

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Rhythms Links Inc. for an Expedited Arbitration Award Implementing Line Sharing With BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996

Docket No. 000501-TP

In re: Petition of Rhythms Links Inc. for an Expedited Arbitration Award Implementing Line Sharing With GTE Florida Incorporated Pursuant to the Telecommunications Act of 1996

Docket No. 000500-TP

Filed: May 1, 2000

RHYTHMS' MOTION TO BIFURCATE AND EXPEDITE PROCEEDINGS

Rhythms Links Inc. ("Rhythms") moves the Commission pursuant to Rules 28-106.204 and 28-106.210, Florida Administrative Code, to bifurcate these proceedings into two phases and to expedite the consideration of the Phase I issues in order to ensure that line sharing is effectively available throughout the State of Florida on June 6, 2000, consistent with the Federal Communications Commission's ("FCC") *Line Sharing Order*.¹ As grounds therefor, Rhythms states:

1. Rhythms has filed, simultaneously herewith, a Motion to Consolidate, asking the Commission to consolidate these two dockets for purposes of hearing. In this Motion to Bifurcate and Expedite Proceedings, Rhythms asks the Commission to establish two phases for consideration of the issues in the consolidated dockets in order to resolve the subset of issues that is most critical to the implementation of line sharing as quickly as possible. In

¹ *Deployment of Wireless Services Offering Advanced Telecommunications Capability*, Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 98-198 (FCC 99-355) (Feb. Dec. 9, 1999) ("*Line Sharing Order*").

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the event the Motion to Consolidate is denied, Rhythms would nevertheless urge the Commission to bifurcate each docket in order to resolve these key issues in a timely fashion.

2. As set forth in the petitions, the ILECs (including BellSouth and GTE), are obligated to provide requesting carriers (including Rhythms) with line sharing by June 6, 2000. Rhythms recognizes that the Commission may require the full statutory nine month arbitration period under Section 252(b)(4) to resolve all the line sharing related issues identified in its petitions. Since the nine month resolution window extends to August 18, 2000, well beyond June 6, 2000, Rhythms requests that the Commission divide the arbitration into two separate phases, and address the most critical and time sensitive line sharing issues prior to June 6, 2000.

3. Rule 28.106-211, Florida Administrative Code, gives the presiding officer broad authority to issue any orders necessary "to prevent delay, and to promote the just, speedy and inexpensive determination of all aspects of the case, **including bifurcating the proceeding.**" (Emphasis added.) As discussed below, Rhythms' proposal for bifurcation is designed to prevent delay in implementing line sharing in Florida while permitting the Commission to limit the number of issues which must be resolved on an expedited schedule.

4. There is nothing in the Telecommunications Act of 1996 ("1996 Act") that restricts the Commission's discretion to divide the issues in an arbitration and address them separately. Moreover, the Rhythms' proposal is consistent with the *Line Sharing Order's* recognition that, unless handled on an expedited basis, arbitrations could delay the availability of line sharing beyond June 6, 2000. In order to avoid any unnecessary delay, the FCC urged state commissions to grant petitions for an expedited arbitration within an accelerated timeframe, and to include specific terms and conditions in the arbitration award to allow for the immediate deployment of line sharing.

We strongly encourage states to issue binding interim arbitration awards that would require the incumbent to begin provisioning this unbundled network element on interim arbitration terms and conditions within 180 days of release of this order. As detailed throughout this order, we have provided specific guidance for the states regarding arbitration awards. We believe that this is consistent with our goal of federal-state cooperation in facilitating the widespread deployment of advanced services.²

Thus, a request for an expedited arbitration on line sharing is contemplated by the *Line Sharing Order*

5. Rhythms urges the Commission to use Phase I to address the core issues for implementing line sharing by June 6, 2000. The issues proposed for inclusion in Phase I are identified in the Petitions as Issues 1 through 6. In general, these issues address (i) the appropriate network architecture, including options for the ownership and location of the splitter and collocation augmentation intervals, (ii) recurring and nonrecurring rates for the necessary elements, and (iii) provisioning intervals for the line sharing unbundled network element. Since these issues are fundamental prerequisites to line sharing, Rhythms urges the Commission to arbitrate these issues on a “fast track” and to deliver a Phase I arbitration award in time for Rhythms to provide DSL services over a shared line by June 6, 2000.³

6. Specifically, for Phase 1 Rhythms proposes that the Commission enter a procedural order that:

- (a) orders all parties to file their direct testimony and exhibits on Phase I issues by May 5;
- (b) schedules hearings on May 11 and 12;
- (c) requires all parties to file post-hearing briefs on May 23; and
- (d) results in the issuance of a final decision by May 31.

² Line Sharing Order ¶ 164.

³ While Rhythms prefers a permanent resolution on these issues, Rhythms recognizes that the Commission may find that in order to issue a Phase I award in time for the June 6 deadline, the award must be interim.

While admittedly accelerated, Rhythms believes that this schedule is necessary in order for the Commission to issue a final decision in time for Rhythms to be able to use line sharing by June 6, 2000.

7. Rhythms proposes that Phase II address the remaining line sharing issues that, while important to the long term and non discriminatory provision of DSL services over a shared voice line, are not a prerequisite to initiating line sharing by June 6. The issues proposed for inclusion in Phase I are identified in the Petitions as Issues 7 through 16. These issues generally relate to the provision of line sharing over fiber fed digital loop carrier ("DLC") and Operations Support Systems ("OSS") interfaces for pre-ordering, ordering, provisioning and installation, billing and maintenance and repair.

8. Rhythms proposes that the Commission issue a procedural order for Phase II that:

- (a) requires BellSouth and GTE to file an issues matrix during the week of May 22;
- (b) requires all parties to file direct testimony during the week of May 22;
- (c) requires all parties to file rebuttal testimony during the week of June 5;
- (d) schedules hearings during the week of June 19 or June 26;
- (e) requires the parties to file briefs two weeks after the hearing concludes; and
- (f) results in the issuance of a final decision by August 2000, within the statutory nine-month period.

9. Rhythms' recognizes that the schedules suggested for both phases of the proceeding are aggressive. Given the importance of the issues, and the adverse impact that delay in implementing line sharing will have on Florida consumers, Rhythms urges the Commission to give this matter the highest possible priority.

10. Rhythms has consulted with counsel GTE and is authorized to represent that GTE opposes this motion. Rhythms has not yet been able to consult with counsel for BellSouth.

WHEREFORE, for the reasons stated above, Rhythms respectfully requests that the Commission bifurcate these proceedings in the manner set forth in this motion and expedite its consideration of the Phase I issues in time to implement line sharing in Florida by June 6, 2000.

RESPECTFULLY SUBMITTED this 1st day of May, 2000.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served this 1st day of May, 2000, on the following:

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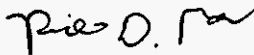
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