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FEDERAL COMMUNICATIONS COMMISSION
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CC Docket No. 96-198

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

In the Matter of)
)
Implementation of the Local)
Competition Provisions in the)
Telecommunications Act of 1996)
)

To: The Commission

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SUMMARY

Ameritech embraces full and fair competition in all aspects of the telecommunications marketplace and, along with state commissions, has been an innovator in promoting such competition. The Federal Communications Commission's pending rulemakings are critical to accelerating competition in all aspects of the market, eventually leading to the deregulation of this industry as envisioned by Congress.

The Commission Should Promulgate Rules That Facilitate Negotiations and Provide Guidance to States. The Commission's rules adopted in this proceeding will set the basic national framework required to make competition operationally viable and economically efficient. The negotiation process set out in the 1996 Act will facilitate competition, if the Commission gives the process room to work. In the 1996 Act, Congress has built in mechanisms to balance bargaining power and has established strong incentives for both the incumbent LECs and requesting carriers to reach an agreement through negotiations. If incumbent LECs fail to negotiate in good faith, they risk having an unfavorable agreement imposed on them during arbitration. Moreover, the Bell Operating Companies have the added incentive that an agreement will facilitate their entry into in-region long distance.

The Commission Should Define The Core Operational

Requirements. Ameritech agrees that the Commission should promulgate a set of core requirements for interconnection and unbundled network elements and define principles for collocation and resale. In defining federal core requirements, the Commission should build on what has in fact been ordered and implemented in the states to date. In general, network elements that are provided today are technically feasible and necessary for local exchange competition. The Commission should also include the obligations set out in the section 271 checklist in the core requirements. Beyond the core requirements, negotiations between the parties should determine what, if any, additional elements or interconnection points should be provided to accommodate a party's particular needs.

The Commission's Rules Should Not Delay Or Impede

States Committed To Local Competition. The Commission's rulemaking must be broad enough to accommodate the variations in approaches that already have been implemented by states committed to local exchange competition. Indeed, recognition of the demonstrable progress made in states such as Illinois and Michigan will expedite the development of competition elsewhere. Such an approach will enable procompetitive states to continue forward without the delay and distraction of having to revise their current regulatory schemes.

The Commission's Pricing Standards Must Be Economically Rational and Promote Investment by New and Existing LECs in Network Infrastructure. If interconnection and access to unbundled elements are not priced correctly, a truly competitive market will not develop. In developing pricing principles, the Commission needs to be guided by the three goals of (1) facilitating efficient local telephone competition, (2) keeping telephone rates affordable, and (3) compensating network providers for their costs.

To insure that prices properly compensate the network provider, rates must recover all costs, including the forward-looking incremental joint, common and appropriate residual costs of the provider. Setting prices for all services or facilities at incremental cost will not pay for the network.

Prices must be set to encourage efficient entry and to discourage inefficient entry. Such prices should ensure that incumbents are encouraged to continue investing in their networks and that competitors are not discouraged from building their own networks to compete with the incumbent's facilities.

Negotiations Among Parties Will Expedite Competition. The regulations adopted should not micromanage the negotiation and arbitration process prescribed in the 1996

Act. As the Commission has contemplated, interconnection and access to network elements beyond that required pursuant to any federal core requirements created by this rulemaking proceeding should involve through requests as part of good faith negotiations. The information exchanged during the course of good faith negotiations would serve to develop a factual basis upon which the negotiating carriers could determine technical feasibility, develop creative solutions to technical problems and avoid expensive and unnecessary network modifications. The Commission, moreover, should clarify that procedures established by a state regulatory agency or by individual incumbent LECs must provide for a resolution of issues within the timetables provided in the 1996 Act.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of

Implementation of the Local
Competition Provisions in the
Telecommunications Act of 1996

CC Docket No. 96-98

To: The Commission

COMMENTS OF AMERITECH

Ameritech respectfully submits these comments in response to the Commission's *Notice of Proposed Rulemaking* ("*NPRM*") in the above-captioned proceeding.¹ In the *NPRM*, the Commission solicited comments regarding the promulgation of rules designed to implement sections 251, 252, and 253 of the Telecommunications Act of 1996 (the "1996 Act").² Section 251 of the 1996 Act imposes a broad interconnection obligation on

¹ In accordance with the comment filing procedures set forth in the *NPRM*, Ameritech will be filing separate comments on May 20, 1996 with respect to the following issues: dialing parity, access to rights-of-way, number administration, and public notice of technical changes. See *NPRM* para. 290.

² Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended at 47 U.S.C. § 151).

all telecommunications carriers and additional more specific obligations on local exchange carriers ("LECs") and incumbent LECs in an effort to eliminate barriers to facilities-based competition and deregulation of the local exchange marketplace. The 1996 Act also establishes the mechanism to create additional competition for toll services, both intraLATA and interLATA.

As an incumbent local exchange carrier that has been innovative and proactive in eliminating barriers to local competition, Ameritech has a direct interest in the outcome of this rulemaking proceeding. In March 1993, Ameritech filed with the Commission its Customers First Plan which, among other things, proposed the full interconnection and the unbundling of Ameritech's local network to facilitate local exchange competition.³ The Customers First Plan has been implemented in Illinois.⁴ Since this filing, twenty-four state

³ See Petition for a Declaratory Ruling and Related Waivers To Establish a New Regulatory Model for the Ameritech Region (filed March 1, 1993).

⁴ See Proposed Introduction of a Trial of Ameritech's Customers First Plan in Illinois, Order, Docket No. 94-0301 Consol. (Ill. Commerce Comm'n Apr. 7, 1995) [hereinafter Customers First Order]. Unbundling and interconnection have also been implemented in Michigan. See Application of City Signal, Inc. for an Order Establishing and Approving Interconnection Arrangements with Ameritech Michigan, Case No. U-10647, at 19 (Feb. 23, 1995) [hereinafter City Signal]

certificates for switched local exchange service have been approved for eleven separate companies and another sixteen pending applications are expected to be approved shortly within Ameritech's five-state region. These certified LECs, in order of the date of approval, include: MFS, Teleport, U.S. Signal (now Books Fiber), MCI Metro, Time Warner, AT&T, MCI/Hancock, Consolidated Communications Telecom, SBMS, LCI International, and U.S. Network Communications. Both Illinois and Michigan have conducted exhaustive reviews of many of the requirements now codified in section 251. Ohio and Wisconsin this month are wrapping up industry-wide dockets on how to facilitate local competition with rules expected by early June. As a result of these proceedings, Ameritech is now interconnected with local dialtone competitors in all of its five states. It is providing unbundled loops, reciprocal compensation, and portable numbers today to competitors in Illinois and Michigan. Ameritech's comments in this proceeding are based, in large part, on the experience it has gained to date in providing interconnection, network elements and resold services to competing providers of local exchange service.

I. FEDERAL IMPLEMENTING REGULATIONS SHOULD PROMOTE THE RAPID DEVELOPMENT OF REASONABLE AND ECONOMICALLY EFFICIENT FACILITIES-BASED LOCAL EXCHANGE COMPETITION.

A. National Rules Should Establish The Core Requirements To Facilitate Operationally Viable And Economically Rational Local Exchange Competition.

Section 51(d) of the 1996 Act charges the Commission with establishing regulations to implement the newly imposed statutory duties of section 251, which are designed to remove barriers to a competitive local marketplace. Ameritech agrees with the Commission's tentative conclusion that, in fulfilling this mandate, the Commission should (1) establish a framework to facilitate development of competition through free negotiations, (2) provide guidance to states and the federal district courts, and (3) establish guidelines for the Commission to follow when carrying out its obligations under the 1996 Act.⁵ The Commission's regulations must meet three fundamental goals. First, federal regulations should not be so detailed that they stifle negotiations between the parties. Second, federal regulations should facilitate interconnection and access to network elements by developing a framework designed to permit operationally viable local exchange compe-

⁵ See *NPRM* paras. 26-32. Ameritech further agrees with the Commission's tentative conclusion that there should be a single set of standards with which both arbitrated agreements and DOC statements of generally available terms must

tion. Third, the federal pricing standards must be economically rational so as to promote efficient economic entry in particular facilities-based competition, maintain affordable rates, and compensate network providers for their costs.

In meeting these basic goals, the Commission must implement the 1996 Act in an integrated fashion by giving meaning and purpose to each statutory provision. For example, sections 251(c)(2), (c)(3), and (c)(4), which require interconnection, access to network elements, and resale, must be read together as one consistent policy to promote facilities-based competition. Likewise, the duties in section 251 should be read together with the negotiation procedures and pricing standards in section 252. In addition, as the Commission recognizes,⁶ the section 251 obligations and the section 271 competitive checklist requirements for Bell Operating Company ("BOC") in-region long distance entry should be construed consistently.

B. The Particular Terms And Conditions Of Facilities-Based Entry Should Be Determined By Carrier Negotiation, Not Federal Regulation.

The 1996 Act contemplates that the particular terms and conditions pursuant to which interconnection, network ele-

⁶ See *NPRM* para. 36 (recognizing that BOC Statements of generally available terms should be subject to the same federal standards as arbitration agreements)

ments, collocation and resale are provided will be negotiated in good faith and will be based on the particular needs and requirements of the carriers involved.⁷ This duty to negotiate in good faith, which is imposed on both incumbent LECs and telecommunications carriers requesting interconnection alike is a cornerstone of the 1996 Act. It reflects Congress's commitment to deregulation⁸ and its sound judgment that the specific terms and conditions should be determined, to the greatest extent possible, by the parties involved, subject to state oversight.⁹ Consistent with the clear intent of the 1996 Act, the Commission should set the broad national rules to govern the process now and leave the remaining details to private party negotiations.¹⁰

⁷ 47 U.S.C. § 251(c)(1); see also S. Rep. No. 23, 104th Cong., 1st Sess. 19 (1995) [hereinafter *Senate Committee Report*] ("Committee intends to encourage private negotiation of interconnection agreements.").

⁸ See NPRM para. 6 (recognizing congressional commitment to deregulation).

⁹ Indeed, as recent trade press reveals, the negotiation process contemplated by Congress is working. See, e.g., *Communications Daily*, May 13, 1996, at 4 (reporting that BellSouth had reached interconnection agreements across its nine-state region).

¹⁰ Ameritech is at various stages in negotiating with twelve telecommunications carriers pursuant to section 251 requests. These carriers include existing competitive local exchange carriers and interexchange carriers, competitive
(continued...)

The *NPRM* however, considers the adoption of detailed federal regulations designed to prescribe a solution for every possible scenario that might arise during the course of private party negotiations. The primary drawback with such an approach is that it preempts meaningful carrier negotiations. Such an approach fails to provide adequate flexibility to enable carriers (both incumbent LECs and new entrants) and states to respond promptly to changing technology and evolving or unique carrier needs. Even more fundamentally, it is simply impossible to anticipate all permutations of the highly technical and complex issues -- and new and innovative solutions to those issues -- that arise in the context of carrier-to-carrier interconnection.

Fueling the Commission's consideration of overly detailed rules is its assumption that incumbent LECs will have "vastly superior bargaining power in negotiations."¹¹ This assumption is overstated. It ignores the fact that incumbent LECs cannot unilaterally impose terms upon those with whom they negotiate. Rather Congress, in the framework of the 1996 Act, has designed mechanisms to balance the bargaining power

¹⁰(...continued)
access providers, wireless carriers, and cable television companies entering the local exchange marketplace.

¹¹ *NPRM* para. 31 & n.19.

between the incumbent LEC and the requesting interconnector and has established strong incentives for them to reach agreement during voluntary negotiations.¹² Section 252 of the 1996 Act permits any party to interconnection negotiations to request state commission mediation and arbitration of disputed issues and get a decision within nine months of the original request to negotiate. The agreement ultimately reached through the arbitration process is subject to approval by the relevant state commission, and this decision of the state is, in turn, subject to judicial review in federal district court. These provisions neutralize any alleged bargaining advantage that an incumbent LEC might otherwise have had in imposing terms or delaying resolution of issues. If an incumbent LEC does not offer reasonable interconnection terms, that LEC risks having unfavorable terms imposed on it by arbitration.¹³ Thus, unlike rigid national regulations, reliance on the arbitration process designed by Congress will encourage private party negotiations rather than preempt them.

Another error in this assumption regarding incumbent LEC bargaining power is further highlighted by section 252(i),

¹² Indeed, in many instances the carriers submitting requests pursuant to section 251(c)(1) are large, integrated communications firms with undeniable bargaining power.

¹³ See 47 U.S.C. § 252(b)(5).

which provides that any agreement approved by the state must be made available to other requesting carriers on the same terms and conditions. Thus, the bargaining power of any one requesting interconnector, if there are any differentials, would inure to the benefit of all.

In addition, BOCs have the added incentive to negotiate interconnection agreements as quickly as possible because such agreements will facilitate their entry into the long-distance marketplace. The Commission will have the opportunity to review agreements reached through negotiation and arbitration, and to determine whether the process is working, when the BOCs seek in-region interLATA authorization.

Congress did not intend to have the Commission preempt the negotiation and arbitration process established in section 252 when it vested the Commission with the responsibility of establishing regulations to implement section 251. Rather, it intended that parties would negotiate their particular interconnection terms and conditions in good faith. To the extent those negotiations are not successful, Congress provided a dispute resolution process to be used by the state commission.

C. To Promote Rapid Entry, The Federal Regulations Should Not Delay Progressive, Pro-competitive States.

The federal framework ultimately adopted should build upon the work of states that have been leaders in promoting local exchange competition. These states have devoted extensive resources to the study of many of the issues raised in the *NPRM*. They have had the luxury of time that the Commission does not have. Their decisions, therefore, should be entitled to great weight. Moreover, federal rules that are inconsistent with the decisions of states at the forefront of local exchange competition would likely delay further development of competition. It would put competition on hold while states were forced to revisit existing rules and reopen proceedings that in many cases took years to complete. Therefore, instead of forcing states to reinvent the wheel, the Commission should establish baseline requirements that are consistent with the work of those states that have been out in front of local competition issues, while providing a blueprint to those states that are not as advanced.

Finally, because experience with interconnection and access to network elements have been limited to date, it is critical that the federal regulations not be so restrictive as to preclude experimentation by the states, or so comprehensive

as to create requirements that prove unnecessary or harmful to consumer welfare

II. THE FCC SHOULD ESTABLISH CORE REQUIREMENTS TO ENSURE THE RAPID DEVELOPMENT OF FACILITIES-BASED LOCAL EXCHANGE COMPETITION ON A NATIONWIDE BASIS.

A. Interconnection

1. Interconnection Requirements Should Be Limited To What Is Clearly Technically Feasible.

The framework established by Congress in the 1996 Act assumes that interconnection¹⁴ will evolve naturally through the operation of competitive market forces and negotiations between the connecting carriers. Nevertheless, Ameritech believes that The Commission should establish certain "core" requirements to ensure that competition develops on a nationwide basis. These requirements should establish certain fundamental, baseline obligations necessary for viable local exchange competition while serving as a foundation for interconnection negotiations.

¹⁴ The Association for Local Telecommunications Services ("ALTS") defines interconnection as "the set of network interconnection arrangements which include physical connections necessary for the exchange and routing of traffic between a telecommunications carrier and an incumbent local exchange carrier as well as the rates, terms and conditions for such network interconnection arrangements." ALTS, Implementing Local Competition Under the Telecommunications Act of 1996, A Proposed Handbook for the FCC, at 11 (Mar. 1996) [hereinafter "ALTS Handbook"].

2. Technical Feasibility Should Be Presumed If An Incumbent LEC Using The Same Technology Is Successfully Providing Interconnection At The Point In Question.

Beyond the core requirements, Ameritech generally concurs with the Commission's tentative conclusion that it is evidence that an interconnection point is technically feasible if an incumbent LEC using the same technology is successfully provide interconnection at that particular point, or interconnection at that point has been provided successfully in the past.¹⁵ Thus, under section 251(c)(2), there should be a rebuttable presumption that the same points of interconnection are technically feasible for all incumbent LECs employing similar network technology. Any federal minimum standard ultimately adopted however, must recognize that: (1) there are technically obsolete forms of interconnection which should not be imposed on an LEC¹⁶ and (2) a particular type of interconnection may be technically feasible in the abstract or on a special-case basis but not in a specific situation due to

¹⁵ See *NPRM* para. 97.

¹⁶ For example, at one time a form of interoffice signalling known as "revertive pulsing" could be used from a LAESS, which is an analog electronic local switch, for signalling "panel" types of electromechanical offices. Although once technically feasible, this form of interoffice signalling is now technically obsolete. There is no current application for this type of signalling. The Commission's regulation therefore should not mandate incumbent LECs to offer it.

technical, facility, volume, or other practical limitations. In addition, any federal interconnection standard must not presume that a type or point of interconnection is technically feasible merely because it has been ordered by a state commission, unless it also has been successfully implemented by an incumbent LEC.¹⁷

The interconnection provisions of the 1996 Act requires interconnection "at any technically feasible point." This core interconnection requirement established by the Commission should be limited to what is already technically feasible interconnection. Based on this statutory language, Ameritech proposes that, the following arrangements for the routing and termination of telephone exchange service and exchange access between carrier networks be established as core interconnection requirements of the 1996 Act:

- (1) an arrangement whereby either carrier may interconnect its end or tandem office (or equivalent) to the end or tandem office of the other carrier through transport facilities or services between their respective offices purchased by the requesting carrier from the other carrier; and
- (2) an arrangement whereby either carrier may interconnect its end or tandem office (or

¹⁷ Ameritech supports USTA's approach for determining technical feasibility. See USTA Comments, CC Docket No. 96-98 (filed May 16, 1996); see also Letter from Ameritech to Regina Keeney, Chief, Common Carrier Bureau, of 3/12/96, at 26-28.

equivalent) to an end or tandem office of the other carrier through transport facilities or services between their respective offices provided by the requesting LEC or obtained by it from a third party.

These interconnection arrangements are clearly technically feasible and they facilitate the overarching goal of implementing interconnection in a manner that is transparent to customers of the incumbent LEC and the customers of the connecting LEC by enabling competing LECs to deliver local traffic to and receive it from the incumbent LEC's network. Other technically feasible interconnection arrangements, however, should not be foreclosed. Rather, such other interconnection arrangements should be the product of negotiations between the connecting carriers pursuant to a good faith request.¹⁸

¹⁸ Ameritech believes that interconnection of networks is most efficiently and effectively achieved by establishing points of interconnection at the end offices or tandem offices of the carriers involved in conjunction with collocation arrangements. Ameritech, however, also believes that other appropriate points of interconnection should be the subject of negotiation between carriers, and that no determination made by state or federal regulators should mandate or preclude carriers from agreeing to other technically feasible points of interconnection, such as a mutually agreeable meet point. It is possible that a meet point arrangement may in some situations be a viable alternative. The Michigan Public Service Commission, in response to urging from City Signal, has held that physical interconnection should be permitted by Ameritech Michigan at either its end office, tandem or a mutually agreed upon meet point. See City Signal at 19. Significantly, when US Signal subsequently established interconnection arrangements with Ameritech
(continued...)

3. Additional Federal Guidance Regarding What Constitutes Technical Feasibility Should Be Flexible And Competitively Neutral.

Federal guidance regarding what constitutes a "technically feasible point of interconnection" should not be tied to any specific technology and should be flexible enough to handle rapidly developing technology. In general, a technically feasible point of interconnection is defined by an interface that can be disclosed, ordered, and maintained without special handling or procedures. Risk to network reliability is but one factor that should be considered when determining whether proposed interconnection is technically feasible.¹⁹ Other factors relevant to technical feasibility include, but are not limited to, whether the requested interconnection can be supported by existing technology or technology planned for deployment within the requested timeframe and whether the requested interconnection is compatible with

¹⁸(...continued)

Michigan, they all involved interconnection at end offices or tandem, not at meet points. To date, no interconnection arrangements with competing local exchange carriers in Ameritech's territory have been established at meet points.

¹⁹ See *NPRM* para. 16 (requesting comment on, among other things, the relationship between network reliability and technical feasibility)