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Commissioners

John G. Strand
John C. Shea
David A. Svanda

June 9, 1997

Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

Subject: CC Docket 97-137

To Whom It May Concern:

As authorized by the Michigan Public Service Commission, enclosed herein are the original and eleven copies of its comments in CC Docket 97-137, Ameritech Michigan's Application pursuant to Section 271 of the Telecommunications Act of 1996.

Sincerely,

Dorothy Wideman
Executive Secretary

Attachments

cc: Department of Justice
ITS, Inc.

No. of Copies rec'd 11
List A B C D E

**MICHIGAN PUBLIC SERVICE COMMISSION
Department of Consumer and Industry Services**

INTEROFFICE COMMUNICATION

TO: Chairman Strand
Commissioner Shea
Commissioner Svanda

DATE: June 5, 1997

FROM: Bruce Maughan, Director ^{BRM}
Regulatory Affairs

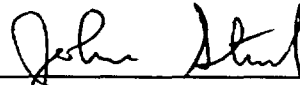
SUBJECT: Ameritech Michigan's Section 271 application.

On May 21, 1997, Ameritech Michigan filed an application with the Federal Communications Commission (FCC) for authority to provide in-region interLATA service, pursuant to Section 271 of the federal Telecommunications Act of 1996, 47 USC 271. Subsection (d)(2)(B) requires the FCC to consult with this Commission to verify Ameritech Michigan's compliance with the requirements of subsection (c). To accomplish the consultation required by the Telecommunications Act of 1996, the Regulatory Affairs Division recommends that the Commission adopt the following minute:

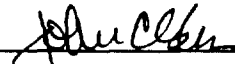
Adopt and issue minute dated June 9, 1997, directing the Commission's Executive Secretary to transmit to the Federal Communications Commission the Michigan Public Service Commission's Comments on Ameritech Michigan's Section 271 application, CC Docket No. 97-137.

Approved by:

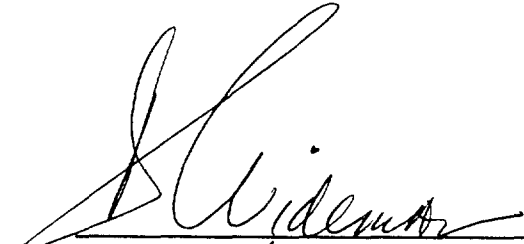
MICHIGAN PUBLIC SERVICE COMMISSION



John G. Strand, Chairman

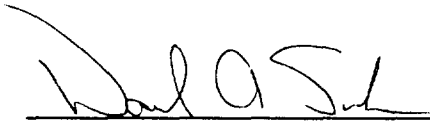


John C. Shea, Commissioner



Dorothy Wideman, Executive Secretary

Dated: June 9, 1997



David A. Svanda, Commissioner

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of the Application)
of Ameritech Michigan Pursuant to)
Section 271 of the Communications)
Act of 1934, as amended, to Provide)
In-Region InterLATA Services in)
Michigan)
_____)

CC Docket No. 97-137
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CONSULTATION OF THE MICHIGAN PUBLIC SERVICE COMMISSION

JUNE 9, 1997

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of the Application of) Ameritech Michigan Pursuant to) Section 271 of the Communications) Act of 1934, as amended, to) Provide In-Region InterLATA) Services in Michigan) <hr style="width: 80%; margin-left: 0;"/>	CC Docket No. 97-137
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CONSULTATION OF THE MICHIGAN PUBLIC SERVICE COMMISSION

I. Introduction

On January 2, 1997, Ameritech Michigan (Ameritech) filed with the Federal Communications Commission (FCC) its initial application to provide in-region interLATA services in Michigan (initial Section 271 Application) pursuant to Section 271(d) of the Telecommunications Act of 1996 (the Act).¹ A supplemental filing was submitted by Ameritech on January 17, 1997. In response to a February 11, 1997 letter from Ameritech, the FCC dismissed this initial application without prejudice.²

On May 21, 1997, Ameritech filed with the FCC its second application to provide in-region interLATA services in Michigan (Application) which is the subject of this proceeding.

Section 271(d)(2)(B) of the Act provides the following:

¹This application was docketed by the FCC as CC Docket No. 97-1.

²February 12, 1997 FCC Order in CC Docket No. 97-1.

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CONSULTATION WITH STATE COMMISSIONS. - Before making any determination under this subsection, the Commission shall consult with the State commission of any State that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c).

The Michigan Public Service Commission (MPSC) submitted comments on Ameritech's initial Section 271 Application on February 5, 1997 (February 5, 1997 Comments). Those comments are attached hereto as Attachment 1 and constituted the conclusions of the Commission based on Ameritech's initial Section 271 Application and the record established in Michigan Case No. U-11104³ as of the date the comments were filed.

Additional and updated information has now been included in Ameritech's Application and further filings have also been made in Michigan Case No. U-11104.⁴ Therefore, as requested by the FCC's May 21, 1997 Public Notice, the MPSC herein submits its comments on Ameritech's Application. Its comments on the Application will update comments filed as Attachment 1 and, where appropriate, elaborate on or amend conclusions reached in early February to reflect information that has now become available.

³This docket was established by the MPSC on June 5, 1996 to receive information relative to Ameritech's compliance with Section 271(c) of the Act. Copies of all information filed in that docket as of May 21, 1997 are contained in Volume 4 of Ameritech's Application.

⁴Submissions filed in Michigan Case No. U-11104 between May 21, 1997 and June 5, 1997 are included herein as Attachment 2 (Docket #s 134-162).

II. Interconnection Requirements Under Track A of the Act

Ameritech asserts that it has met all of the requirements of Section 271(c)(1)(A) of the Act. This is the so-called Track A alternative.⁵ It relies upon its interconnection agreements with Brooks Fiber Communications of Michigan, Inc. (Brooks), MFS Intelenet of Michigan, Inc. (MFS), and TCG Detroit (TCG) for satisfaction of these requirements of the Act. The conditions set forth in Section 271(c)(1)(A) are discussed separately below.

A. Interconnection Agreements.

Section 271(c)(1)(A) requires Ameritech to have entered into one or more binding agreements that have been approved under Section 252. Ameritech is a party to eighteen interconnection agreements filed with the MPSC. Thirteen involved negotiated agreements and five included issues to be arbitrated. Of the thirteen negotiated agreements, six have been approved by order of a majority of the MPSC. Ameritech submitted five of these six approved agreements with its Application, including agreements with MFS, Brooks, USN Communications (USN), WinStar Wireless (WinStar), and AirTouch Cellular (AirTouch).⁶

⁵On June 5, 1997, the MPSC rejected Ameritech's statement of generally available terms and conditions for interconnection, which could be utilized in a so-called Track B application for interLATA relief under Section 271(c)(1)(B) of the Act. The MPSC found that if competitive providers have requested interconnection with the Bell operating company in a timely manner (the Track A alternative), the Track B option is not available. As noted in the MPSC Order, this is a conclusion which is shared by the United States Department of Justice. See Attachment 2 for a copy of this Order issued in Case No. U-11104 (Docket #161).

⁶These five interconnection agreements along with the MPSC Orders approving the agreements are contained in Volume 1 of Ameritech's Application. On June 5, 1997 in Case No. U-11326, the MPSC also approved the negotiated interconnection agreement between

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The remaining seven negotiated agreements have been submitted to the MPSC and are awaiting review and approval.⁷

Of the five agreements which contained issues to be arbitrated, three have now resulted in signed and MPSC-approved interconnection agreements which Ameritech submitted with its Application. These agreements are with TCG, AT&T Communications of Michigan, Inc. (AT&T), and Sprint Communications, L.P. (Sprint).⁸ An arbitration decision has been rendered by the MPSC in a fourth case between Ameritech and MCI Telecommunications Corporation (MCI). However, an executed agreement has not yet been submitted for approval of the MPSC. In the final case, between Ameritech and Climax Telephone Company, the Decision of the Arbitration Panel was rendered on May 21, 1997 and a MPSC Order is expected before July 1, 1997.

Ameritech and BRE Communications, L.L.C. However, Ameritech has not relied on this agreement in its Application. A copy of the MPSC's order is included herein as Attachment 3.

⁷The pending negotiated interconnection agreements include those between Ameritech and 360° Communications Company (Case No. U-11356, submitted April 2, 1997), Coast to Coast Telecommunications, Inc. (Case No. U-11375, submitted April 30, 1997), Century Cellnet (Case No. U-11403, submitted May 9, 1997), Ameritech Mobile Communications, Inc. (Case No. U-11399, submitted May 7, 1997), Trillium Cellular (Case No. U-11400, submitted May 9, 1997), Brooks Fiber Communications of Michigan, Inc. (Case No. U-11354, submitted April 23, 1997 as an amendment to the already existing interconnection agreement between these parties), and Nextel West Corp. (Case No. U-11416, submitted May 30, 1997).

⁸These three signed agreements as well as the MPSC arbitration decisions and the MPSC Orders approving the agreements are also included in Volume 1 of Ameritech's Application.

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In summary, Ameritech relies upon two negotiated interconnection agreements (with Brooks and MFS) and one arbitrated interconnection agreement (with TCG) for satisfaction of its Section 271(c)(1)(A) requirements under the Act. In addition to these three, Ameritech has included five other interconnection agreements with its Application. All eight have been signed by the parties and approved by the MPSC. Five of the eight were negotiated and therefore the interconnection requirements of Section 251 of the Act, the pricing requirements of Section 252 of the Act, and the FCC Rules interpreting those sections were not applied to them. The remaining three agreements were subject to arbitration. The requirements of Sections 251 and 252 of the Act as well as the FCC Rules interpreting those sections were utilized to arbitrate disputes in those cases.

B. Ameritech's Provision of Service Under the Terms of Interconnection Agreements

Section 271(c)(1)(A) of the Act provides that the approved interconnection agreements must specify the terms and conditions under which Ameritech is providing access and interconnection to its network facilities. In its February 5, 1997 Comments, the MPSC noted that despite the existence of approved and executed interconnection agreements, Ameritech had indicated that it provided interconnection with competitors pursuant to tariffs rather than to the interconnection agreements.⁹ Ameritech has clarified that subsequent to the execution of interconnection agreements with Brooks, MFS, and TCG, these providers now

⁹Attachment 1, p. 7.

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interconnect pursuant to their agreements rather than tariff.¹⁰

The rates, terms, and conditions of the Brooks, MFS, and TCG interconnection agreements were arrived at almost completely through negotiation rather than arbitration.¹¹ However, Ameritech asserts that Brooks, MFS, and TCG also have available to them, pursuant to the "most favored nation" (MFN) clauses in their respective agreements, checklist items contained in the AT&T and Sprint interconnection agreements, many of which were arbitrated by the MPSC and determined to comply with the requirements of Sections 251 and 252(d) of the Act.¹² In its February 5, 1997 Comments, the MPSC noted that the application of the MFN clauses in the Brooks, MFS, and TCG interconnection agreements appeared to be problematic in that it appeared to permit providers to adopt provisions in other providers contracts only as a whole. That is, if the rates, terms and conditions of one unbundled network element were to be adopted from another provider's agreement, all must be adopted.¹³

¹⁰Ameritech's March 27, 1997 Submission of Additional Information in MPSC Case No. U-11104, pp. 14-15.

¹¹Although the MFS and Brooks agreements were totally negotiated, three disputed items in the TCG agreement were arbitrated by the MPSC.

¹²Ameritech's Brief in Support of Application, p. 16.

¹³Attachment 1, pp. 9-10.

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In letters to each provider, Ameritech has attempted to clarify (but did not modify) the contract language contained in those agreements.¹⁴ However, in a May 8, 1997 filing with the MPSC, TCG delineated difficulties encountered in invoking the MFN clause of its contract.¹⁵ Ameritech further clarified its position on the use of the MFN clause in a May 14, 1997 filing with the MPSC.¹⁶ Ameritech now represents that providers may opt to adopt the rates, terms and conditions of a single contract element rather than adoption of only contract sections as a whole. In addition Ameritech has indicated that MPSC approval will not be sought each time a provider invokes its MFN clause as Ameritech had originally proposed. However, it will require that both parties sign an amendment to the existing interconnection agreement to reflect the rates, terms and conditions which will be adopted. The effective date of the change will be upon execution by both parties of the amendment to the interconnection agreement. TCG has not raised any remaining dispute on this issue with the MPSC since Ameritech's May 14, 1997 filing. Since Ameritech relies upon use of the MFN clauses of its interconnection agreements for satisfaction of checklist requirements, however, application of these clauses will continue to be closely monitored, consistent with the Act and the Michigan Telecommunications Act (MTA).¹⁷

¹⁴Ameritech's Application, Affidavit of Theodore A. Edwards, Schedule 3.

¹⁵TCG's May 8, 1997 Submittal of Supplemental Information in MPSC Case No. U-11104.

¹⁶Ameritech's May 14, 1997 Response to TCG Detroit in MPSC Case No. U-11104.

¹⁷MCL 484.2101 et seq.; MSA 22.1469 (101) et seq.

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In its February 5, 1997 Comments, the MPSC discussed procedures utilized to determine prices incorporated in Ameritech's interconnection agreements.¹⁸ Prices included in interconnection agreements are basically of three types. First, interim prices were established by the MPSC for certain services in compliance with the requirements of Section 252(d) of the Act and the MTA during arbitration proceedings. Services included in this category are, for example, basic loop and basic port rates established in AT&T's arbitration proceeding. In many cases, these interim prices will be replaced by those determined appropriate in a costing and pricing proceeding ongoing at the MPSC at this time.¹⁹ A second set of prices specified in some interconnection agreements were negotiated rather than arbitrated but will also be replaced by prices established in the MPSC's ongoing costing and pricing proceeding. Therefore, although the pricing requirements of the Act and the MTA were not originally applied to these services, they are now being applied in the MPSC's ongoing proceeding. Services included in this category are, for example, non-basic loops and ports. Finally, prices for some other services included in Ameritech's interconnection agreements were not arbitrated (including the application of Section 252(d) pricing criteria from the Act) and are not at issue in the MPSC's ongoing pricing proceeding. Prices for these services were merely negotiated by the parties or will be determined at some future date. Services included in this category are, for example, 9-1-1 prices and pole, duct and

¹⁸Attachment 1, pp. 10-13.

¹⁹This proceeding has been docketed as Case No. U-11280 and was initiated by the MPSC on December 12, 1996.

right-of-way access prices. The proceedings in the MPSC cost and pricing docket have concluded and the record is before the MPSC for final decision.

C. Interconnection Agreements Are with Competing, Unaffiliated Providers.

Pursuant to the MTA the MPSC has now authorized twenty-four applicants to provide basic local exchange service in some or all of Ameritech's licensed service territory. Four other applications are now pending. Of the twenty-four licensed providers, nine have filed tariffs with the MPSC further indicating readiness to provide service. Five of the nine²⁰ also have approved interconnection agreements in place.²¹ The interconnection agreement with a sixth, MCI, has been arbitrated but, as indicated earlier, a signed agreement has not as yet been filed with the MPSC for approval. MCI has begun operations in Michigan apparently pursuant to Ameritech's tariffs rather than an approved interconnection agreement. This is also the case for LCI International Telecom, Inc. (LCI), a licensed and tariffed provider of local service in Michigan that resells services pursuant to Ameritech's resale tariff. No interconnection agreement between these parties has been filed with the MPSC.

Ameritech has relied upon its interconnection agreements with Brooks, MFS, and TCG for satisfaction of this part of the Section 271(c)(1)(A) requirements of the Act. These

²⁰AT&T, Brooks, MFS, TCG and USN.

²¹Interconnection agreements have also been approved for Sprint and WinStar Wireless but these providers have not as yet filed local tariffs. The eighth interconnection agreement filed by Ameritech with its Application is with AirTouch Cellular. Cellular providers are not required to be licensed by the MPSC to provide cellular service.

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three providers are unaffiliated with Ameritech, have been licensed by the MPSC pursuant to the MTA to provide basic local exchange service in some or all parts of Ameritech's licensed service area, have filed local tariffs with the MPSC and are providing local service to customers in Michigan.

D. Competitor(s) Serve Residential and Business Subscribers.

Of the three providers on which Ameritech relies to satisfy the requirements of Section 271(c)(1)(A), Brooks provides service to both residential and business subscribers. According to Ameritech, at the end of the first quarter of 1997, Brooks served 14,492 business lines and 5,805 residential lines in the Grand Rapids area of Michigan.²² MFS and TCG apparently serve only business customers in Michigan at this time.

E. Provision of Local Service over Competitors' Facilities.

Considerable controversy continues to exist over this requirement of the Act.²³ In particular Brooks disputes any reference to use of unbundled network elements as fulfillment of the facilities-based requirements of Section 271(c)(1)(A) of the Act. Brooks indicates that 75% of its customers are served through unbundled loops. The MPSC is not convinced that

²²Ameritech's Application, Joint Affidavit of Robert G. Harris and David J. Teece, p. 50.

²³Brooks' March 7, 1997 Motion for Reconsideration, pp. 6-10; Brooks' April 15, 1997 Submission of Additional Information, p. 2; Ameritech's March 28, 1997 Answer to Brooks' Motion, pp. 4-11 in MPSC Case No. U-11104.

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its position on this issue as delineated in its February 5, 1997 Comments²⁴ should be amended. The MPSC continues to believe that a reasonable interpretation of the Act is that use of unbundled loops or ports would not constitute resale within the meaning of Section 271(c)(1)(A) and therefore constitutes facilities-based services. In addition, although MFS and TCG serve only business customers, all or the vast majority of those customers are served exclusively through the facilities of those providers.

In summary, the MPSC believes that Ameritech complies with the requirements of Section 271(c)(1)(A) of the Act.

III. Checklist Requirements

Under Section 271(c)(2), access and interconnection provided by Ameritech under Track A must comply with each of the fourteen checklist requirements delineated in the Act. Each checklist item will be discussed separately below, with any updates, amendments or additional information to the MPSC's February 5, 1997 Comments delineated.

**A. Checklist Item (i)
Interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).**

As discussed in its February 5, 1997 Comments, the MPSC believes that Ameritech

²⁴Attachment 1, pp. 14-18.

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appears to comply with this checklist element.²⁵ It provides interconnection and collocation to Brooks, MFS, and TCG. As discussed earlier,²⁶ Ameritech has clarified that subsequent to the execution of interconnection agreements with Brooks, MFS, and TCG, these providers now interconnect pursuant to their agreements rather than to tariff.

Brooks believes that Ameritech does not comply with this item of the checklist because Brooks has experienced network blockage "due to Ameritech's inadequate monitoring of its trunks to Brooks."²⁷ In its response, Ameritech indicates that part of the blame for the blockage was due to cable cuts, equipment failures, and the inability to obtain accurate forecasts from Brooks.²⁸ This issue underscores the importance of the development of adequate benchmarks on which performance can be judged as well as a clear definition of the recourse to pursue if performance is deficient. A detailed discussion of this issue is contained below in the following section.

²⁵ Attachment 1, pp. 18-21.

²⁶ See Section II., B. of these Comments.

²⁷ Brooks April 15, 1997 Response to Ameritech Michigan's Submission of Additional Information in MPSC Case No. U-11104, p. 3.

²⁸ Ameritech's May 9, 1997 Submission of Information in Response to Brooks Fiber in MPSC Case No. U-11104, pp. 8-10.

B. Checklist Item (ii)

Nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).

As discussed in the MPSC's February 5, 1997 Comments, five of the seven unbundled network elements which Ameritech must provide to comply with this checklist item are discussed separately under other checklist requirements. The availability of a sixth unbundled network element, the network interface device (NID), has not been disputed and the MPSC continues to believe that Ameritech offers this element in compliance with the requirements of the Act and FCC orders.

Nondiscriminatory access to network elements including Operations Support Systems.

Much more controversial, however, has been the issue of nondiscriminatory access to required network elements and in particular the provision by Ameritech of required Operations Support Systems (OSS). The FCC has required Ameritech and all other incumbent Local Exchange Carriers (LECs) to "provide nondiscriminatory access to their operations support systems functions for pre-ordering, ordering, provisioning, maintenance and repair, and billing available to the LEC itself."²⁹ The FCC required compliance with electronic OSS requirements no later than January 1, 1997.³⁰ At the time of its original Section 271 filing on January 2, 1997, Ameritech contended that it had complied with the

²⁹FCC's August 8, 1996 First Report and Order in CC Docket 96-98, ¶523.

³⁰47 C.F.R. 51.319(f)(2).

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FCC's requirement that access to OSS systems be provided by January 1. Little experience had been garnered with much of Ameritech's OSS at the time of Ameritech's original application. Many providers have now had an opportunity to utilize Ameritech's OSS, and this activity now provides considerable information on this issue. In addition, the MPSC conducted a one day informational hearing on May 28, 1997 at which time Ameritech and users of its OSS systems were invited to present the most current experience with these systems.³¹ Representatives from Ameritech, AT&T, MCI, USN, LCI and Brooks made presentations at this hearing. Although invited, MFS and TCG declined to participate.

Based on this additional information, the MPSC now offers this assessment on the issues of nondiscriminatory access to network elements including OSS.

Availability of OSS.

The FCC requires that "an incumbent LEC must, at a minimum, establish and make known to requesting carriers the interface design specifications that the incumbent LEC will use to provide access to OSS functions."³² Ameritech represents that user specifications were originally published for the first of the five required electronic interfaces in February 1995 (the interface utilized in the ordering and provisioning of certain unbundled network elements) and the last in October 1996 (the pre-ordering interface). After internal testing,

³¹A transcript of this hearing is contained with the recent filings in MPSC Case No. U-11104 in Attachment 2, Docket #154.

³²FCC's December 13, 1996 Second Order on Reconsideration in CC Docket 96-98, ¶8.

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the last of the interfaces became available for use in December 1996.³³ Some subfunctions of the five interfaces continue to be available only in non-electronic formats.³⁴ However, the FCC has required electronic formats only where the equivalent access for use with Ameritech's retail customers is also in electronic format.³⁵ Bellcore has confirmed that, for the most part, Ameritech's specifications accurately reflect industry guidelines for service ordering, provisioning, repair and maintenance, resale usage, and billing.³⁶ In the case of the ordering and provisioning interface utilized for the purchase of unbundled loops and certain other unbundled elements, Bellcore has noted that the Access Service Request (ASR) specifications utilized by Ameritech were developed prior to the December 1996 publication of current industry guidelines for this set of interfaces. Bellcore recommends that Ameritech review its specifications against these guidelines "to establish a migration path."³⁷ Ameritech has committed to migrate to an Electronic Data Interchange (EDI) interface for ordering

³³Ameritech's May 28, 1997 Response to the Commission's Questions Regarding OSS in MPSC Case No. U-11104, p. 3. Attachment 2, Docket #151. See also Ameritech's Application, Affidavit of Joseph A. Rogers, Schedule 1.

³⁴E.g., the feature availability and address validation subfunctions of the pre-ordering interface are provided via periodic file transfer.

³⁵FCC's August 8, 1996 First Report and Order in CC Docket 96-98, ¶523.

³⁶Ameritech's Application, Affidavit of Joseph A. Rogers, Schedule 2.

³⁷Ameritech's Application, April 3, 1997 Bellcore letter included in Schedule 3 of the Affidavit of Joseph A. Rogers.

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unbundled loops no later than January 1, 1998.³⁸ This appears to be reasonable in light of the FCC's determination that it would not condition the requirements to provide access to OSS functions on creation of national standards.³⁹ Ameritech therefore began the development and use of this ASR interface prior to the issuance of industry guidelines.

Ameritech has also indicated that in addition to technical specifications, it "provides requesting carriers with comprehensive ordering guides for unbundled network elements ('UNEs') and resale services."⁴⁰ Several parties have indicated that the availability of this eight volume ordering guide has been problematic.⁴¹ Ameritech represents these manuals are available on Ameritech's Internet website to carriers that have signed a confidentiality agreement.⁴² Although Ameritech has indicated that these user guides go beyond the required provisioning of the interface specifications themselves, it has also indicated that this is the only place where all the required specifications are pulled together at one reference

³⁸Ameritech Application, Affidavit of Joseph A. Rogers, p. 7.

³⁹FCC's December 13, 1996 Second Order on Reconsideration in CC Docket 96-98, ¶8.

⁴⁰Ameritech's Application, Affidavit of Joseph A. Rogers, p. 8.

⁴¹MCI indicated it only received copies of the ordering guide manuals in April 1997 and then only because it was party to an Illinois Commerce Commission proceeding. Brooks indicated that it had not received copies of these manuals at all. May 28, 1997 transcript of Michigan OSS hearing in Case No. U-11104, p. 140, 177. Attachment 2, Docket #154.

⁴²Ameritech's Application, Affidavit of Joseph A. Rogers, p. 8.

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point.⁴³ According to the FCC, the obligation to provide access to Ameritech's OSS, including the means to provide access, arises upon the request for OSS pursuant to Section 251(c)(3) of the Act.⁴⁴ Given such requests, however, provisioning of the user guides appears to be a reasonable interpretation of the requirements under the Act.

Use of Ameritech's OSS in Michigan.

As discussed above, in some cases the interfaces utilized by resellers differ from those utilized to order and provision certain unbundled network elements. Far more of the functions and subfunctions of Ameritech's interfaces are currently being utilized by resellers than by purchasers of unbundled loops. Even resellers, however, have only begun to utilize many portions of Ameritech's OSS in Michigan.

Of the three subfunctions of the electronic pre-ordering interface, only one is in use in Michigan today: the customer service record retrieval capability. This subfunction has been utilized by USN, a reseller, since March 1997. The telephone number selection and the due date negotiation subfunctions of this interface are not currently in use either in Michigan or anywhere in Ameritech's region by any provider. The remaining two subfunctions of the pre-ordering interface, determination of feature availability and address validation, are not provided electronically but rather through periodic file transfers and are utilized by a number of carriers today in Michigan.

⁴³Ameritech's response in May 28, 1997 transcript of Michigan OSS hearing in Case No. U-11104, p. 200. Attachment 2, Docket #154.

⁴⁴FCC's December 13, 1996 Second Order on Reconsideration in CC Docket 96-98, ¶8.

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The EDI ordering interface and the firm order commitment and order completion subfunctions of the provisioning interface have been utilized by both AT&T and USN for their resale operations in Michigan since March 1997. The order jeopardy subfunction of the provisioning interface has been utilized by USN in Michigan since late April 1997. Although the EDI interface can also be utilized to purchase and provision interim number portability as well as resold services, it is not utilized by any provider in Michigan for this purpose as yet.

The ASR interface is utilized for the ordering and provisioning of unbundled loops, end office integration trunks, unbundled interoffice transmission facilities and other transport-based network elements. However, the order completion and order jeopardy subfunctions of the provisioning interface are not available with the ASR interface. Only the firm order commitment subfunction of provisioning is available with this interface. It has been utilized in Michigan by Brooks and MFS since 1995.

The maintenance and repair electronic interface, T1M1, is not utilized by any provider in Michigan at this time nor by any provider in the Ameritech region. Providers are utilizing a manual interface for repair and maintenance functions.

In regard to billing, resellers in Michigan are utilizing the electronic Exchange Message Record (EMR), a daily usage interface. Specifically, AT&T, Brooks, MCI, USN and MFS have utilized this Ameritech interface but may not all be using it in Michigan. The Ameritech Electronic Billing System (AEBS) is the interface utilized for monthly resale billing and is utilized by AT&T, MCI, MFS and USN. The Carrier Access Billing System

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(CABS) interface for billing relative to unbundled network elements has been used since May 1995 in the Ameritech region by Brooks and MFS.

Michigan volumes for the pre-ordering, ordering and provisioning interfaces since the beginning of 1997 were submitted by Ameritech during the May 28, 1997 MPSC hearing on OSS.⁴⁵ Of the electronic interfaces offered by Ameritech, all but the maintenance and repair interface are utilized by resellers in Michigan today. In regard to electronic interfaces utilized by purchasers of unbundled loops only the ordering interface, the customer record subfunction of the provisioning interface and the CABS billing interface are utilized.

There has been much discussion regarding why certain interfaces have not as yet been utilized by providers. First, some interfaces are very costly given low volumes of usage. Ameritech has committed to the development of a less costly maintenance and repair interface to make an electronic interface more economically viable for a low volume provider.⁴⁶ Second, not all functions are available through some interfaces as compared with others. Until the migration of the ordering and provisioning interface to an EDI standard, purchasers of unbundled loops are required to utilize an ASR interface for the purchase of loops and an EDI interface for pre-ordering functions and the ordering and provisioning of interim number portability if electronic interfaces are desired. Third, some subfunctions of some interfaces are just not needed in some business operations. For example, the telephone

⁴⁵Ameritech's May 28, 1997 Response to the Commission's Questions Regarding OSS in MPSC Case No. U-11104, Schedule 1. Attachment 2, Docket #151.

⁴⁶Ameritech's Application, Affidavit of Joseph A. Rogers, p. 43.

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number selection subfunction is not needed by a purchaser of unbundled loops because such a provider is either continuing to use the customer's existing telephone number through interim number portability or is providing a new telephone number of its own. Ameritech believes lack of use of certain interfaces is "due solely to the fact that other carriers have yet to request them."⁴⁷

As stated above, the FCC has determined that the requirement to provision electronic interfaces is subject to a request to use such interfaces pursuant to Section 251(c)(3) of the Act. This will be based fundamentally on when a provider decides to go into business and when it determines that a particular electronic interface is an economic alternative given volumes of business and other considerations.⁴⁸ The MPSC also agrees, however, that the need for unbundled loop purchasers to utilize both an ASR and EDI interface for access to certain of the electronic interface functions and subfunctions is problematic. However, the fact that industry guidelines were not complete on this matter to ensure availability by the January 1, 1997 FCC's imposed deadline appears to allow Ameritech the alternative it has chosen. Ameritech has committed to migration to the industry standard no later than the end of this calendar year. Thus, problems inherent in the ASR interface will diminish.

⁴⁷Ameritech's May 28, 1997 Response to the Commission's Questions Regarding OSS in MPSC Case No. U-11104, p. 8. Attachment 2, Docket #154.

⁴⁸This economic decision, however, may be greatly affected by Ameritech's filed intent to withdraw its manual interfaces altogether from providers placing more than 1,250 orders per day and to withdraw the manual ordering alternative as an option following 12 months of billing for each carrier, requiring the use of electronic interfaces instead. See Ameritech's Tariff included herein as Attachment 4.

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Industry experience with OSS.

Much information has been presented in Michigan by Ameritech and users of Ameritech's OSS. For example, users have cited problems in the area of timeliness of order completion notices, which have resulted in billing errors. Competitive Local Exchange Carriers (CLECs) believe the amount of manual processing of orders once they have been received electronically has been very problematic and has caused delays in the processing of orders. AT&T represents that average days to complete orders has grown as volume grows, that delays are occurring in notification of orders completed, that 20% of orders are completed after the requested due date, that order due dates are changed by Ameritech, and that backlogs of orders are increasing as volume grows.⁴⁹ Brooks is not satisfied with the low portion of OSS functions available electronically through the ASR interface. It believes orders have been lost and that Ameritech has only met order due dates between 55% and 63% of the time during the months of February, March and April 1997.⁵⁰ LCI and MCI indicated at the MPSC's May 28, 1997 hearing that they too had experienced some of the same problems. Many providers have also indicated that certain services cannot be ordered electronically at all, that ordering specifications, either in an electronic or manual format, simply do not yet exist, or that the ordering specifications are problematic. For example,

⁴⁹CLEC exhibits presented at May 28, 1997 hearing in MPSC Case No. U-11104, Exhibit 3-14. Attachment 2, Docket #152.

⁵⁰Brooks May 22, 1997 letter to the Department of Justice included with a May 28, 1997 Ameritech submission in Case No. U-11104. Attachment 2, Docket #144.

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Brooks has indicated that it has attempted to develop electronic ordering formats for directory assistance and 9-1-1 functions since October 1996 but has been unable to do so.⁵¹ Similarly, AT&T has indicated problems with manual processes utilized to populate directory assistance and listing services.⁵² LCI indicates that it interconnects with Ameritech's OSS for ordering and provisioning totally on a manual basis and totally pursuant to Ameritech's resale tariff (since there is no approved interconnection agreement between the two providers). LCI indicates that since reselling grandfathered services involves a different internal billing system than resale of other services, billing delays and errors have occurred.⁵³ MCI indicates that instead of the EMR billing format that it desires and used to receive, it is now receiving resale usage data in an EMI format without explanation for the change.⁵⁴ Finally, many CLECs believe that the ordering procedures for UNE combinations, or platforms, as well as for the resale of nonbasic telephone services (such as Centrex, ISDN, PBX, DID, etc.) simply do not exist.

⁵¹May 28, 1997 Transcript of hearing in Case No. U-11104, pp. 168-169. Attachment 2, Docket #154.

⁵²AT&T's May 7, 1997 Submission of Additional Information in Case No. U-11104, Affidavit of Judith D. Evans, pp. 7-11.

⁵³May 28, 1997 Transcript of hearing in Case No. U-11104, pp. 146-148. Attachment 2, Docket #154.

⁵⁴May 28, 1997 Transcript of hearing in Case No. U-11104, p. 139. Attachment 2, Docket #154.

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USN, on the other hand, indicated at the MPSC hearing that although it had experienced some problems related to volume and system acknowledgments, in general Ameritech's interfaces performed well since USN began business in Michigan.⁵⁵ Ameritech believes that many problems are declining greatly as both Ameritech and CLECs gain experience with OSS. According to Ameritech its order rejection rate has declined from 56% in January 1997 to 9% in May.⁵⁶ Manual review of orders has dropped from 35% to 28% in spite of huge growth in volumes.⁵⁷ According to Ameritech 69% of its resale orders were faxed in January 1997; now only 16% of those orders continue to be submitted in that manner.⁵⁸ Ameritech acknowledges that problems have arisen as usage of its OSS ramps up. However, Ameritech also indicates considerable effort and much success in addressing problems as they have developed.

Adequate performance standards do not exist.

The primary problem in assessing Ameritech's compliance with the nondiscrimination standards of the Act and specifically the OSS functions is that, for the most part, sufficient

⁵⁵USN's May 28, 1997 submission of information in Case No. U-11104. Attachment 2, Docket #148.

⁵⁶May 28, 1997 Transcript of hearing in Case No. U-11104, p. 51. Attachment 2, Docket #154.

⁵⁷May 28, 1997 Transcript of hearing in Case No. U-11104, p. 54. Attachment 2, Docket #154.

⁵⁸May 28, 1997 Transcript of hearing in Case No. U-11104, p. 43. Attachment 2, Docket #154.

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performance standards do not exist by which Ameritech's performance can be judged. There are many examples of the inadequacy of these standards.

First of all, there is not even agreement on what should be judged in regard to OSS functions. Ameritech believes, for example, that its OSS systems can only be judged by the timeliness, reliability and availability of the interfaces themselves.⁵⁹ It believes that such measures as order completion intervals, average restoral intervals and speed of answer measurements do not relate to OSS.⁶⁰ According to Ameritech the requirements of the Act generally mean that "CLECs must be able to interface with Ameritech electronically.... The checklist and the Commission's pronouncements do not address how Ameritech processes transactions internally after the transaction over the interface with the CLEC is complete."⁶¹ CLECs strongly disagree. In support of their position, they refer to the comments of the Department of Justice (DOJ) in response to SBC's recent Section 271 application with the FCC. DOJ indicates in that filing that "the interface between carriers is only the first of two areas of needed automation to render resale services and unbundled elements meaningfully available. SBC must also automate the interaction of this interface and its own OSSs to provide appropriate access, allowing the electronic processing of transactions received via the

⁵⁹Ameritech's Application, Affidavit of Warren Mickens, p. 19.

⁶⁰May 9, 1997 Ameritech Submission of Information in Response to Brooks Fiber in MPSC Case No. U-11104, Supplemental Reply Testimony of Warren Mickens on Behalf of Ameritech Illinois, p. 7.

⁶¹Ameritech's Application, Affidavit of Joseph A. Rogers, p. 23.

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interface."⁶²

Secondly, there is no clear indication of how some of Ameritech's OSS-related goals were developed. When asked during the recent hearing before the MPSC how it was determined that 80% of OSS orders should be processed without manual review, Ameritech indicated that "it's been judgment, really."⁶³ Similarly, in regard to the 10% target for rejection of resale orders, Ameritech indicated again, "it's a judgment, and if we can keep it in single digits, I'm comfortable that the CLECs are learning how to use the system."⁶⁴ Although some interconnection agreements contain standards of performance related to interconnection, resale and some unbundled network elements, Ameritech represents that the standards it utilizes to judge the operation of its OSS are not generally included in executed interconnection agreements but were developed according to Ameritech's judgment of what an appropriate standard should be.⁶⁵ The CLECs, on the other hand, believe that rates of manual processing, order rejection rates and average time to process orders are excessive. But once again there is no measure against which to determine whether the CLECs are correct in their position.

⁶²May 16, 1997 "Evaluation of the United States Department of Justice", 79.

⁶³May 28, 1997 Transcript of hearing in Case No. U-11104, p. 59. Attachment 2, Docket #154.

⁶⁴May 28, 1997 Transcript of hearing in Case No. U-11104, p. 60. Attachment 2, Docket #154.

⁶⁵May 28, 1997 Transcript of hearing in Case No. U-11104, p. 58-59. Attachment 2, Docket #154.

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Third, measures utilized by Ameritech do not, in many cases, provide measures of Ameritech's own operations on which parity judgments can be made. When asked what a goal of 10 seconds for access to customer service records, telephone number selection and due date selection tells us about parity, Ameritech indicated that since Ameritech retail did not use the actual interfaces that CLECs use to access OSS, the operation of the interfaces could not be compared to Ameritech's own experience.⁶⁶

Fourth, some measures do not distinguish things over which Ameritech has control so deviations from the goal can be explained away. For example, Ameritech indicates that if its interconnection standard for call blockage is exceeded, "the differences arise in large measure from situations like those described above, where a CLEC does not notify Ameritech that it has obtained a large terminating customer."⁶⁷

Finally, it has not been determined how some proposed standards will be measured. The primary example of this is the huge difference between the data provided by Brooks and the data provided by Ameritech in regard to assessing whether unbundled loops have been installed on time. In submissions to DOJ, Ameritech represents its average on time completion rate was between 94.3% and 98.1% during the months of February through April 1997. During the same time period Brooks reports instead that the completion rate was

⁶⁶May 28, 1997 Transcript of hearing in Case No. U-11104, p. 64-66. Attachment 2, Docket #154.

⁶⁷Ameritech's Application, Affidavit of John B. Mayer, p. 20.

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between 55% and 63%.⁶⁸ Brooks utilizes standard installation intervals included in its interconnection agreement to make its determinations as to whether on-time installations occur. Ameritech believes the measure must be made relative to firm order commitment dates given when Ameritech's work force, number of pending orders and available facilities are considered. In addition, Ameritech believes factors such as time of day when order is placed must be considered. Ameritech believes that if Brooks utilized the electronic pre-ordering interface rather than the manual interface it presently uses, better estimates for installation dates could be made.⁶⁹ According to Ameritech, standard intervals should merely be utilized for planning purposes and need to be altered with regard to such things as time of year and geography.⁷⁰ It is standard intervals, however, which are contained in Brooks interconnection agreement as performance measures. The factors now raised by Ameritech which in its opinion would cause deviations from the standard interval, are not discussed in the contract in any methodology to be utilized to compute performance.

Standards of nondiscrimination.

The FCC has determined that the just, reasonable and nondiscriminatory obligations of Section 251(c)(3) require that incumbent LECs "provide unbundled elements under terms

⁶⁸Ameritech May 27, 1997 and Brooks May 22, 1997 letters to DOJ included with a May 28, 1997 Ameritech submission in Case No. U-11104. Attachment 2, Docket #144.

⁶⁹Ameritech's June 2, 1997 Submission of Additional Information in Case No. U-11104, pp. 7-13. Attachment 2, Docket #155.

⁷⁰May 28, 1997 Transcript of hearing in Case No. U-11104, p. 70. Attachment 2, Docket #154.

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and conditions that would provide an efficient competitor with a meaningful opportunity to compete."⁷¹ Further, the FCC requires that incumbent LECs "must offer network elements on terms and conditions equally to all requesting carriers, and, where applicable, those terms and conditions must be equal to the terms and conditions on which an incumbent LEC provisions such elements to itself or its customers."⁷²

Without properly developed performance standards it is not possible to tell whether Ameritech has met this requirement of the Act or not. DOJ made the following observation regarding performance standards in its recent review of the Section 271 application of SBC Communications:

At bottom, a "performance benchmark" is a level of performance to which regulators and competitors will be able to hold a BOC after it receives in-region interLATA authority. The most effective benchmarks are those based on a "track record" of reliable service established by the BOC. Such benchmarks may reflect either the BOC's performance of a wholesale support function for a competitor, or, in areas where the BOC performs the same function for its competitors as it does for its own retail operations, a benchmark may also be established by the BOC's service to its own retail operations. In instances where neither type of benchmark is available, the Department will consider other alternatives that would ensure a consistent level of performance, such as, for example, a commitment to adhere to certain industry performance standards and/or an audit of the BOC's systems by a neutral third party. Such benchmarks are significant because they demonstrate the ability of the BOC to perform a critical function -- for example, the provisioning of an unbundled loop within a measurable period of time. Thus, benchmarks serve, as explained in our evaluation, the important purpose of foreclosing post-entry BOC claims that the delay or withholding of services needed by its competitors should be excused on the ground that the services or

⁷¹FCC's August 8, 1996 First Report and Order in CC Docket 96-98, ¶315.

⁷²FCC's December 13, 1997 Second Order on Reconsideration, ¶9.

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performance levels demanded by competitors are technically infeasible. See SBC Evaluation at 45-48.

To make "performance benchmarks" a useful tool for post-entry oversight, we also expect the BOC to adopt the specific means and mechanisms necessary to measure its performance -- i.e., "performance measures." That is, if there are no such systems in place, it will be considerably more difficult to ensure that the BOC continues to meet its established performance benchmarks. Finally, we acknowledge that there may be areas in which the present industry standards will be updated, requiring new levels of performance. Accordingly, the Department will also focus on the importance of commitments by BOCs to adhere to "performance standards," even when they will be imposed upon it post-entry.⁷³

As MPSC Staff observed at the recent OSS hearing, the numbers that are being utilized by the opposing parties on this issue are often the same. However, some parties believe that a given level of failure rates, dropouts and manual processing, for example, is acceptable; others feel that the same level is not.⁷⁴ Again, as DOJ has observed,

The ability to detect discrimination in the performance of these functions is dependent on the establishment of performance measures, allowing competitors and regulators to measure the BOC's performance. The development of appropriate measures is critical to establishing that the local market is open. On an ongoing basis, the measures must be able to assure that the local market remains open and that any BOC backsliding will be detected.⁷⁵

Standards of performance must be established to assure nondiscriminatory access.

Ameritech has expended considerable effort in the development of its OSS and in

⁷³May 21, 1997 "Addendum to the Evaluation of the United States Department of Justice", pp. 4-6.

⁷⁴May 28, 1997 Transcript of hearing in Case No. U-11104, p. 162. Attachment 2, Docket #154.

⁷⁵May 16, 1997 "Evaluation of the United States Department of Justice", Affidavit of Michael J. Friduss, ¶19.

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attempting to promptly address the several problems which have developed. Resale experience with Ameritech's OSS has been brief, beginning for the most part in Michigan only in March of this year. Use of interfaces by purchasers of unbundled loops has occurred for a much longer period of time. However, most of this experience has been with manual rather than electronic interfaces, which has caused problems of its own. Ameritech has proposed a number of performance standards on which its interconnection, resale, UNE and OSS experience may be judged. Some of these standards are included in interconnection agreements; others are simply Ameritech's judgment. These standards are delineated in the Affidavit of Warren Mickens, which is attached to Ameritech's Application. In May 1997 Ameritech also provided to the Staff of the MPSC, under confidential seal, a report of its performance on many of these standards it proposes for the first four months of 1997. Although a comprehensive assessment of this report has not been completed, it is evident from the discussion above that considerable controversy continues to exist over the adequacy of Ameritech's performance and the measurements which should be utilized to judge that performance. The CLECs have described measures that they believe are relevant to assessments of OSS.⁷⁶ DOJ, in its review of SBC's Section 271 Application, has likewise delineated a number of measures that should be assessed.⁷⁷ Ameritech, in fact, has already proposed to measure a number of these factors, which SBC had not as yet proposed. DOJ

⁷⁶Attachment 5 submitted at the MPSC's May 28, 1997 hearing on OSS.

⁷⁷May 16, 1997 "Evaluation of the United States Department of Justice," Affidavit of Michael J. Friduss.

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made note of these Ameritech proposals. Based on information provided to the MPSC, development of standards should take account of the following:

- a. Both the interface and performance of the operations support systems must be assessed.
- b. Performance must measure what is in Ameritech's control in order to help prevent attempts to waive the relevance of particular performance measurements. If an order completion date can be determined either by Ameritech or by the desires of the customer, the latter should not be included in Ameritech's performance measure.
- c. Measurements must permit determinations of parity to be made with Ameritech's own retail operations. Measuring rates of completion within a target period of time rather than determining actual average time to complete a task does not permit direct comparisons to Ameritech's retail performance.
- d. Although exact parity of operations may not exist on the retail and wholesale operations, instances which are substantially analogous should be utilized for purposes of comparison. For example, as was suggested by DOJ, "the provisioning of an end-to-end combination of loop, switching, and transport elements is, in some cases, analogous to a BOC's retail POTS line. In such cases, the Department would normally expect a BOC to process an order in the same automated fashion that it processes retail POTS lines."⁷⁸
- e. Performance comparisons between CLECs and between CLECs and Ameritech retail operations must recognize the fact that small and large CLECs may find it economically advantageous to utilize different interfaces.
- f. Again in reference to parity measurements, the functions which Ameritech performs manually for its own retail customers must be clearly identified so it can be determined, for example, whether manual or electronic processing for Centrex orders is the standard against which the processing of resale Centrex orders should be compared.
- g. Measurements must be refined enough to permit meaningful parity comparisons to be made. That is, if business orders are more complex and handled

⁷⁸May 16, 1997 Evaluation of the United States Department of Justice, p. 71.

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differently by Ameritech's retail operations than are residential orders, performance measures should distinguish these operations. Separate measurements for different customer classes, geographic areas or service products may be required.

h. A specific determination of how measurements should be made must be delineated. If orders received late in the day are treated as next day orders, this should be specified and performance of Ameritech's retail operations should be similarly measured.

i. OSS performance relative to directory assistance, white pages listings, number portability, operator services and 9-1-1 should be determined. Although Ameritech made limited proposals on these issues (in some cases only on speed of answer),⁷⁹ no actual reports have yet been provided to the MPSC on which performance can begin to be assessed.

j. Reporting schedules and formats must be specified. In addition, a review must be made of the degree to which reports can or should be made on a proprietary basis. If the Act requires that network elements be provided on a nondiscriminatory basis, comparing both one provider to another and Ameritech retail operations to its wholesale operations, protection of all information may discourage or totally prevent available information from being utilized.⁸⁰

k. The period of time must be specified during which performance measures can be assessed and judged. For example, if the first month of a new CLEC's OSS operations is not meaningful because of learning activity occurring on both sides, perhaps the measures of performance for this new provider should be excluded for that month from overall performance measurements for the Company.

l. Finally, remedies and/or penalties for noncompliance with established performance standards must be clearly specified.

⁷⁹Ameritech Application, Affidavit of Warren Mickens, Schedules 11 - 15.

⁸⁰AT&T noted in the MPSC's May 28, 1997 OSS hearing that protection of these reports is problematic. Transcript of hearing in Case No. U-11104, p. 118. Attachment 2, Docket #154.

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Conclusion.

To determine whether Ameritech complies with the OSS and nondiscrimination requirements of this checklist item, the MPSC believes Ameritech must satisfy a two-pronged test. First, Ameritech must permit the technical or physical ability to access the systems necessary to order services and elements required by competitors.

Second, Ameritech must show that the access to services or elements it provides to competitors "must be the same for all telecommunications carriers requesting access" and "at least equal in quality to that which the incumbent LEC provides to itself."⁸¹

The MPSC believes Ameritech has met the first test, technical or physical access to the processes which permit competitors to obtain elements or services necessary to provide CLEC service.

In order to satisfy the second aspect of compliance, the access provided must be equal to all providers and must be provided in a manner that is equivalent to what Ameritech provides itself. Only then can it be determined whether the interconnection has provided for the "efficient competitor a meaningful opportunity to compete."⁸² In order to make that judgment a method or system of gauging the performance should be used. However, complete and appropriate performance standards have not as yet been adopted which would permit determinations to be made regarding nondiscriminatory access to OSS and other

⁸¹47 C.F.R. § 51.311 (a) and (b).

⁸²August 8, 1996 FCC Order in CC Docket No. 96-98, ¶315.

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unbundled network elements. Such measures must be in place before a positive determination can be made by the FCC regarding Ameritech's compliance with this checklist item.

C. Checklist Item (iii)

Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates in accordance with the requirements of section 224.

The situation related to access to poles, ducts, conduits and rights-of-way and the related prices is consistent with the MPSC's previous review.⁸³

AT&T provides information related to this checklist item based on AT&T's experience in Illinois and Ohio. The Ohio discussion appears to concern Ameritech's non-compliance with Ohio utility law. Among other claims related to Illinois, AT&T states it was "denied copies of detailed maps and related graphic materials which would show the location" ⁸⁴

AT&T's interconnection agreement with Ameritech in Michigan states:

"16.13 **Maps and Records.** Ameritech will provide AT&T at AT&T's request and expense, with access to and copies of maps, records and additional information related to its structure." (Emphasis added.)⁸⁵

While the inability to obtain copies of maps appeared to be troublesome in Illinois, the

⁸³Attachment 1, pp. 25-27.

⁸⁴AT&T Supplemental information filing of May 7, 1997, Lester Affidavit in Case No. U-11104 and Hearing Examiners Proposed Order in Illinois Commerce Commission Case No. 96-0404 p. 29-32.

⁸⁵AT&T Interconnection Agreement with Ameritech.

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Michigan agreement clearly provides for copies. The Illinois Hearing Examiner Proposed Order (HEPO) found that Ameritech did not meet the checklist requirements because, "other than providing poles to CCT, Ameritech has not furnished poles, ducts, conduits or rights-of-way to any competing carrier."⁸⁶ This conclusion was based on Illinois experience.

Ameritech, in turn, bases its compliance with this checklist requirement on furnishing Brooks, AT&T, MCI, Climax Telephone Company and Access Transmission access to poles and conduit.⁸⁷ In more detail, as of December 31, 1997, Ameritech furnished attachments to 99 poles and 71,684 feet of conduit to competing local exchange providers. Specifically:

	Poles	Feet of Conduit
Brooks	68	6,390
AT&T	---	43,464
MCI	---	6,349
Climax Telephone Co.	31	---
Access Transmission	---	15,481
	99	71,864 ⁸⁸

This information on its face is misleading. At this time, AT&T is providing local exchange service on a resale basis, which should require no poles, ducts or rights-of-way. MCI has only entered the local exchange service business on a trial basis in Michigan. While Climax Telephone Company is a competing local exchange carrier by virtue of its Metro

⁸⁶AT&T Supplemental information filing of May 7, 1997, Lester Affidavit in Case No. U-11104 and Hearing Examiners Proposed Order in Illinois Commerce Commission Case No. 96-0404 p. 31.

⁸⁷Ameritech's Brief in Support of Application pp. 41-42.

⁸⁸Ameritech's Application, Affidavit of Theodore A. Edwards, p. 40.

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exchange, its interconnection agreement is currently in arbitration before the MPSC. Climax Telephone Company is also an incumbent local exchange service provider not yet in competition with Ameritech. The poles noted must relate to the existing operation.

Access Transmission provides competitive access services as a part of MCI. Of all the poles, ducts and rights-of-way Ameritech believes should be considered to satisfy this checklist requirement, only the provision to Brooks provides the utilization of poles, ducts, and rights-of-way that can satisfy this checklist item. It, therefore, appears Ameritech satisfies this checklist item.

D. Checklist Item (iv)

Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

Ameritech represents that it is furnishing unbundled local loops to Brooks and MFS and that, as of April 30, 1997, 22,510 unbundled loops had been ordered or were in service in Michigan.⁸⁹ Prices for various types of loops contained in the Brooks, MFS, and TCG interconnection agreements were negotiated. Prices for basic loops contained in the AT&T interconnection agreement were arbitrated by the MPSC and established pursuant to Section 252(d)(1) of the Act and the MTA and are available to other providers pursuant to the MFN clauses of their interconnection agreements. Prices for non-basic types of loops (including various varieties of 2-wire analog loops, a 4-wire analog loop and varieties of digital loops)

⁸⁹Ameritech's Brief in Support of Application, pp. 43-44.

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are included in the AT&T or Sprint interconnection agreements. Prices for many of these types of non-basic loops are also at issue in the ongoing costing and pricing proceeding before the MPSC, Case No. U-11280. Issues related to performance benchmarks for unbundled loops are discussed above in Section III., B.

Ameritech appears to comply with this item of the checklist.

E. Checklist Item (v)

Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

F. Checklist Item (vi)

Local switching unbundled from transport, local loop transmission, or other services.

Since there are similar issues relating both to checklist item (v) and checklist item (vi), these two items will be considered together.

In its February 5, 1997 Comments, the MPSC stated in regard to the local transport checklist item:

It appears that Ameritech Michigan generally complies with the requirements of this item of the checklist. Resolution of the common versus shared transport issues, however, must occur.⁹⁰

It appears resolution of the shared transport issue remains to be achieved.

⁹⁰Attachment 1, p. 30.

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On November 26, 1996, the MPSC issued an arbitration decision regarding the Ameritech/AT&T interconnection agreement.⁹¹ The MPSC also required that an interconnection agreement incorporating the arbitration rulings be filed within ten days. Five interconnection agreements were filed. Each agreement contained either contested issues or alternative language for unresolved issues.

On February 18, 1997, the MPSC Staff convened a meeting at which representatives of Ameritech and AT&T were present. Each company presented its position on the unresolved issues. The Staff then issued a recommendation, on which both parties submitted comments. Based on the Staff recommendation and comments from Ameritech and AT&T, the MPSC resolved the disputed issues.⁹² In its order resolving the disputes, the MPSC determined there was no functional difference between the port as defined by the MTA and the local switching unbundled network element as defined in 47 C.F.R. 51.319. The MPSC also determined on the issue of shared versus common transport that AT&T's proposal was appropriate and the prices resulting therefrom should apply. A signed interconnection agreement was filed pursuant to the procedures prescribed by the FCC and approved by a majority of the MPSC.

⁹¹November 26, 1997 MPSC Order in Cases Nos. U-11151 and 11152.

⁹²February 28, 1997 MPSC Order in Cases Nos. U-11151 and 11152.

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On April 25, 1997, AT&T filed a Motion for an Order Compelling Compliance with the Commission's February 28, 1997 Order on Shared Transmission Facilities.⁹³ In spite of a MPSC order adopting the AT&T position on this matter, Ameritech has claimed that order was unclear. At this time, the matter remains unresolved. Attachment 7 contains nineteen pieces of correspondence or filings with the MPSC. While there is no guarantee that these nineteen documents represent every correspondence between AT&T and Ameritech on shared transport, it does present very clearly that the issue is far from resolved. This remains so in spite of a signed and approved interconnection agreement.

There is, however, a light at the end of the proverbial tunnel. In fact there are several "lights." One is currently before the FCC in the form of a Petition for Clarification of Worldcom in CC Docket No. 96-98.⁹⁴ The FCC could clarify the shared transport issue and the parties could then move toward implementing or appealing that aspect of the interconnection agreement. An FCC resolution to this issue appears to be possible within the 90 day time period it has to address the Application.

Another possible path to resolution of this issue is the proposed Ameritech/AT&T Unbundled Network Elements Trial.⁹⁵ Ameritech and AT&T are to "test" whether the AT&T "platform" is feasible. Ameritech commits to implementing the AT&T platform upon

⁹³This Motion is included with these comments as Attachment 6.

⁹⁴Petition filed with the FCC on September 30, 1996.

⁹⁵Ameritech Application, Affidavit of Daniel J. Kocher, Schedule 7.

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completion of the test and exhaustion of all legal remedies and will execute its responsibilities related to shared transport in order to comply with the principles set forth in its interconnection agreement in this area.⁹⁶

At this time, the MPSC understands the proposed trial to have two phases. The first was to last approximately 14-21 days. A second phase would follow and last for approximately 31 days. It was understood, based on remarks at the MPSC's May 28, 1997 hearing on OSS, that the first phase was to begin May 28, 1997, but there appears to have been some delay.⁹⁷ The trial will not be completed within a time frame that will permit the MPSC to determine if this requirements of the checklist can be satisfied.

In summary, the MPSC's previous comments in regard to unbundled local switching still apply. The disputes related to the definition of a port and local switching have been resolved in the A&T interconnection agreement, but to date no ports have been ordered (outside of what may or may not be included in the AT&T platform concept).

The issue of shared transport remains unresolved, but possibilities exist that clearer direction will come from the FCC based on the results of the "platform" trial which now should be underway.

If that issue is resolved, it appears Ameritech will comply with these checklist items.

⁹⁶Ameritech Application, Affidavit of Daniel J. Kocher.

⁹⁷May 28, 1997 Transcript of hearing in Case No. U-11104, pp. 195-196. Attachment 2, Docket #154.

G. Checklist Item (vii)

Nondiscriminatory access to--

- (I) 9-1-1 and E9-1-1 services;**
- (II) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and**
- (III) operator call completion services.**

Ameritech claims to be providing access to 9-1-1 service and databases to Brooks, MFS, and TCG. In addition, Ameritech claims these services are also available at the same rates, terms and conditions as those specified in the AT&T and Sprint interconnection agreements.⁹⁸ There appears to be some inconsistency in Ameritech's brief related to this matter. While initially omitting MCI as a competitor to which it provides access to 9-1-1 service and databases, it does cite statistics related to the number of 9-1-1 trunks in service for MCI.⁹⁹ Further the company notes that it is supplying the required access pursuant to a Michigan specific 9-1-1 agreement dated October 5, 1996.¹⁰⁰ With this clarification, it appears Ameritech's provision of access to 9-1-1 service and databases is consistent with the MPSC's February 5, 1997 Comments.

The manner in which that access is provided and the quality of the databases is the subject of a proceeding before this Commission in Case No. U-11229. This is a complaint related to the difficulty the city of Southfield's public safety answering points (PSAPs) have

⁹⁸Ameritech's Brief in Support of Application, p 47.

⁹⁹Ameritech's Brief in Support of Application, p. 47

¹⁰⁰Ameritech's March 27, 1997 Submission of additional information in MPSC Case No. U-11104, p. 19

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receiving accurate automatic number identification (ANI) and automatic location identification information (ALI). In addition, TCG has indicated in that case it does not have on-line access to the 9-1-1 database for entry and error correction.

The record in the complaint case identifies two specific instances where, in potentially life threatening situations, incorrect ALI was given or improper routing of a 9-1-1 call occurred. The MPSC is also aware of a third event on May 21, 1997. The MPSC has not issued a final order in this matter; thus, it is limited in what it may discuss. The record, however, presents the MPSC with options that should minimize the potential for similar difficulties in the future.

Brooks claims Ameritech refused to provide nondiscriminatory access and interconnection to 9-1-1 services. Brooks also claims Ameritech refused to provide daily error reports until last week.¹⁰¹ Brooks advised Ameritech of the lack of reporting on April 25, 1997. On June 2, 1997, Ameritech filed its response to Brooks' claims related to 9-1-1 service.¹⁰² Specifically, Ameritech indicated that the 9-1-1 trunks serving Brooks' trunks were located only in Lansing. Further, Ameritech indicated the trunks were deactivated because they had been put in service prematurely. Ameritech notes the trunks had not undergone the full range of testing at the time they were activated. On the matter of confirmation of data

¹⁰¹Brooks' May 14, 1997 filing in Case No. U-11104.

¹⁰²Ameritech's June 2, 1997 Submission of Additional Information in Response to Brooks Fiber Concerning 9-1-1 Services and Service Order Performance in Case No. U-11104. Attachment 2, Docket #155.

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entry and error correction to the 9-1-1 database, Ameritech indicates there was an interruption in that reporting when the administration of the databases was turned over to a third party vendor. In Brooks' May 28, 1997 presentation before the MPSC, however, the presenter noted daily error reports were now received regularly.¹⁰³

Ameritech interconnection agreements which contain provisions for 9-1-1 service, require Ameritech to coordinate error resolution involving database entry and update activity. Based on meetings between MPSC Staff, Ameritech's personnel and competitors' personnel, little or no confirmation of data entry or error correction is provided to competitors with respect to their customers. In its May 14, 1997 filing in Case No. U-11104, Brooks states it only began to receive daily error reports early in May 1997.¹⁰⁴ The MPSC believes this is not the level of coordination envisioned by the interconnection agreements.

Further, as demonstrated by the record in Case No. U-11229, Ameritech 9-1-1 databases are not error free. The Commission believes Ameritech is providing access to 9-1-1 service and databases. On its face, this access appears to satisfy this checklist item. However, it has been shown that the quality of the databases is suspect. Additionally, Ameritech's compliance with parts of its interconnection agreements related to coordination of data entry and error correction is, at best, poor. The MPSC therefore would indicate compliance with this checklist item only after Ameritech has shown the MPSC and/or the

¹⁰³Transcript of May 28, 1997 hearing in Case No. U-11104, p. 170. Attachment 2, Docket #154.

¹⁰⁴Brooks' May 14, 1997 filing in Case No. U-11104.

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FCC that it has established and pursued methods to ensure accurate 9-1-1 databases and proof that it is in fact performing the data entry and error correction coordination role required by its interconnection agreements.

The MPSC originally addressed Ameritech's provisioning of directory assistance services and operator call completions services in its February 5, 1997 Comments and found that Ameritech appeared to comply with this checklist requirement.¹⁰⁵ In its Application, Ameritech has provided the following information. Of the providers on whose interconnection agreements Ameritech relies for satisfaction of the checklist requirements, it provides directory assistance trunks to Brooks and MFS and operator call completion trunks to Brooks. According to Ameritech, MCI also has been supplied directory assistance trunks.¹⁰⁶ The directory assistance agreement between Ameritech and Brooks was negotiated and submitted to the MPSC on April 23, 1997 for approval. The rates, terms and conditions for directory assistance services already approved and contained in the MFS agreement were negotiated between the parties. Similarly, the rates, terms and conditions for operator call completions services with Brooks and MFS as well as the specific services offered were negotiated between those parties. The rates contained in the AT&T interconnection agreement for both directory assistance services and operator call completion services were arbitrated and found to comply with the requirements of the Act and the MTA. These may be available to

¹⁰⁵ Attachment 1, pp. 38-42.

¹⁰⁶ Ameritech's Application, Affidavit of Theodore A. Edwards, pp. 62-63.

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other providers through the use of MFN clauses in their interconnection agreements.

Ameritech appears to comply with the directory assistance and operator call completion requirements of the checklist.

H. Checklist Item (viii)

White pages directory listings for customers of the other carrier's telephone exchange service.

Much of the controversy related to the nature and scope of white pages listing and directory listings was previously discussed.¹⁰⁷ The approval by the MPSC of Ameritech's interconnection agreements with AT&T, Sprint, and others pursuant to the process delineated by the FCC in CC Docket No. 97-1 should remove any doubt related to Ameritech's inclusion of the white page listings of competing carriers in Ameritech's directories.¹⁰⁸ Ameritech is furnishing white pages listing to Brooks, MFS, TCG, MCI and AT&T. Ameritech also represents that 27 different providers or other entities have entered into agreements to have customers included in Ameritech's directories.¹⁰⁹

There are only nine providers that have approved local interconnection agreements with Ameritech. The providers noted above are among the 27 to which Ameritech refers.

¹⁰⁷ Attachment 1, pp. 42-45.

¹⁰⁸ AT&T Interconnection Agreement, Article XV.

¹⁰⁹ Ameritech's Application, Affidavit of Theodore A. Edwards, p. 133.

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There are local exchange service providers in operation utilizing Ameritech's resale tariff.¹¹⁰ Additionally, there are providers offering local exchange service through the resale of Ameritech's retail Centrex.

The providers operating (without an interconnection agreement) through purchase of Ameritech services from the resale tariff have directory listings included as a tariffed offering. Those reselling Centrex would be governed by the Michigan retail Centrex tariff. Directory listings related to Centrex services are tariffed.¹¹¹

AT&T contends that Ameritech has experienced various problems related to Ameritech's OSS database and lack of electronic access to white pages related databases. These issues are related to Ameritech's OSS and are discussed above in Section III., B. of these comments.

It appears that Ameritech meets this checklist item.

I. Checklist Item (ix)

Until the date by which telecommunications numbering administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

The MPSC's discussion on telephone numbers¹¹² remains the same with two exceptions. Ameritech, through February 1997, has assigned 141 NXXs to competing

¹¹⁰M.P.S.C. Tariff 20R, Part 22, Sec. 12 and M.P.S.C. Tariff 20R, Part 12, Sec. 1.

¹¹¹M.P.S.C. No. 20R, Part 22, Sec.5 and M.P.S.C. No. 20R, Part 5, Sec. 2.

¹¹²Attachment 1, pp. 45-47.

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carriers.¹¹³

Ameritech indicated that it has sufficient central office codes in each area code to meet the demand of all LECs and Commercial Mobile Radio Service providers (CMRS) in the area.¹¹⁴ As previously pointed out, the FCC rules require every authorized provider of local telephone service, exchange service or paging service to have at least one NXX in an existing area code. Ameritech has responded to requests for numbers in each area code and has the capability to meet the demand when asked by known providers.¹¹⁵

It therefore continues to appear Ameritech has met this checklist item.

J. Checklist Item (x)

Nondiscriminatory access to databases and associated signaling necessary for call routing and completion.

Ameritech asserts that it is furnishing access to its signaling and call-related databases to Brooks, MFS, and TCG.¹¹⁶ It has clarified in comments to the MPSC that TCG's access to Ameritech's signaling networks and call related databases is provided through Illuminet, an SS7 hub provider. Ameritech also represents that TCG's access to Ameritech's line

¹¹³Ameritech's March 27, 1997 Submission of Additional Information in MPSC Case No. U-11104, pp. 21-22.

¹¹⁴Ameritech's March 27, 1997 Submission of Additional Information in MPSC Case No. U-11104, p. 21.

¹¹⁵Ameritech's March 27, 1997 Submission of Additional Information in MPSC Case No. U-11104, p. 20.

¹¹⁶Ameritech's Brief in Support of Application, p. 50.

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information database (LIDB) is provided via a DOD trunk to Ameritech's Southfield central office utilized in the provisioning of operator services.¹¹⁷ In other respects, the MPSC's February 5, 1997 Comments on this issue remain unchanged.¹¹⁸ Ameritech appears to comply with this checklist item.

K. Checklist Item (xi)

Until the date by which the Commission issues regulations pursuant to section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations.

Interim number portability (INP) continues to be available via remote call forwarding and direct inward dialing. INP is available via interconnection agreement or Ameritech's Michigan tariffs. As of April 30, 1997, Ameritech represents over 24,000 numbers have been ported in Michigan.¹¹⁹

AT&T continues to argue Ameritech cannot satisfy this checklist item until route indexing is offered to provide INP.¹²⁰ AT&T's interconnection agreement with Ameritech

¹¹⁷Ameritech's March 27, 1997 Submission of Additional Information in MPSC Case No. U-11104, pp. 23-24.

¹¹⁸Attachment 1, pp. 47-49.

¹¹⁹Ameritech Brief in Support of Application, p. 52.

¹²⁰AT&T's May 7, 1997 Comments in Case No. U-11104, Evans Supplemental Testimony, pp 2-7.

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provides for the offering of other methods for INP, which could include route indexing.¹²¹

AT&T has appealed this interconnection agreement to the federal courts. INP via route indexing is one of the contested issues.

The MTA requires long-term or true number portability by January 1, 1999 unless the MPSC determines it is economically feasible to provide it prior to that date. The MPSC has so ordered. Implementation of true or long-term number portability in Michigan is to take place when implementation in Illinois takes place.

A Michigan Local Number Portability Workshop was held to coordinate this implementation of true or long-term number portability in Michigan. The February 28, 1997 report from the workshop is included as Attachment 8. The implementation in Michigan remains as previously discussed.¹²²

<u>MSA</u>	<u>TIME FRAME</u>
Detroit	1/98 - 3/98
Grand Rapids	7/98 - 9/98
Ann Arbor	10/98 - 12/98
All others	Bona Fide Request

It appears Ameritech complies with check list item (xi).

¹²¹Interconnection Agreement between Ameritech and AT&T approved in Case No. U-11151 and U-11152, Section 13.10 (p.57).

¹²²Attachment 1, p. 51.

L. Checklist Item (xii)

Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).

As previously noted, the FCC has determined local dialing parity includes interconnection, number portability and nondiscriminatory access to telephone numbers.¹²³ In Michigan, interconnection is taking place via several interconnection agreements, e.g., AT&T, Brooks, MFS, and TCG. AT&T's interconnection agreement provides for interconnection on a facilities basis, but at this time AT&T is only providing service via resale of Ameritech's bundled residential service. The interconnection aspect of this checklist requirement is met by the apparent satisfaction of the interconnection requirements in checklist item (i).

Number portability is being provided on an interim basis, consistent with Ameritech's apparent compliance with checklist item (xi).

Nondiscriminatory access to telephone numbers in Michigan predates the Act. This requirement was established pursuant to MPSC action in Case No. U-10647. Interconnection agreements with Brooks, TCG, and MFS also provide for access to telephone numbers.

Utilization or consumption of telephone numbers is evidenced by the need to split the 313 and 810 area codes. The splits were necessitated by the entry of competing providers, who are assigned blocks of numbers, and growth in demand for numbers by existing customers. Implementation dates for the new area codes are:

¹²³ Attachment 1, p. 52.

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<u>Area Code</u>	<u>Implementation Date</u>
248	May 10, 1997, permissive dialing September 13, 1997, mandatory dialing
734	December 13, 1997, permissive dialing July 25, 1998, mandatory dialing

Based on the MPSC's action in Case No. U-10647 and the Brooks, TCG and MFS interconnection agreements, providers are experiencing local dialing parity consistent with the Act. It appears Ameritech complies with this checklist item.

**M. Checklist Item (xiii)
Reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2).**

The interconnection agreements of Brooks and MFS provide for reciprocal compensation at rates negotiated by the parties to those agreements. The interconnection agreement of TCG contains arbitrated rates for reciprocal compensation and therefore these rates comply with the requirements of Section 252(d)(2) of the Act and the MTA. Likewise, the reciprocal compensation rates contained in AT&T's interconnection agreement were determined through arbitration and are available to other providers invoking their MFN clauses. Ameritech asserts that it is presently exchanging local traffic subject to reciprocal compensation with Brooks, MFS, and TCG.¹²⁴

¹²⁴Ameritech's Brief in Support of Application, p. 53.

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According to a March 7, 1997 filing by Brooks, it believes that Ameritech has not complied with this checklist item because "for certain types of cellular and paging calls, classified as 'Type 2', Brooks is not recovering its costs for transport and termination as required by 252(d)(2) in a mutual and reciprocal fashion with Ameritech."¹²⁵ Brooks believes that compensation paid for cellular and paging calls is not, but should be, the same for competing and non-competing local exchange carriers alike. Ameritech responds that "the situation described by Brooks involves traffic which originates on a wireless (e.g., cellular or paging) provider's network, which simply transits Ameritech Michigan's network and is ultimately terminated on Brooks's network."¹²⁶ Additionally, on April 23, 1997, Brooks filed a complaint with the MPSC against Ameritech regarding this matter.¹²⁷ This was not an issue raised in arbitration under any interconnection agreement filed with the MPSC. Brooks in fact states in its complaint that it was agreed that matters regarding cellular and paging traffic would not be included in any of the agreement's compensation terms, and would be covered in separate negotiations. Its complaint was filed under the provisions of the MTA and not as a matter to be arbitrated under the Act. At this time, the MPSC has not and cannot determine (since the matter is pending before it) whether the matters at issue relate to compliance with

¹²⁵Brooks' March 7, 1997 Motion for Reconsideration in MPSC Case No. U-11104, p. 18.

¹²⁶Ameritech's March 28, Answer to Brooks' Motion in MPSC Case No. U-11104, p. 20.

¹²⁷This complaint has been docketed as Case No. U-11370 and is not scheduled to be completed until November, 1997.

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this checklist item. On the basis of information received by the MPSC to date and the provision of reciprocal compensation services to Brooks, MFS, and TCG at the present time, the MPSC continues to believe Ameritech complies with this checklist item.

N. Checklist Item (xiv)

Telecommunications services are available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3).

Ameritech has relied upon the interconnection agreements of MFS, TCG and Brooks for satisfaction of its checklist requirements under the Act. Of these three, Ameritech presently provides resale services in Michigan only to MFS pursuant to its interconnection agreement. Additionally, however, Ameritech represents that it is also providing resale services to AT&T and USN, presumably pursuant to their approved interconnection agreements. As of April 30, 1997, Ameritech represents that MFS, USN and AT&T "had ordered or were using over 8,200 non-Centrex resale lines. When Centrex lines are included, there were nearly 18,000 resold lines ordered or in-service as of April 30, 1997."¹²⁸

The rates, terms and conditions regarding resale in the MFS interconnection agreement were negotiated, as were those in the USN interconnection agreement. The resale rates established in the AT&T agreement were arbitrated by the MPSC and found to comply with the requirements of Section 252(d)(3) of the Act as well as the requirements of the MTA. Although the resale discount was established during the arbitration of the AT&T

¹²⁸Ameritech's Application, Affidavit of Theodore A. Edwards, p. 80.

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interconnection agreement, this agreement specifically references Ameritech's retail tariffs for the services to which the discount applies.

The establishment of a Michigan resale tariff to which AT&T can make reference in its interconnection agreement has been somewhat problematic but it is, with a few exceptions, complete at this time. A large part of the problem has arisen from the fact that, as was discussed in the MPSC's February 5, 1997 Comments on the issue of resale,¹²⁹ many services that must be resold under the Act are not regulated under Michigan law. As a result of this, no retail tariff for many services exists in Michigan to which a resale discount could be applied. Therefore, Ameritech's resale tariff in Michigan exists in two pieces: a resale tariff for services regulated under Michigan law and a resale tariff for services unregulated under Michigan law. These tariffs were accepted for filing on March 27, 1997 and March 12, 1997 respectively. The services that Ameritech believes it must resell under the definitions of the Act were not subject to a contested case proceeding in Michigan nor, for the most part, were they at issue in arbitration proceedings. In regard to a small number of retail services regulated under the MTA, agreement does not exist yet between Ameritech and the MPSC Staff regarding the definition of the contract and other customer-specific offerings,¹³⁰ which

¹²⁹Attachment 1, pp. 55-57.

¹³⁰Services included in this category are, for example, the Centrex service of Detroit Metropolitan Airport and emergency and group alerting services sold to various municipalities in Michigan.

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are subject to resale obligations under the Orders and Rules of the FCC.¹³¹ There may also be such services excluded from the resale tariff of services unregulated under Michigan law but, because the retail tariff for unregulated services is not filed with the MPSC, a comparison between the unregulated retail and resale tariffs has not and cannot occur. Other interpretations regarding services that must be resold under the Act may also arise. It is the belief of the MPSC, however, that a competitor may raise the issue of services that must be offered in Ameritech's resale tariff and the MPSC or the FCC may address these issues in an appropriate forum.

The MPSC continues to believe that Ameritech complies with this checklist item.

IV. IntraLATA Toll Dialing Parity Plan

In its previous comments, the MPSC noted the intraLATA toll dialing parity plan of Ameritech, and its actions, appeared to satisfy the requirements of Sec. 271(e)(2)(A). The Commission also noted that Ameritech's compliance with MPSC orders related to intraLATA dialing parity was a matter currently before the Michigan courts.¹³²

An update to the chronology contained in the MPSC comments follows:

15. On March 24, 1997, MCI and AT&T filed a joint motion in the Michigan Court of Appeals Docket No. 198706 for confirmation that implementation of dialing parity from and after July 1, 1997 is not affected by that Court's stay. A motion for immediate consideration was also filed. (Note that on the same date, MCI and AT&T

¹³¹FCC's August 8, 1996 First Report and Order in CC Docket 96-98, ¶948.

¹³²Attachment 1, 61.

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filed their joint motion with the MPSC to compel dialing parity as of July 1, 1997. This motion was dated March 19, 1997.)

16. On April 1, 1997, Ameritech filed its brief in opposition to the motion for confirmation in the Michigan Court of Appeals.
17. On April 10, 1997, the Michigan Court of Appeals issued an order granting the motion for immediate consideration and denying the motion to confirm.
18. On May 23, 1997, MCI and AT&T filed a joint supplemental authority in the Michigan Court of Appeals, Docket No. 198706. This is the appeal on the merits of Ameritech's claim that the MPSC's June 26, 1996 and October 7, 1996 orders violated the MTA and the Federal Telecommunications Act. (MCI and AT&T made a joint filing in the Commission on the same date.)

As can be seen from this chronology, as of May 23, 1997, the issue of intraLATA dialing parity remains an issue before the Michigan courts.

Ameritech has also begun a process in Michigan of exiting certain portions of the intraLATA toll market. These actions may play a role in the implementation of its intraLATA toll dialing plan and certain interconnection agreements. It should be noted that the three actions that will be described are currently pending before the MPSC, so these comments will only be in the nature of background information. The comments should in no way be construed as the MPSC rendering any decision related to these specific ongoing cases.

On March 10, 1997, Climax Telephone Company filed for arbitration of its interconnection agreement with Ameritech.¹³³ One of the issues to be arbitrated was Ameritech's refusal to provide intraLATA toll services to Climax customers in Climax's

¹³³MPSC Case No. U-11340.

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Metro exchange. On May 21, 1997, the arbitration panel determined the MPSC was empowered to order Ameritech to continue the provision of intraLATA toll services to Climax customers residing in the Metro exchange. The panel recommended the Commission so order. The matter remains pending before the MPSC.

On March 21, 1997, Brooks filed a complaint against Ameritech with the MPSC claiming Ameritech was involved in anticompetitive activities.¹³⁴ These alleged activities included the discontinuance of intraLATA toll service to customers in Brooks' service territory who elected to change local service providers from Ameritech to Brooks. This matter is currently in process before the MPSC.

On April 18, 1997, pursuant to the MTA, Ameritech filed a notice of discontinuance of intraLATA toll service in the exchanges of Frontier Communications of Michigan.¹³⁵ August 1, 1997 is the proposed effective date of the discontinuance. On May 20, 1997, the MPSC Staff requested the MPSC to set the matter for hearing. This case is pending before the MPSC.

It should be noted that Ameritech provides erroneous information related to the intraLATA toll dialing parity.

169 Toll dialing parity.

Although toll dialing parity is not a check list requirement and is not required until Ameritech begins providing in-region intraLATA (sic) service in

¹³⁴MPSC Case No. U-11350.

¹³⁵MPSC Case No. U-11367.

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Michigan, Ameritech is providing intraLATA toll dialing parity in 116 Michigan exchanges, representing 50% of the access lines in its exchange service territory. Upon filing of this application, Ameritech implemented toll dialing parity in an additional 70 exchanges representing an aggregate total of 70% of Ameritech's access lines in Michigan."¹³⁶

Pursuant to Section 271(e)(2)(B), Michigan is exempt from the requirements of Section 271(e)(2)(A) due to the MPSC's action in Case No. U-10138 on February 28, 1994 and March 10, 1995. Ameritech has therefore misrepresented its obligation in Michigan related to intraLATA toll dialing parity. It should also be noted that Ameritech currently is providing in-region intraLATA toll service. Therefore, one must assume that the reference to in-region intraLATA toll service must be a typographical error. The correct reference should be in-region interLATA toll service.

Finally, Ameritech indicated in its original intraLATA toll dialing plan that it would move from 50% of its Michigan access lines with intraLATA toll dialing parity to 70% with the filing of its application for in-region interLATA service authority in Michigan. That filing took place on January 2, 1997. The MPSC understands that the conversion had taken place at that time.

The MPSC can conclude that Ameritech's plan and action consistent with that plan related to conversion appears to comply with the requirements of Section 271(e)(2)(A)

¹³⁶Ameritech's Application Affidavit of Theodore A. Edwards, p. 77.

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V. Conclusion.

As requested by the FCC's May 21, 1997 Public Notice, the MPSC submits herein its comments in regard to the Section 271 Application of Ameritech Michigan.

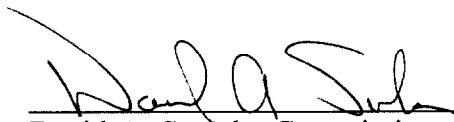
Respectfully submitted,
MICHIGAN PUBLIC SERVICE COMMISSION



John G. Strand
Chairman



John C. Shea, Commissioner, concurring as
discussed in the separate statement attached.



David A. Svanda, Commissioner

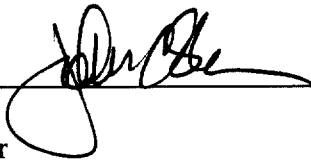
DATED: June 9, 1997

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SEPARATE STATEMENT OF COMMISSIONER JOHN C. SHEA

Although I have previously expressed doubt about the federal government's authority to compel state regulation of certain activities subject to this consultation, my concerns do not inhibit me from voluntarily communicating to the FCC. I therefore join my colleagues in providing a factual evaluation of Ameritech's compliance with the competitive checklist set forth at 47 U.S.C. § 271(c) intended to assist the FCC in performing its statutory duties.

John C. Shea
Commissioner



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This page has been substituted for one of the following:

o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.

o Microfilm, microform, certain photographs or videotape.

✓ Other materials which, for one reason or another, could not be scanned into the RIPS system.

The actual document, page(s) or materials may be reviewed by contacting an Information Technician. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician.

Three volumes of attachments consisting of approximately 1600 pages as follows:

LIST OF ATTACHMENTS

ATTACHMENT

DESCRIPTION

1. Michigan Public Service Commission's February 5, 1997 Comments on Ameritech Michigan's initial Section 271 Application.
2. Filings in MPSC Case No. U-11104 between May 21, 1997 and June 5, 1997.

Docket Entry

Item

- | | |
|-----|---|
| 134 | Notice of Hearing. |
| 135 | Response to Ameritech's application for approval of its statement of generally available terms. |
| 136 | LCI International Telecom Corp. Appearance. |
| 137 | USN Appearance. |
| 138 | AT&T Communications of Michigan, Inc. Appearance. |
| 139 | Ameritech Appearance. |
| 140 | Brooks Fiber Communications Appearance. |
| 141 | MCI Telecommunications Corp. Appearance. |
| 142 | MCI Telecommunications Corp. Appearance. |
| 143 | Communication Workers of America Transmittal; Information provided at hearing 5/28/97. |
| 144 | Ameritech Transmittal; Information provided at hearing 5/28/97. |
| 145 | Ameritech Transmittal; Information provided at hearing 5/28/97. |
| 146 | MCI Telecommunications Corp. Transmittal; Information provided at hearing 5/28/97. |
| 147 | Brooks Fiber Communications Transmittal; Information provided at hearing 5/28/97. |

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- 148 USN Communications transmittal; Information provided at hearing 5/28/97.
- 149 LCI International transmittal; Information provided at hearing 5/28/97.
- 150 Ameritech transmittal; Information provided at hearing 5/28/97.
- 151 Ameritech Response to the Commission's questions regarding operations support systems - presented at hearing 5/28/97.
- 152 AT&T Communications; All competitive local exchange carriers (CLEC) exhibits - proposed; Presented at hearing 5/28/97.
- 153 AT&T Communications, Inc. transmittal; Supplemental submission of information regarding operations support systems.
- 154 Transcript; Hearing date 5/28/97.
- 155 Ameritech Transmittal; submission of information in response to Brooks Fiber concerning 911 services and service order performance.
- 156 Ameritech Transmittal; Confidential portion of response to Brooks Fiber; Confidential information - separated from the docket.
- 157 Brooks Fiber Communications Transmittal; Additional information regarding service order performance by Ameritech.
- 158 Ameritech letter to Wideman requesting an extension of the statutory period for review of the General Statement until 9/2/97.
- 159 Communications Workers of America Comments.
- 160 Telecommunications Resellers Assoc. Transmittal; Information regarding operations support systems.
- 161 Order; Ameritech's application for approval of its proposed statement of generally available terms and conditions is denied.
- 162 Brooks Fiber Communications transmittal; Information regarding non-payment of reciprocal compensation by Ameritech

3. June 5, 1997 MPSC Order in Case No. U-11326.
4. Tariff of Ameritech Michigan regarding Manual Service Interface.
5. CLEC Proposed Performance Standards.
6. April 25, 1997 AT&T Motion for an Order Compelling compliance with the Commission's February 28, 1997 Order on Shared Transmission Facilities.
7. Correspondence & filings regarding shared and common transport issue.
8. February 28, 1997 Report of the Michigan Local Number Portability Workshop.