

ORIGINAL

undocketed

Rhythms Links Inc.

NONPROPRIETARY VERSION
2000 ALEC Data Request

- 1a. No
- 1b. N/A
- 1c. N/A
- 1d. No
- 1e. N/A
- 1f. N/A

- 2a. No. Rhythms sells DSL services directly to Internet Service Providers. Rhythms does not sell directly to residential customers.
- 2b. N/A
- 2c. N/A
- 2d. No. Rhythms sells DSL services directly to Internet Service Providers. Rhythms does not sell directly to business customers.
- 2e. N/A
- 2f. N/A

- 3a. N/A
- 3b. N/A
- 3c. Rhythms obtains unbundled loops and OSS in the exchanges indicated in the answer to question 3d.
- 3d. [[BEGIN PROPRIETARY --- END PROPRIETARY]]
- 3e. As part of Rhythms DSL offerings, Rhythms obtains unbundled network elements, local loops, and collocation space for the incumbent, deploys DSL equipment in the collocation space, and obtains transport from third parties.
- 3f. -0-
- 3g. [[BEGIN PROPRIETARY --- END PROPRIETARY]]
- 3h. -0-

- 4. -0-

- 5. See response to 3d.

- 6. See response to 3d.

- 7. Yes
- 7a. No.
- 7b. Yes. Rhythms has been presented with several barriers to entry in the Florida marketplace at the hands of incumbent carriers. As described in greater detail below, Rhythms has faced discriminatory treatment by all three incumbent carriers.

First, BellSouth required Rhythms to update from the BellSouth's LSOG2 ordering guide to LSOG4 between May and September 2000. When Rhythms complied, there were no supporting Business Rules for the update. Further, when BellSouth finally updated its Business Rules, it did not give any notice to ALECs, and many local service requests ("LSRs") were inexplicably returned to Rhythms.

Second, Rhythms has also had problems with BellSouth carrier notification letters, which are often poorly titled and confusing. Carrier notification letters are the method by which BellSouth informs competitors of

APP _____
CAF _____
CMP _____
COM _____
CTR _____
ECR _____
LEG _____
OPC _____
PAI _____
RGO _____
SEC + _____
SER _____
OTH _____

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updates to BellSouth's systems and services. Without accurate and timely notice, Rhythms is subject to discrimination by the incumbents, which are already privy to such information.

Third, BellSouth does not provide mechanized access to loop makeup information. BellSouth's deadline for releasing mechanized loop makeup information in July 2000 has come and gone. Tag and LENSs are now entering into Beta testing only, instead of the promised fully functioning offering. RoboTag is expected to be offered in Beta testing in another month or two. BellSouth has no plans to ever offer loop makeup information via EDI.

These examples are only a few ways in which the incumbents attempt to exert control over the Florida market by placing barriers to entry and impeding competition.

7d. Yes. Rhythms has been faced with many efforts by Florida ILECs to utilize their monopoly bargaining power to impede competition through delay and noncompliance with both the letter of their agreements, as well as state and federal laws. The following briefly describes some examples of BellSouth's failure to comply with its agreement with Rhythms that have impeded Rhythms' ability to offer its broadband services to Florida residential and business consumers.

First, Rhythms has been unable to execute certain amendments to its interconnection agreement with BellSouth for certain unbundled network elements because BellSouth has insisted on unreasonably high recurring and nonrecurring rates. While Rhythms expects that the Commission will address this problem in its ongoing UNE cost proceeding (Docket No. 990649-TP), the result of BellSouth's unwillingness to negotiate reasonable rates is that Rhythms does not have amendments in place for some UNEs, thereby limiting the digital subscriber line services Rhythms can provide to Florida consumers until the Commission orders rates for these elements.

Second, Rhythms has found that BellSouth often unilaterally, and without warning, will change definitions and terms negotiated as part of its agreements with competitors. For example, Rhythms learned that BellSouth began using a different definition for ADSL and HDSL loops – UNEs offered by BellSouth in its interconnection agreement with Rhythms – via a carrier notification letter. Further, this letter was not sent to Rhythms, rather it was merely posted on BellSouth's website. This places the burden on ALECs to monitor BellSouth's own website for unilateral changes BellSouth makes to its service offerings.

Third, BellSouth has sought to impose upon Rhythms its standard definition for Dedicated Transport despite the fact that the Rhythms interconnection agreement contains a specific, different, negotiated definition. BellSouth's behavior undermines the entire negotiation process by demonstrating that BellSouth will impose its own positions despite what it agrees to during negotiations.

Rhythms notes that it is difficult to identify all of the difficulties Rhythms has had with BellSouth involving agreements because BellSouth, at times, simply refuses to include provisions in its agreements that Rhythms believes should be in its agreements pursuant to the rules of the Florida Commission and the Federal Communications Commission. Instead, as shown in second paragraph of this answer, BellSouth forces ALECs, such as Rhythms, either to expend significant time and resources litigating matters before this Commission or to agree to agreements that contain less than they should. It is therefore difficult to even point to problems within BellSouth agreements.

Rhythms has difficulties with its agreements with GTEFL as well. GTEFL offers exorbitantly high rates, particularly for conditioning and collocation. These charges are often several times that of other ILECs providing the same services.

7e. Rhythms currently provides facilities-based broadband services. In the future, Rhythms will continue to explore new services and products to offer to the Florida consumer.

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- 7f. No
- 8a. Rhythms currently provides facilities-based broadband services.
- 8b. No.
- 8c. N/A
- 8d. DSL
- 9. DSL
- 10. No
- 11. N/A
- 12. N/A
- 13. N/A

14. There are several steps that the Commission could take, and some the Commission has been taking, to foster competition in the local exchange market. Rhythms will continue to play its part in by participating in relevant Commission proceedings as resources allow.

First, the Commission should consider adopting expedited procedures for reviewing breach of interconnection agreement complaints. Alternatively, the Commission could consider methods of expedited methods of dispute resolution to resolve disputes in a timely manner. Time is a critical element for entrance to the competitive marketplace, and is often used as an obstacle by incumbents to delay ALEC competitive entry and to waste competitors' greatly needed, and significantly smaller, resources.

Second, the Commission has engaged in a far-reaching and extensive UNE Cost Docket, Docket No. 990649-TP, in order to set reasonable rates for BellSouth's network elements in Florida. This docket is an important step for allowing ALECs to compete on even ground with Florida's incumbent providers by setting rates that are not barriers to entry.

Third, the Florida Commission is also overseeing extensive third-party testing of BellSouth's Operations Support Systems (OSS) with the help of KPMG in Docket Nos. 960789-FL and 981834-TP. It is imperative that the Commission utilize the OSS testing process to require real-time, electronic OSS for all functions, including ALEC electronic access to loop makeup information and ALEC electronic ordering of all types of unbundled loops and line sharing.

Fourth, the Commission should facilitate full access to ILEC remote terminals, including Digital Loop Carrier (DLC) equipment in those terminals, to enable data ALECs to provide services to Florida consumers served by loops that traverse fiber-fed DLC systems.

Finally, the Commission has reached several important conclusions in the Florida Collocation Order, Order No. PSC-00-0941-FOF-TP, regarding an ILECs requirement to virtual to physical collocation, availability of cross-connects, and payment of site preparation costs. The Commission should proactively ensure that Florida's ILEC's comply with this order.

Only through the diligence of the Commission's ongoing proceedings will competition in the telecommunications market ever become a reality. Rhythms applauds the Commission's efforts to date and encourages continued Commission efforts to continue to thwart the efforts of Florida's incumbents to resist competition in Florida and to restrict the competitive choice available to Florida consumers.

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15. Rhythms believes that the Commission does not need any further legislative action to implement any of the dockets mentioned in Rhythms' response to questions 7(b) and 14, expedited practices suggested in Rhythms' response to question 7(b) and 14, or any other proceeding that the Commission wishes to undertake to ensure that Competitive providers are given a place in the Florida marketplace. Under independent state law, the Commission has amply authority to establish and enforce the procedures necessary to ensure a competitive marketplace in the state of Florida. Rhythms encourages the Commission to utilize this authority to the benefit of the Florida consumer.

16. At present, BellSouth does not provide any electronic OSS functionalities that support ALEC provision of advanced services. This means that Rhythms is forced to do all ordering and pre-ordering through manual processes which are slow and often get lost. This problem could be rectified by requiring BellSouth to adhere to the dates it promises to have electronic ordering available.

Second, despite releasing new versions of BellSouth's business practices, it is confusing and time consuming to place orders with BellSouth in Florida. BellSouth's business rules do not clearly state the process by which an ALEC should place an order in Florida, resulting in a slow and difficult ordering. The Commission should encourage KPMG to analyze BellSouth's business processes and require BellSouth to make modifications to create comprehensive ordering mechanisms.

Third, GTEFL does not provide Rhythms with nondiscriminatory access to its OSS. Instead, GTEFL offers to the ALECs a special web-based GUI to test loops called WISE, but does not provide the ALECs with the same functionality that GTEFL provides to itself. GTEFL should be required to provide to Rhythms the same functionalities that it provides to itself.