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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the) CC Docket No. 96-98
Local Competition Provisions)
Of the Telecommunications Act of 1996)

**REPLY COMMENTS OF
THE RURAL INDEPENDENT COMPETITIVE ALLIANCE**

The Rural Independent Competitive Alliance ("RICA") hereby submits these reply comments in response to the Commission's Public Notice issued January 24, 2001 in the above-captioned proceeding.¹ RICA joins with commenters in bringing to the Commission's attention the problems faced by CLECs in their attempts to convert special access circuits to enhanced extended links ("EELs") and in urging the Commission to adopt clear, concise rules for ordering and provisioning EELs.

I. Commenters Provide Evidence that Despite the Commission's Efforts, CLECs Continue to Experience Frustration and Delay in Obtaining Combinations of Unbundled Network Elements

Following adoption of the Telecommunications Act of 1996, many small incumbent local exchange carries ("ILECs") established competitive local exchange carrier ("CLEC") operations, such as RICA members, to extend their reliable, efficient and modern telecommunications services to neighboring small towns and rural communities. Generally, these neighboring areas have received only minimal investment or attention from the large carriers serving them. In many

¹ *Comments Sought on the Use of Unbundled Network Elements to Provide Exchange Access Service*, CC Docket No. 96-98 (rel. Jan. 24, 2001) ("Public Notice").

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cases, the rural CLECs only option for entering these markets was to construct new facilities because resale or unbundled network elements (“UNEs”) of the large ILECs technologically obsolete plant and switching facilities would not allow the rural CLECs to offer the improved grades and quality of service demanded by the communities. In the more frequent cases when RICA members chose to overbuild, RICA members have experienced unnecessary delay in implementing interconnection agreements with the large ILECs. Similarly, RICA members choosing to utilize some or all of the facilities of the large ILEC have experienced delay and frustration in obtaining UNEs and other facilities of the large ILECs.

Both in this proceeding and in other contexts,² the Commission has been presented with ample evidence that ILECs have used tactics of unreasonable delay and other anti-competitive behavior to make it more difficult for CLECs to compete. In response to the Public Notice, Commenters again informed the Commission that CLECs have continued to experience frustration and delay in being able to convert their special access circuits to EELs. *See, e.g.*, Focal Communications Comments at 4-6 (noting that Focal has been unable to convert a single circuit to EELs due to the “foot-dragging” of the large ILECs and the refusal of certain large ILECs to

² *See e.g.*, RICA’s Reply Comments filed July 10, 2000 in response to the Commission’s request for comment regarding ALTS’ Petition for Declaratory Ruling on Loop Provisioning (CC Docket Nos. 98-147, 96-98, 98-141 and NSD-L-00-48) (referencing statements of several CLECs that large ILECs are not providing loops in the same period of time that the ILECs deploy the same loops for themselves); RICA’s Comments filed on October 12, 2000 in response to the Commission’s request for comment on a number of collocation-related issues (CC Docket Nos. 98-147 and 96-98) (citing specific examples of ways that large ILECs have impeded competition through delays in responding to collocation requests and urging the Commission to institute a comprehensive inquiry into methodologies of the large ILECs); Ex Parte letter filed by ALTS on December 22, 2000 (providing specific examples of problems experienced by CLECs in attempting to convert special access circuits to EELs).

comply with the Commission's rulings); ALTS' Comments at 4 (noting that some of the large ILECs have failed to implement the Commission's rulings and that generally, the large ILECs have "parsed every word in the prior EEL Orders in an effort to thwart, twist, and circumvent the FCC's intent . . . "); Joint Comments at 5 (noting that Southwestern Bell took 13 months after the release of the Commission's UNE Remand Order to implement the Commission's EEL ordering requirements and that Verizon has similarly refused to accept the self-certifications of carriers, "instead preferring to litigate . . . ").

This evidence demonstrates that despite the Commissions' well-intended efforts, including the adoption of carefully crafted rules regarding EELs and the recently held "EEL Summit," the large ILECs are continuing to use unnecessary delay to stifle competition. When added to the plethora of evidence that already exists in the record regarding the ILEC's tactics in this and related proceedings, it is evident that the Commission must immediately institute a comprehensive inquiry into the practices of the large ILECs and strongly enforce all of its existing rules pertaining to interconnection, UNEs and collocation.

II. RICA Urges the Commission to Clarify Procedures for Ordering and Provisioning EELs Such that Large ILECs Will Not Be Allowed to Use the Restrictions to Engage in Anti-Competitive Behavior

In conjunction with enforcing its existing rules, the Commission must also clarify its EEL ordering and provisioning requirements to ensure that ILECs cannot continue to exhibit anti-competitive behavior by circumventing the rules. Accordingly, RICA supports the following clarifications:

- The Commission must narrowly tailor its restrictions on EEL use to ensure that such restrictions are solely for the “transport and termination of interexchange switched voice traffic.”³
- CLEC’s should be allowed to self-certify that their orders comply with the limited use restrictions with the presumption that the CLEC satisfies the use restriction;⁴
- Small and startup CLECs should be allowed to seek waiver of the auditing requirement;⁵
- The Commission should adopt an expedited waiver process for any CLEC service that does not clearly fall into one of the use restrictions;⁶
- The Commission should implement a simple process for converting the CLEC circuits to EELs such as the procedures suggested by ALTS;⁷ and
- The Commission should establish standards for timely provisioning of EEL arrangements.⁸

³ See Joint Commenters’ Comments at 17.

⁴ See ALTS’ Comments at 11-12.

⁵ See ALTS’ Comments at 10.

⁶ See ALTS’ Comments at 8.

⁷ See ALTS’ Comments at 13-14.

⁸ See Joint Commenters’ Comments at 16.

III. Conclusion

As the Commission weighs the role of the market against additional regulation in determining what, if any, action to take in this and related proceedings, the Commission must keep in mind that its existing rules are based upon the Congressional mandate that ILECs provide facilities to competing entities in a timely and efficient manner. As demonstrated herein, several large ILECs have ignored both the letter and intent of these statutory-based regulations and are continuing to use delay and other anti-competitive tactics to inhibit competition. Accordingly, RICA urges the Commission to institute a comprehensive inquiry into the tactics of the large ILECs and to address the delay and other anti-competitive behavior through enforcement of existing rules. Additionally, RICA urges the Commission to clarify its EEL ordering and provisioning rules as suggested herein to ensure that unbundled loop-transport combinations are available to CLECs in a timely, efficient and nondiscriminatory manner.

Respectfully submitted

Rural Independent Competitive Alliance

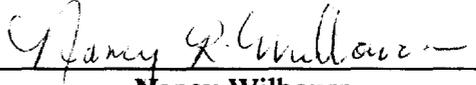
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I, Nancy Wilbourn, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Reply Comments of the Rural Independent Competitive Alliance" was served on this 30th day of April 2001, via hand delivery or by first class, U.S. Mail, postage prepaid to the following parties:


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