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May 22, 2000

Ms. Blanca S. Bayo, Director
Division of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 000500-TP

Dear Ms. Bayo:

Please find enclosed an original and 15 copies of GTE Florida Incorporated's Response to Rhythms Links Inc.'s Petition for Expedited Arbitration Against GTE Florida Incorporated for filing in the above matter. Service has been made as indicated on the Certificate of Service. If there are any questions regarding this matter, please contact me at 813-483-2617.

Sincerely,

Anthony P. Gillman

for Kimberly Caswell

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Enclosures

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FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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 22, 2000

GTE FLORIDA INCORPORATED'S RESPONSE TO RHYTHMS LINKS INC.'S PETITION FOR EXPEDITED ARBITRATION <u>AGAINST GTE FLORIDA INCORPORATED</u>

GTE Florida Incorporated ("GTE") responds to Rhythms Links Inc.'s ("Rhythms") Petition for Expedited Arbitration of unresolved line sharing issues between Rhythms and GTE, filed April 26, 2000.

I. BACKGROUND

Rhythms has filed motions (1) asking the Commission to consolidate this proceeding with a similar arbitration it has initiated against BellSouth; and (2) asking the Commission to bifurcate this proceeding into "core" and other issues and to set its Petition for hearing on a very aggressive procedural schedule. GTE does not oppose consolidation. GTE does not oppose bifurcation, either, although it believes an interim accord and a single hearing on all of the issues may be the most efficient approach. Finally, as GTE has discussed with Commission Staff and Rhythms, it would be impossible to comply with the extremely ambitious procedural schedule Rhythms has proposed.

II. NEGOTIATIONS

GTE has negotiated actively and in good faith on a national basis with Rhythms and other CLECs in an effort to resolve line sharing issues. Numerous meetings and conference calls have taken place in addition to the line sharing field trial in five GTE

California central offices. This trial is intended to provide information that will apply on a nationwide basis. GTE intends to continue negotiations with Rhythms to address the unresolved issues, and GTE hopes the parties can reach agreement on most or all of them without the need for a hearing.

Meanwhile, GTE will propose an interim agreement for Rhythms' consideration. If Rhythms accepts this agreement, it will be able to begin operations while this arbitration and concurrent negotiations continue. This approach should alleviate the concerns that led Rhythms to seek expedited treatment of its Petition. In any event, GTE will continue to work with Staff and other parties to establish a reasonably expedited schedule.

III. ISSUES FOR ARBITRATION

Issue No. 1: Should GTE be required to provide a menu of three splitter network configurations to address CLECs' differing business needs in all requesting central offices by June 6, 2000?

GTE Response: GTE is willing to provide such a menu, as described below. Since Rhythms filed its Petition, GTE's position regarding splitter configurations has been modified to include three basic network configurations. In GTE's preferred network configuration, the CLEC owns the splitter and places it in a virtual collocation arrangement, which will be negotiated on a case-by-case basis until a complete set of terms for splitter virtual collocation arrangements is finalized. GTE's virtual collocation tariff on file with this Commission addresses at least some of the rates, terms and conditions necessary for this type of arrangement, in which the CLEC would own the splitter and lease it to GTE for $1. GTE will install the splitter in a GTE-managed area of the central office, and operate and maintain the equipment on behalf of the CLEC. The splitters are dedicated to the CLEC and no other carrier will be able to use them. The voice path is cross-connected from the GTE main distribution frame (MDF) to the CLEC-collocated splitters via tie cables provided by the CLEC. Likewise, the combined voice and data path will be returned over a separate CLEC-provided tie cable.

As an alternative to virtual collocation, the CLEC can own and install the splitter in its physical collocation area. The voice service path will be connected from the GTE switch, to the MDF, and then cross-connected to the splitter located in the CLEC collocation area. There, it is combined with the data service path, and the combined voice/data service path leaves the splitter in the CLEC collocation area and is cross-connected back to the MDF, where it is then wired to the local loop. Two connections between the MDF and collocation area are required in this case. Both are provided under existing collocation terms and conditions.

The third configuration is one in which GTE owns the splitter. From June 6, 2000 through August 31, 2000 GTE will own and install in selected central offices a bay containing splitters configured to combine and separate the high and low frequency portions of the end users' service. The voice service path will be connected from the GTE switch to the main distribution frame (MDF), and then cross-connected to a splitter mounted in the splitter bay. Likewise, the CLEC-provided DSL service will be cabled to the GTE MDF and cross-connected to the same splitter in the splitter bay. The combined voice/data service path leaves the splitter bay and is cross-connected back to the MDF where it is then wired to the local loop. This arrangement will be made available only to facilitate the initial offering of line sharing to enable CLEC access to the high frequency band of the local loop immediately on June 6, 2000

Issue No. 2: If GTE owns the splitter, should it provide splitter functionality to CLECs on a line-at-a-time and/or shelf-at-a-time basis?

GTE Response: For the configuration in which GTE owns the splitter (the third option described above), GTE will provide common or shared port-by-port and cards/bays at this time due to their greater efficiency and popularity with CLECs.

Issue No. 3: Is thirty (30) calendar days the appropriate interval for collocation augments to provide line-sharing?

GTE Response: No. Provisioning intervals for collocation augments is a collocation issue, not a line sharing issue, so it does not belong in this docket. To the extent that line-sharing requires changes to existing collocation space, the Commission has already ruled that such augments will be provisioned within 45 calendar days, with an opportunity for the ILEC to seek an extension where necessary. (Order No. PSC-00-0941-FOF-TP at 34, May 11, 2000.)

Issue No. 4: Should GTE be required to provide CLECs with direct access to the shared physical loop for testing purposes at any technically feasible point?

GTE Response: No. Where GTE owns the splitter, CLECs' test access via GTE's web graphic user interface WISE is sufficient and in conformance with the FCC's Line Sharing Order (*Deployment of Wireless Services Offering Advanced Telecomms. Capability*, Third R&O in CC Dkt. No. 98-147 and Fourth R&O in CC Dkt. No. 96-98, FCC 99-355, at ¶ 118 (Dec. 9, 1999) (Line Sharing Order)) That Order states that ILECs must provide CLECs with "access to the loop facility for testing, maintenance and repair activities." (Line Sharing Order, ¶ 118.) Such access must be "reasonable and non-discriminatory," and provided at a minimum "either through a cross-connection at the competitor's collocation space, or through a standardized interface designed to provide physical access for testing purposes." (Id.) "Direct" access is not required.

Issue No. 5: Should GTE be required to provide the Line Sharing UNE in a three business day interval from June 6 to September 6, in a two day business interval from September 7 to December 7, and in a one day business interval thereafter and a five business day interval for loops that require deconditioning?

GTE Response: No. The intervals for provisioning and installation of line sharing orders should be contractual and based on parity with the provision of GTE's retail ADSL product. No inflexible intervals should be included in the contract. In particular, Rhythms' arbitrarily short proposed intervals have no basis and should be rejected. GTE's provisioning intervals applicable to retail ADSL service are 5 business days when no conditioning is required and 11 business days when conditioning is required. A contractual requirement of any intervals other than parity would entitle the CLECs to a "better-than-parity" network, which is clearly not required. As the Eighth Circuit Court stated, access to UNEs requires access only to the incumbent's "existing network--not to a yet unbuilt superior one." (Iowa Utilities Board v. FCC, 123 F.3d at 813 [emphasis in original].) Moreover, providing CLECs with a contractual guarantee of "better-than-parity" contravenes established federal and Florida precedent concerning OSS.

Issue No. 6: What are the appropriate recurring and non-recurring charges for all elements of the line sharing UNE?

GTE Response: Recurring and non-recurring charges for all line sharing elements should be based on GTE's cost studies to be submitted later. Until the Commission can set permanent rates, GTE will propose interim rates, terms and conditions that will be available to CLECs during the period from June 6, 2000 until the Commission completes this arbitration.

Issue No. 7: In addition to providing line sharing over home run copper loops, must GTE also allow CLECs to provide xDSL services utilizing line sharing on loops that traverse fiber-fed digital loop carrier ("DLC") systems between the remote terminal and the central office?

GTE Response: Rhythms' request for line sharing in connection with fiber-fed DLC is premature. Currently, the ILEC need only provide line sharing over copper facilities. In its Line Sharing Order, the FCC stated that line sharing over copper loops "is the only form of line sharing considered in this Order...fiber-based transmission systems are not considered in the Order." (Line Sharing Order, ¶ 17, n.27.) Thus, in a fiber-fed DLC scenario, the CLECs only have the right to line sharing over the copper portion of the subloop that extends from the customer's premises to the remote terminal. Before line sharing over fiber-fed DLC can be addressed, there are a number of complex issues that must be resolved (including, for instance, sub-loop unbundling, UNE combinations, packet switching and line card ownership issues). Such issues are beyond the scope of this proceeding and, in fact, are currently being considered by the FCC. On May 10, 2000, the FCC held a roundtable discussion with various telecommunications industry representatives to discuss line sharing in the fiber-fed context.

Issue No. 8: Should CLECs have direct electronic access to GTE's operational support systems ("OSS")?

GTE Response: The scope of the term, "OSS," must be defined before the Commission can resolve this issue. In its broadest sense, OSS encompasses all ILEC internal processing systems needed to provide CLECs the ability to pre-order, order, provision, maintain and repair, and bill services using ILEC facilities. (Line Sharing Order, ¶ 93, n. 213.) With respect to line sharing, the Line Sharing Order recognizes that ILEC OSS use both electronic and manual processes to provide wholesale services to CLECs. (Line Sharing Order, ¶ 98.) The Order also recognizes that the work required to provide access to the high frequency portion of the loop is incremental in nature. (Line Sharing Order, ¶ 99.) Given these facts, the FCC does not expect that all OSS will be fully automated by June 6, 2000. Indeed, the Order specifically states that:

> "[w]e expect that incumbent LECs will be able to provide automated OSS interfaces in approximately the same time frame that they require to provide similar functionality for their own uses. We note that <u>it is not, per se discriminatory for the incumbent to use, on an interim basis, a less automated OSS methodology</u>." (Line Sharing Order, ¶ 101, n. 234; emphasis added.)

One issue of particular relevance to line sharing is what has been referred to as "loop prequalification". This is a part of the pre-ordering process that provides information about whether a particular loop can support the provision of high bandwidth services. GTE has developed a Mechanized Loop Qualification system, which was deployed effective May 17, 2000 in accordance with the requirements of the FCC's UNE Remand Order.

Issue No. 9: In order to consider the installation of the line sharing UNE complete, must GTE test and the CLEC affirmatively accept the line sharing UNE?

GTE Response: No. This issue relates to the procedures for provisioning and for reporting trouble, which have already been implemented for UNEs. Rhythms improperly seeks to impose a different process on the provisioning of a single UNE--access to the high frequency portion of the loop. Furthermore, GTE lacks the procedures to do what Rhythms requests. Established UNE provisioning methods (which the Line Sharing Order found required only "incremental" change in order to accommodate line sharing) call for the UNE to be provisioned and tested in accordance with established parameters and then turned over to the CLEC. If difficulties later arise, then trouble reporting and maintenance activities and procedures take over.

Issue No. 10: What is the appropriate maintenance and repair time interval?

GTE Response: To be consistent with the retail parity standard, inflexible intervals should not be included in the contract. GTE's standard repair interval for retail service is 24 hours and GTE will provide repair at parity. Rhythms' provides no support for its proposed mean time-to-repair interval of two hours; there are no compelling reasons why a shorter repair interval should apply for data services than for voice access (which is critical in cases of emergency). Rhythms has not challenged the fact that 24 hours is GTE's standard repair interval, or explained why a better-than-parity interval should apply for line sharing.

In any event, GTE will update its repair interval as warranted once the results of its technology trial are evaluated.

Issue No. 11: Should GTE pay for the cable that carries voice traffic from the CLEC's splitter back to GTE's MDF?

GTE Response: No; the CLEC should pay for this cable, which is incremental to line sharing. Its expense is properly borne by the cost causer. Tie cables from the collocation area to the MDF are a standard requirement for any collocation facility and are not unique to line sharing. This is noted in the Line Sharing Order: "the incumbent LECs currently provide cross connects to interconnect loops with the collocated facilities of competitive LECs installed in incumbent LEC offices." (Line Sharing Order, ¶ 145.) Tie cables for line sharing should not be priced differently from the same tie cables otherwise used to connect a collocated area to the MDF. Such a discrepancy would be inconsistent and discriminatory.

Issue No. 12: What, if any, charges for OSS upgrades should CLECs pay to ILECs to accommodate line sharing?

GTE Response: The Line Sharing Order specifically recognizes that "incumbent LECs should recover in their line sharing charges those reasonable incremental costs of OSS modification that are caused by the obligation to provide line sharing as an unbundled network element." (Line Sharing Order, ¶ 144.) GTE's costs related to OSS modifications for line sharing are under development at this time, so GTE will propose appropriate charges later in the proceeding.

Issue No. 13: Should GTE be allowed to charge for de-conditioning (or sometimes referred to as "conditioning") a loop to provide line sharing and, if so, what should that charge be?

GTE Response: Yes. The Line Sharing Order specifically recognizes the ILECs' right to charge CLECs for line conditioning where it is necessary for the provisioning of xDSL service. The FCC sets forth this long-standing principle as early as 1996, in its

First Report and Order in CC Docket 96-98. That Order, which required ILECs to condition loop facilities upon request, stated that the "requesting carrier would…bear the cost of compensating the incumbent LEC for such conditioning. (*Local Competition Order*, 11 FCC Rcd 15499, 15692, ¶382 (Aug. 1996).) GTE will propose an appropriate price for line conditioning once the relevant cost studies have been completed and filed.

Issue No. 14: Should CLECs pay for GTE to determine whether a loop desired for line sharing is capable of providing DSL and, if so, what should that charge be?

GTE Response: Yes; GTE is entitled to such payment. The Line Sharing Order specifically recognizes that "incumbent LECs should recover in their line sharing charges those reasonable incremental costs of OSS modification that are caused by the obligation to provide line sharing as an unbundled network element." (Line Sharing Order, ¶ 144.) GTE will propose the appropriate rate once its cost studies are completed and filed.

Issue No. 15: Should GTE be prohibited from deploying new technologies or otherwise engaging in activities that impede CLEC's provision of xDSL services?

GTE Response: No. Under the Line Sharing Order (¶ 80), GTE is free to upgrade its plant by deploying any technology, including remote terminals and DLC, and by laying fiber. Under these circumstances, CLECs may be required to forego access to the high frequency portion of the loop or find other alternatives to provide service. GTE's first obligation is to provide quality basic voice service, and it is not restrained from deploying technology that advances that goal simply because that technology would interfere with provision of advanced services by a third party.

When GTE replaces part of a copper loop with fiber, it will continue to make the copper portion of the loop from the customer premises to the remote terminal available for line sharing. A CLEC providing data service could continue to do so by "obtaining access to a complete unbundled copper loop," if one exists, or "find[ing] another alternative to maintain service," such as collocating DSL equipment at the remote terminal. (Line Sharing Order, ¶ 80.)

Issue No. 16: Should GTE be required to share with CLECs its fiber DLC deployment plans?

GTE Response: No. Providing information as to GTE's future DLC system deployment plans would prove to be of little value to Rhythms. In fact, such information could be confusing and misleading. There are simply too many variables affecting the timing of the deployment of DLC systems. These include, but are not limited to: (a) not being able to obtain the necessary right-of-way or easement for placement of the DLC system; (b) demand not occurring as originally projected; and (c) in-period modifications to the capital budget. Any one of these items could cause deployment of a specific DLC system to be significantly delayed or result in alternative network provisioning plans being developed.

In addition, GTE is concerned that, over time, there would be an expectation that either GTE should modify its plans based on CLEC input or that plans should be executed as originally projected. Either one of these scenarios would limit the flexibility that GTE now exercises when developing and implementing its network plans. The FCC recognized this need for the ILEC to be able to manage its loop plant: "[w]e note that the ILEC is not restrained, in the course of normal loop plant maintenance and improvement activities, from migrating customers from copper to fiber loop plant facilities." (Line Sharing Order, para. 80.) Just as GTE should not be restrained in the implementation of its loop improvement activities, it should not be restricted in its ability to establish, modify, and execute its network planning function.

Respectfully submitted on May 22, 2000.

By: ______________________

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of GTE Florida Incorporated's Response to Rhythms Links Inc.'s Petition for Expedited Arbitration Against GTE Florida Incorporated in Docket No. 000500-TP were hand-delivered(*) or sent via overnight delivery(**) on May 22, 2000 to the following:

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