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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Telephone Number Portability)

CC Docket No. 95-116
RM 8535

REPLY COMMENTS OF AMERITECH

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REPLY COMMENTS OF AMERITECH

I. Introduction and Summary

Ameritech respectfully files these Reply Comments in the above-captioned matter. These Reply Comments respond to several parties who filed Comments attempting to establish competitive advantages through this proceeding. Several parties also counseled the Commission to assume a project management role, and to micromanage the development, selection and deployment of nationwide number portability. The Commission should reject this advice, and should instead continue to provide broad policy direction to the many ongoing industry efforts and state initiatives which will make number portability available in the most cost-effective and timely manner possible.

Specifically, the Commission should: 1) adopt an overall policy framework for number portability; 2) direct the Industry Numbering Committee ("INC") to develop a set of interoperability requirements; 3) convene a limited joint board to address cost recovery issues; and 4) allow the

states and individual carriers to develop and implement specific plans for deployment.

II. The Commission's Role Should Be to Set National Policy Direction, Not to Manage Implementation Details

During the comment period, several parties urged the Commission to position itself as an implementation planner and project manager for the selection and deployment of number portability solutions.¹ Budgetary and scheduling concerns notwithstanding, these parties would have the Commission actively manage the myriad of complex technical and operational details inherent in the nationwide implementation of number portability.

The Commission can best deploy its already-stretched resources by continuing to focus upon the key national policy issues surrounding number portability. Policy guidance in the critical areas of interoperability, long-term requirements and cost recovery is the most appropriate use of the Commission's resources in this matter.²

The actual development and implementation of specific number portability services should be performed by industry bodies, such as the Industry Numbering Committee ("INC"), via cooperative efforts involving service providers, regulators, vendors, and other affected parties. In its policy-

¹ See, e.g., Comments of AT&T, urging the Commission to take the "leadership in the selection and deployment of a permanent number portability solution" (at 9-10), select the most appropriate portability solutions (at 37), and oversee the development of a product evaluation process, issuance of RFPs, solicitation of bids, and final vendor selection (at 37-8).

² For examples of the types of policy-level guidance to be provided by the Commission, see, Comments of Teleport, at 11 ("Teleport's Criteria For Number Portability").

level role, the Commission should charge these industry bodies with responsibility for development of technical and interoperability standards which support the Commission's policy framework.

The Comments also support the conclusion that no single national platform is required to achieve national interoperability. Indeed, no single technical arrangement or architecture is likely to prove suited to the varying needs of customers and regulators in every jurisdiction across the country.³

In this structure, the appropriate federal role is to establish an overall policy framework, and then to direct industry groups to develop interoperability requirements for the solutions ultimately to be adopted. The corresponding role of the ongoing industry bodies is to make specific recommendations as to those interoperability requirements with which any solution must comply. State regulators, in turn, are logically responsible for overseeing the actual deployment efforts (e.g., timing, responsibilities, and other "who/where/when" matters) to be undertaken by all involved service providers. The individual service providers engaged in the actual network planning and deployment of number portability solutions should retain the business freedom and flexibility to apply their judgment and experience, and to select the specific system architectures that best fit their customers' needs and individual network configurations.

³ See, e.g., Comments of Illinois Commerce Commission at 9-10; Comments of Missouri PSC, at 3; Comments of California PUC, at 3-4.

III. Cost Recovery for Number Portability Deployment Should Be Based on "Cost-Causer" Principles, Applied by a Limited Joint Board

Ameritech believe that state-specific implementation efforts would be well complemented by a carefully targeted, task-specific, time limited federal-state joint board, established solely to develop common principles and mechanisms for interjurisdictional cost assignment and recovery. The role of this tightly-focused joint board is critical to ensuring the timely and effective deployment of number portability across the country. This is especially true because the vast majority of costs involved in deployment are likely to be in the local jurisdictions. This fact makes crucial the adoption of compatible cost recovery mechanisms across the states as number portability is deployed. Some specific recommendations regarding the appropriate cost recovery mechanisms are set forth in this section.

Predictably, several parties now poised to enter the increasingly-competitive local exchange marketplace have urged the Commission to lump all number portability development and implementation costs into a single pot, and to assign responsibility for all these costs to the incumbent local exchange carriers ("LECs") as so-called "infrastructure deployment costs."⁴ In addition to the obvious consumer inequity of this approach, which would

⁴ See, e.g., Comments of Ad Hoc Coalition of Competitive Carriers (at 18, 21, 22); Comments of ALTS (at 20); Comments of AT&T (at 35-6); Comments of MFS (at 13-14); Comments of Sprint (at 12-13); Comments of Teleport Communications Group (at 13-14). Interestingly, Time Warner justifies imposing such a step as a sort of affirmative action measure, stating that incumbent LECs "have a competitive advantage on account of their historical role as certified monopoly providers." Comments of Time Warner (at 23).

deflect the significant costs of number portability deployment⁵ away from those carriers who will benefit most therefrom, such a step would also result in subsidies flowing from residential consumers to the benefit of those large business customers typically targeted by new competitors entering the local exchange marketplace. Deviation from a cost-causative approach to cost recovery is likely to impose substantial additional costs and inefficiencies on whatever number portability solutions are ultimately deployed. Adoption by the Commission of a more appropriate and realistic cost recovery structure will give both carriers and end user customers all incentives to act in an efficient and economically-rational manner, and will thus encourage the development of true competition.

The following suggested cost recovery structure recognizes three specific categories of costs to be incurred in the national deployment of number portability, and assigns responsibility for those costs to the most appropriate parties; i.e., those who would most benefit from their expenditure.

A. Administrative and overhead costs

The first category of costs to be provided for in the overall cost recovery structure includes purely administrative overhead costs incurred in the deployment and operation of number portability capabilities. Specific components of this category include the costs of a neutral third-party

⁵GTE offers an estimate, for national deployment of one alternative solution, exceeding \$1.6 billion. Comments of GTE, Appendix A.

administrator to establish, maintain, and operate a master Service Management Systems ("SMS") database. This database would, under currently developing architectures, contain routing information for all portable telephone numbers in a given geographic area. The most appropriate allocation of these truly common overhead costs (e.g., administrative expenses of the third-party provider) appears to be a split among all service providers, in equal shares.

B. Costs directly assignable to number portability deployment

Operational costs involved in establishing and maintaining the master SMS database to be operated by the third-party administrator could most equitably be apportioned according to the number of portable telephone numbers residing in the master SMS for each involved service provider. This second category of costs also includes those incurred by carriers who must establish carrier-specific network elements (e.g., SCP's) each containing a database listing all of a particular carrier's portable telephone numbers. The establishment of these databases will effectively benefit those end-user customers who desire to retain the same telephone number after moving or changing service providers. The investment by carriers in switch and operations support system ("OSS") software necessitated only by number portability deployment also falls into this category.

Since this second category of expenditures directly benefits a select group of customers of each carrier, this category of costs should be recovered from all LECs, in proportion to the number of portable telephone numbers

each LEC has resident in each database. This approach will properly drive these carrier-identifiable costs to those carriers that benefit directly from the development of telephone number portability. This approach also avoids the inter-carrier subsidy issues discussed in connection with the previous cost category (see pp. 4-5 supra).

C. Costs incurred to increase the capacity of existing infrastructure

This final category of deployment costs includes expenditures to upgrade and increase the capacity of the existing infrastructure to provide full compatibility with, and increased traffic-handling capacity necessary for, number portability. Costs falling into this category include the upgrading of existing end office switches to generics with full AIN platform and Signalling System 7 ("SS7") capabilities, and growth additions to handle portability-driven signalling traffic.

It must be recognized that this category of costs will be borne almost exclusively by incumbent LECs. For this reason, the Commission should adopt an overarching principle of minimizing these costs as much as possible, to avoid undesired competitive effects by unfairly burdening customers of the incumbent providers with unwarranted costs. In effect, the imposition of such costs would amount to an artificial regulatory handicap on incumbent LECs, at the sole expense of their current customers. To the extent these costs can be measured on a transaction or query basis, they should be directly assigned to number portability, and should be recovered from the "cost-causing" entity.

IV. State Regulators Should Schedule Implementation;
No "Date Certain" for Deployment Should Be Imposed By the FCC

Several parties urged the Commission to immediately order mandatory deployment of number portability by various specific dates.⁶ Given state regulators' critical ongoing role in determining and scheduling implementation details, it would be inappropriate for such a date to be established by the Commission. Moreover, the many state-level regulatory investigations into number portability must continue to assess the specific needs, interests and approaches to be taken by the individual state jurisdictions in formulating their deployment plans.

A workable alternative to this faulty "mandatory deployment" approach would be for the Commission to establish an overall planning timetable for the efforts of a federal-state joint board and other industry bodies (including INC). Such a timetable would direct the Joint Board to complete and report upon the appropriate cost recovery framework, and would direct INC to establish baseline format and interoperability requirements for long-term solutions, all within six months of a Commission Order to that effect. These outputs would then be used by the individual state regulatory bodies in their detailed deployment planning efforts.

⁶ See, e.g., Comments of ACTA, at 7 (by 1/1/97); Comments of ALTS (within 24 months, in "major markets"); Comments of AT&T, at 10 (deployment of some new transitional arrangement by mid-1996); Comments of Comptel ("earliest possible date"); Comments of Teleport, at 11-12 (in the top 100 markets within 24 months).

The Commission should reject the blatant attempts of several commenting parties to secure guaranteed lower prices for interconnection services, and other basic competitive advantages, in the guise of Commission-sanctioned "deployment incentives" to be imposed upon incumbent local exchange service providers.⁷ As aptly noted elsewhere, the long-held policy goal of the Commission is to promote competition, rather than to protect individual competitors.⁸ The imposition of such baseless handicapping measures upon a single class of competitors (in this case, the incumbent LECs) cannot possibly help to fulfill this goal.

V. Deployment of New "Transitional Portability Measures" Would Be Both Unwarranted and Counterproductive.

Some parties propose the development and mandatory deployment of additional "throw-away" transitional portability measures that would provide some unstated benefits while delaying industry efforts to develop the long-term solutions currently under study.⁹ This approach should be

⁷ See, e.g., Comments of ALTS, at 14-16 (asking for an immediate 50% discount on all LEC interconnection rates); Comments of National Cable Television Association, at YY (seeking a 55% discount on originating toll traffic, and free "interim" portability measures); Comments of Time Warner, at 15 (recommending that price cap LECs be denied pricing flexibility to which they are otherwise entitled until "true number portability" is deployed).

⁸ See, e.g., Hawaiian Telephone CO. v. FCC, 498 F. 2d 771, 776 (D.C. Cir. 1974) (Commission may not subordinate the public interest to the interest of "equalizing competition among competitors"); W.U. Telephone Co. v. FCC, 665 F. 2d 1112, 1133 (D.C. Cir. 1981) (equalization of competition is not a sufficient basis for Commission action).

⁹ See, e.g., Comments of MCI at 10-11 (recommending temporary deployment of its "CPC" solution, followed by deployment of AT&T's "LRN" solution); Comments of AT&T, at 31 (mirroring MCI's proposal); Comments of Time Warner, at 17 (discussing various "medium-term solutions").

discarded by the Commission, as it would delay the ultimate availability of the desired long-term solutions by diverting resources¹⁰ without offering any benefits in the relatively short interval before the long-term solutions would otherwise become available.¹¹

Delays in availability of the ultimate long-term solutions would result directly from the diversion of resources already allocated to present industry efforts. In addition, both long-term and so-called "medium-term" solutions will indisputably require significant software development and provisioning efforts.¹² While the resulting expenditures would be for the short-term benefit of new entrants to the local exchange marketplace, these stopgap measures would be developed at the sole expense of current local exchange customers. This call for a direct subsidy to new competitive entrants should be specifically rejected by the Commission, as it clearly represents bad policy.

¹⁰ In the ongoing Number Portability workshops conducted by the Illinois Commerce Commission ("ICC"), AT&T has acknowledged that between one-half and one-third of the development costs of the transitional "LRN" solution could not be applied toward a permanent solution.

¹¹ At a recent ICC Workshop meeting, most vendors indicated that switch software supporting number portability would be available between 4Q96 and 2Q97.

¹² Despite MCI's claims to the contrary, interim solutions such as "CPC" simply cannot be deployed using today's PSTN without significant adverse effects on customers of current services. As ongoing industry forums have already revealed, to do so would render certain existing features (e.g., repeat dialing and automatic callback) useless and deny the completion of certain calls (e.g., pay telephone calls) on some switch types. In addition, the "CPC" solution favored by MCI would require massive translation additions to every single end office, tandem, and STP in use today.

VI. Long-Term Solutions Must Accommodate Location Portability

Several parties now poised to enter the local exchange services marketplace filed Comments representing that no consumer demand exists for location portability, and offering various types of strained logic as to why the Commission should not pursue this important functionality any further.¹³ The self-serving nature of this claim is easily exposed by the addition of a single omitted fact: at least initially, a typical new entrant to the local exchange marketplace will be able to serve a much larger geographic area with a single switch, due to lower customer densities. This enables new entrants to earn higher returns on investment by “cream-skimming” only the high-end customers from within a geographic area. In addition, it also favors new entrants by giving their customers de facto location number portability within a larger geography. On the other hand, customers of incumbent carriers, which have long been required to provide service to all who request it in their service areas, are required to take new telephone numbers if they move outside the relatively small boundaries served by their central offices. The result is that, if no provision were made by the Commission for deployment of location portability, incumbents would be

¹³ See, e.g., Comments of AT&T, at 7 (claiming that location portability may present new implementation problems); Comments of California Cable Television Association, at 6-7 (speculating that “consumers may find [location portability] undesirable”); Comments of MCI and MCI Metro, at 23-24 (complaining, despite its own recently-announced single-number offering, that location portability “will break the link between a number and a geographical location”); Comments of NCTA, at 9 (arguing that location portability “is likely to be technically complex”); Comments of Teleport, at 5-6 (concluding that consideration of location portability “will only delay and complicate the essential task of implementing service provider portability”).

arbitrarily handicapped with respect to new entrants since they could not offer their existing customers the same capability.¹⁴

The Commission should not confer the artificial advantage sought by these opponents of location portability. Instead, it should continue to follow its long-established path of encouraging competitive parity, by including in its policy framework a requirement that the long-term number portability solutions finally implemented must accommodate location portability.

VII. 500/900 Number Portability Should Be Considered in a Separate Proceeding

Ameritech concurs with the parties advocating the consideration of 500/900 service portability issues in a separate proceeding.¹⁵ As noted in Ameritech's initial Comments,¹⁶ the competitive, marketing and technical issues regarding non-geographic portability differ significantly from those discussed earlier in this pleading, and thus warrant a separate proceeding.

Ameritech also notes that there is no immediate need to provide portability for non-geographic numbers. The end-user benefits of 900-number portability are unsubstantiated at best.¹⁷ Likewise, no significant service-provider demand has been demonstrated for 500-service portability.

Ameritech's own experience reflects only marginal interest in this capability;

¹⁴ See Comments of Time Warner, at 7.

¹⁵ Comments of Bell Atlantic, at 24; Comments of SBC Communications, Inc., at 15-16.

¹⁶ Comments of Ameritech, at 13.

¹⁷ The only party to file Comments supporting this new capability is a 900 service provider unhappy with AT&T's service. Comments of David L. Kahn, at 2-3.

less than 10% of the assigned 500 NXX codes have been established for service, within the area served by Ameritech, since Ameritech's tariff became effective in January.

Issues of demand and consumer benefit aside, Ameritech disagrees with the unsupported arguments of those parties who claim that the established 800 service architecture could be easily and inexpensively deployed to provide 500 and 900 number portability.¹⁸ Such a step would clearly require a significant effort, including additional development of the 800 database logic, central office switches, record format and validation systems, system interfaces, and industry and administrative guidelines. Furthermore, the current 800 I/N database itself, which already has capacity problems as a result of increasing 800-query traffic, would require extensive modifications. For these reasons, the 800 I/N platform is not a good candidate for use as a 500/900 service portability vehicle.

¹⁸ Comments of ACTA, at 106; Comments of MCI, at 27-8.

VIII. Conclusion

For the foregoing reasons, the Commission should: 1) adopt an overall policy framework for number portability; 2) direct INC to develop a set of interoperability requirements; 3) convene a limited joint board to address cost recovery issues; and 4) allow the states and individual carriers to develop and implement specific plans for deployment.

Respectfully submitted,

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October 12, 1995

PROTECTIVE AGREEMENT

It is hereby agreed by the parties to this Protective Agreement that this Agreement shall govern the rights and obligations of the parties with respect to confidential information, as defined in paragraph 1, below, which is submitted by the Ameritech Operating Companies to the Federal Communications Commission in support of or in connection with tariff #, filed date).

1. Confidential Information

For the purpose of this Agreement only, "confidential information" consists of all documents data, information, studies, and other matters furnished in support of [AmeritechTariff #, filed ___], or any investigation of such tariff filing.

2. Use of Confidential Information and Persons Entitled to Review

All confidential information made available pursuant to this Agreement shall be treated as confidential unless Ameritech specifically consents otherwise in writing. Confidential information may be used solely for purposes of assessing the lawfulness of Ameritech Tariff #, filed ____, or for the purpose of preparing arguments or pleadings, including any administrative or judicial appeal, with respect to such transmittal; provided, however, that the confidential information may not be made available to or disclosed in any way to any person who is employed by _____, in the

pricing, product development or management, sale or marketing of any products or service of _____.

3. **Access to Confidential Information**

No confidential information or any summaries or compilations of the whole or any part thereof shall be revealed or distributed to anyone other than Signatories to this Agreement. No party to which confidential information is provided may make or receive more than three (3) copies of such information. All copies shall prominently bear the statement that disclosure of the contents is prohibited. All copies shall be returned, without further notice, to counsel for Ameritech at the conclusion of this proceeding. Notes, memoranda, or other written or recorded materials of any kind containing confidential information or summaries or compilations of the whole or any part of any confidential information shall be destroyed when no longer needed in the conduct of this proceeding. For purposes of this Agreement, the term "party" refers to an intervenor, or an entity considering intervening, in connection with the Federal Communication Commission's consideration of Ameritech Tariff # __.

4. **Preservation of Confidentiality**

No person who is afforded access to any confidential information by reason of this Agreement shall disclose the confidential information to anyone not specifically authorized to receive such information pursuant to the terms of this Agreement. Nor shall such persons use any such information for the purpose of business or competition, or any other manner

inconsistent with this Agreement. All persons afforded access to confidential information pursuant to this Agreement shall keep the confidential information secure in accordance with the purposes and intent of this Agreement and shall adopt all reasonable precautions to assure continued confidentiality, including precautions against copying, use or disclosure thereof.

5. **Procedures for FCC Filings**

Any reference to confidential information in briefs shall be by separate supplemental briefs, which shall be marked to readily identify the contents as confidential information, shall be separately filed with the Commission in marked, sealed envelopes, shall be distributed to individuals who are Signatories to this Agreement, and shall be retained by the Commission under seal and not as part of the public record.

6. **No Waiver of Rights**

This Agreement establishes a procedure for permitting access to confidential information for purposes of the tariff review process only. It shall not be construed as an agreement by the parties that any document or data provided under the terms of this Agreement in fact contains confidential or proprietary or trade secret information. This Agreement does not waive any party's right to contest the designation or any particular document or data as containing confidential, proprietary, or trade secret information.

7. **Remedies**

Any Party hereto retains all remedies existing at civil or criminal law for breach of this Agreement, and no provision shall be construed to be a waiver of those rights.

AMERITECH

BY _____

(SIGNATOR)

DATE _____

(PARTY)

(DATE)

CERTIFICATE OF SERVICE

I, Deborah L. Simmons do hereby certify that a copy of the foregoing Reply Comments of Ameritech has been served on all parties listed on the attached service list, by first class mail, postage prepaid, on this 12th day of October 1995.

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