

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

ILLINOIS BELL TELEPHONE)
COMPANY)
)
Proposed Implementation of High) Docket No. 00-0393
Frequency Portion of Loop (HFPL)/Line)
Sharing Service.)

RHYTHMS LINKS, INC.'S
AND
COVAD COMMUNICATIONS COMPANY'S
RESPONSE TO
AMERITECH ILLINOIS' MOTION FOR EXPEDITED RULING

Rhythms Links, Inc. ("Rhythms") and Covad Communications Company ("Covad") by their attorneys, hereby respond to Illinois Bell Telephone Company's ("Ameritech Illinois") Motion for Expedited Ruling on Motion for Oral Argument ("Expedited Motion"). In support hereof, Rhythms and Covad state as follows:

1. On January 26, 2001, Ameritech filed a Motion for Oral Argument ("Motion"). The issue upon which Ameritech seeks argument is CLEC access to Project Pronto. As Ameritech pointed out in its Motion (¶ 7), that issue was also addressed in a consolidated arbitration proceeding involving Rhythms and Covad (Docket Nos. 00-0312/00-0313). Ameritech requested oral argument on the Project Pronto issues in the rehearing phase of Docket Nos. 00-0312/00-0313, but that request was denied. On February 15, 2001, the Commission issued its order on rehearing and affirmed its earlier decision in the Arbitration Award on the Project Pronto issues.

2. On February 2, 2001, Rhythms filed its response in opposition to oral argument.¹ Rhythms will not repeat the arguments in its response in opposition, but instead incorporates those arguments herein by reference. Nothing has changed that warrants the Commission granting oral argument in this case.

3. In an eleventh hour act of desperation, Ameritech once again threatens the Commission that it will not deploy the DSL portion of Project Pronto in Illinois if the Commission requires Ameritech to unbundle Project Pronto, and Ameritech references the decision on rehearing in Docket Nos. 00-0312/00-0313. See Ameritech Expedited Motion, ¶¶ 2-3. Based entirely on extra-record information (Ameritech references a so-called “further rigorous investigation” it has allegedly undertaken recently), Ameritech claims that it has reconsidered Project Pronto and decided it “cannot economically deploy the remote terminal (and related equipment) DSL portion of the Project Pronto architecture because of the substantial additional costs the Arbitration Decision would impose.” Ameritech Expedited Motion, ¶ 3. In fact, SBC’s statements to its investors as recently as January 25, 2001, demonstrate that these threats are not true. See SBC Investor Briefing No. 223 (Jan. 25, 2001), a copy of which is attached hereto and incorporated herein by reference. The Commission is undoubtedly aware, as is SBC, of SBC’s obligation under SEC rules to disclose material items in public statements to investors. There can be no question that a decision *not* to deploy Project Pronto would be a material item, yet there is no mention of such a purported decision in the SBC Investor Briefing. Indeed, Rhythms and Covad are aware of no public disclosures to SBC investors that would indicate it no longer intends to deploy Project Pronto in the

¹Other CLEC intervenors also responded in opposition to Ameritech’s request for oral argument. See Sprint Communications Company L.P. d/b/a Sprint Communications L.P., WorldCom, Inc. and AT&T’s Response in Opposition to Ameritech Illinois’ Motion for Oral Argument dated February 8, 2001.

manner it has consistently advised investors [and the Commission] it would, because of decisions by the Commission. While SBC has told its investors, that it would slow down deployment of Project Pronto in the Ameritech region, it attributed this slowdown to its focus on service upgrades in the region. See SBC Investor Briefing No. 222, at 2 (Dec. 19, 2000), a copy of which is attached hereto and incorporated herein by reference.

4. Ameritech's motion greatly exaggerates the significance of its alleged decision not to deploy the DSL portion of the Project Pronto architecture. Ameritech previously asserted that "because of the high degree of regulatory uncertainty that exists regarding the terms and conditions that this Commission may impose on Ameritech Illinois' planned deployment of DSL related Project Pronto," Ameritech had suspended deployment of DSL related Project Pronto facilities. Ameritech Brief on Exceptions, p. 5. However, Ameritech acknowledged that, despite this "suspension," it would continue to deploy the Project Pronto architecture for POTS. As a result, of deployment of the DSL portion of Project Pronto, it would continue the laying of fiber optic cable and installation of Next Generation Digital Loop Carrier equipment, which constitute the overwhelming majority of the work effort involved in deployment of Project Pronto. *Id.* at fn. 1; Transcript of Oral Argument, Docket Nos. 00-0312/0313, at 698 (Jan. 18, 2001). Ameritech's alleged decision not to deploy the DSL portion of Project Pronto simply means that Ameritech will not install line cards in remote terminals or optical concentration devices in its central offices, each of which can be accomplished in a matter of hours.

5. In any event, it is entirely inappropriate for Ameritech to inundate the Commission with additional allegedly factual information concerning the alleged

economics of Project Pronto at this stage of the proceeding, ostensibly in support of its request for oral argument. Since the information contained in paragraph 3 of the Expedited Motion is not in the record of the proceeding, it would be legal error for the Commission to rely on it in any manner.

6. In paragraph 4 of the Expedited Motion, Ameritech explains its view of the impact of the Arbitration Award from Docket Nos. 00-0312/0313 on the competitive landscape in Illinois. Because the Commission cannot alter its decision in Docket Nos. 00-0312/0313 by granting oral argument in this docket, let alone by entering an order in this docket, Ameritech's analysis is irrelevant to the Expedited Motion. It appears as if Ameritech is using its pending request for oral argument as another brief in support of its position in this case. Thus, the Expedited Motion is entirely inappropriate and must be disregarded.

7. Since oral argument is discretionary, the Commission's failure to rule on Ameritech's motion for oral argument should be deemed denial. However, Rhythms and Covad would have no objection to the Commission issuing an expedited ruling denying Ameritech's motion for oral argument.

WHEREFORE, for all the foregoing reasons, Rhythms Links, Inc. and Covad Communications Company urge the Commission to deny Ameritech's request for oral argument in this docket.

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Respectfully submitted,

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