

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of)	Docket No. UT-990261
Telecommunications Carrier-to-Carrier Service)	
Standards for the Interface of Interconnecting)	SUPPLEMENTAL COMMENTS
Local Exchange Carriers)	OF RHYTHMS LINKS, INC.
_____)

INTRODUCTION

Pursuant to the Commission's Notice of Opportunity to File Supplemental Comments (August 9, 1999), Rhythms Links, Inc. (Rhythms), submits the following supplemental comments. Rhythms endorses the Commission's efforts to address the quality of services and facilities provided by incumbent local exchange carriers (incumbent LECs) to competitive local exchange carriers (CLECS). Rhythms believes that carrier-to-carrier service quality rules, ones that help assure CLEC customers at least the same level of service as incumbent LECs provide to their own customers, is one of the cornerstones to promoting the development of true competition. Indeed, this is why the Telecommunications Act of 1996 (1996 Act) requires interconnection with local exchange carriers that is "at least equal to" that provided by the incumbent LEC to itself or its subsidiaries.¹

At present, Rhythms generally supports the concepts underlying the Staff's proposal to model carrier-to-carrier service quality rules after the New York Public Service Commission Order Establishing Permanent Rule on Service Quality Standards for Telephone Companies (June 30, 1999) (New York rules).² However, Rhythms suggests caution to the

¹ 47 U.S.C. Section 251 (c)(2)(C).

² *New York Public Service Commission Order adopts its prior Order Adopting Inter-Carrier Service Quality Guidelines (February 16, 1999) with revisions.*

Commission because the New York rules are an evolving process rather than a fixed document, thus the Commission should leave room for further adjustment. In particular, the New York rules initially focused primarily on issues relating to carrier-to-carrier service quality for POTS, and did not address the unique service quality issues for Digital Subscriber Line (DSL) service providers. To remedy this, the New York PSC recently initiated a collaborative workshop to address DSL service quality issues - a collaborative that is still ongoing today. At some point in the near future, Rhythms expects that the collaborative process in New York will produce further rules or working documents directly addressing service quality for DSL service providers.

For CLECs like Rhythms, it is of paramount concern that service quality rules geared to DSL service providers be incorporated into this Commission's work. DSL is an important and increasingly popular advanced telecommunications service, providing high speed, quality data access to the Internet and other distributed networks. Since the New York rules are still an evolving process, Rhythms urges the Commission to continue to evaluate and incorporate future decisions coming out of the New York proceedings and to ensure that Washington state rules address issues regarding DSL.

I. THE COMMISSION MUST EVALUATE WHAT ILECS PROVIDE TO THEMSELVES COMPARED TO WHAT IS PROVIDED TO CLECS.

The unbundled local loop is a critical unbundled network element (UNE) for DSL providers such as Rhythms. It is essential to the promotion of true competition that incumbent LECs not be allowed to leverage their total control over access to local loops to the disadvantage of their competitors. For example, incumbent LECs frequently claim that the loops that serve their customers cannot carry DSL services without expensive and time-consuming conditioning or extension technologies being applied to the loop. Yet, incumbent LECs at the same time do not appear to have any trouble providing their commercial DSL offerings to retail customers on a widespread basis.

The Commission, therefore, at minimum, should establish rules that require incumbent LECs to report the number of loops conditioned for DSL for their own customers, and the amount of time it takes incumbent LECs to provide DSL services to its own retail customers. This information will allow CLECs to make a comparison between the speed at which incumbent LECs provide DSL to their own customers and the speed with which incumbent LECs provide DSL loops to CLECs. Tracking the provision of DSL loops will deter incumbents LECs from discriminating in favor of their retail arms in the provisioning of DSL-capable loops to CLECs and end users.

II. THE COMMISSION MUST REQUIRE ILECS TO PROVIDE CLECS ACCESS TO LOOP MAKE-UP INFORMATION.

Access to loop make-up information during the pre-ordering process is essential to a CLEC's ability to determine what type of DSL service Rhythms can provide to a specific customer, and whether alternative loop facilities are available. Loop make-up information gives a CLEC direct access to the essential characteristics of a loop (e.g., length and gauge) or whether the loop is "clean" (e.g., free of excess bridged taps, load coils, DAMLs and DLC facilities). Such information is readily available today in the databases controlled by incumbent LECs and is used by their retail arms when they order and provision DSL services to their retail customers.

At the Commission's July 16, 1999 Carrier-to-Carrier Service Quality Workshop, Jo Gentry explained why Rhythms needs access to the loop make-up data on a pre-order basis. What some incumbent LECs call a "loop qualification" record is inadequate; it is simply a red light-green light assessment by the incumbent LEC as to whether a loop is DSL-capable. CLECs are at a disadvantage if they can only "receive" information that has been filtered, masked, or sorted by the incumbent LEC, especially because often a CLEC would make a very different assessment than an incumbent LEC of whether a loop is DSL-capable. In sum, Rhythms needs parity with incumbent LECs to have equal access to loop make-up

data in order to make an informed business decision on how it may best serve potential customers. The Commission must establish a rule that allows CLECs to view the loop make-up information on a pre-order basis.

III. EXPEDITED ENFORCEMENT

If an incumbent LEC fails to meet its obligations under the Commission's carrier-to-carrier service quality rules, CLECs should be permitted to petition the Commission for enforcement of the rules on an expedited basis (e.g., 45 days). In addition, to avoid additional delay of deployment of advanced services from further anti-competitive behavior, the Commission should provide for sufficiently strong penalties to cause real change in incumbent LECs operations and systems.

IV. CONCLUSION

This Commission has authority under Washington law³ to deter incumbent LECs from exercising their monopolist tendencies, which is their inherent nature, against their competitors.⁴ Incumbent LECs have little motivation to promote the competitive viability of new entrants. Anti-competitive behavior, particularly toward DSL providers, is thus likely to continue until the Commission establishes clear performance standards, specific measures, and stringent reporting requirements.

RHYTHMS urges the Commission to act expeditiously on its carrier-to-carrier service quality rules.

³ "Whenever the commission shall find, after such hearing that the rules, regulations or practices of any telecommunications company are unjust or unreasonable, or that the equipment, facilities or service of any telecommunications company is inadequate, inefficient, improper or insufficient, the commission shall determine the just, reasonable, proper, adequate and efficient rules, regulations, practices, equipment, facilities and service to be thereafter installed, observed and used, and fix the same by order or rule as provided in this title" RCW 80.36.140

⁴ "A scorpion wanted to cross the creek, but it could not do so without the assistance of the frog. The frog did not wish to carry the scorpion on its back across the creek for fear of being stung. The scorpion argued that it would not sting the frog, for to do so would endanger its own life as well. Halfway across the creek, the frog felt a sharp sting. As the frog floundered in the water, in anguish it asked the scorpion why it had stung it. The scorpion replied, I could not help myself, it is my nature."

RESPECTFULLY SUBMITTED this 24th day of September, 1999.

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-and-

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Attached Service List