

FCC MAIL SECTION



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DA 97-2228

COMMISSION SEEKS COMMENT ON CHIBARDUN TELEPHONE COOPERATIVE PETITION FOR PREEMPTION OF ACTIONS, PRACTICES AND REQUIREMENTS OF CITY OF RICE LAKE, WISCONSIN

CC DOCKET NO. 97-219

Released: October 20, 1997

On October 10, 1997, Chibardun Telephone Cooperative, Inc. (Chibardun) filed a petition for preemption pursuant to section 253 of the Communications Act challenging actions, practices, and requirements concerning use of rights-of-way by the City of Rice Lake, Wisconsin (City). Chibardun requests that the Commission preempt certain actions by the City pursuant to section 253(d) of the Communications Act. Chibardun contends that the City: (a) has refused to grant ministerial excavation permits necessary for construction of Chibardun's proposed competitive Rice Lake telecommunications facilities in violation of section 253(a) of the Communications Act; and (b) imposed anti-competitive and discriminatory right-of-way requirements and fees upon Chibardun and other entities seeking to compete with the existing Rice Lake telecommunications monopoly, in violation of Section 253(c) of the Act.

Chibardun, specifically, asks the Commission to preempt the City: (a) from insisting that Chibardun sign a License Agreement as a precondition for grant of the excavation permits; (b) from enforcing Ordinance No. 849, on the ground that it restricts issuance of excavation permits for newcomers only; (c) from adopting and enforcing any future right-of-way ordinances placing higher fees, and more stringent conditions and restrictions, upon newcomers only; and (d) from otherwise imposing anti-competitive and discriminatory costs, delays and conditions upon Chibardun and others trying to bring competition to Rice Lake.

Interested parties are to file an original and six copies of their comments on Chibardun's Petition no later than **November 19, 1997** with the Secretary, FCC, 1919 M Street, N.W., Washington, D.C. 20554. An original and six copies of all reply comments are to be filed with the Secretary, FCC no later than **December 8, 1997**. **All pleadings are to reference CC Docket No. 97-219.** An additional copy of all pleadings should also be sent to Janice M. Myles, Common Carrier, Bureau, FCC, Room 544, 1919 M Street, N.W., Washington, D.C. 20554, and to the Commission's contractor for public service records duplication, **International**

Transcription Services, Inc. (ITS, Inc.), 1231 20th Street, N.W., Washington, DC 20036. The Chibardun petition is available for inspection and copying during normal business hours in the FCC's Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. Copies also can be obtained from ITS at 1231 20th Street, N.W., Washington, DC 20036, or by calling ITS at (202)-857-3800 or faxing ITS at 202-857-3805.

We will treat this proceeding as permit-but-disclose for purposes of the Commission's *ex parte* rules. See generally 47 C.F.R. §§ 1.1200-1.1216. In the Matter of Amendment of 47 C.F.R. § 1.1200 *et seq.* Concerning Ex Parte Presentations in Commission Proceedings, GC Docket No. 95-21, *Report and Order*, FCC 97-92, (rel. March 19, 1997). We also require all written *ex parte* presentations or summaries of oral *ex parte* presentation in this Docket to be served on all parties to this proceeding. For further information, contact Janice Myles, Policy and Program Planning Division, Common Carrier Bureau, at (202) 418-1577.

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