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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matters of	)	
	)	
Deployment of Wireline Services Offering Advanced Telecommunications Capability	)	CC Docket No. 98-147
	)	
and	)	
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98

COMMENTS OF THE RURAL INDEPENDENT COMPETITIVE ALLIANCE

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SUMMARY

Consistent with the statutory mandates and Commission precedent, the FCC should use this inquiry regarding rule changes necessary to ensure the deployment of new network architectures as an opportunity to promote efficient interconnection methodologies. To that end, the Rural Independent Competitive Alliance ("RICA") recommends that the Commission find that incumbent local exchange carriers ("ILECs") are required to permit access to their networks via "tie-cable" interconnection. Through the use of "tie-cables," a copper wire that is routed from the ILEC's loop to a CLEC's premises allows the CLEC to provide switching and/or advanced services over the extended loop. RICA contends that efficiencies can also be realized by requiring ILECs to make space available in increments smaller than a rack or bay.

Further, the Commission should use this inquiry to address the delay and other anti-competitive behavior being exhibited by the large ILECs. Some ways to address the delays are by requiring ILECs to notify CLECs at the beginning of the application process as to whether physical collocation is or is not practical, modify rules such that provisioning intervals are determined by the number and type of facilities ordered and by shortening the provisioning time to 45 days for cageless collocation.

In addition to modifying its rules, RICA urges the Commission to examine the record contained herein and institute a comprehensive inquiry into methodologies to ensure that the large ILECs are complying with both the spirit as well as the letter of the Act.

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COMMENTS OF THE
RURAL INDEPENDENT COMPETITIVE ALLIANCE

The Rural Independent Competitive Alliance ("RICA"), by counsel, hereby files these Comments in response to the Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, released August 10, 2000.

RICA, an alliance of Competitive Local Exchange Carriers ("CLECs"), is a newly-formed organization, the members of which generally operate in rural areas, bringing the first, if not only, competitive local exchange and access service to vast geographic areas of the United States that otherwise would remain captive to the incumbent local exchange carrier ("ILEC"). These rural CLECs have offered facilities-based competition wherever possible. In the more infrequent cases where RICA members require interconnection and access to Unbundled Network Elements ("UNEs"), members have experienced delay and frustration in obtaining UNEs from, and difficulty in arranging efficient interconnection arrangements with, the large ILECs. Thus, RICA urges the

Commission to take all actions necessary to ensure that unbundled loops and other facilities of the large ILECs are available to CLECs in a timely, efficient and nondiscriminatory manner.

Section 251(c)(2) of the Communications Act of 1934, as amended (the "Act") requires ILECs to provide interconnection with the LECs' networks "for the facilities and equipment of any requesting telecommunications carrier." 47 U.S.C. § 251(c)(2). Section 251(c)(6) of the Act imposes upon ILECs "the duty to provide . . . for physical collocation of equipment necessary for interconnection or access to UNEs at the premises of the [LEC], except that the carrier may provide for virtual collocation if the [LEC] demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations." 47 U.S.C. § 251(c)(6). In examining these provisions, the Commission determined that Congress intended to expand, rather than restrict, the interconnection choices available to requesting carriers. The Commission concluded that requiring ILECs to provide virtual collocation and other technically feasible methods of interconnection or access to UNEs is consistent with Congress' desire to facilitate entry into the local telephone market by competitive carriers.[1] Accordingly, the Commission ordered that other methods of technically feasible interconnection or access to ILEC networks must be available to new

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[1] *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, CC Docket No. 96-98, 11 FCC Rcd 15499, 15780 (1996) (*Local Competition First Report and Order*), *aff'd in part and vacated in part sub nom. Competitive Telecommunications Ass'n v. FCC*, 117 F.3d 1068 (8th Cir. 1997) & *Iowa Util. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997), *affirmed in part, reversed in part, and remanded sub nom. AT&T v. Iowa Util. Bd.*, 525 U.S. 366 (1999), *aff'd in part and vacated in part on remand*, 2000 WL 979117 (2000), *Order on Reconsideration*, 11 FCC Rcd 13042 (1996), *Second Order on Reconsideration*, 11 FCC Rcd 19738 (1996), *Third Order on Reconsideration and Further Proposed Rulemaking*, 12 FCC Rcd 12460 (1997), *further recon. pending*.

entrants upon request[2] and adopted explicit national rules to implement the collocation requirements set forth in the Act to "remove barriers to entry by potential competitors and [to] speed the development of competition."[3]

The Commission Should Promote Efficient Interconnection Methodologies

RICA members have found that one way of speeding the development of competition is the use of "tie-cables" to access local loops. Under this arrangement, the CLEC provides a protector module for the ILEC to install on its main distribution frame ("MDF"). Loops ordered by the CLEC and provided by the ILEC are then connected to a copper cable, the "tie-cable" which is in turn connected to an offsite CLEC premises located in close proximity to the ILEC's premises. This arrangement allows the CLEC to maintain all equipment necessary to provide services to end users at its premises and provides switching and/or advanced services over the extended loop.[4]

One primary advantage of "tie-cable" interconnection to the CLEC is the ability of the carrier to maintain control over its equipment without incurring the substantial expense associated with physical collocation. For CLECs that provide service in small exchanges, the cost of physical collocation is too prohibitive. This cost is significantly diminished under the tie-cable arrangement due to the small amount of space needed. Thus, for RICA members who serve rural areas, this method is the most economically efficient means by which they can provide voice and advanced

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[2]*Local Competition First Report and Order*, 11 FCC Rcd at 15780-81. As an example, the Commission noted that small CLECs that lack the financial resources to physically collocate equipment may find that virtual collocation is less costly or more efficient than physical collocation. *Id.* at 15781.

[3]*Local Competition First Report and Order*, 11 FCC Rcd at 15783.

[4]RICA is aware of one such ILEC, Verizon, that permits this type of tie-cable arrangement. It calls this type of arrangement "virtual copper collocation."

services. Tie-cable interconnection also provides the ability to offer distance-sensitive advanced services due to the minimal extension of the loop. RICA understands that some ILECs may be concerned that any extension of the loop may cause a decrease in transmission quality. However, RICA notes that in this arrangement, ILECs will continue to remain in control of their own equipment and will be able to continue to maintain their standards of quality.[5] The equipment provided by the CLEC remains the CLEC's responsibility; quality of service issues will be discerned and punished by the consumer market if quality standards are not met. To the extent that the activities of one carrier effect the quality of the other's service offering, contractual arrangements will ensure that both parties maintain transmission quality standards.

However, many ILECs, such as Ameritech, do not allow CLECs to interconnect to their networks via tie-cable. Further, ILECs argue that this arrangement is similar to adjacent collocation and thus should only be available after collocation space in the central office has been exhausted, a situation that is not likely to occur in rural areas. Thus, RICA urges the Commission, in light of its statutory mandate to ensure no unreasonable roadblocks prevent the entry of CLECs into the local telephone market and in the context of inquiry regarding rule changes necessary to ensure the deployment of new network architectures,[6] find that ILECs are required to permit access to their networks via tie-cable interconnection.

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[5]*See* Section 251(c)(2)(C) of the Act requiring ILECs to provide interconnection that is "at least equal in quality to that provided by the local exchange carrier to itself or any subsidiary, affiliate, or any other party to which the carrier provides interconnection." 47 U.S.C. § 251(c)(2)(C).

[6]*See* Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 at para. 118.

RICA also suggests that competition will be promoted by requiring ILECs to make space available in increments smaller than a rack or bay.[7] More efficient use of space can be realized if ILECs are required to permit the physical collocation of CLEC equipment in smaller increments, such as a quarter rack. Requiring that CLECs utilize a full rack when they do not require such space results in inefficient use of space in an ILEC's premises, thus reducing space available for other CLECs. Additionally, the Commission should ensure that the cost decrease proportionate to the decrease in space used.

ILECs Continue to Delay Competition

Subsequent to the adoption of its collocation rules, the Commission found that development of competition was impeded by anti-competitive actions of the large ILECs and adopted additional national rules to facilitate the development of competition in the advanced services market.[8] In making the determination that its collocation rules required strengthening, the Commission noted that the large ILECs had delayed competition by such anti-competitive behavior as "contesting, on a case-by-case basis, the functionality of a particular piece of equipment . . . and whether it may be collocated" and "refusing to permit collocation of advanced services equipment that . . . also contains, for example, a switching functionality."[9]

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[7] *See* Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 at para. 100.

[8] *See Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 4761, 4764 (1999) (*Advanced Services First Report and Order*), *aff'd in part and remanded in part sub nom. GTE Service Corp. v. FCC*, 205 F.3d 416 (D.C. Cir. 2000).

[9] *Advanced Services First Report and Order*, 14 FCC Rcd at 4775, 4777.

RICA members have found that ILECs continue to impede competition through delays such as the following:

(1) After a RICA member applied for caged collocation space, the ILEC took the entire allotted amount of time, rejected the application due to lack of space and then recommended that the CLEC apply for a cageless environment. This process reset the deadline for the ILEC and created an additional 60-day delay for the CLEC.

(2) Although a RICA member had paid the standard 50 percent deposit for construction of facilities, the large ILEC informed the CLEC that it would not order trunks until the entire balance was paid. Thus, the CLEC was forced to sacrifice its ability to ensure that the construction was done according to specifications in order to obtain necessary facilities. Once the order was placed, the ILEC used the full allotted amount of time to complete the order.

(3) After the CLEC submitted its required Verification Worksheet and Interconnection Trunk Forecast to the large ILEC, the ILEC waited until the required deadline to inform the CLEC of 4 errors. After the errors were corrected and the form resubmitted, the ILEC waited until the deadline to advise of another error.

The Commission Must Tighten its Provisioning Time Requirements

In order to prevent such delays, RICA urges the Commission to modify its provisioning time requirements such that ILECs are not able to continue impeding competition through delay. One such modification would be to require ILECs to notify CLECs at the beginning of the application process as to whether physical collocation is or is not practical and, if not practical, what other options are available to the CLEC. Another would be to determine the provisioning interval according to the number and type of facilities ordered. For example, 12 DS3s would take

considerably longer to provision than 12 T1 orders. Additionally, RICA recommends that the Commission adopt a shorter provisioning interval. It has been the experience of RICA members that cageless collocation can be provisioned in 45 days, substantially less than the 90 calendar days currently allowed.

The Commission Must Address Other Anti-Competitive Behavior of the Large ILECs

In addition to delays, RICA members' attempts to provide competitive telecommunications and advanced services have been impeded through other means. In modifying its collocation rules, the Commission must also address these anti-competitive behaviors. Examples of such behavior are as follows: (1) the use of higher-than-average installation and power costs associated with collocation as well as a high monthly recurring charge; (2) the unreasonable failure of ILECs to provide adequate ports on their switch (in one such situation, a shortage of ports in the ILEC's tandem switch prevented delivery of toll traffic to the CLEC); (3) making it extremely difficult for customers to switch to the CLEC's service.

These examples of anti-competitive behavior as well as ILECs taking the full time allotted raise certain questions that the Commission must address as it strengthens its collocation rules, such as whether CLECs obtain loops and other facilities in the same period of time that the ILECs deploy the same facilities for themselves, and whether current rules make it too easy for ILECs to delay by their unreasonable failure to plan for future needs.

Conclusion

In its Notice of Proposed Rulemaking in this proceeding, the Commission has yet another opportunity to address and correct the large ILECs' deliberate and, perhaps orchestrated, erection of barriers to competition which frustrate Congress' intent. RICA urges the Commission not only

to make the above-suggested modifications to its collocation rules but also to institute a comprehensive inquiry into methodologies to ensure that the large ILECs are complying with both the spirit as well as the letter of the Act, including both collocation and interconnection issues.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Nancy Wilbourn, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Comments of the Rural Independent Competitive Alliance" was served on this 12th day of October 2000, by first class, U.S. Mail, postage prepaid to the following parties:

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