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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

In the Matter of the Application of)
CenturyTel of Ohio, Inc. For Approval of)
an Alternative Form of Regulation) Case No. 04-62-TP-ALT
Pursuant to Chapter 4901:1-4, Ohio Adm.)
Code.)

MOTION TO DISMISS;
IN THE ALTERNATIVE, MOTION FOR STAY;
REQUEST FOR EXPEDITED RULING
OF THE OFFICE OF
THE OHIO CONSUMERS' COUNSEL

The Office of the Ohio Consumers' Counsel ("OCC") on behalf of the residential telephone consumers of the State of Ohio, submits the following motions to the Public Utilities Commission of Ohio ("Commission") in this proceeding:

- The OCC moves to dismiss this application because there has been no showing that all the non-basic services of CenturyTel of Ohio, Inc. ("CenturyTel") are subject to competition or have reasonably available alternatives. As a result, CenturyTel cannot be granted alternative regulation for all of its non-basic services pursuant to R.C. 4927.03(A).
- In the alternative, the OCC moves for a stay of these proceedings, pending a resolution of the appeal by the OCC of the Commission's finding that all of the non-basic services of all Ohio incumbent local exchange carriers ("ILECs") are subject to competition or that consumers have reasonably available alternatives for those services.
- Given the short timeframe for action in this proceeding pursuant to Ohio Adm. Code 4901:1-4-02(D), the OCC respectfully requests expedited rulings on these motions. As discussed below, the OCC cannot assert that CenturyTel does not object to these expedited rulings.

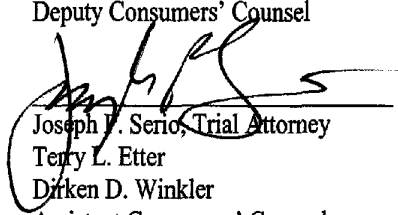
WHEREFORE, for the reasons more fully set forth in the accompanying Memorandum in Support, the OCC's Motion to Dismiss should be granted, on an

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expedited basis. If CenturyTel's application is not summarily dismissed, a stay should be ordered.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

A. Introduction

In an Opinion and Order dated December 6, 2001, an Entry on Rehearing dated April 25, 2002 and a second Entry on Rehearing dated June 20, 2002, the Commission adopted rules (Ohio Adm. Code Chapter 4901:1-4) establishing an “off-the-shelf” elective alternative regulation plan (“elective alt. reg.”), available to all Ohio ILECs.¹ The instant application is CenturyTel’s second elective alt. reg. filing. The first elective alt. reg. filing was made on October 8, 2002.² The OCC reacted to that filing with a similar responsive filing to this pleading on October 21, 2002. The OCC also filed a Motion for the issuance of a number of subpoenas on October 23, 2002, and a Motion for Extension of Time on October 25, 2002. CenturyTel responded to the OCC pleadings by submitting a Request to Withdraw Application, without prejudice, on October 31, 2002.³

Elective alt. reg. grants an ILEC unprecedented pricing flexibility for most non-basic services. In return, the ILEC makes commitments to deploy advanced services -- Ohio Adm. Code 4901:1-4-05(A) -- to establish a lifeline program -- Ohio Adm. Code 4901:1-4-05(B) -- and to constrain price increases for a few services. Ohio Adm. Code 4901:1-4-05(C).

¹ *In the Matter of the Commission Ordered Investigation of an Elective Alternative Regulatory Framework for Incumbent Local Exchange Companies*, Case No. 00-1532-TP-COI (“00-1532”). The OCC participated in the 00-1532 proceeding as part of a consumer coalition that at various times included AARP, Appalachian People’s Action Coalition, Citizens United for Action, Edgemont Neighborhood Coalition, Empowerment Center of Greater Cleveland and the Cities of Cleveland, Columbus and Toledo.

² *In the Matter of the Application of CenturyTel of Ohio for Approval of an Alternative Form of Regulation Pursuant to Chapter 4901:1-4, Ohio Administrative Code*, Case No. 02-2612-TP-ALT, Entry (November 7, 2002) (“November 7 Entry”).

³ *Id.*

The Commission adopted elective alt. reg. under authority claimed to exist pursuant to R.C. 4927.03(A).⁴ Under that statute, alternative regulation is available for ILEC non-basic services that are subject to competition or when customers have reasonably available alternatives for those services.⁵ In Case No. 00-1532, the Commission erroneously concluded that all of the non-basic services of all Ohio ILECs are subject to competition or that customers have reasonably available alternatives for those services.⁶ The OCC (as well as others) appealed this finding and the adoption of the elective alt. reg. rules to the Ohio Supreme Court,⁷ as well as appealing the elective alt. reg. rules and their application to United Telephone Company d/b/a Sprint ("Sprint").⁸

The record in 00-1532 was devoid of any evidence about competition in CenturyTel's territory.⁹ That is understandable, because CenturyTel enjoys an exemption from competition under section 251(f)(1) of the Telecommunications Act of 1996 ("1996 Act").¹⁰ The Commission found that the competitive obligations imposed upon ILECs by

⁴ 00-1532 Opinion and Order at 12. R.C. 4927.04(A) also applies to elective alt. reg., but in aspects not pertinent to the OCC's current motions.

⁵ R.C. 4927.01(A) defines "basic local exchange service"; "non-basic services" are all of a telephone company's other services.

⁶ See 00-1532 Opinion and Order at 15-21; Entry on Rehearing (April 25, 2002) at 3-5, 6-7.

⁷ See *Tongren v. Pub. Util. Comm.*, Ohio Sup. Ct. Case No. 02-1428; *AARP, Appalachian People's Action Coalition, Edgemont Neighborhood Coalition, Empowerment Center of Greater Cleveland and City of Toledo v. Pub. Util. Comm.*, Ohio Sup. Ct. Case No. 02-1444. These cases were dismissed without comment on May 16, 2003.

⁸ *Tongren v. Pub. Util. Comm.*, Ohio Sup. Ct. Case No. 02-1929.

⁹ In 00-1532 there was some information in the record about competition in Sprint territory.

¹⁰ Pub. L. No. 104-104, 110 Stat. 56.

section 251(c) made all ILEC non-basic services subject to competition.¹¹ In making this finding, the Commission overlooked and ignored CenturyTel's -- and other rural telephone companies' -- exemption. R.C. 4927.03 does not allow such factors to be ignored.

The Commission's interactive web site entitled "Competitive Local Telephone Company Finder" indicates that the only Competitive Local Exchange Carrier ("CLEC") present in each of CenturyTel's exchanges is EZ Phone (a prepaid provider). However, information provided by EZ Phone in Case No. 03-1743-TP-AAC (and also docketed in Case No. 99-1170-TP-DTA) indicates that its market area is only for Verizon and SBC Ohio territories. Under these circumstances, it is simply not possible for the Commission to find that each of CenturyTel's non-basic services is subject to competition or that customers of that service have reasonably available alternatives. To allow the Commission's generic finding of potential competition in 00-1532 to override the actual non-competitive situation in CenturyTel territory would be the sort of bureaucratic abuse highlighted by the Ohio Supreme Court.¹²

Apart from the Commission's erroneous finding in 00-1532, CenturyTel's application here presents no evidence that each of its non-basic services is subject to competition or that customers have reasonably available alternatives for any of those services.¹³ Thus CenturyTel does not qualify for alternative regulation under R.C. 4927.03(A). The application should be dismissed.

¹¹ 00-1532 Opinion and Order at 18.

¹² *Union Camp Corp. v. Whitman* (1975), 42 Ohio St.2d 441,445; 329 N.E.2d 690.

¹³ In 02-2117, the Commission considered additional information placed in the record by Sprint about competition in its territory.

If the Commission does not dismiss CenturyTel's application, it would be appropriate for the Commission to stay further consideration of the application. Under the timeline set out in Ohio Adm. Code 4901:1-4-1-02(D), absent affirmative Commission action, CenturyTel will receive freedom to increase its Tier 2 service rates without restriction on March 2, 2004, 46 days after the filing of the application.¹⁴ It is likely that the appeal of 02-1929 will be decided by mid-2004. CenturyTel will not be harmed by delaying its alternative regulation plan for such a period.¹⁵

B. The Application Should Be Dismissed

The application must be dismissed because of the fundamental flaws in the Commission's determination that all non-basic services of all Ohio ILECs were subject to competition or had reasonably available alternatives. This determination was a necessary predicate for the adoption of the elective alt. reg. rules. Among those flaws, of course, was the lack of record showing competition or alternatives for CenturyTel's services. Further, given CenturyTel's failure to present any independent evidence here that its non-basic services are subject to competition or that customers have reasonably available alternatives for those services, the application must be dismissed as a matter of law because all of CenturyTel's non-basic services do not qualify for alternative regulation under R.C. 4927.03(A).

¹⁴ See Application, Exhibit A at 1.

¹⁵ Especially given that CenturyTel last had a traditional rate case in 1986. *In the Matter of the Application of Central Telephone Company of Ohio for Authority to Increase and Adjust its Rates and Charges*, Case No 84-1431-TP-AIR, Opinion and Order (February 11, 1986). In the 14 1/2 years since the effective date of R.C. Chapter 4927, and in the 10 1/2 years since adoption of the company-specific alt. reg. rules, CenturyTel has seen no need for alternative regulation.

In addition, this filing signifies CenturyTel's second elective alt. reg. application. The Company withdrew its initial elective alt. reg. application because of its claim of "litigation deluge" and the "gauntlet of protracted resource-consuming litigation" by the OCC.¹⁶ Nothing in the Company's current application indicates any change from the circumstances that existed when the Company filed its initial application. There is still no competition in the CenturyTel service territory and the OCC is still opposed to CenturyTel's Application for the same reasons as stated in the previous case. The only change that has occurred is that since the initial application, the OCC appeal of Sprint's elective alt. reg. case has been completely briefed and oral argument was presented. A decision is pending. Thus, any uncertainty regarding the legality of the elective alt. reg. rules may be clarified by the Court. Any resources used by the OCC or CenturyTel in this proceeding could be saved if the Commission were to dismiss this case, or stay it pending a final determination in the Sprint appeal.

1. The Commission's Finding That All of CenturyTel's Non-Basic Services Are Subject to Competition or Have Reasonably Available Alternatives Was Erroneous.

In the 00-1532 Opinion and Order, the Commission made a generic finding that all of the non-basic services of all of Ohio's ILECs are subject to competition or have reasonably available alternatives.¹⁷ The Commission's finding included, of necessity, a

¹⁶ CenturyTel of Ohio, Inc.'s Memorandum in Response to the Ohio Consumers' Counsel Filings and Withdrawal of Application, Case No. 02-2616-TP-ALT (October 31, 2002) at 1.

¹⁷ 00-1532 Opinion and Order at 11-21; 00-1532 Entry on Rehearing at 3-5.

finding that each of CenturyTel's non-basic services was subject to competition or that customers had reasonably available alternatives for those services as of the date of the Opinion and Order (December 6, 2001). As shown here, both the generic finding and the included CenturyTel-specific finding were erroneous.

An examination of the 00-1532 Opinion and Order shows the extent to which the Commission's generic findings do not support a determination that all of CenturyTel's non-basic services are subject to competition or have reasonably available alternatives. Notably, when given the opportunity (see 00-1532 Entry dated July 20, 2001), the only company-specific information that CenturyTel did present was that competition from two CLECs was present in one of CenturyTel's six exchanges.¹⁸ As noted above, the Commission's "Competitive Local Telephone Company Finder" web site and information from EZ Phone indicate that there are no CLECs operating in the CenturyTel service territory. Under these circumstances, CenturyTel does not qualify for alternative regulation under R.C. 4927.03(A), and the application must be dismissed.

In fact, as a "rural telephone company," CenturyTel is exempt from competition. The 1996 Act provides that ILECs must: (1) negotiate with other carriers; (2) allow other carriers to interconnect with the ILECs network; (3) provide unbundled access to the ILECs network; and (4) resell retail service at wholesale rates to competitors.¹⁹ Yet the law also provides that:

Subsection (c) of this section shall not apply to a rural telephone company until (i) such company has received a bona fide request for interconnection, services or network elements, and (ii) the State

¹⁸ 00-1532, Comments (August 17, 2001) at 1.

¹⁹ 47 U.S.C. §251(c).

commission determines (under subparagraph (B)) that such request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof).²⁰

Thirty-six of Ohio's 42 ILECs, including CenturyTel, are "rural telephone companies" as defined by 47 U.S.C. §153(37).²¹ A "rural telephone company" is not required to give competitors access to its local telephone network, absent a Commission determination that it should do so.²²

CenturyTel was found to be a rural telephone company in the 97-632 Second Supplemental Finding and Order (at 3). The Commission has not removed CenturyTel's exemption pursuant to 47 U.S.C. §251(f)(1)(A) or removed the exemption for any of the other 35 Ohio rural telephone companies. Unless a rural ILEC like CenturyTel gives competitors access to its network, then its telecommunications services cannot be "subject to competition," as contemplated by R.C. 4927.03(A).

In addition, R.C. 4927.03(A)(2)(a) through (d) set forth factors that the Commission must consider in granting alternative regulation to ILEC non-basic services.²³ The Commission made the "determination ... that a sufficient level of competition or reasonably available alternatives exist in order to provide a more flexible

²⁰ 47 U.S.C. §251(f)(1)(A) (emphasis added.)

²¹ See *In the Matter of the Commission Investigation of the Universal Service Discounts*, PUCO Case No. 97-632-TP-COI, Second Supplemental Finding and Order (December 18, 1997) ("97-632 Second Supplemental Finding and Order") at 2-3.

²² 47 U.S.C. § 251(f)(1)(A); *In the Matter of the Commission Investigation Relative to the Establishment of Local Exchange Competition and Other Competitive Issues*, PUCO Case No. 95-845-TP-COI, Opinion and Order (June 12, 1996) at 55.

²³ See 00-1532 Opinion and Order at 18.

regulatory treatment of all non-basic local exchange services for incumbent local exchange carriers.”²⁴ This determination was in error, particularly for CenturyTel.

The discussion of the error can be divided into two pieces. First, there was the Commission’s discussion of competition and alternatives for individual ILEC services, like speed dialing and toll. Although these competitors and alternatives could justify granting alternative regulation for those specific services, they cannot support the generic grant in the elective alt. reg. rules of alternative regulation for *all* of an ILEC’s non-basic services.²⁵

As noted above, given CenturyTel’s exemption from the competitive requirements of 47 U.S.C. §251(c), CenturyTel’s non-basic services are not “subject to competition.” Thus CenturyTel could receive alternative regulation for all of its non-basic services only if it were shown that customers had reasonably available alternatives for each and every one of CenturyTel’s non-basic services. Such a showing has not been made.

²⁴00-1532 Entry on Rehearing at 3. In the Entry on Rehearing, the Commission did not restate its conclusions from the Opinion and Order, but merely incorporated them by reference. *Id.*

²⁵ In the 00-1532 Opinion and Order, the Commission addressed certain specific ILEC services claimed to be subject to competition or have alternatives. Notably, however, the services referred to in the 00-1532 Opinion and Order are hardly an exhaustive list of ILEC services generally or of CenturyTel’s services in particular. See Application Exhibit 5. The Commission discussed the following services: consumer premises equipment (“CPE”) as alternatives to repeat dialing and last number redial; CPE as a substitute for speed dialing; competition for ILEC toll service; competition for operator services and alternative operator services. 00-1532 Opinion and Order at 18.

The Commission also identified cable modem service as an alternative to ILEC second lines used for Internet access. *Id.* Yet cable modems are an alternative only where cable modem service is available.

The Commission’s discussion of available alternatives for specific services actually highlights the number of ILEC non-basic services -- including those of CenturyTel -- that have no reasonably available alternatives. The gaps in the Commission’s findings show the error in adopting a rule that has as its basis the notion that all of the non-basic services of all of the ILECs are subject to competition or have reasonably available alternatives.

When the statutory factors are carefully examined, it is clear that the record in Case No. 00-1532 did not contain support to show that all of the non-basic services of all of the ILECs -- or all of the non-basic services of CenturyTel -- had reasonably available alternatives. This was demonstrated to the Commission by the various comments of the Consumer Parties, which are incorporated herein by reference.²⁶

- Number and size of alternative providers of services.²⁷
- The extent to which services are available from alternative providers in the relevant market.²⁸

There was nothing in the 00-1532 record or in this Application to show that any CLECs actually provide residential services in CenturyTel's territory. There was nothing in the 00-1532 record or in this Application to show that any CLECs actually provide residential service throughout CenturyTel's territory. There was nothing in the 00-1532 record or in this Application to show that there is a wireless provider in all parts of CenturyTel's territory.²⁹

- The ability of alternative providers to make services readily available at competitive rates, terms, and conditions.³⁰

A CLEC can make residential services readily available only when 1) it is certificated; 2) it has an approved interconnection agreement with the ILEC; 3) it has an

²⁶ This specifically includes the September 7, 2001 "Additional Reply Comments" at 16-61; the July 6, 2001 "Reply Legal Brief, Reply Comments and Motion to Strike" at 11-24; the May 25, 2001 "Reply Comments" at 10-12, 15-16; and the April 16, 2001 Comments at 10-22.

²⁷ R.C. 4927.03(A)(2)(a).

²⁸ R.C. 4927.03(A)(2)(b).

²⁹ Indeed, in the 00-1532 Opinion and Order (at 20), the Commission noted, "some customers view wireless as a reasonably available alternative...." (emphasis added).

³⁰ R.C. 4927.03(A)(2)(c).

approved residential tariff that sets forth competitive rates, terms and conditions; 4) it has the business plan to provide the services in a particular market; and 5) it has the retail infrastructure necessary for such service. There is no competition in CenturyTel's territory because CenturyTel does not have any interconnection agreements containing TELRIC rates, unbundled network elements, or wholesale rates.

On the wireless side, the Commission also failed to determine that wireless service was available throughout the entire CenturyTel's service territory, much less "readily" available. The Commission's point that "wireless service also often combines various custom calling features ... as part of its monthly package rate that a wireline subscriber will otherwise pay separately for" (00-1532 Opinion and Order at 20) fails to demonstrate that the wireless package price is competitive with a "plain" second or third wireline price. Further, directory listings, operator services and, Enhanced 9-1-1 service are not available with wireless service. In addition, the custom calling features available with wireless service are not competitive with wireline custom calling features, because the customer either has to drop the wireline basic service that underlies the custom calling features, or pay for the wireless "basic" service in order to get the wireless custom calling feature.³¹ Moreover, as detailed in the Consumer Parties' September 7, 2001 "Additional Reply Comments" (at 31-35), there are many other reasons why wireless service is not a reasonably available alternative to ILEC non-basic services.

³¹ That is, one cannot subscribe to wireless Caller ID without subscribing to a wireless access package, just as one cannot subscribe to wireline Caller ID without subscribing to basic local exchange service or a wireline second or third line. It should also be noted that given wireless' fundamental "called party pays" structure, the cost of wireless Caller ID would include usage charges for the calls identified.

- Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.³²

In the 00-1532 Opinion and Order, the Commission avoided the market share issue. The best the Commission could point to was information provided by Ameritech Ohio that, *in Ameritech Ohio territory*, various measures of CLEC activity were increasing.³³ This, of course, said nothing about the market share of CLECs in CenturyTel's territory -- which is *non-existent* -- or in other ILECs' territories.³⁴ By any reasonable view, the CLECs' market share for residential local service outside the Ameritech Ohio territory was minuscule at best; in CenturyTel territory it is nonexistent.

2. CenturyTel's Application Provides No Additional Information to Demonstrate That All of Its Non-Basic Services Are Subject to Competition or Have Reasonably Available Alternatives.

Given the Commission's erroneous generic findings that all Ohio ILEC non-basic services are subject to competition or that customers have reasonably available alternatives for those services, it is not surprising that CenturyTel's application does not present evidence to show that CenturyTel's non-basic services are subject to competition or have reasonably available alternatives. This is also not surprising because CenturyTel could not produce such evidence. Yet this means that without the generic finding, CenturyTel's application cannot meet the criteria of R.C. 4927.03(A) on its own.

³² R.C. 4927.03(A)(2)(d).

³³ 00-1532 Opinion and Order at 20.

³⁴ In the Entry on Rehearing, the Commission stated that, "the docket is replete with hundreds of pages of exhibits from numerous ILECs citing examples of competition or reasonably available alternatives to the non-basic telecommunications services offered by the ILECs." 00-1532 Entry on Rehearing at 5. These hundreds of pages of examples do not show that all of the non-basic services of all of the ILECs are subject to competition or have reasonably available alternatives. This includes CenturyTel.

3. Conclusion on Motion to Dismiss

As discussed above, given that the Commission did not demonstrate that all of the non-basic services of all of the ILECs were subject to competition or have reasonably available alternatives, and given that CenturyTel has not demonstrated that all of its non-basic services are subject to competition or have reasonably available alternatives, CenturyTel's application should be dismissed. If the Commission does not dismiss this application, as discussed below, the Commission should stay this proceeding pending a decision of the Sprint elective alt. reg. case appeal.

In the Sprint elective alt. reg. proceeding, the Commission denied the OCC's motions to dismiss.³⁵ The basis for the denial was that the Commission determined that the combined record of 02-2117 and 00-1532 supported a finding that all of Sprint's non-basic services were subject to competition or had reasonably available alternatives.³⁶ No such determination is possible here: It cannot be found from the record in 00-1532 that each of CenturyTel's non-basic services is subject to competition, or that CenturyTel's customers have reasonably available alternatives for those services.

This application must be dismissed for failure to meet the standards set forth in R.C. 4927.03(A).

C. The OCC's Motion for a Stay Should Be Granted.

If the application is not dismissed, it must be stayed. *In the Matter of the Commission-Ordered Investigation of Ameritech Ohio Relative to Its Compliance with*

³⁵ 02-2117 Finding and Order at 16.

³⁶ *Id.*

Certain Provisions of the Minimum Telephone Service Standards Set Forth in Chapter 4901:1-5, Ohio Administrative Code, Case No. 99-938-TP-COI, the Commission granted Ameritech's June 26, 2002 Motion to Stay portions of the June 20, 2002 Entry on Rehearing in that case.³⁷ Ameritech Ohio had contended that it would challenge the marketing provisions of the Commission's orders on appeal and believed that it was inappropriate to begin the complicated process of changing current practices until the company's concerns are addressed through judicial review.³⁸ The same reasoning compels a stay here.

If CenturyTel's elective alt. reg. application is granted, whether through automatic approval or by affirmative Commission order, CenturyTel will receive immediate freedom to increase rates for services that are designated as Tier 2.³⁹ If the Commission's elective alt. reg. rules are overturned on appeal, any CenturyTel rate increases under the rules would have to be rescinded. This would cause confusion for CenturyTel's customers; more importantly, CenturyTel customers will not be able to recover the funds they have lost through paying the illegally authorized increased rates. In addition, some customers will have had to give up the services for which CenturyTel has raised rates above the customers' willingness to pay.

In either event, customers would have suffered irreparable harm. Given CenturyTel's earnings over the last five or ten years, CenturyTel can hardly claim

³⁷ Entry, (July 18, 2002) at 8.

³⁸ Id. at 5.

³⁹ See Ohio Adm. Code 4901:1-4-05(C)(4)(b).

irreparable harm from a stay that prevents such rate increases.⁴⁰

A stay of this application will also stay the advanced services and lifeline commitments contained in the elective alt. reg. rules. Yet as noted, CenturyTel already met the advanced services commitment almost two years ago when it made its initial elective alt. reg. application in October 2002. CenturyTel also already has a lifeline program.⁴¹ Thus the elective alt. reg. benefits lost to customers during the stay will be only the increment of benefit above CenturyTel's current operation. As the representative of CenturyTel's residential customers, the OCC asserts that a stay of the application will be a net benefit to those customers.

The Commission should stay this application pending resolution of the appeals.

C. Request for Expedited Ruling

Under the elective alt. reg. rules, interested parties have 20 days after the filing of an application to intervene, protest the application and move for a hearing. This gives the Commission 25 days to consider the application and the parties' pleadings before the application becomes automatically effective.

The OCC is filing his motion to intervene and this motion for stay, or in the alternative, motion to dismiss, fourteen days after the filing of CenturyTel's application. This will give the Commission thirty-one days for careful consideration.

⁴⁰ This factor distinguishes the current situation from traditional rate cases, where the company's earnings were found to be low enough to justify rate increases. CenturyTel's total company earned return on equity for the last ten years has averaged 19.47%. For the last five years, CenturyTel's total company earned return on equity has averaged approximately 24% -- never falling below 21.17%. CenturyTel's total company earned return on equity for the year 2002 was 21.74%. See Case No. 04-62-TP-ALT, Request for Hearing on Application With Supporting Affidavit of Karen J. Hardie, ¶4.

⁴¹ CenturyTel Tariff P.U.C.O. No. 12, Section 16

Under the standard treatment for motions to the Commission, memoranda contra can be filed within 15 days and reply memoranda within another seven days. This comes unreasonably close to the deadline for Commission ruling on the entire application. Thus the OCC is compelled to request an expedited ruling on these motions.

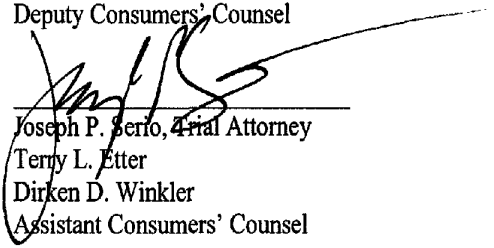
Ohio Adm. Code 4901-1-12(C) provides that when a party is requesting an expedited ruling, the requester must contact all other parties to determine whether they have an objection to the expedited ruling. The OCC has contacted CenturyTel. CenturyTel objects to an expedited ruling without the right to file a responsive memorandum.

D. Conclusion

WHEREFORE, for the reasons set forth herein, CenturyTel's application should be dismissed. If the application is not dismissed, it should be stayed pending the appeals of the Commission's grant of elective alt. reg. to Sprint.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Motion to Dismiss or in the alternative,
Motion to Stay; and Request for Expedited Ruling was served via first class mail, postage
prepaid to the parties identified below this 30th day of January, 2004.



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