect
4 to the Gleneden Beach switch operated by CenturyTel, Mr. Burt does not state where
5 Sprint intends the location of the POI to be or what trunk group arrangements Sprint
6 actually intends the parties to use in the context of the agreement terms and conditions.
7 Because of the inexact discussion of Issue #5 by Mr. Burt, neither the Commission nor
8 the parties knows whether Sprint's intended POI would be accommodated within the
9 contract language proposed by CenturyTel because Sprint avoids discussion of the POI.
10 This avoidance is most likely due to the fact that the requirement that the POI must be
11 located within the incumbent network of CenturyTel conflicts with Sprint's intended
12 approach. With respect to this Issue #4, Sprint may not really have any issue, or at least
13 Mr. Burt has not explained how Sprint's apparent Gleneden Beach connection would not
14 be consistent with CenturyTel's proposed language.

15 **Q. Is it correct to suggest, as Sprint does (Burt Testimony at p. 20, lines 486-488), that**
16 **the FCC has "supported" Sprint's proposal for a single POI per LATA for**
17 **interconnection with CenturyTel?**

18 **A.** No. Mr. Burt simply restates the Sprint theory that its "single POI per LATA" rule
19 applies universally to every incumbent local exchange carrier ("ILEC"). In so doing, Mr.
20 Burt relies upon two FCC proceedings: the *Verizon Arbitration Decision* in Virginia
21 (Burt Testimony at p. 22 and footnote 7) and the FCC's *Unified Intercarrier*

1 *Compensation Regime FNPRM* (Burt Testimony at p. 23 and footnote 8). As I have
2 already explained, neither of these citations applies to this arbitration. First, the *Unified*
3 *Intercarrier Compensation Regime FNPRM* is only a proposal for comment for which
4 there has not been any decision by the FCC, and the proposals before the FCC otherwise
5 do not necessarily support Sprint's claim. Watkins Testimony at p. 15, lines 4-20.
6 Second, in the *Verizon Arbitration Decision*, the FCC cited to the *Unified Intercarrier*
7 *Compensation Regime FNPRM* and a *SWBT Texas 271 Order* as the basis for its single
8 POI comment. Watkins Testimony at p. 16, line 6 through p. 17, line 2. Mr. Burt, in
9 footnote 7 of his testimony, chooses to omit the FCC footnote that sets forth this relevant
10 fact. Finally, in the *Unified Intercarrier Compensation Regime FNPRM* that Mr. Burt
11 references to support his theory, the FCC at para. 87 cites to the very same *SWBT Texas*
12 *271 Order* for this same proposition.

13 Thus, Sprint relies on the FCC's *SWBT Texas 271 Order* for its position that a
14 "single POI per LATA" applies to all ILECs.

15 **Q. Is Mr. Burt's ultimate reliance on the *SWBT Texas 271 Order* appropriate?**

16 **A.** No. When one looks to the *SWBT Texas 271 Order*, the FCC references at para. 78 and
17 footnote 174 a provision of an agreement between Southwestern Bell Telephone
18 Company ("SWBT") and MCI Worldcom ("MCI").

19 Mr. Burt has not and cannot explain how language set forth in an interconnection
20 agreement applicable only to SWBT and MCI could possibly bind, or is even factually

1 relevant to, CenturyTel. Mr. Burt has also failed to explain how that private agreement
2 between non-parties to this proceeding can create a rule of general application.

3 Likewise, the context of the FCC's discussion in that case was SWBT's request
4 for § 271 relief. As I explained in my testimony, Section 271 of the 1996 revisions to
5 the Communications Act of 1934, as amended (the "Act"), and any resultant obligations
6 or relief requirements associated with the same, applies only to Bell Operating
7 Companies. Watkins Testimony at p. 6, lines 16-19; p. 7, lines 10-15; p. 12, line 13
8 through p. 13, line 20; and p. 14, lines 12-19. CenturyTel is not a "Bell Operating
9 Company" under the definition set forth by Congress in Section 153(4) of the Act.

10 **Q. Is Mr. Burt correct (Burt Testimony at p. 24, lines 558-561) when he indicates that**
11 **there is no basis in this proceeding to distinguish between CenturyTel and a Bell**
12 **Operating Company?**

13 **A.** No. CenturyTel is not a Bell Operating Company, and any requirements for a Bell
14 Operating Company that arise from its antitrust proceeding apply solely to that Bell
15 Operating Company.

16 **Q. What are the conclusions to be drawn with respect to this aspect of the Burt**
17 **Testimony?**

18 **A.** Simply put, Mr. Burt's (and thus Sprint's) reliance on the *SWBT Texas 271 Order*, the
19 *Unified Intercarrier Compensation Regime FNPRM* and the *Verizon Arbitration Decision*
20 as precedent for a generalized "single POI per LATA" rule that is binding upon
21 CenturyTel is unsupportable. At the same time and for the same reasons, any reliance by

1 Sprint (Burt Testimony at p. 23, line 549 through p. 24, line 574 and footnotes 9 and 10)
2 on any other state commission ruling applying a single POI per LATA concept to a non-
3 BOC ILEC that relies on the same Sprint theory is equally in error.

4 **Q: Do the requirements for the location of the POI for the exchange of traffic that is**
5 **subject to Section 251(b)(5) of the Act change depending on whether the parties are**
6 **interconnected directly or indirectly?**

7 **A:** No, but Mr. Burt's testimony could be construed incorrectly to suggest something
8 different. Burt Testimony at p. 20, lines 482-488 and lines 499-500. However, in
9 adopting the rules for the exchange of traffic subject to Section 251(b)(5) of the Act, the
10 FCC confirmed that the POI between the parties is established pursuant to the
11 requirements of Section 251(c)(2) of the Act. Watkins Testimony at p. 46, line 23
12 through p. 47, line 8. Therefore, the Act only requires an ILEC to establish the POI with
13 a requesting competitive carrier at a technically feasible point *within* the ILEC's network
14 and, *in addition*, that such interconnection be "no more than equal" to what the ILEC
15 does for itself or with other carriers.

16 Consistent with my observation above that Sprint continues to avoid any
17 discussion of where the POI would be located, Mr. Burt explains (without mentioning the
18 concept of POI) that for its intended version of direct interconnection, it will connect in
19 Salem, Oregon (Burt Testimony at p. 29, lines 683-684) and for its version of indirect
20 interconnection, Sprint will connect to the Qwest network in Portland, Oregon (Burt
21 Testimony at p. 33, lines 795-796). Neither of these locations are in compliance with the

1 requirements of the Act because neither point is within the service area of CenturyTel,
2 the incumbent LEC.

3 **Q. Do you agree with Mr. Burt's discussion of the Indiana Commission's decision (Burt**
4 **Testimony at p. 23, line 554 through p. 24, line 556) regarding Section 251(a) of the**
5 **Act?**

6 **A.** No. The logical consequence of Mr. Burt's reference would be that Section 251(a)
7 requirements can somehow impose more onerous requirements on incumbents than those
8 that arise under Section 251(b) or Section 251(c) of the Act. As I have explained,
9 however, that cannot be the case. Watkins Testimony at p. 33, line 3 through p. 35, line
10 21.

11 **Q. Is Mr. Burt correct (Burt Testimony at p. 22) when he indicates that the only**
12 **criterion that should affect where to interconnect (and the related contract terms**
13 **and conditions for establishment of trunk groups for the exchange of local**
14 **competitive traffic) is "technical feasibility?"**

15 **A.** No. Mr. Burt fails to address the fact that "technical feasibility" is only *one* of the
16 relevant criteria included in Section 251(c)(2). As I have explained, another criterion is
17 that the interconnection requirements are confined to a "no more than equal to" provision
18 based on the interconnection arrangements that an ILEC provides to itself or with other
19 carriers. Watkins Testimony at p. 8, line 16 through p.12, line 12. ILECs do not have to
20 cater to every desire of connecting carriers. Watkins Testimony at p. 10, line 5 through p.

1 11, line 15. Second, Congress stated in Section 251(c)(2) that the interconnection point
2 must be at locations “within the [incumbent] carrier’s network.”

3 To the extent that Sprint requests, as it has done here, to establish a POI and/or
4 connecting trunking arrangements with CenturyTel for the exchange of local competitive
5 traffic and that requested arrangement would require extraordinary trunking and/or
6 switching beyond that which is required of CenturyTel for the exchange of local traffic
7 with itself or with other neighboring carriers, Sprint’s request would be contrary to
8 Section 251(c)(2)’s “no more than equal to” criterion. Watkins Testimony at p. 11, line
9 16 through p. 12, line 12; and p. 17, line 3 through p. 19, line 13.

10 Furthermore, even though the courts invalidated the attempt by the FCC to
11 impose interconnection arrangements on incumbents beyond the “equal to” condition, the
12 FCC nevertheless recognized that the requesting carrier should be responsible for the
13 extraordinary costs. Watkins Testimony at p. 11, lines 10-15. In contrast here, Sprint’s
14 position is that it can demand more than equal interconnection arrangements for which
15 Sprint will not have any cost responsibility.

16 **Q: What relevance does Mr. Burt’s reference (Burt Testimony at p. 24, lines 561-564)**
17 **to Section 251(f) of the Act have to this issue?**

18 **A:** None. Sprint’s references to § 251(f)(1) and § 251(f)(2) are red herrings. As the record
19 demonstrates, neither § 251(f)(1) nor § 251(f)(2) are an issue in this proceeding.

20 CenturyTel has demonstrated directly that its proposals for interconnection address
21 Sprint’s interconnection request and desire to exchange traffic with CenturyTel. The

1 record also shows that CenturyTel's proposals would more than satisfy even the most
2 onerous set of interconnection requirements while Sprint's proposals go well beyond
3 those requirements. Adoption of CenturyTel's proposal for Issue 4 avoids any need to
4 address Section 251(f)(2).

5 **Q. Is there any other comment contained in the Burt Testimony concerning Issue No. 4**
6 **that requires a response?**

7 **A.** Yes. Mr. Burt (Burt Testimony at p. 24, line 568 through p. 25, line 579) has confused
8 the separate issues of: (1) the terms and conditions for the establishment of POIs and/or
9 trunk groups for the exchange of local competitive traffic, and (2) the terms and
10 conditions under which the parties may establish one specific form of interconnection;
11 *i.e.*, a fiber meet. I have addressed the first issue at p. 17, line 3 through p. 20, line 13 of
12 my testimony and the second issue at p. 20, line 14 through p. 21, line 7. With respect to
13 the fiber meet issue, I have also explained why the CenturyTel language is necessary. *Id.*
14 Mr. Burt's discussion of the acceptance of CenturyTel's proposed new language only
15 addresses the second issue (Burt Testimony at p. 21, lines 504-512). However, later in
16 his testimony (Burt Testimony at p. 24, line 568 through p. 25, line 579), in discussing
17 Sprint proposed language for section 2.3.2.1, Mr. Burt leaves the incorrect impression
18 that this comment is related to both sub issues.

1 **Issue # 5 -- Should Sprint and CenturyTel share the costs of the interconnection facility**
2 **between their respective networks based on their respective percentages of**
3 **originated traffic?**
4

5 **Q. Do you have any reaction to Mr. Burt's suggestion (Burt Testimony at p. 25, lines**
6 **589-591) that the FCC Rules require that interconnected carriers share in the cost**
7 **of a two-way interconnection facility based on their relative percentage of originated**
8 **minutes?**

9 **A.** Yes. As I have explained, the parties have complied with the requirement referred to by
10 Mr. Burt. The parties are sharing in the cost of transport facilities from the POI to their
11 respective terminating locations (or the equivalent functions to that performed by the
12 incumbent in these arrangements) through their "bill and keep" agreement. This
13 arrangement presumes that the traffic exchange between them, as well as the costs
14 associated with termination of traffic between them, are equal. Watkins Testimony at p.
15 29, line 3 through p. 31, line 16. Mr. Burt wants to misapply a rule that specifically
16 addresses the derivation of the reciprocal compensation *rate* for transport and termination
17 and create another charge for a facility on Sprint's side of the POI that is already
18 addressed by the parties. Under the agreed-to "bill and keep" arrangement, however,
19 Sprint is already recovering 50 percent (the portion of traffic originated by CenturyTel)
20 of the costs of the transport facility from the POI to the terminating end office (for a
21 facility that is equivalent to what the incumbent provides as set forth in 47 C.F.R. §

1 51.701(c)). Therefore, Sprint's proposed additional charge for the facility would
2 represent double recovery in contradiction of the bill and keep agreement and the
3 defining rules. Watkins Testimony at p. 28, line 16 through p. 29, line 2. As I have also
4 explained, Mr. Burt's position that there should be a separate transport element in this
5 instance is in error. There is no separate rule for separate facility charges beyond the rule
6 that applies such sharing principles in the development of the *rate* for transport and
7 termination. Watkins Testimony at p. 30, line 1 through p. 31, line 16.

8 **Q. Does Mr. Burt's reliance on the FCC's *Verizon Arbitration Decision* (Burt Testimony**
9 **at p. 28, lines 650-659) to support his separate facility charge argument change your**
10 **mind?**

11 **A.** No, for at least two additional reasons. First, the *Verizon Arbitration Decision*, as I
12 explained in my Opening Testimony, is based on facts presented in that proceeding and
13 those facts are *not the same* as those under consideration here. Watkins Testimony at p.
14 26, line 1 through p. 38, line 10. Second, all of the interconnection points and facilities
15 being discussed in the Verizon Virginia proceeding were to be within the Verizon
16 incumbent LEC service area.

17 Second, Mr. Burt's testimony actually supports the CenturyTel position. The
18 quote from the *Verizon Arbitration Decision* (Burt Testimony at p. 28, lines 656-659)
19 acknowledges that the application of the rules depends on the "POI between the two
20 carriers' networks." Sprint's position with respect to Issue 5 (as well as Issue 4)
21 conflicts with this guiding requirement. As with Verizon in Virginia, the incumbent must

1 deliver its traffic to the POI that is located within the incumbent's existing network, and
2 must pay to the terminating carrier transport and termination charges for the transport
3 from that POI to the terminating end office (or facilities equivalent to that of the
4 incumbent). That is exactly CenturyTel's position. CenturyTel will establish a proper
5 POI with Sprint; CenturyTel will deliver its subject traffic to Sprint at that POI;
6 CenturyTel will pay to Sprint the rate for transport and termination from that POI to the
7 terminating carrier's end office; and those payments by each carrier will equally offset
8 pursuant to the agreed upon bill and keep arrangement.

9 **Q. What response do you have to Sprint's reference (Burt Testimony at p. 28, lines 662-**
10 **672) to the Michigan Telnet proceeding with Verizon?**

11 **A.** Sprint's attempt to rely on the Michigan proceeding with Verizon is another example of
12 taking facts out of context, and then attempting to apply them to a different carrier (in this
13 case CenturyTel), the very different network it operates, and a different agreement.

14 For example, the Michigan case did not involve an agreed-to "bill and keep"
15 arrangement which already addresses transport and termination. In this proceeding, the
16 definition of transport and termination coupled with the agreement to a "bill and keep"
17 arrangement means that CenturyTel and Sprint have already agreed to be responsible for
18 their own trunking costs up to the POI and have already agreed that the compensation for
19 transport and termination is provided by each party to the other party in equally off-
20 setting amounts.

1 Finally, to the extent that other state commissions have misapplied the rules, then
2 those decisions have no application here. The Commission need only review the facts in
3 the record and apply them to the applicable rules and law to reach the conclusion that
4 CenturyTel's position on Issue No. 5 should be adopted. Those facts are the basis upon
5 which a decision should be based, and, through his testimony, Mr. Burt has effectively
6 ignored those facts. Watkins Testimony at p. 25, lines 9-27 for the definition of
7 "transport"; and p. 9, lines 1-10 for the POI requirements.

8 **Q. Is Mr. Burt correct (Burt Testimony at p. 29, line 692 through p. 30, line 699) that**
9 **Sprint's request of CenturyTel with respect to this issue does not involve a superior**
10 **(more than "at least equal") interconnection arrangement?**

11 **A.** No. As I explained in my Opening Testimony, Sprint's request would require
12 interconnection arrangements that would go beyond CenturyTel's existing available
13 network architecture and would require CenturyTel to provision a more costly and novel
14 form of local calling service to fulfill an arrangement that is the result of Sprint's
15 decisions and solely to the benefit of Sprint. Watkins Testimony at p. 32, line 14 through
16 p. 35, line 10.

17 **Q. What response do you have to Sprint's proposal (Burt Testimony at p. 29, lines 683-**
18 **690) to locate its "point of presence" in Salem, Oregon?**

19 **A.** First, Sprint indicates that it will provide competitive service to end users in CenturyTel's
20 Depoe Bay exchange. Burt Testimony at p. 34, lines 798-799. Second, through Mr.
21 Burt, Sprint also indicates that it proposes to establish what it refers to as a "point of

1 presence” at a point in Salem, Oregon (presumably where Sprint connects to another
2 incumbent LEC, such as Qwest, in Salem). Third, Mr. Burt confirms that Sprint intends
3 to exchange local competitive traffic with CenturyTel through the CenturyTel Gleneden
4 Beach switch related to Sprint’s competitive service in Depoe Bay (the exchange in
5 which Sprint and Millennium Digital Media intend to compete). Burt Testimony at p.
6 29, lines 683-684; and p. 34, lines 797-799. Taking these pieces together, as explained
7 by Mr. Burt, CenturyTel would be required to pay a separate and additional charge (in
8 addition to the payment for transport of the offsetting bill and keep arrangement between
9 the parties) for transporting Depoe Bay local traffic from Gleneden Beach to Salem.
10 However, CenturyTel does not transport traffic that originates and terminates within the
11 Depoe Bay exchange to distant points such as Salem. In fact, there are no CenturyTel
12 trunking facilities from Gleneden Beach to Salem. Sprint’s request that the Commission
13 direct CenturyTel to transport local calls to Salem would be well beyond the Section
14 251(c)(2) “no more that equal to” standard with respect to what CenturyTel does for itself
15 or with other carriers. And, even if CenturyTel did provision this arrangement for the
16 benefit of Sprint, CenturyTel would still be able under the FCC’s invalidated superior
17 requirement rules to require Sprint to pay for this arrangement. Watkins Testimony, p.
18 10, line 1 though p. 11, line 15.

19 Taken literally, if the Commission adopted Sprint’s proposal, CenturyTel would
20 be responsible for a portion of the facilities from the interconnection point within its
21 incumbent network to any network termination location that Sprint may unilaterally

1 designate. Sprint's proposed limitation to a point in the LATA affects only the
2 magnitude of the extent to which Sprint's proposal is in conflict with the applicable
3 requirements, not the conflict itself. Sprint's proposal would allow Sprint to shift to
4 CenturyTel the transport costs for which Sprint is responsible, and to receive separate
5 payment for those facilities which duplicate the offsetting bill and keep charges for
6 transport and termination over the very same defined facilities.

1 **Issue # 6 -- What are the appropriate rates for direct Interconnection Facilities?**

2

3 **Q. What justification has Sprint included in its testimony to support its position on**
4 **Issue #6?**

5 **A.** Sprint incorrectly believes that so-called TELRIC pricing methods should be applied in
6 determining the rates charged for any circuit facilities that either party may obtain from
7 the other party. Sprint supports its view by referencing the FCC's *First Report and*
8 *Order* from 1996. Burt Testimony at p. 31, line 727 through p. 32, line 761.

9 **Q. Is Mr. Burt's support from the FCC for his position defensible?**

10 **A.** No. Mr. Burt fails to acknowledge that "entrance facilities" as defined by the FCC and as
11 related to this issue have been subsequently addressed and removed from TELRIC
12 pricing methods in the context of the two FCC Triennial Review Orders. Watkins
13 Testimony at pp. 41-42. In its *Triennial Review Remand Order*, the FCC concluded that
14 CLECs are not impaired with respect to provisioning entrance facilities, and, therefore,
15 entrance facilities – those that are required to connect the networks of two different
16 carriers like those facilities at issue here – need not be provided or priced as an
17 Unbundled Network Element. Facilities found to be competitively impaired are generally
18 required to be priced under the TELRIC methods. The FCC's recognition that CLECs
19 could obtain entrance facilities without impairment under other arrangements is
20 consistent with CenturyTel's position that such facilities are available under the cost-
21 based rates contained in access tariffs for such special access facilities. To continue to

1 apply TELRIC would illogically mean that the FCC's impairment conclusion meant
2 nothing. Any suggestion that the FCC removed entrance facilities from impairment
3 pricing treatment (*i.e.*, TELRIC) in one sentence, and then subsequently reinstated that
4 treatment in a subsequent sentence would render the FCC's conclusions in the TRRO
5 meaningless. Moreover, a recent 7th Circuit appeals court case in Illinois confirms that
6 the Commission is not bound to the use of TELRIC for the purposes of cost-based pricing
7 for the direct interconnection facilities at issue in this proceeding.

8 **Q. What other support does Mr. Burt provide for his position?**

9 **A.** Mr. Burt also references a provision of the Michigan Act in an attempt to support its
10 position on this issue. Burt Testimony at p. 32, lines 763-770.

11 **Q. Is Mr. Burt's reliance on the Michigan Act defensible?**

12 **A.** No. Mr. Burt fails to recognize that a court reviewing an interconnection decision in
13 Michigan concluded that entrance facilities are not required to be priced at TELRIC as
14 Sprint suggests the Michigan statute would require. Moreover, any alternative contention
15 that § 251(c)(2) would still require TELRIC pricing, after the FCC addressed entrance
16 facilities in its two triennial reviews and removed them from such treatment, was
17 properly and explicitly rejected by a court addressing a Michigan Bell matter. *See*
18 *Michigan Bell Tel Co v Lark*, No. 06-11982, 2007 WL 2868633 (ED Mich, 2007).
19 Contrary to Sprint's suggestion (Burt Testimony at p. 32, lines 763-770), the Michigan
20 statutory requirements have no application to this issue because to apply them here would
21 be contrary to *both* the FCC's and the court's pronouncements.

1 **Issue # 7 -- Should the Interconnection Agreement contain provisions limiting indirect**
2 **interconnection?**

3 **and**

4 **Issue # 16 -- Do terms need to be included when Sprint utilizes indirect interconnection,**
5 **and CenturyTel is not provided detailed records, nor is CenturyTel able to**
6 **identify and bill calls based upon proper jurisdiction?**

7

8 **Q. Does the Sprint testimony add anything new to justify its position on Issue #7**
9 **beyond that which Sprint included in its Arbitration Petition?**

10 **A.** No. I already anticipated the false principles upon which Sprint through Mr. Burt would
11 attempt to support its position and have effectively rebutted those arguments in my
12 Opening Testimony.

13 **Q. Is there, nevertheless, further testimony that you wish to offer regarding this issue?**

14 **A.** Yes. First, Mr. Burt distorts this Issue 7 by suggesting that CenturyTel is somehow
15 "dictating" to Sprint the framework for interconnection. Burt Testimony at p. 33, lines
16 787-791. The facts are quite the opposite. The Act and the interconnection rules require
17 that Sprint establish a POI on the network of the incumbent LEC. Watkins Testimony at
18 p. 46, line 11 through p. 47, line 17. Instead of complying with this requirement for its
19 form of indirect interconnection, Sprint wants to establish a POI in Portland where Sprint
20 interconnects with Qwest. Burt Testimony at p. 33, line 795 through p. 34, line 799.
21 Thus, it is Sprint that wants to dictate an interconnection arrangement to CenturyTel

1 under which (1) CenturyTel must provision an extraordinary interconnection arrangement
2 for local traffic exchange and (2) Sprint is allowed to avoid its requirement to establish a
3 POI within the incumbent service area of CenturyTel as the Act and the FCC rules
4 require.

5 Accordingly, a proper reading of the testimonies reflects that CenturyTel is not
6 dictating anything; it is simply asking that the interconnection requirements be applied
7 correctly and that it not be burdened with extraordinary costs to support a Sprint design
8 and request that goes beyond those requirements.

9 Second, Mr. Burt suggests that Section 251(a) of the Act somehow affords a
10 choice for Sprint that trumps all other CenturyTel considerations or requirements in the
11 Act. Burt Testimony at p. 35, lines 827-833. As I have indicated, however, Section
12 251(a) of the Act contains no such provision that entitles Sprint to specify CenturyTel's
13 fulfillment of its interconnection obligations. Watkins Testimony at p. 48, line 16
14 through p. 52, line 20. Rather, Section 251(a) is not at issue in this proceeding since
15 CenturyTel is fully in compliance with the general duties of Section 251(a). Watkins
16 Testimony at p. 51, line 18 through p. 53, line 8.

17 Third, Sprint does not even address the extraordinary costs that would be incurred
18 to transport local Depoe Bay exchange traffic to Portland. CenturyTel does not have any
19 trunking facilities to Portland for the transport of local Depoe Bay traffic. Mr. Burt
20 cannot reconcile his position (apparently to require CenturyTel to transmit its local traffic
21 to Portland) with the fact that incumbents are not required to provision superior

1 arrangements at the request of CLECs. Contrary to Mr. Burt (Burt Testimony at p. 35,
2 lines 827-833) Section 251(a) cannot override the “no more than equal” condition
3 requirement contained in Section 251(c). Watkins Testimony at p. 47, line 18 through p.
4 53, line 8.

5 Fourth, Sprint provides no testimony to justify why CenturyTel, in a competitive
6 world, should be required to rely upon, and to obtain services from, Qwest just because
7 Sprint demands such anti-competitive arrangement. Watkins Testimony at p. 53, line 9
8 through p. 62, line 4. Sprint also provides no testimony to explain why CenturyTel
9 should be subjected to such an anti-competitive result when the FCC has concluded that
10 there is no established interconnection rule requiring such transit arrangements. Watkins
11 Testimony at p. 52, line 11 through p. 54, line 2.

12 **Q. Has Sprint already independently agreed to a transit arrangement conditioned by a**
13 **DS1 threshold level of traffic essentially the same as CenturyTel has proposed as a**
14 **compromise?**

15 **A.** Yes. For example, a comparable approach is contained in the Pioneer Telephone
16 Cooperative interconnection agreement with Sprint Communications Company, L.P.,
17 dated March 25, 2008 on file with the Commission.

18 **Q. With respect to the related Issue #16, did Sprint provide any testimony which needs**
19 **to be addressed further?**

1 A. Yes. Sprint's acceptance of contract language in the context of the Issue #9 for direct
2 interconnection terms defies its position on Issue #16 regarding almost identical traffic
3 identification and measurement issues.

4 CenturyTel's Issue No. 16 addresses situations where there are only de minimis
5 amounts of traffic being exchanged between the parties pursuant to a third party transit
6 arrangement (the subject of Issue #7) and full traffic identification and measurement may
7 not be available through the third party tandem operator. Thus, where the threshold level
8 of traffic has not been reached and Sprint and CenturyTel are exchanging small volumes
9 of traffic via a transit arrangement with another carrier, CenturyTel is concerned that it
10 may not be able to obtain accurate and complete billing records for the traffic (including
11 non-interconnection traffic subject to access charges) that the intermediary tandem
12 provider "transits" to CenturyTel over commingled trunks. Thus, CenturyTel proposes to
13 include within the agreement the requirement that Sprint provide accurate factors
14 representative of the portion of its traffic that is local interconnection traffic. This factor
15 would be the Percent Local use ("PLU") factor and would identify the traffic that is
16 subject to the compensation terms under the interconnection agreement. All other traffic
17 sent to CenturyTel would be subject to the terms and conditions of CenturyTel's access
18 tariff. Watkins Testimony at pp. 62-63.

19 **Q. Is the concern over the ability of CenturyTel to identify and measure access traffic**
20 **the same for direct and indirect interconnection situations?**

21 A. Yes.

1 **Q. Why does the need to identify and measure traffic arise?**

2 **A.** In instances where Sprint is sending to CenturyTel both local competitive interconnection
3 traffic and non-local access traffic over the same facilities, it is imperative that
4 CenturyTel be provided the necessary information so that CenturyTel can apply the terms
5 and rates of its access tariffs to access traffic. This is true regardless of whether Sprint
6 sends the traffic over combined use dedicated trunks as is the case for direct
7 interconnection or over commingled transit trunks as is the subject of Issue #16 for an
8 indirect transit arrangement.

9 **Q. Has Sprint agreed to supply factors in the event that it sends commingled traffic**
10 **over dedicated trunks with CenturyTel as was the subject of the now resolved Issue**
11 **#9?**

12 **A.** Yes. Sprint has accepted Section 3.3.2.8.3 of the Agreement that addresses instances
13 where the interconnection facilities, in addition to the exchange of local interconnection
14 traffic, would also be used for access traffic. This provision recognizes that, if the same
15 trunk group facility is used for both local and access traffic, then additional terms and
16 conditions are needed, including most notably "the use of factors." The "use of factors"
17 that CenturyTel would like to include in the Agreement under Issue #16 addresses the
18 almost identical concern: If Sprint uses the transit arrangement for both local and access
19 traffic, then in the event that the intermediary carrier does not provide accurate and
20 complete traffic information, there will need to be factors to determine the portion subject
21 to access charges. Thus, Sprint's agreement to use factors in the context of direct

1 interconnection cannot be reconciled with its confusing position on Issue #16 where it
2 objects to using factors under the conditioned circumstances.

3 **Q. Is it Sprint's position that it should be responsible for the traffic that it sends to**
4 **CenturyTel?**

5 **A.** Apparently "yes." In addition to the agreement to the contract language in the context of
6 Issue #9 as I have explained above, Sprint states that it remains responsible for its traffic
7 and that CenturyTel should not have concern over the "minimal exposure" to lost
8 compensation:

9 Sprint will provide industry standard call records that can be used for direct
10 billing or development of factors . . . and percent local usage . . . for purposes of
11 billing traffic subject to reciprocal compensation and traffic subject to access.
12 Sprint also agrees to provide the necessary records for audit purposes to ensure
13 accurate billing.

14
15 Sprint Arbitration Petition at p. 20.

16 **Q. Are factors routinely used in the industry for multi-jurisdictional traffic**
17 **identification purposes?**

18 **A.** Yes. The factors for which Sprint should be responsible are akin to those used for access
19 under the applicable terms and conditions of access tariffs. *See, e.g.,* National Exchange
20 Carrier Association, Inc. Tariff F.C.C. No. 5, § 2.3.11. Sprint also has first hand
21 experience as a long distance carrier in developing factors pursuant to these terms and
22 conditions. If Sprint wants to avoid factors, it can connect with dedicated trunks used
23 solely for single jurisdiction traffic.

1 **Q. What response do you have to Mr. Burt's suggestion (Burt Testimony at p. 60, lines**
2 **1418-1424) that this issue could be resolved with the implementation of some form**
3 **of SS7-based measurement system?**

4 **A.** CenturyTel witness Miller will explain why such SS7 system would not be a viable
5 solution. Even assuming *arguendo* that this was a solution, Sprint provides no
6 explanation as to why CenturyTel should be the carrier required to purchase this
7 equipment. One could logically conclude that it is Sprint that should be required to
8 purchase the SS7 system since it is Sprint's preferred arrangement that causes the
9 measurement concern in the first place.

10 **Q. What response do you have to Mr. Burt's reference (Burt Testimony at p. 60, lines**
11 **1414-1418) to the FCC discussion that carriers that exchange local competitive**
12 **traffic pursuant to Section 251(b)(5) of the Act may need to expend resources to**
13 **measure local traffic?**

14 **A:** The FCC discussion must be viewed in the proper context. In the absence of local
15 competition, LECs had no reason to measure local traffic. But with the advent of
16 competitors, and the exchange of traffic with competing carriers, all carriers may then
17 incur some additional costs to measure the previously unmeasured local traffic.

18 Regardless of the meaning that Sprint attributes to the FCC's statement, the
19 concern is not relevant here. The measurement and billing concerns relate to access
20 traffic which is subject to the terms of access tariffs, and are not subject to local
21 interconnection negotiation or arbitration. As I have noted previously, factors are an

1 established requirement pursuant to access tariffs. There is no requirement for the parties
2 to bill for local traffic because the parties have agreed to a bill and keep approach.

3 For these reasons, to the extent that CenturyTel's compromise and limited third
4 party transit arrangement were utilized by the parties, *and* to the extent that call records
5 are not available from the intermediary carrier, CenturyTel's proposal to utilize factors
6 with Sprint is a more than reasonable and modest approach which should be adopted
7 here.

8 **Q. What response do you have to Mr. Burt's suggestion (Burt Testimony at p. 61, lines**
9 **1426-1432) that, in the context of Sections 251(c)(2) and 251(c)(3) of the Act,**
10 **technical feasibility should not include consideration of accounting or billing**
11 **restrictions?**

12 **A.** The comment is irrelevant. First, Section 251(c)(3) is outside the scope of this
13 proceeding. Second, Section 251(c)(2), as I have explained already, includes
14 requirements in addition to technical feasibility. The other requirements of "no more
15 than equal" and a POI within the incumbent LEC service area are not rendered
16 inapplicable by the technical feasibility provision. Finally, paragraph 201 of the *First*
17 *Report and Order* from which Sprint quotes was written at a time when the FCC's Rules
18 would have required superior interconnection arrangements under which Sprint would
19 have to pay for the extraordinary costs (as evidenced by the FCC throughout the section
20 referenced by Mr. Burt) that are result. Those rules were subsequently reversed by the
21 courts. Watkins Testimony at p. 10, line 1 through p. 11, line 15.

1 **Issue # 13 -- What are the appropriate rates for Transit service?**

2

3 **Q. Does Sprint provide any new arguments in its testimony on Issue #13 that need to be**
4 **addressed?**

5 **A.** Yes. Mr. Burt inappropriately attacks the use of intrastate access rates on the basis that
6 such rates contain subsidy. Burt Testimony at p. 49, lines 1161-1162. While access rates
7 may have as their basis a different cost determination than TELRIC (which is what Sprint
8 demands for transit services), there is no clear evidence, nor could Sprint provide any
9 clear evidence, that access charges contain improper subsidies. Without going into the
10 extensive public policy arguments, it should suffice here to note that for an industry
11 which incurs extensive costs for facilities that are used jointly among different
12 telecommunications services, any conclusion of the existence of "subsidy" is, at best,
13 very difficult to make, and then only after very careful analysis.

14 **Q. Sprint references (Burt Testimony at p. 49, line 1172 through p. 50, line 1187) other**
15 **states that have reached conclusions about transit services. Do you have any general**
16 **response?**

17 **A.** Yes. What those states may have concluded is not an issue in this proceeding. What is at
18 issue is what the Commission should do. And, in that vein, it is only rational that any
19 conclusion by the Commission be made only after the public policy implications are
20 examined regarding any requirement for one set of carriers to act as the tandem switching
21 operators for all other carriers. For all incumbents, and more so for smaller ILECs such

1 as CenturyTel, the imposition of transit requirements without condition, and then at very
2 low rates, will lead to the unfair imposition of costs on incumbents that cannot be
3 justified in a competitive world. Similarly, the Commission would also need to
4 determine why it is in the public interest for an incumbents to build and size their tandem
5 switches based on the random and unilateral decisions by an unlimited number of carriers
6 that seek to transit their traffic through the tandem, particularly when the use of transit
7 arrangements are voluntary. As the number of carriers that want to transit traffic to all
8 other carriers via transit arrangement grows, the amount of transit traffic will grow,
9 raising the possibility of stranded tandem capacity should these carriers unilaterally
10 decide not to use transit services or otherwise leave the marketplace. Further, if the
11 ongoing recovery of the cost of the greater capacity tandem is limited by unreasonable
12 constraints on pricing, as TELRIC would impose, the exposure is exacerbated. Absent a
13 proper public policy analysis, and absent conditions that would guard against unfair
14 burdens on incumbents, there can be no presumption that incumbents must provide transit
15 to other carriers. This is consistent with the FCC's conclusion in the *Verizon Arbitration*
16 *Decision* that it has not been established whether transit should be a requirement under
17 the Act. Watkins Testimony at p. 64, line 14 through p. 65, line 9.

1 **Issue # 14 -- What are the appropriate rates for services provided in the Agreement**
2 **including rates applicable to the processing of orders and number portability?**

3
4 **Q. Are there any aspects of the Sprint testimony regarding this issue to which you**
5 **would like to respond?**

6 **A.** Yes, I will address some of the issues and CenturyTel's witness Hankins will address
7 other aspects.

8 **Q. Do you have any response to Mr. Burt's suggestion (Burt Testimony at p. 53, lines**
9 **1251-1255) that, in essence, charges to recover the costs of performing service order**
10 **activity associated with number port requests should be disallowed so as to provide**
11 **an incentive to CenturyTel to automate these processes?**

12 **A.** Yes. For the limited number of port requests that CenturyTel encounters at this point in
13 time, it does not make economic sense for CenturyTel to invest in a new and very costly
14 automated system. Ironically, the logical outgrowth of Sprint's suggestion would likely
15 be a greater per-unit cost given the small number of units over which the new and
16 substantially additional costs would be recovered.

17 **Q. What is your response to Sprint's policy objections (Burt Testimony at p. 53, line**
18 **1264 through p. 54, line 1269) to charging for LNP service order activity costs?**

19 **A.** As I explained in my Opening Testimony, if a party is not allowed to recover the costs of
20 processing number port requests, those costs will fall upon the remaining customer base,
21 while the customers that have ported their numbers to a competing carrier will bear no

1 cost responsibility. Watkins Testimony at p. 67, lines 5-10. Under CenturyTel's
2 approach, the new service provider to the end user that is the beneficiary of the number
3 port will be responsible for the costs and may recover those costs from that cost causing
4 end user.

5 **Q. Is Mr. Burt correct (Burt Testimony at p. 53, lines 1255-1262) when he equates**
6 **number porting processing to termination of service?**

7 **A.** No. When an end user routinely terminates service, the service processing activity is
8 confined solely to internal processes of the serving carrier to disconnect and cease billing.
9 However, with number portability activities, there are additional, more complicated,
10 processes that involve interaction with outsiders and with the competitor. Because the
11 porting of numbers is critical to the end user's service, it is important that the processing
12 of these changes be performed with the utmost of care. This activity necessarily involves
13 considerable time and effort by service processing staff.

14 **Q. Is Mr. Burt correct (Burt Testimony at p. 54, lines 1274-1276) when he suggests that**
15 **the LNP service processing charge should be equal to the charge that the FCC has**
16 **imposed for PIC changes?**

17 **A.** No. The functions to perform a PIC change are not the same as those to accomplish a
18 number port. There is no basis to believe that the costs that the FCC has considered for
19 its PIC change proxy price equate to the costs of performing the service order processing
20 for number ports. The functions are not equivalent and the costs are not equivalent.
21 Moreover, Sprint has provided no evidence regarding whether the FCC's proxy price for

1 PIC change has any relevance to the costs CenturyTel incurs in performing PIC changes
2 or the different costs CenturyTel incurs in service order activity for number ports.

3 **Q. What relevance does the rate that CenturyTel charges in other interconnection**
4 **agreements (Burt Testimony at p. 54, lines 1276-1281) have to this proceeding?**

5 **A.** With one possible exception explained below, the rates contained in other agreements
6 that CenturyTel may have entered into with some other carrier have no relevance to the
7 rates established in this proceeding. CenturyTel is establishing rates for the service order
8 processing functions in this arbitration based on the cost information it has presented in
9 this proceeding. To the extent that the rates in some other agreement are based on some
10 other determination, they are not relevant here. The only possible relevance that other
11 agreements may have would be if Sprint elected to adopt an entire set of terms and
12 conditions from an existing agreement that CenturyTel has with another carrier within a
13 specific state. However, Sprint has not elected, or asked, to opt into an existing
14 agreement.

15
16 **Q. Does this end your rebuttal testimony?**

17 **A.** Yes.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

**IN THE MATTER OF SPRINT)
COMMUNICATIONS COMPANY)
L.P. PETITION FOR ARBITRATION) ARB 830
OF AN INTERCONNECTION)
AGREEMENT WITH CENTURYTEL)
OF OREGON, INC.)**

**REBUTTAL TESTIMONY OF
TED M. HANKINS
ON BEHALF OF CENTURYTEL OF OREGON, INC.
JUNE 4, 2008**

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Q. Has CTL-Oregon provided cost support for exhibits CenturyTel/10 and CenturyTel/11?

A. Yes, based on information provided to Sprint Data Request, CTL-Oregon has provided detailed back up work papers that support the proposed cost based rates. I have attached a copy of that documentation as CenturyTel/17 (Confidential).

Q. Based on the information provided to the Sprint Data Request, are the labor cost, demand volumes and investment cost forward looking cost.

A. Yes..

Q. On what basis are those cost forward looking?

A. The labor cost utilized in this analysis are based on the costs that will be incurred in the future and as such are considered forward looking.

The investment cost associated with the DSet or ezLocal is based on actual cost of a system which was recently installed and those cost would be the same if installed on a forward looking basis. The ensemble billing system and related cost are also based on actual of cost within the past three years and would be the same if installed on a forward looking basis.

The demand volumes are based on current actual levels and with little to no history, for this company, are considered the volumes that would be experienced in the future and as such are considered forward looking.

1 **Q. In the current ICAs for CTL-Oregon, what are the existing CLEC Account**
2 **Establishment; Customer Record Search; Local Service Request (LSR) and Service**
3 **Order Expedite rates for port requests charged to all carriers submitting an LSR.**

4 A. The current CenturyTel of Oregon agreements have the following charges:
5 Local Service Request: \$15.55, Account Establishment Charge: \$274.63, Customer
6 Record Search: \$11.75, and Expedite Request Charge: \$150.00 (a complete expedite
7 and not a service order expedite)

8
9 **Q. Why is CenturyTel providing what appears to be different rates for these same**
10 **services for the Sprint ICA?**

11 A. The carrier relations group requested specific non-recurring rates (NRC) for the Sprint
12 ICA based on cost. As a result, information was obtained based on the actual time
13 expended and associated costs to process a local service request, Account Establishment
14 Charge, Customer Record Search, and an Expedite Request Charge.

15
16 **Q. As a result of the request by the carrier relations group, were any other NRCs**
17 **developed in addition to the NRCs identified above.**

18 A. No.

19
20 **Q. Do you agree with Mr. Burt regarding the applicability of the Local Service Request**
21 **charge associated with processing orders related to number porting, (page 51)?**

22 A. No, the company should be allowed to recovery the cost associated with any and all
23 Local Service Request or Service Order. As a result, I do not agree with Mr. Burt as

1 explained below.

2

3 **Q. Please describe the factors that support a company-specific Local Service Request rate**
4 **for CTL-Oregon.**

5 A. To determine the time required to process the local service request, specific tasks were
6 identified which consist of the initial processing, completion of the order and follow up.
7 As a result this requires the customer service representative logging in to the ordering
8 system, logging in to the billing system, retrieving the customer local service request
9 order for the web-based ordering site, screening the order and then provisioning the order
10 by entering it into the billing system. This initial processing includes, tasking the order to
11 the proper department to work the order and providing a FOC (Firm Order Commitment)
12 back to the requesting carrier that the order has been received and processed, with a due
13 date. The completion of order process includes, on the due date of the order, confirming
14 that the order is being worked. The day after the due date, the customer service
15 representative must again confirm that the order was worked, logs back into the pending
16 order (which requires all steps from above) and then sends the carrier a completion noting
17 the date the order was finalized. This results in the total time to process a local service
18 request for porting which was then multiplied by the customer service representative's
19 loaded labor rate to determine a portion of the cost to process the local service request.
20 The total time established in the study for this aspect of the NRC rate development is
21 identified in CenturyTel/17 (Confidential).

22 The customer service representative's loaded labor rate is determined based on a labor
23 cost analysis which identifies the direct and indirect labor cost. Indirect labor costs

1 include payroll benefits, payroll taxes, supervision and support, departmental overhead,
2 and indirect overhead. The total labor rate is then adjusted based on productive hours per
3 year.

4 The administrative order-taking system costs are also part of the overall cost to process
5 the local service request. As a result, the cost was identified for the web-based ordering
6 system and billing system based on information provided by the information systems
7 area. In addition, the total number of transactions was identified to calculate the system
8 cost on a per transaction basis.

9 The administrative order-taking system cost were then added to the cost associated for
10 processing the local service request by the customer service representative to develop a
11 total cost for the local service request.

12
13 **Q. Do you agree with Mr. Burt regarding the applicability of the CLEC Account**
14 **Establishment fee, (page 54)?**

15 A. No, I do not agree with Mr. Burt as explained in the following series of Q and A's.

16
17 **Q. Does CTL-Oregon charge a CLEC account establishment fee more than once to any**
18 **one CLEC?**

19 A. No, each CenturyTel ILEC only charges a CLEC once for a CLEC account establishment
20 fee.

21
22 **Q. Please provide a detailed description of the development of the CLEC Account**
23 **Establishment fee.**

1 A. The CLEC account establishment fee is associated with the costs incurred by a
2 CenturyTel Local Exchange Carrier in setting up the initial account of the requesting
3 CLEC. The carrier relations group requested specific non-recurring rates (NRC) for the
4 Sprint ICA related to this function. As a result, information was obtained based on the
5 actual time it took to set up an account for a CLEC, the actual labor cost associated with
6 the function performing the task, and the system cost utilized in processing the local
7 service request.

8 To determine the time required to establish the CLEC account, specific tasks were
9 identified which consist of the customer service interaction with the carrier relations
10 department to review the ICA, preparation of the necessary documents including
11 emailing an invoice to the CLEC for the CLEC establishment fee, set up of the CLEC in
12 billing establishing the billing account number and price plans, system testing, and
13 accounting for payments. This results in the total time for the CLEC account
14 establishment for porting which was then multiplied by the customer service
15 representative's loaded labor rate to determine a portion of the cost to process the account
16 establishment. The total time established in the study for this aspect of the NRC rate
17 development is identified in CenturyTel/17 (Confidential).

18 The customer service representative's loaded labor rate was determined based on a labor
19 cost analysis which identifies the direct and indirect labor cost (the latter of which
20 included payroll benefits, payroll taxes, supervision and support, departmental overhead,
21 and indirect overhead). The total labor rate was then adjusted based on productive hours
22 per year.

23 The systems costs are also part of the overall cost to process the local service request. As

1 a result, the cost was identified for the web-based ordering system and billing system. In
2 addition, the total number of transactions was identified to calculate the system cost on a
3 per transaction basis.

4 This system cost was then added to the costs associated with processing of the local
5 service request by the customer service representative to develop a total cost for the
6 account establishment.

7
8 **Q. Do you agree with Mr. Burt regarding the Customer Record Search rate, (page 55)?**

9 A. No, I do not agree with Mr. Burt as explained below.

10
11 **Q. Please provide a description of the functions necessary to complete each task
12 associated with the CLEC Customer Record Search Fee.**

13 A. To determine the time required to process the customer record search request, specific
14 tasks were identified which consist of the customer service representative logging in to
15 the ordering system, logging in to the billing system, retrieving the customer local service
16 request order for the web-based ordering site, screening the order and then provisioning
17 the order by entering it into the billing system. This results in the total time to process a
18 local service request which was then multiplied by the customer service representative's
19 loaded labor rate to determine a portion of the cost to process the customer record search
20 request. The total time established in the study for this aspect of the NRC rate
21 development is identified in CenturyTel/17 (Confidential). The customer service
22 representative's loaded labor rate was determined based on a labor cost analysis which
23 identifies the direct and indirect labor costs (the latter of which include payroll benefits,

1 payroll taxes, supervision and support, departmental overhead, and indirect overhead).

2 The total labor rate is then adjusted based on productive hours per year, *i.e.*, those hours
3 of the year where the employee is not on vacation, sick, etc.

4 The systems costs are also part of the overall cost to process the customer record search
5 request. As a result, the costs were identified for the web-based ordering system and
6 billing system. In addition, the total number of transactions was identified to calculate
7 the system cost on a per transaction basis.

8 This system cost was then added to the cost associated with the cost to process the
9 customer record search request by the customer service representative to develop a total
10 cost for the customer record search request.

11
12 **Q. Please provide a description of the investment and functions necessary to complete**
13 **each task associated with the Annual Charge Factor.**

14 A. The annual charge factor was developed to calculate the annual amount of a specific
15 investment. In this case it is the cost of the systems associated with the provisioning for
16 CLEC account request.

17 The DSET or ezLocal system is the front-end Graphic User Interface which is utilized by
18 CLEC customers for local service request order entry. This cost was provided by the
19 company's information services group with an estimated depreciation rate. The
20 estimated depreciation rate is included in CenturyTel/17 (Confidential).

21 The annual DSET expense was then divided by the annual transactions to develop a cost
22 per transaction. This system cost was then added to the cost associated with the cost to
23 process the non-recurring activity by the customer service representative to develop a

1 total cost for the non-recurring request.

2 The Ensemble Billing System & CSM GUI system is the company's billing system
3 which is utilized by CLEC customers for local service request order entry. This cost was
4 provided by the company's information services group with an estimated depreciation
5 rate. The estimated depreciation rate of this company system is also included in
6 CenturyTel/17 (Confidential).

7 The annual Ensemble Billing System & CSM GUI system expense was then divided by
8 the annual transactions to develop a cost-per-transaction. This system cost was then
9 added to the cost associated with the cost to process the non-recurring activity by the
10 customer service representative to develop a total cost for the non-recurring request.

11

12 **Q. Does this end your rebuttal testimony?**

13 **A. Yes.**