

**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 CONSOLIDATE**

Rhythms Links Inc. ("Rhythms") moves the Commission pursuant to Section 120.80(13)(d), Florida Statutes, and Rules 28-106.204 and 28-106.210, Florida Administrative Code, to consolidate these two dockets for purposes of hearing. As grounds therefor, Rhythms states:

1. Each of these dockets involves a petition for arbitration pursuant to Section 252(d) of the Telecommunications Act of 1996 ("1996 Act") that asks the Commission to address unresolved issues involving line sharing between Rhythms and BellSouth Telecommunications, Inc. (Docket No. 000501-TP) and between Rhythms and GTE Florida Incorporated (Docket No. 000500-TP).
2. The issues submitted for arbitration in the petitions are identical, as are the positions of Rhythms on those issues. The proceedings in these dockets will thus involve common questions of law, fact, and policy.

3. In light of the common issues, Rhythms submits that administrative efficiency would be advanced by consolidating these proceedings. Such consolidation is consistent with both the Uniform Rules of Procedure and with the provisions of the 1996 Act.

4. Rule 28-106.211, Florida Administrative Code, gives the presiding officer broad discretion to issue any orders necessary "to prevent delay, and to promote the just, speedy and inexpensive determination of all aspects of the case. . . ." Rhythms submits that consolidation of these proceedings would promote the efficient resolution of the common issues. Consolidation would eliminate the necessity for the Commission to hear repetitive testimony and cross-examination regarding common issues in two closely spaced hearings. Consolidation would result in a single record and a single, consistent decision by the Commission on these common issues. In addition, given the tight federal statutory time frames that govern Section 252(d) proceedings, and the congested nature of the Commission's calendar, consolidation would assist the Commission in resolving these proceedings in a timely fashion.

5. Further, in proceedings to implement the 1996 Act, the Commission is expressly authorized by Section 120.80(13)(d), Florida Statutes, to employ procedures consistent with the 1996 Act. In this regard, Section 252(g) of the Act expressly permits consolidation of these types of proceedings:

**(g) CONSOLIDATION OF STATE PROCEEDINGS.--**  
Where not inconsistent with the requirements of this Act, a State commission may, to the extent practical, consolidate proceedings under sections 214(e), 251(f), 253, and this section in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the State commission in carrying out its responsibilities under this Act.

(Emphasis added.)

As stated above, consolidation of these dockets would reduce the administrative burden on both the parties to these dockets and on the Commission in carrying out its responsibilities under the Act.

6. By submitting this request for consolidation, Rhythms is not seeking to force BellSouth to "intervene" in GTE's proceeding or vice versa. In order to be consistent with the Commission's rulings that the Act does not contemplate intervention by third parties in a Section 252 arbitration proceeding, Rhythms proposes that the Commission establish the following guidelines to govern the consolidated proceedings:

(a) As part of the issue identification procedures, the parties shall identify two categories of issues: (i) those issues which are common to the both proceedings (i.e. the issues raised in Rhythms' petitions); and (ii) those issues (if any) which are unique to one of the proceedings (i.e. any unique issues raised by BellSouth or GTE).

(b) All parties will participate fully in the litigation of the issues which are common to all proceedings. The Commission's decision on these common issues will be binding on all parties.

(c) Only Rhythms and the ILEC directly involved will participate in the litigation of the issues (if any) which are unique to one of the proceedings. The non-affected ILEC will not present testimony, conduct cross-examination, or file a brief with respect to the issues that affect only the other ILEC. The Commission's decision on these issues will be binding only on the parties who litigated the issue.

7. The Commission previously consolidated the original 1996 arbitration petitions involving AT&T/BellSouth and MCI/BellSouth, and the original arbitration

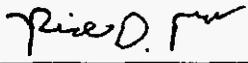
petitions involving AT&T/GTE and MCI/GTE on terms and conditions similar to those proposed in this motion.

8. Rhythms has consulted with counsel for GTE and is authorized to represent that GTE has not yet formulated its position on this request. Rhythms has not yet been able to consult with counsel for BellSouth.

WHEREFORE, for the reasons stated above, Rhythms respectfully requests that the Commission consolidate the captioned proceedings in the manner set forth in this motion.

RESPECTFULLY SUBMITTED this 1st day of May, 2000.

HOPPING GREEN SAMS & SMITH, P.A.

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*Counsel for Rhythms Links Inc.*

**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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c/o Nancy Sims  
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Tallahassee, FL 32301

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GTE Florida Incorporated  
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Tampa, Florida 33601-0110

**By Federal Express**

Beth Keating  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
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RECORDS AND  
REPORTING

Re: Rhythms' Petitions for Arbitration  
Against BellSouth and GTE Florida --  
Docket Nos. 000501-TP and 000500-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of Rhythms Links Inc. are the original and fifteen copies of its:

- 1. Motion to Consolidate 05362-00
- 2. Motion to Bifurcate and Expedite Proceedings 05361-00

By copy of this letter, these documents are being furnished to the parties on the attached service list.

Very truly yours,

*Richard D. Melson*

Richard D. Melson

AFA \_\_\_\_\_  
APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CNU \_\_\_\_\_  
CTR \_\_\_\_\_  
EAG \_\_\_\_\_  
LEG 1 cc: \_\_\_\_\_  
MAS 5 \_\_\_\_\_  
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1 cc: Certificate of Service  
Ms. Bedell  
Ms. Keating  
Mr. Dowds

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