

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Joint Submission of the Amended)
Plan of Record for Operations) **Docket No. 00-0592**
Support Systems (“OSS”))

**BRIEF ON EXCEPTIONS OF
21ST CENTURY TELECOMMUNICATIONS OF ILLINOIS, INC.,
AN RCN CORPORATION COMPANY**

21st Century Telecommunications of Illinois, Inc. (“21st Century”), an RCN Corporation company, by its attorneys, hereby files its Exceptions to the Hearing Examiner’s Proposed Order (“HEPO”) in this proceeding.

I. INTRODUCTION

Of the twenty issues raised in this proceeding, 21st Century has addressed but a single issue that is extremely significant to its business: Issue 94. The only remaining dispute regarding this issue relates to dark fiber inquiries. 21st Century has requested an electronic process for obtaining responses to such inquiries, or at least a more expedited manual process. Staff adopted 21st Century’s position and agreed that improvements are needed. While the Hearing Examiner agreed that improvements are needed, it nevertheless failed to adopt the 24-hour response interval proposed by 21st Century. The Commission must conclude that even if information concerning dark fiber is not available in SBC/Ameritech’s electronic databases, it should be. The Commission should also require a 24-hour response interval.

II. ISSUE 94: THE COMMISSION MUST REQUIRE SBC/AMERITECH TO IMPROVE THE INQUIRY PROCESS FOR DARK FIBER, AND REQUIRE RESPONSES WITHIN 24 HOURS.

A. Argument

21st Century has requested that SBC/Ameritech provide an electronic interface to a database that contains information concerning dark fiber and that it respond to inquiries for dark fiber within 24 hours. SBC/Ameritech claims the information is not contained in an electronic database and that it cannot manually provide the information within 24 hours. The HEPO erred in accepting both of these claims.

First, the evidence casts serious doubt on SBC/Ameritech's claim that it has no electronic data base in which it maintains information concerning dark fiber availability. 21st Century witness Rolando Palacios, a former SBC/Ameritech interoffice facilities engineer, testified that information regarding dark fiber, referred to as "spare fiber" by SBC/Ameritech, is located in the Trunk Inventory Record Keeping System ("TIRKS"). (Tr. 1154) When questioned about the availability of dark fiber information in SBC/Ameritech's databases, two SBC/Ameritech witnesses gave different answers on this issue. Mr. Silver responded that he did not know whether TIRKS records spare capacity.¹ (Tr. 1085) Mr. Welch appeared to make a semantics distinction between dark fiber and spare fiber.² (Tr. 1085-86) The Commission should conclude that this information is readily available in mechanized databases and that it must be made readily available to the CLECs.

¹Mr. Silver is employed by SBC and has no network responsibilities. (Tr. 1096)

²However, he is not employed by Ameritech and never was. (Tr. 1093)

However, even were the Commission to accept SBC/Ameritech's factual assertion that dark fiber information is not contained in mechanized data bases, it should nevertheless conclude that such information should be maintained electronically. SBC/Ameritech conceded that it is technically possible to include dark fiber in the TIRKS data base. (Tr. 1105-06) As Staff stated:

Staff further believes that the current state of Ameritech's inventory system should not preclude Ameritech from moving towards a more organized and efficient record keeping system for its own network information (including dark fiber). . . . For its part, Ameritech acknowledges that is necessary for operating its network efficiently and meeting service requests for Ameritech to know what equipment, including cable, it has out in the field. In view of these realities, Staff concludes that Ameritech should not only have a complete inventory of fiber for itself but should have one available to respond to CLEC requests . . . Staff recommends that Ameritech take a forward looking approach in determining the best way to update and keep its records of facility information including dark fiber in a centralized and mechanized manner. . . . Ameritech should, within six months from the completion of this arbitration proceeding, present the Commission with a plan for mechanizing Ameritech's facility inventory records. In the mean time, Ameritech should institute new practices to ensure that the paper records of the Central Offices are kept up to date.

(Staff Final Comments, pp. 99-100, 102) However, 21st Century believes that the process Staff proposes for mechanizing this information should be completed sooner than six months.

The HEPO relies on the UNE Remand Order in support of its rejection of 21st Century's position. (HEPO, p. 117) However, the UNE Remand Order actually supports that position. It states that CLECs shall be permitted the same level of access to data as incumbent local exchange carriers enjoy themselves. UNE Remand Order, ¶ 429 Whether that information is available electronically -- as 21st Century contends -- or on paper -- as SBC/Ameritech

contends -- the information must be timely provided to CLECs. Since the evidence submitted in this proceeding demonstrates that the information requested by 21st Century already exists in SBC/Ameritech's OSS and is available to its employees, the Commission must conclude that this information be made available to CLECs. (Tr. 1154)

As further basis for its conclusion, the HEPO concludes that "the benefits of such a [dark fiber] database *do not seem to* outweigh the costs involved." (HEPO, p. 116; emphasis added) The HEPO cites no evidence in support of this claim. SBC/Ameritech has not quantified the cost of making this change, but merely characterized it as a "massive undertaking." (See HEPO, p. 114) This bald claim does not establish the conclusion reached by the HEPO.

To the contrary, the benefits of such a database far outweigh its costs. If the problems with timely obtaining information concerning dark fiber are not resolved, CLECs will have no choice but to order the more costly leased circuits. (21st Century Ex. 2, p. 3) The result would be to effectively make this UNE unavailable, in violation of the Telecommunications Act of 1996. 21st Century is seeking nothing more than for SBC/Ameritech to modernize its OSS to meet its obligations under the 1996 Act. The HEPO refused to require it to do so; the Commission must not.

In any event, the evidence establishes that SBC/Ameritech's current intervals for responding to dark fiber inquiries are too long. 21st Century made its first inquiry regarding dark fiber back on July 27th. (Tr. 1156) It took about fifteen to twenty days from the date of the Access Service Request ("ASR"), but over three months from the initial inquiry, to obtain a response. (Tr. 1152-58) While SBC/Ameritech claims that it is committed to respond to a

dark fiber inquiry from a CLEC within five business days for 1 to 10 ASRs and ten business days for 11 to 20 ASRs, 21st Century has not yet experienced such turn-around times.

The HEPO concludes that SBC/Ameritech's response times to date are unacceptable and requires SBC/Ameritech to comply with its own commitment to respond to a dark fiber inquiry from a CLEC within five business days for 1 to 10 ASRs and ten business days for 11 to 20 ASRs. (HEPO, p. 116) 21st Century supports the HEPO's conclusion that SBC/Ameritech's response times are unacceptable, but takes exception to its adoption of SBC/Ameritech's proposed response intervals. Rather than accepting SBC/Ameritech's proposal, the Commission should require Ameritech to respond to dark fiber inquiries within 24 hours.

2. Specific Exceptions

1. The "Analysis and Conclusion" section should be revised as follows:

AI shall immediately provide CLECs access to information regarding the availability of dark fiber, digital loop carrier systems and copper facilities, upon inquiry, equivalent to that provided to its own internal operations. To the extent this dark fiber information is not now contained in electronic data bases, AI shall mechanize its facility inventory records as soon as possible, but by no later than March 31, 2001. This change will not only benefit the CLECs, but it will also better enable AI to more efficiently utilize its facilities.

~~The Commission does not believe that AI should be required to create a database to inventory their dark fiber. The benefits of such a database do not seem to outweigh the costs involved. 21st Century, the only CLEC that was vocal on this issue has placed less than 10 inquiries for dark fiber (Tr.) (Covad and Rhythms, in their Final Comments, stated that they join in 21st Century's position on this issue.) This belief is also based on the FCC UNE Remand Order which stated, "If an incumbent LEC has not compiled such information for itself, we~~

~~do not require the incumbent to conduct a plant inventory and construct a database on behalf of requesting carriers." (Para. 429)~~

~~The Commission finds AI's response time to date unacceptable. However, AI has convincingly demonstrated that accessing information on dark fiber does not merely require punching an inquiry into a back office computer system. In the interest of competition, AI should respond to CLEC requests for this information in the same time periods as it provides the information to their own personnel. (See UNE Remand Order, Para. 431). The FCC found that "an incumbent LEC that has manual access to this sort of information for itself, or any affiliate, must also provide access to it to a requesting competitor on a non-discriminatory basis." (UNE Remand Order, Para. 429)~~

~~This information is very important for CLECs in order to effectively compete in the market. AI argues that shorter time frames than those in its proposal are not necessary because then CLECs could use the information to build network architecture, rather than provisioning dark fiber on a customer-by-customer basis. However, as the discussion in Issue 19 and the Covad/Rhythms Arbitration made clear, CLECs should have this information in order to build their network and plan for future marketing.~~

~~In conclusion, the Commission rejects ~~finds that for 1-10 inquiries, AI will respond within 5 days. For more than 10 inquiries, AI will respond within 10 days. AI's proposal and concludes that AI should respond to dark fiber inquiries within 24 hours. that more than 20 inquiries will be handled on a case by case basis is too vague.~~ In light of AI's poor performance in the past, the Commission will adopt Staff's proposal to require AI to further define and test the inquiry and ordering process that it has in place for dark fiber. Furthermore, AI should provide the Commission with documentation on the training process it has in place for its technicians handling dark fiber requests as well as the materials or correspondence it uses to educate its account representatives and the CLECs on the new process.~~

III. CONCLUSION

For the foregoing reasons, 21st Century Telecommunications of Illinois, Inc., an RCN Corporation company, respectfully requests that the Commission adopt the Hearing Examiner's Proposed Order with the modifications described herein.

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Respectfully submitted,

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