

Before the
Federal Communications Commission
Washington, D.C. 20554

MAR 14 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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
)	

**REPLY COMMENTS OF
Z-TEL COMMUNICATIONS, INC.**

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**REPLY COMMENTS OF
Z-TEL COMMUNICATIONS, INC.**

Z-Tel Communications, Inc. ("Z-Tel"), hereby submits its reply comments in response to the Commission's Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98. The Notices of Proposed Rulemaking invite interested parties to comment on a variety of topics related to line sharing.

I. INTRODUCTION AND SUMMARY

Z-Tel is a Tampa, Florida-based integrated communications provider that offers local, long-distance, and enhanced services to residential consumers in twenty states. Z-Tel delivers its telecommunications service to residential customers over the unbundled network element ("UNE") combination known as the UNE Platform. Z-Tel self-provisions the long distance and enhanced services portions of its package.

Z-Tel is currently investigating the feasibility of providing DSL service to our voice customers. We are comparing the benefits of partnering with a DSL provider versus providing voice and DSL services ourselves. We believe that under the Commission's current

rules and pursuant to TA 96, requesting carriers should be given access to the loop, packet switching, and transport facilities of the ILEC, regardless of whether collocation is available, to provide line-shared voice and data services. Efficient and accurate access to the ILEC's DSL loop qualification system is also critical. No changes to the unbundling rules are necessary to effectuate such an offering.

II. CURRENT RESTRICTIONS ON DSL PROVISIONING

In its initial comments filed in this proceeding on February 13, Z-Tel noted that the Commission previously announced that there were less than one million ADSL lines in the United States. Z-Tel stated that in its opinion, the delay in the availability of DSL lines is attributable, in part, to the Commission's previous rulings regarding packet switching. In the Commission's Third Report and Order and Fourth Further Notice of Proposed Rulemaking in this Cause (FCC 99-238, rel. Nov. 5, 1999), ILECs only were required to offer unbundled access to packet switching in limited circumstances. An ILEC could circumvent that requirement if it permitted collocation of a DSLAM in its remote terminal.

Z-Tel advised the Commission that in the State of New York's Line Splitting proceeding, Docket C.00-C-127, Verizon has argued that if a CLEC wishes to provide both voice and data service to a customer, a UNE-P configuration does not exist. Rather an internal voice port and a ADSL capable loop record must be created, and a CLEC owned line splitter must be inserted into the loop. In addition, pursuant to the Commission's Order released in the above-captioned Causes on December 19, 2000, if a customer currently receives voice and DSL service from Verizon, and wishes to switch their voice traffic to Z-Tel, Verizon is allowed to disconnect both their voice and DSL service. The end user must either purchase DSL service from a Data CLEC or the customer loses his DSL capability. If DSL capability is to be maintained, Z-Tel

must convert its UNE-P migrated line to a voice port and ADSL capable loop and insert a line splitter into the loop. None of these options are the most efficient method of migrating this customer. The most economical and common sense method of migrating this customer from Verizon to Z-Tel is to allow Z-Tel to serve him utilizing the UNE-Platform for voice and the UNE-data platform for DSL service.

III. ACCESS TO A UNE-DATA PLATFORM WOULD SPEED COMPETITIVE ENTRY INTO THE DSL MARKET.

Z-Tel concurs with the comment of Qwest Communications International Inc., that the Commission should "encourage the maximum deployment of broadband services, including broadband services provided by ILECs and competitors, over ILEC loops."¹ We also concur with Qwest that "ILECs and CLECs alike have an economic incentive to work together to maximize the competitiveness of DSL offerings. If an ILEC, in a competitive broadband marketplace, were to try to behave in a manner which discouraged other providers of DSL services from optimizing their own services over the ILEC's loops, customers could simply purchase broadband services from cable providers."²

In SBC Communications, Inc.'s comments, much time is spent describing the network architecture constraints that would complicate the facility arrangement with the required collocation of a line card. In this manner, SBC argues that CLECs need to self-provision facilities to allow for the transport of data.³ SBC also spends considerable time arguing that allowing collocation of line cards might prematurely exhaust the capacity of Next Generation

¹ Qwest Comments filed February 27, 2001, at p. 2.

² *Id.*, p. 3.

³ SBC Comments, filed February 27, 2001, p. 20.

Digital Loop Carriers (NGDLCs). However, if a customer that previously received DSL service from an ILEC chooses to receive voice service from Z-Tel and since it is precluded from continuing to receive DSL service from the ILEC, instead opts for cable broadband service, that same under utilization will occur.

Section 251(d)(2) of TA 96 requires the Commission to consider whether the failure to provide access to a network element impairs the ability of a telecommunications carrier seeking access to provide the services that it seeks to offer. Z-Tel provides a bundle of local and long distance service, voice mail and enhanced features. We intend to provide high-speed internet access as an enhancement to our bundle in the future. Denying access to an ILEC's packet switching and DSL functionality, when that ILEC is currently providing DSL service to a customer, impairs Z-Tel's ability to migrate that customer to Z-Tel's platform.

In the Commission's Fourth FNPRM issued in this Cause, the Commission stated that it "may consider whether the availability of an unbundled network element is likely to encourage requesting carriers to enter the local market in order to serve the greatest number of consumers as rapidly as possible."⁴ According to information released by the Commission on October 31, 2000, there are less than one million DSL lines in service in the United States. The availability of a UNE-data platform to competitors to provide line-shared data services would increase competition in the marketplace.

Contrary to the self-serving comments of Allegiance Telecom and the inexplicable recent comments of former FCC Chairman Reed Hundt which are cited in SBC's comments, UNE-platform providers are not just resellers. The UNE-platform has successfully

been utilized to enter markets and provide enhanced services to customers. Z-Tel offers web-enhanced services to over 340,000 residential customers. Z-Tel intends to offer these customers broadband services in the future. A UNE-platform offering in the broadband market would be beneficial to the CLEC entrants and to the ILECs by increasing utilization of their embedded investments.

In their comments filed in this Cause, SBC refers to its Broadband Offering that it is required to make available pursuant to the merger conditions; Qwest states that it is trying to engage in joint efforts with CLECs to maximize the competitiveness of DSL offerings; and Verizon states that it is evaluating the potential of a wholesale service offering. Thus, it appears that the majority of the RBOCs recognize that it may be in everyone's best interest to allow CLECs to offer DSL products.

However, the RBOCs, despite pleadings to the contrary, are not currently making available any meaningful DSL offerings through either a wholesale or UNE offering. Such words are merely paper promises that cannot be relied upon by this Commission in addressing the long term service needs of end users. To date, to Z-Tel's knowledge, no party has found any of the mechanisms proposed by Qwest, SBC or Verizon to provide a meaningful method of providing DSL service on any wholesale basis, negotiated or otherwise. The Commission must therefore ignore any promise(s) of availability and alternatively develop firm rules that require Bell South,

⁴ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 99-238 (rel. Nov. 5, 1999) at p. 10.

Qwest, SBC and Verizon to make wholesale DSL availability the "law of the land."⁵

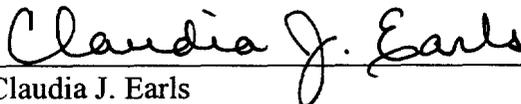
Z-Tel is not requesting that ILECs be ordered to build a better network to allow Z-Tel to expand its service offering. Z-Tel is only requesting that if the capability exists today to provide DSL service to a residential customer, that Z-Tel be allowed to provide DSL service to that customer utilizing a combination of the ILEC's UNEs priced at the ILEC's long-run incremental cost. Such an offering makes economic, political and practical sense.

⁵ Bell South, Qwest, SBC and Verizon erroneously state that should the Commission require broadband services to be unbundled, or should the Commission require the RBOCs to make system modifications to allow collocation, the effect would be a decrease in the deployment of broadband technologies. As evidenced elsewhere in these Reply Comments, such fears are unfounded. Broadening the base of ILEC based offering through CLEC marketed services will actually reduce the risk associated with DSL deployment and better position DSL alternatives in the marketplace against other high speed data offerings by entities such as Cable TV providers.

III. CONCLUSION

For the reasons presented herein, the Commission should make available to competitors a UNE-data platform defined as the loop (whether copper or fiber), attached electronics, line-card/DSLAM functionality, ATM switching or its equivalent, transport and an efficient and accurate DSL loop qualification system.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Charles M. Hines III, hereby certify that a true and correct copy of the foregoing **“Reply Comments of Z-Tel Communications, Inc.” CC Docket Nos. 98-147 & 96-98**” was delivered this 13th day of March 2001 to the individuals on the following list:

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Comments of Z-Tel Communications, Inc.
CC Docket Nos. 98-147 & 96-98
March 13, 2001

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A handwritten signature in black ink, appearing to read "Charles M. Hines III". The signature is written in a cursive style with a horizontal line underneath it.

Charles M. Hines III