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

In the Matter of	)	
	)	
Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers	)	CC Docket No. 01-338
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Deployment of Wireline Service Offering Advanced Telecommunications Capability	)	CC Docket No. 98-147

COMMENTS OF THE RURAL INDEPENDENT COMPETITIVE ALLIANCE

Submitted April 5, 2002

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COMMENTS OF
THE RURAL INDEPENDENT COMPETITIVE ALLIANCE

SUMMARY

Founded in 1999, the Rural Independent Competitive Alliance (RICA) is an association comprising more than 75 competitive local exchange carriers serving rural businesses and individuals nationwide. RICA is the only organization dedicated exclusively to the operational challenges and interests of rural CLECs.

RICA members continue to make use of UNEs, both during the process of building out their own facilities and as a means of serving customers in remote areas where facilities build out would be cost prohibitive. In these comments, RICA urges the FCC not to lessen any of the unbundling obligations that stem from the Telecommunications Act of 1996 and that have been developed through FCC numerous procedures since that Act became law. In fact, because of continued anti-competitive practices of the large incumbent local exchange carriers (ILECs) that

work to prevent RICA member access to UNEs, RICA urges the Commission to strengthen its rules to guarantee CLEC access to UNEs and promote local phone service competition.

The Rural Independent Competitive Alliance ("RICA") hereby responds to the Commission's request for comment regarding its policies on unbundled network elements ("UNEs").[1]

Although the majority of RICA members provide competitive local exchange service solely through their own facilities, some members have found resale or the use of UNEs essential to providing service to rural subscribers, notwithstanding the dictates of the Telecommunications Act of 1996 ("Act") and the FCC's UNE policies, however, these RICA members have repeatedly experienced unnecessary delay and frustration in obtaining UNEs and other facilities from the large incumbent local exchange carriers ("ILECs"). Accordingly, RICA urges the Commission not only to maintain its existing UNE framework, but to strengthen its policies to address the anti-competitive tactics of the large ILECs.

I. The FCC Must Not Lessen Its Unbundling Obligations

As noted by the Commission, the development of the Commission's UNE policies has been a long, arduous, and ongoing process.[2]

The continued application of these statutorily based policies is vital for the still emerging rural competitive local exchange market.[3] Many RICA members have found UNEs essential for such purposes as initiation of service to a community during the process of overbuilding, or the provision of service to remote locations outside of a community where construction of facilities

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[1] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Notice of Proposed Rulemaking, CC Docket Nos. 01-338, 96-98, 98-147, FCC 01-361, rel. Dec. 20, 2001) ("Notice").

[2] See, e.g., Notice, paras. 5-14.

[3] ILECs still serve nearly 95% of all residential and small business lines in the country. See Federal Communications Commission, "Local Telephone Competition: Status as of June 30,

would be cost prohibitive. To lessen any of these obligations would prevent facilities-based CLECs from expanding their services. In some cases, less restrictive obligations would remove the competitors from the marketplace altogether. Accordingly, to further the goals of the Act, RICA urges the Commission to ensure that its UNE framework remain in place, and that ILECs not be allowed to avoid unbundling requirements.[4]

II. The FCC Must Strengthen its Unbundling Obligations to Address Anti-Competitive Tactics of Large ILECs

As explained in RICA's reply comments urging the Commission to adopt certain measurements and standards for evaluating ILEC performance in the provisioning of UNEs, rural CLECs continue to experience unnecessary delay and frustration caused by the inability of large ILECs to reasonably provide pre-ordering, ordering, provisioning, repair and maintenance functions that the rural CLECs require to interconnect, collocate or obtain access to UNEs.[5]RICA urges the Commission to strengthen its UNE rules to address the following anti-competitive behaviors of the large ILECs suffered by RICA members:

- When placing orders, ILEC responses often contain incorrect facility data regarding the UNE in question;

2001," Feb. 2002, Table 2 (revised Mar. 6, 2002).

[4] *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 99-238,* Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696, 3748-49 (1999) (*"UNE Remand Order"*)) (listing promotion of facilities-based competition as one of the five factors that further the goals of the Act.

[5] *See e.g.,* RICA's Reply Comments in CC Docket Nos. 01-318, 98-56, 98-147, 96-98 and 98-141, filed February 18, 2002. *See also* 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); and RICA's Comments filed 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).

- ILECs delay orders for UNEs on the basis that information provided by the CLEC is incorrect or incomplete. Upon further investigation and discussions with the ILEC, however, the ILEC acknowledges that the order is correct as written and only then, after considerable delay, processes the order;
- Large ILECs require a pre-order to precede each firm order to pre-qualify the local loop;
- Large ILECs exercise unnecessary delays when attempting to resolve order issues and in solving trouble reports;[6]
- The large ILECs fails to contact the CLEC when reported troubles are cleared in the ILEC's network, thereby delaying the CLEC's ability to notify the customer of repairs;
- Customer service is often disconnected by the large ILEC prior to the customer cut-over date, leaving the customer without telephone service;
- Large ILECs exercise unnecessary delays in informing the CLEC regarding jeopardy orders;
- Large ILECs refuse to allow the CLECs to collocate in remote facilities;
- Large ILEC exercise unnecessary delays in updating their records to recognize new E911 addressing, thereby causing orders to be rejected when addresses do not match;

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[6] One RICA member reports being billed for maintenance time to correct a problem that was created when the ILEC connected the loop to the CLEC's wrong pair. The same member also reports that the ILEC refused to compensate the CLEC when the CLEC had to resolve a problem caused by the ILEC failing to remove all bridge taps for the DSL line even after the CLEC had questioned the ILEC regarding whether it had removed the taps as requested.

- Large ILECs fail to turn up [on??] service or maintain or repair facilities on a timely basis, causing numerous quality of service issues and significantly hindering competition;
- Large ILECs establish loop prices for UNEs in excess of the large ILEC's retail rates, making UNE use impractical for competitors. One RICA member reports that the over $24.00 per loop cost in rural South Dakota makes use of UNEs uneconomical and another reports that an unbundled two wire loop costs $54.25 per month in rural Missouri, making use of UNEs cost prohibitive; and
- Large ILECs also establish unreasonably high non-recurring costs for collocation that make the use of UNEs impractical. One RICA member cites a minimum non-recurring cost of $26,628.00 for cageless collocation for one bay as being cost prohibitive.

III. Conclusion

For the foregoing reasons, the Rural Independent Competitive Alliance (RICA) urges the Commission 1) to refrain from lessening or reducing any of the existing unbundling obligations applying to large ILECs; and 2) to strengthen its unbundling obligations to address the continued anti-competitive practices of large ILECs.

Respectfully submitted,

Rural Independent Competitive Alliance

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