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February 21, 2007

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: RM-11293 – Notice of Ex Parte Presentation

Dear Ms. Dortch:

On Friday, February 16, 2007, John Jones and Jeffrey Glover of CenturyTel, Inc. (“CenturyTel”) met with Tom Navin, Don Stockdale, and Marcus Maher to discuss the above-captioned petition for rulemaking to amend the FCC’s pole attachments rate regulations and complaint procedures. Kathy Moisan and Max Cox, also of CenturyTel, participated in the discussion by teleconference. CenturyTel described its experience with unreasonable rate discrimination by electric utilities, and discussed how excessive pole attachment charges hinder deployment of broadband fiber facilities and Wi-Fi technology in rural areas.

Pole attachments continue to be essential inputs for telecommunications service providers such as CenturyTel, and the electric utilities enjoy bottleneck control of these facilities in relation to incumbent local exchange carriers (ILECs). Century Tel noted that it has seen significant increases in the utilities’ pole attachment rates for ILECs, well in excess of the rates for either competitive local exchange carriers (CLECs) or cable system operators. Moreover, because no FCC default formula currently applies, rate increases to ILECs can go virtually unchecked. By way of example, CenturyTel cited recent rate increases in Alabama, Arkansas, and Missouri. Based on the data CenturyTel received from the utilities, CenturyTel believes it is paying significantly higher rates – more than double in some states – for each pole attachment than could be justified using either the FCC’s formula for cable system operators or the Commission’s formula for providers of telecommunications services, currently enjoyed by CLECs. By CenturyTel’s calculations, the differences are as follows:

	Cable Rate	CLEC Rate	ILEC Rate
Alabama	\$4.58	\$10.43	\$29.79
Arkansas	\$3.17	\$7.24	\$18.00
Missouri	\$3.35	\$7.63	\$12.00

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When these rate disparities are multiplied by the number of poles CenturyTel currently purchases at the ILEC rates cited above, it is apparent that CenturyTel is paying a substantial penalty for its status as an ILEC, with significant harm to CenturyTel's rural customers. Annualized, CenturyTel believes it is paying significantly more than its competitors for the same number of poles, for example:

	CTL Pays More Than Cable:	CTL Pays More Than CLEC:
Alabama	\$1,610,767.70	\$1,236,987.80
Arkansas	\$1,163,665.60	\$ 844,304.92
Missouri	\$ 124,343.75	\$ 62,818.75

The above figures represent how much more than its competitors CenturyTel pays *for only about 15% of its total pole attachments*, company-wide, each year. If this kind of price gauging by utilities is permitted to continue unchecked, CenturyTel believes broadband competition and investment in rural areas will be impaired. By raising one competitor's costs significantly above the costs of the others, excessive pole attachment rates directly affect CenturyTel's ability to provide advanced services at competitive rates.

CenturyTel believes that these issues are ripe for examination by the Commission in a rulemaking proceeding. With minor reforms to its rules, the Commission can advance broadband competition by eliminating irrational pole attachment rate differences among ILECs, CLECs and cable system operators.

The legal arguments made by CenturyTel are summarized in the enclosed talking points and in CenturyTel's comments in support of the above-captioned petition for rulemaking, filed in the record in this proceeding. Please direct any questions concerning this matter to me.

Very truly yours,

/s/

Karen Brinkmann

Counsel to CenturyTel, Inc.

Enclosure

cc: Thomas Navin, Chief, Wireline Competition Bureau
Donald Stockdale, Deputy Chief, Wireline Competition Bureau
Marcus Maher, Legal Counsel, Wireline Competition Bureau

FCC Rule Changes Are Needed to Ensure Rates for Pole Attachments
Are Not Unreasonably Discriminatory
February 16, 2007

The Communications Act Vests the FCC With Jurisdiction Over Pole Attachment Rates

- Section 224(b)(1) of the Communications Act requires the Commission to regulate the rates, terms and conditions of pole attachments, to provide that they are just and reasonable, and to hear and resolve complaints
- Section 224(a)(4) defines “pole attachment” to include any attachment by a *provider of telecommunications services* to a utility’s pole, duct, conduit or right-of-way
- Section 224(b)(2) requires the FCC to prescribe rules to carry out these provisions
- The U.S. Supreme Court in *NCTA v. Gulf Power* affirmed the Commission’s broad jurisdiction to set just and reasonable rates for pole attachments, and rejected arguments that Sections 224(d) and (e) limit this authority

The Commission Should Put an End To Rate Discrimination Among Carriers

- Section 1.1409(e)(2) of the rules provides a rate formula only for *telecommunications carriers* (defined in Section 224 to exclude ILECs)
- The Commission should clarify that as *providers of telecommunications services*, ILECs are entitled to just and reasonable pole attachment rates, and may invoke the default rate-setting formula set forth in Section 1.1409(e)(2)

The Commission Should Amend Its Complaint Procedures So All Carriers Can Obtain Equitable Treatment

- Current FCC rules limit the Commission's ability to provide an appropriate remedy in response to ILEC complaints of unjust and unreasonable discrimination, by limiting standing to bring a complaint to *telecommunications carriers* (excluding ILECs)
- States are often unwilling to adjudicate such disputes, leaving ILECs without any recourse when utilities unreasonably raise rates and discriminate against ILECs
- The Commission should amend Rule 1.1404 so all *providers of telecommunications services* may bring complaints of unjust or unreasonable pole attachment rates

All Providers of Telecommunications Services Should Pay Comparable Rates for Attachments

- Cable system operators directly compete with telecommunications service providers in the offering of voice, video, Internet access, and other broadband services to the public
- The Commission should consider whether the discriminatory treatment between providers of telecommunications services and cable system operators offering comparable services (*e.g.*, broadband) violates Section 224(b)(1) of the Act