proceeding. Ameritech further asserted that even if it were appropriate to address in this proceeding, AT&T's proposal would raise serious policy issues. While Ameritech is willing to develop services for resellers using its AIN platform (assuming that resellers pay for the cost of development), to require access to AIN would provide resellers with almost unlimited ability to pick and choose the services they will provide using unbundled network elements. Ameritech observed that this could create an adverse effect in the market place.

Ameritech also pointed out that if the Commission entered such an order in this proceeding, it would be permitting access to AIN without any further regulatory involvement by the Commission. The Company's position was that such important policy matters should not be permitted to be determined unilaterally by the resellers. Ameritech maintained that there are already design and capacity problems with the AIN platform, and that permitting such unrestricted access on the part of resellers would only exacerbate those problems. It could also create unresolvable conflicts among carriers seeking access to the AIN platform. Ameritech noted that Staff has also expressed concern over AT&T's request for access to AIN inside Ameritech switches because of the risk of network failure.

Staff

Staff is concerned that direct access to the LEC database and switches for manipulation by the resellers may contain a high level of risk to the network through either ignorance or sabotage. Staff states, however, that this potential for network harm is reduced if safeguards are provided at the appropriate points so that the network would not be jeopardized. Staff concluded, that with the safeguards in place the provisioning of facilities-based innovations by resellers should be encouraged.

Conclusion

AT&T's request for access to Ameritech's AIN triggers should be granted. AT&T's request is consistent with a request for a network element under the federal Act. In addition, it is without question that access to Ameritech's AIN triggers will promote innovation in the provision of services. Clearly, such access is in the public interest.

Ameritech's argument that this is the wrong forum to make such a determination is not persuasive. The Company, however, has not provided any analysis as to why this matter in principle cannot be

considered as a part of this docket in view of the Commission's immediate goal of promoting competition. Access to AIN triggers is within the Commission's authority to consider under Section 13-505.5's public interest concerns.

AT&T did not object to exploring the specifics of AIN triggers in another docket, but recommended that the Commission move forward with ordering that Ameritech provide access to its AIN triggers. Access to these AIN triggers will promote innovations with respect to service offerings. The Commission agrees with Staff that if there are any risks to the network present, they are identifiable and can be resolved without harm to Ameritech's network.

The Commission will require Ameritech to provide access to its AIN triggers. The Commission requests that the Company address the possible risks to the network and incorporate the appropriate remedies to prevent any harm. If Ameritech is not able to comply with this requirement, it must submit a full explanation and showing in support thereof with its compliance tariffs filed in response to the Commission's order in this proceeding, along with specific plans and a timetable for achieving compliance.

VI. OPERATIONAL ASPECTS OF AMERITECH'S WHOLESALE TARIFF OFFERING

A. Operational Interfaces

AT&T

AT&T's petition requests that Ameritech and Centel be required, as a part of their total service resale offering, to provide to new entrants operational interfaces for local exchange services at parity with the performance and quality of the interfaces that the incumbent LEC provides to itself (including affiliates) and its retail customers. AT&T contends that effective competition in the local exchange mandates parity in service offerings; without it, according to AT&T, the total service resale offering will be meaningless. Such parity requires that the incumbent LEC make available: (1) access to on-line electronic support systems; (2) data interfacing; (3) reseller branding; and (4) access to necessary LEC-controlled databases.

AT&T's petition declares that every difference which makes a reseller's sales and other customer contacts more complex than the incumbent LECs' insidiously undermines the competitive process. Accordingly, it requests that the Commission ensure that any such differences are eliminated. For example, if the incumbent LECs were

to accept only a written letter of authorization before a customer could select a new service provider, the incumbent LEC would be placed at a significant advantage. Accordingly, FCC guidelines for carrier changes by customers should be extended to the local market as it moves toward competition. AT&T's concern for service parity extends to all operational and support activities, including maintenance.

In order to ascertain whether the incumbent LECs are meeting the parity standards, AT&T argues that it is essential that measurements be established to assess the quality of performance at all points of interface between the incumbent LEC and the reseller. AT&T used the example of service ordering and the installation/repair processes. According to AT&T, measures of speed and accuracy must be established. With respect to billing processes, it is necessary to monitor accuracy and timeliness. It is AT&T's position that at all points where a reseller and an incumbent LEC interface in the provision of local services to customers, appropriate measures of the quality of that interface must be created. Finally, it contends that incumbent LECs should maintain the responsibility for providing wholesale services which comply with the service performance standards set forth in 83 Ill. Adm. Code Parts 306, 730 and 783.

In response to Staff witness Gasparin's proposal that the reseller file a formal complaint with the Commission if it believes it has been harmed or discriminated against, AT&T stated that although Staff's proposal would at least provide a procedural avenue for addressing LEC service provisioning deficiencies, this Commission should not rely exclusively on the complaint process as a remedy to a LEC's non-compliance in this context. Again, the underlying standard which the LECs should be required to meet is parity with the service interfaces provided to themselves and their customers.

AT&T recommends that to compensate for inferior operational interfaces, if the LEC should provide any, the Commission should order a transitional incentive discount. It maintains that, if and to the extent these on-line electronic support systems are not yet made available to new entrants, or are not provisioned at parity with the incumbent LECs' own systems, an incentive discount of up to 10% should be applied to the wholesale price in recognition of any difference between the retail and wholesale versions of the service. AT&T maintains that its proposed incentive discount of up to 10% will ensure that equal access to operational interfaces is made available at the earliest practical time. Under its proposal, as each of the five on-line electronic support system interfaces is

brought into parity with the LEC's own retail operations an additional 2% will be subtracted from the transitional discount.

Ameritech

Ameritech stated that, as part of its wholesale tariff offering, it has created operational interfaces that will allow resellers to order services for resale to its end users efficiently and ensure that they are properly maintained and repaired. It also has taken steps to protect the proprietary information of resellers and end users. According to Ameritech, there is a wide range of procedures for ordering services that vary based on the type and quantity of information required by the reseller, the time required to install the service and the degree of coordination and/or testing required. The Company agreed to provide electronic and manual interfaces to resellers ordering resold services. Currently, these electronic interfaces enable resellers to match Ameritech's performance 85% of the time. These resale orders are expected to focus initially on the conversion of service from Ameritech to a reseller. The remaining 15% of orders are from end users for services not already provided by the Company or a provider reselling Ameritech's exchange services. According to Ameritech, interface issues relating to the remaining 15% of the orders are limited to pre-service order functions and anticipated to be resolved before the end of the year.

Ameritech did not agree, as maintained by Staff and others, that the operational interfaces are required to be provided by the Company and other LECs as "network elements."

Ameritech stated that it also will ensure that the performance and quality of services that the resellers receive is equal to the services that it provides to Ameritech Communications, Inc. and that there will be no differences between the services it provides to its own end users or to resellers' end users based on the operational interfaces it provides to resellers that will have competitive implications in the marketplace. Ameritech's position is that there is little real controversy remaining over most of the operational issues.

Ameritech submitted that the Commission take no action with respect to the operational interfaces. The Company indicated that it continues to improve the various systems that it has in place as has been demonstrated by the electronic bonding project and repair systems. It also continues to work on system designs to make it easier for resellers to order and implement services. Ameritech's position is that if Commission involvement is required at all, that

should be only if situations arise where the parties cannot reach an agreement regarding operational matters.

Ameritech also argued that AT&T's recommendation that the Commission establish measurements to assess the quality of performance at every interface should be rejected. According to the Company, AT&T has failed to submit sufficient evidence in the record that would enable the Commission to adopt measurements. Moreover, Ameritech believes that these issues are effectively being worked out between it and the resellers and should continue to be addressed that way unless or until an impasse occurs.

Staff

Staff agrees with AT&T that Ameritech and Centel should be required as a part of their total service resale offering to provide the operational interfaces, enumerated in the testimony of AT&T witness Fonteix, at parity with the operational interfaces Ameritech and Centel supply to themselves and their affiliates. Staff concludes that the provision of these operational interfaces is necessary in order to promote competition. Specifically, Staff agreed that effective resale competition cannot exist unless a reseller can provide the same service, including the same quality, as the wholesale LEC does when it retails the service to end users.

Staff opposes AT&T's request for an additional discount to be applied to the wholesale discount as a penalty for inferior service. Staff believes that these discounts are not appropriate and suggests that there already exist minimum service quality standards that wholesale LECs must meet for their resale customers, citing to 83 Ill. Adm. Code 730. Mr. Gasparin proposed that the reseller file a formal complaint with the Commission if it believes it has been harmed or discriminated against.

Commission Conclusion

The importance of equal operational interfaces is essential to the development of resale competition. In order to ensure that the needs of new entrants are satisfied, the Commission will order that all incumbent LECs are required to provide to resellers, as an integral part of their resale service offering, all operational interfaces at parity with those provided their own retail customers, whether directly or through an affiliate. That is the overriding standard to which incumbent LECs will be held in the provision of wholesale services.

Further, Ameritech and Centel will be required to file, with their implementing tariffs, a report demonstrating their compliance with this standard. To the extent the LECs contend they are unable fully and immediately to implement operational parity, they should be required to submit a plan, including specific timetables, for achieving compliance.

B. Branding Operator Services and Directory Assistance

AT&T

AT&T argues that parity with the incumbent LEC requires proper branding of the incumbent LEC's service. AT&T proposes that Ameritech and Centel be required to brand all telecommunications services provided by a reseller in that reseller's name. Branding in this context means all telecommunications services offered by a reseller should be branded as if they were the services of the reseller. AT&T needs to be able to brand its resold services for the purpose of informing AT&T's customers that it is their local service provider.

Staff

Staff supports AT&T's branding proposal. Staff that the potential exists for the wholesale LEC to use its monopoly power in the provisioning of incumbent local exchange service anti-competitively. For example, Staff contends that the wholesale LEC could advertise its own services by branding directory assistance, operator services, etc., on calls provided to end users by resellers. Staff does state, however, that while branding is desirable, there may be technical reasons why branding for resellers cannot be provided

Ameritech

Ameritech urged the Commission to reject AT&T's proposal that the Company be required to "brand" resold operator services and directory assistance provided to resellers. It stated that it will brand operator services calls where it is technically feasible and cost-effective to do so. Ameritech indicated that, today, it provides branded OS/DA services to independent telephone companies. However, the service configurations would be entirely different in a resale environment and branding normally would not be technically feasible. In the independent telephone company arrangements, calls are handled by the contracting carrier's switch and then routed on an aggregated basis to Ameritech's operators via dedicated trunk

groups. This permits the operator to identify the call as originating from a separate company and answer it appropriately. By contrast, in a resale environment, there are no dedicated trunk groups. The OS/DA calls would be routed on the same lines and commingled with Ameritech's OS/DA calls and those of all other resellers. Therefore, as a practical matter, according to Ameritech, there is no way to brand resellers' calls.

The Company also emphasized that AT&T was requesting that a unique branding obligation be imposed on the incumbent LEC. According to Dr. Harris and Mr. Heckendorn, two of Ameritech's witnesses, AT&T is not required to rebrand the long distance services it provides to resellers of interexchange services. Mr. Heckendorn testified that resellers of these services must make substantial additional investments in order to make the resold services work in a manner that meets their business needs.

Ameritech indicated its willingness to brand calls where they can be carried on a separate trunk group. If a reseller established a 7-digit number for directory assistance (e.g., 555-xxxx), those calls could be separately identified and branded. The Company stated that it also would continue to work with the industry to explore whether cost-effective solutions can be developed.

Conclusion

To the extent that it is technically feasible, the Commission accepts AT&T's and Staff's proposals that resold OS/DA be branded because Ameritech has agreed to provide branding of OS/DA where it is technically feasible.

AT&T's recommendation that Ameritech and Centel be required to brand their resold services with the name of the resellers also will be approved. The purpose for such a requirement is to inform the reseller's customers that AT&T is their local service provider. Ameritech conceded that branding was appropriate where it was technically and economically feasible.

As to Ameritech technical arguments, the same solution that would resolve any supposed technical difficulties in offering unbundled OS/DA should be employed with respect to branding. Given the importance of this issue, the Commission will require Ameritech and Centel to provide branding of their resold services. If, and to the extent, that Ameritech and Centel maintain that it is not possible on technical grounds immediately to comply with this requirement, they must submit a full explanation and showing in

support thereof with their compliance tariffs filed in response to the Commission's Order in this proceeding, along with specific plans and a timetable for achieving compliance.

C. **Routing of 611 Calls**

AT&T stated that the reseller should define and manage the process by which network troubles are reported by end users, initial remote trouble shooting is performed, and subsequent repair and maintenance visits are scheduled and confirmed with the end user. Although the repairs would be completed by the LEC, 611 trouble calls are to be routed to the repair bureau of the reseller serving that particular line according to AT&T. This bureau would have access the LECs to maintenance support systems of to perform initial trouble shooting immediately. AT&T concluded that the resellers would have a strong incentive to ensure that no delays in rectifying the trouble occurs.

Ameritech opposed AT&T's initial request that all 611 calls which originated from its resold lines be directly routed to AT&T's own repair bureau. The Company took the position that this cannot be done for the same reason that resold OS/DA cannot be branded. There is no practical way to sort out various carriers' 611 calls since these calls are not on dedicated trunks and would be commingled with Ameritech's 611 calls and those of all other resellers. The Company also pointed out that there are other reasons for not requiring calls to be so routed. Repair calls are often made from lines other than the phone being repaired. Thus, until the end user informs it, Ameritech would have no way of knowing whether the line being reported was a resold line.

The Company suggested that the appropriate solution is for AT&T and the other resellers to develop their own unique repair numbers which would route customers' calls directly to their repair bureaus. For end users of resellers who mistakenly dial 611, the Company stated that it is developing a "warm transfer" program whereby its service representatives will "transfer" an end user to the appropriate carrier. Ameritech accepted Staff's suggestion that it continue to expand the on-line capabilities for the use of the resale customer. Finally, it stated that it does not currently charge end users for 611 calls nor would it charge resellers' end users for the "warm transfers" to resellers' service bureaus. Therefore, Ameritech proposed that the issue of charges for 611 services or warm transfers need not be addressed until such time as a carrier seeks to introduce charges for such services.

Ameritech stated that an Electronic Bonding System ("EBS") was in its final stages of implementation and would provide the ability for a maintenance system operated by the reseller to electronically transmit trouble reports to the LEC. This system would provide security functions and ensure that confidentiality of the end user proprietary information is maintained. The EBS would allow the resellers to initiate a trouble report, supplement a trouble report previously filed, cancel a trouble report previously filed and request status on pending trouble reports. Ameritech would have the ability to acknowledge the report and provide various information and status reports. The time expected to complete a transaction using the EBS was estimated to take between 45 seconds and two minutes.

Staff pointed out that the LECs are responsible for compliance with the various codes relating to trouble reporting and corrections. Further, access to 611 repair service should not be resold and all customers should be allowed access to repair services without encumbering a charge. Staff is concerned with AT&T's concept that the reseller should define and manage the process by which troubles are reported, initial remote trouble shooting is performed, and repairs and maintenance visits are scheduled.

Commission Conclusion

The Commission concludes that AT&T's request that all 611 calls originating from its resold lines be directly routed to AT&T's own repair bureau should be rejected. We are satisfied with the fact that Ameritech has indicated that it will implement a warm transfer program whereby its service representatives will transfer an end user to the appropriate carrier. The appropriate solution for AT&T and other resellers is to develop their own unique repair numbers to route customers' calls directly to their repair bureaus. The issue of charges for 611 services and warm transfers need not be addressed until such time as carriers seek to introduce charges for such services.

The Commission is impressed with Ameritech's EBS that will allow resellers to initiate and monitor several activities for their customers. The Commission requests that Ameritech and Centel implement this system. However, the Commission wishes to assert that the ultimate responsibility for repair and maintenance is still that of the underlying carrier. Ameritech should continue to expand the on-line capabilities for use by resale customers. However, access to 6-1-1 repair service should not be resold and should be available without charge.

VII. THE LDDS PETITION

The LDDS petition requests that the basic components of the local exchange network, i.e., the loops, the switch, and local call termination, be made available to carriers for purchase so these elements may be combined and utilized to provide local exchange, exchange access, and other telecommunications services. In contrast to the AT&T petition, which seeks the ability to purchase Ameritech's and Centel's retail services at a wholesale price for the purpose of resale, LDDS' petition requests a different option, to be able to purchase the underlying network, facilities, equipment, and related support, to enable LDDS to design and offer its own local exchange, exchange access, and other services. Similar to the AT&T request, LDDS seeks access to the use of the incumbent LEC's operational interfaces and support systems for data transfer and administrative requirements, to ensure the proper and high-quality provisioning of local service at parity with the service the incumbent LECs provide themselves.

Positions of the Parties

LDDS

LDDS filed its petition, which was consolidated with the AT&T proceedings, requesting a second new noncompetitive service from Ameritech and Centel. The petition requested a new offering which would provide "the end-to-end network configuration underlying all existing Ameritech and Centel retail services." LDDS identified the exchange network as consisting of three basic elements: the loop, the switch, and local call termination. It further identified the AT&T request as retail-oriented, where the requesting carrier would purchase the incumbent LEC-defined retail service offerings at a wholesale discount for resale to end users. Under the LDDS carrier platform, or network element, approach, the requesting carrier purchases the incumbent LEC's facility or equipment used in the provision of telecommunications services, including the features, functions, and capabilities it provides. The purchasing carrier then designs and provides its own end-user retail services, using the incumbent LEC network elements, either combined or individually, as the market and its own business judgment determines.

According to LDDS, this is a further development of the Commission's Ameritech Customers First Order, where the Commission already addressed two of these three network elements, i.e., the loop and local call termination. These two network elements would continue to be available, priced uniformly with the Commission's

orders. LDDS ask the Commission to order Ameritech and Centel to make a third network element, i.e., the switch, available in such a manner as to enable the requesting carrier to combine all three network elements to provide end-to-end telecommunications service. Having purchased the network elements from the incumbent LEC, the purchasing carrier would be entitled to all revenues for local exchange, exchange access, and other telecommunications services utilizing those network elements.

LDDS submits that its requested service is complementary to that previously ordered by the Commission and requested by AT&T. In the Ameritech Customers First Order, by ordering unbundled loops and local call termination, the Commission sought to enable carriers which provided their own switch and transport to utilize the Ameritech network to provide local exchange competition. However, due to economic realities, this form of competition will be costly and slow to develop, possibly limited to densely-populated areas and large-volume users. The services requested by AT&T and LDDS would more readily be available to provide quicker and broader based competition to the entire territories of Ameritech and Centel, including residential and small business users.

LDDS agreed to a Staff suggestion that the switch network element be available unbundled, provided that it could also be combined with the loop and local call termination to provide end-to-end service. Through this arrangement, new competitors would have more flexibility to use a mixture of uses, either utilizing end-to-end network elements provided by the incumbent LEC, or substituting one or more network elements with the carrier's own, or that purchased from another carrier. This arrangement would afford carriers the most flexibility to make decisions based on economic efficiencies and to respond with their own designed competitive offerings according to their own best business judgment.

Requiring Ameritech and Centel to provide the network elements would satisfy the three public policy goals that Staff identified: 1) uniformly pricing the unbundled loop and local call termination, while pricing the switched network element at cost, would ensure no bias in favor of either carriers providing their own switch or those utilizing the incumbent LEC's; 2) by ensuring full cost recovery, including the cost of capital, it would allow for the continued investment in the network by the underlying LEC; and 3) pricing the switch at its economic costs, LRSIC, would ensure economic efficiency in network utilization. LDDS added a fourth policy goal. With the impending authorization of Ameritech to provide interLATA services, and the advent of one- stop shopping, Ameritech will have the opportunity to benefit from the developments in the competitive

long distance marketplace to purchase long distance services to package with its local exchange services in seeking end users' complete telecommunications traffic. It is essential that competing long distance carriers have access to exchange network elements to develop their own exchange services for combination with existing long distance services.

LDDS further states that the federal Act's passage during the pendency of these proceedings has required the incumbent LECs to provide the services requested by both LDDS and AT&T. Section 251(c)(3) requires all incumbent LECs "to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point . . . in a manner that allows the requesting carriers to combine such elements in order to provide such telecommunications service." According to LDDS, this ends any debate as to the requirement that Ameritech and Centel must provide the unbundled network elements in a manner which can be combined to provide end-to-end service as requested in the LDDS petition.

LDDS contends that the federal Act further provides the pricing standard for the network elements as cost-based, determined without reference to rate-of-return or other rate-based proceedings, nondiscriminatory, and may include a reasonable profit. The parties concur that LRSIC is the cost-based standard. However, there is disagreement regarding what constitutes a reasonable profit, and even some confusion as to the identification of what different inputs represent. It suggests that the LRSIC studies and cost data should clarify some of these issues.

Therefore, LDDS recommends that Ameritech and Centel be ordered to provide tariffs for the switching network element which may be combined with the unbundled loop and local call termination. They should be required to provide the same operational and administrative interfaces requested. These incumbent LECs should further be ordered to provide with the proposed tariffs the following data and information: 1) LRSIC studies for the switch network element; 2) a) any proposed allocation of alleged group LRSIC shared/joint costs to the switch; b) the methodology and claimed basis for such allocation of the shared/joint costs; 3) a) any additional amounts sought to be included in the pricing of the switch; b) the source of these additional amounts; c) the claimed basis for the inclusion of these amounts in the pricing of the local switch platform ("LSP"). Any claim in the tariff for a term or minimum capacity requirement should be submitted with underlying cost detail the necessity for such requirement and the basis for how

the actual length or amount was calculated. LDDS submits that the Commission should defer any decision on pricing until the investigation of these tariffs and the provision of this information, so that an informed analysis and judgment may be made.

Staff

Staff also identified the local exchange network as consisting of three components: loop, LSP, and inter-office transport. The loop portion of the network is the transmission path from the network interface at an end user's premises to a distribution frame, digital signal cross connect panel, or a similar demarcation point at the end office. The unbundled LSP is all services and functionalities that are provided by a switch or end office. These services include: telephone number and directory listing; dialtone; announcements; access to operators, usage, and interexchange carriers; originating and terminating switching; custom calling features (call forwarding, call waiting, etc.); and CLASS features (call ID, call return, etc.). The third basic piece of the local exchange network is interoffice transport.

Staff recommended modification of the original LDDS request to make the three network components available on an unbundled basis, which may be combined for end-to-end transmission. The Commission already has provided for the unbundled loop and interoffice transport separately. These should continue to be uniformly available according to the orders of the Commission. Requiring the middle network element, the LSP, to be available unbundled, subject to being combined with either or both of the other two elements, would afford the greatest opportunity to develop competition in local exchange markets. A purchasing carrier would receive all the features, functions, and capabilities available from the LSP, using them to sell services to end users and other carriers to the extent it is able. The LSP purchaser would receive all revenues for local exchange, exchange access, and other telecommunications services utilizing the LSP network element. The incumbent LEC, having received the price for the LSP network element, would not be entitled to any revenues it generated.

Staff believes that the federal Act requires the granting of the LDDS petition. Section 251(c)(3) requires incumbent LECs, including Ameritech and Centel, to provide requesting carriers unbundled network elements that they may be able to combine in order to provide telecommunications service. The LSP outlined by the Staff meets the federal Act's definition of a network element. Additionally, section 271(c)(2)(B) lists a competitive checklist that Bell Operating Companies, including Ameritech, must meet to be

granted interLATA authority. Three of the items which are required include the provision of unbundled local loops, unbundled local transport, and unbundled local switching. These federal statutory requirements are entirely consistent with LDDS' petition as refined by Staff. The unbundled port currently provided by Ameritech does not include any of the features, functions, or capabilities of the switch and would not satisfy the requirement to provide an unbundled switch network element.

Staff identified three public policy goals: 1) promote economic efficiency; 2) not bias facilities-based competition or resale competition; and 3) allow for continuation of investment by the underlying facilities-based LEC. Staff's modification of the LDDS proposal would satisfy all three goals. The federal Act establishes a pricing standard for the network elements requiring that they be based on the cost of the network element, determined without reference to a rate-of-return or other rate-based proceeding, be nondiscriminatory, and may include a reasonable profit. Under this standard, LRSIC would constitute the cost basis. Staff believes that a reasonable profit could permit the inclusion of pro rata contribution. However, Staff agrees with LDDS that the pricing decision needs further investigation through the cost studies and other data to be supplied by Ameritech and Centel. Staff recommends that Ameritech and Centel be ordered to provide the requested tariffs, and that the pricing determination be deferred to an investigation and/or suspension of these tariffs.

MCI

Like Staff and LDDS, MCI identified the switching network element as the facility or equipment between the demarcation point for the unbundled loop and the demarcation point for the end-office integration trunks, with all the features, functions, and capabilities it provides. MCI agrees with LDDS that the network platform proposal requested by its petition is required by the federal Act. Specifically, MCI contends that Section 251(c)(3) requires each incumbent LEC to offer any requesting carrier unbundled access to its network elements, and further requires that these network elements be provided in such a manner that a requesting carrier may combine the network elements to provide a service. MCI further points to Sections 3(a)(45) and 271(c)(2)(B) which make clear that local switching--the key element in LDDS', MCI's and Staff's proposals--is a network element that must be unbundled. MCI points out that the other two components required by LDDS' proposal--loops and interoffice transport--already are available on an unbundled basis as a result of the Commission's Ameritech Customer's First Order and interconnection rules. MCI

therefore urges the Commission to require Ameritech and Centel to file tariffs for the unbundled switch.

MCI further recommends that: 1) consistent with Sections 251(d)(1)(A) and (B), the unbundled switch product must be priced at LRSIC with no contribution; 2) telecommunications carriers that purchase the unbundled switch product should receive all revenues associated with any services sold using the network platform, including switched access revenues assessed at the end office; and 3) the mutual compensation arrangements adopted in the Ameritech CFP Order or subsequently found to meet the requirements of the federal Act should govern the exchange of local traffic.

MCI disagrees with the positions of Ameritech and other parties that argue that the LDDS petition is the same as the resale of LEC-defined services. MCI argues that the federal Act establishes at least two separate ways for new entrants to develop services to end users. One, provided for in Section 251(c)(3), is based on the LEC's existing retail offerings, and requires new entrants to acquire them at wholesale rates, perform retail functions, and offer the same services to end users. The other, provided for in Section 251(c)(3), is for new entrants to acquire some or all of the underlying network elements or functionalities from the incumbent LEC, and combine those network elements, perhaps with their own or another provider's network elements, and provide their services rather than simply mirroring those of the incumbent LEC. Finally, MCI points to the language of Section 251(c)(3) of the which expressly requires the ability to combine network elements.

MCI also disagrees with the arguments of Ameritech and other parties that permitting the combining of network elements would circumvent the federal Act's joint marketing restrictions. MCI contends that this argument is a red herring. Section 271(e)(1) restricts only joint marketing using the incumbent LEC's retail services, and does not restrict joint marketing through the creation of a carrier's own services by means of the purchase of unbundled network elements.

<u>AT&T</u>

AT&T submits that to provide new entrants the opportunity to develop local exchange competition requires the provision of both services requested by AT&T and LDDS. AT&T supports Staff's modification of the LDDS request, provided that the Commission preclude Ameritech and Centel from creating reintegration functions and imposing costs for such reintegration. AT&T concurs that the federal Act requires the granting of the LDDS petition and further

establishes that the cost-based pricing standard requires pricing to be based on LRSIC. These pricing issues, though, may be deferred to the investigation of the ordered tariffs, as suggested by LDDS.

Centel

Centel agrees that the LDDS petition should be granted and will file a tariff according to the LDDS request as modified by Staff. Granting this request is required by the federal Act. The network elements will be provided on an unbundled basis and there will be no restrictions on how these network elements can be used. Any revenues received for services provided through the network elements, including access payments, should go to the carrier that is paying for the network elements. The operational interfaces requested by AT&T and LDDS are also network elements under the federal Act and will be provided. Centel recommends that the price of the network elements be based on LRSIC, including costs of capital, plus a reasonable contribution to joint and common costs. Network elements may be priced by access area with minimum term and capacity requirements for the purchase of switch capacity. Centel asks that custom calling and CLASS features be excluded from the switch network element. Since LRSIC studies have not yet been performed, Centel requests up to 90 days after the Commission's Order in which to file its compliance tariffs.

Ameritech

Ameritech argues that the LDDS petition should be denied, but that, within 30 days of the completion of this proceeding, it voluntarily will file a tariff for the requested services as modified by Staff in this proceeding. According to Ameritech, the LDDS petition requested that the network components be bundled to provide end-to-end telecommunications services. This does not comply with the federal Act's requirement to provide unbundled network elements. Furthermore, Ameritech opposes permitting a requesting carrier to bundle the unbundled network elements provided pursuant to the federal Act. Bundling the network elements would duplicate the wholesale services offered under Section 251(c)(4), obliterate the distinct pricing standards for the two, and enable circumventing the joint marketing restriction placed on the resale of retail services provided at wholesale under Section 251(c)(4). The Company asks the Commission to find a requirement in the federal Act that network elements purchased from incumbent LECs may only be combined with network elements of the purchasing carrier. Regarding pricing, it disagrees that LRSIC is the only cost which can be recovered in the pricing of network elements under Section 252(d)(1). Pricing network elements must consider all of the LEC's

costs, including shared costs, common costs, and the residual. This Commission should defer granting the LDDS petition until completion of the FCC rulemaking on this and other issues interpreting the federal Act.

Ameritech also opposes granting the petition on state grounds. Modifying the requested service from a bundled end-to-end configuration to providing the unbundled components requires the LDDS petition to be filed under Section 13-505.6 of the PUA, not Section 13-505.5 requesting new services. The Company also contends that the record lacks substantial evidence to identify exactly what would be offered, and how. There are a number of pricing issues which are left unresolved. Finally, Ameritech opposes the position that the purchaser of the network elements would be entitled to retain exchange access revenues for traffic through those elements. It claims that the purchasing carrier provides no services to the IXCs for which they deserve to be compensated. Furthermore, since interexchange access includes interstate traffic, there is a jurisdictional issue which must first be resolved before the FCC.

MFS and TC Systems

MFS and TC Systems both oppose granting the LDDS petition. MFS argues that the LSP is not an unbundled network element under Section 251(c)(3) but actually a bundling of numerous network elements found within the switch. Like Ameritech, MFS argues that the Commission should find that network elements may be bundled only with other network elements provided by the requesting carrier, not with other network elements of the incumbent LEC. Allowing the combination of incumbent LEC network elements would negate the resale provisions of the federal Act and the congressional preference for facilities-based competition.

MFS states that the LSP is not a service currently provided by the incumbent LECs. Yet, MFS agrees with Ameritech that the LDDS petition should have been brought under Section 13-505.6 of the PUA, instead of Section 13-505.5. MFS suggests that the Commission defer the LDDS request until Ameritech and Centel file their unbundled tariffs. Additionally, MFS submits that the Commission must reconcile any pricing of the LSP with its loop pricing determination in the Ameritech CFP order. In its reply brief, MFS recommended that all network elements be priced at LRSIC. TC Systems concurs that the LDDS petition should be filed under Section 13-505.6 and suggests that the petition be dismissed and all related issues held in abeyance until the FCC issues its regulations under Section 251 in a few months.

CUB and Telecommunications Resellers Association ("TRA")

CUB and TRA support the granting of the LDDS petition. CUB states that the Commission has taken the initial steps in its attempt to develop local exchange competition. However, these efforts are unlikely to make available any competitive alternatives to residential or small business users. Granting the LDDS petition, as modified by Staff, would enable more immediate and broader-based competitive alternatives to consumers beyond those located in high-density areas or large-volume users.

TRA submits that both services requested by AT&T and LDDS must be granted to comply with the federal Act and to enable potential new entrants to enter the local exchange markets in the manner in which each provider determines how best to serve its subscribers and selected markets. Each provider must analyze its markets, inherent capabilities, and competitive strengths and objectives in developing its own operational strategy. What will result are numerous distinct and diverse approaches for serving subscribers, as Individual as each company and the markets it will serve.

Commission Conclusion

The Commission is of the opinion that the LDDS petition, as modified by Staff, should be granted. The platform approach described in the record is consistent with the federal Act. Section 251(c)(3) provides as follows:

> (c) ADDITIONAL OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS-In addition to the duties contained in subsection (b), each incumbent local exchange carrier has the following duties:
>
> * * * *
>
> (3) UNBUNDLED ACCESS- The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall provide such unbundled network elements <u>in a manner that allows requesting carriers to combine such elements in order to</u>

provide such telecommunications service.

(emphasis supplied).

A "network element" is defined under Section 3(a) of Act as a "facility or equipment used in the provision of a telecommunications service." It also includes the following:

> features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, data bases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

Section 251(c)(3) clearly mandates the LDDS and Staff platform proposals. This section requires any and all network elements to be made available, in any combination, so that a new entrant can provide service, and that necessarily includes the provision of those elements on a "total network" or platform basis. Ameritech and MFS' argument that Section 251(c)(3) of the federal Act requires carriers to combine their own facilities with network elements purchased from incumbent LECs in order to provide telecommunications service is without merit. Acceptance of these arguments would render the language meaningless. An unbundled network element, by the very nature of unbundling, is subject to being combined with another carrier's network elements. There would be no purpose to the latter sentence of section 251(c)(3) mandating that incumbent LECs allow the combination of network elements if this were the interpretation. Furthermore, the section expressly requires that the unbundled network elements be made available to any telecommunications carrier. This is also directly contrary to the limitation offered by Ameritech and MFS that network elements are available only to those telecommunication carriers which provide other network elements.

The Commission is also of the opinion that the arguments of MFS, TC Systems and Ameritech that the LDDS petition is really a request for unbundled network elements should have been brought under section 13-505.6 of the PUA, instead of section 13-505.5 are of no consequence. Ameritech and the other parties knew what LDDS was requesting in the LDDS petition. The record is well developed and contains a substantial amount of testimony admitted both in support of, and in opposition to, the LDDS petition.

No party contests that the service being requesting is a noncompetitive service, not currently being provided by the

responding LECs. The LSP is the remaining element, between the unbundled loop and local call termination network elements which we have previously ordered. It is already part of the network architecture and, therefore, technically feasible. Therefore, we find that the record establishes that LDDS has satisfied the requirements of section 13-505.5, regardless of whether granting LDDS' petition, as modified by Staff, may also be granted pursuant to section 13-505.6. For the reasons previously stated, we find it to be in the public interest that the LDDS petition be granted.

The Commission finds that requiring Ameritech and Centel to make these unbundled network elements available will further our goal of promoting competition in the local exchange marketplace. Potential entrants to the local exchange marketplace would be provided the flexibility to design their own operational and marketing strategy to compete with the incumbent LEC and other carriers for end users of local exchange and other telecommunications services. Purchasers of the network element would compensate the incumbent LEC for the lease of the network facility or equipment, enabling the requesting carriers to utilize those network elements in designing their own services and marketing strategies as they deemed best to recover their costs and to compete in the marketplace. Having paid the incumbent LEC for the use of the network elements, the purchasing carrier is entitled to all revenues generated by local exchange, exchange access, and other telecommunications services it provides utilizing the purchased network elements, in the same fashion as the incumbent LECs. This will enable carriers to make decisions based on economic efficiency as to which network elements it should build, and which it should purchase from incumbent LECs or from competing other providers, free of any predetermined regulatory requirement. This will best foster the Commission's policies of allowing the competitive marketplace and economic considerations to substitute for regulatory oversight.

The Commission rejects Ameritech's argument that allowing a purchasing carrier to combine network elements to provide end-to-end telecommunications service is redundant of the additional requirement on incumbent LECs to make their retail services available at wholesale pricing for resale by requesting carriers. The federal Act clearly requires both offerings to be made available. These offerings were not required alternatively, but to be offered simultaneously. The intent of the federal Act is to make the competitive tools available which the carriers feel they need to employ their own marketing strategy and business judgment as to how to develop competition in the telecommunications marketplaces. The federal Act leaves it to the marketplace to resolve which is the best means available to develop competition.

We also reject Ameritech's position that the purchasing carrier should not retain the revenues for exchange access provided through the leased network elements. As Staff observes, once the incumbent LEC has received the cost-based price for the LSP, the purchasing carrier is entitled to the use of the network element and all revenues for services therefrom. This does not create any jurisdictional issue regarding interstate traffic.

Centel's request to exclude custom calling and CLASS features from the LSP network element is denied as being without basis and in direct violation of the federal Act's requirement that the network element includes the features, functions, and capabilities of the facility or equipment by definition.

The Commission also rejects the requests of MFS, TC Systems, and Ameritech that we defer any action until after the FCC has resolved its rulemaking proceedings. LDDS brought its petition pursuant to the PUA and has a legal right to a determination.

The Commission is of the opinion that a final determination on the pricing of the LSP and the price of unbundled transport be deferred to an investigation of the compliance tariffs filed pursuant to this Order. With the provision of cost data and information in that subsequent docket, the Commission will be in a better position to make the pricing determinations according to the standard enunciated in section 252(d)(1). Said tariffs shall be filed by Ameritech and Centel within 30 and 90 days, respectively, consistent with Staff's local switch platform pricing proposal. The Commission agrees with Staff that Ameritech and Centel use their "best judgement" in developing prices for the LSP and be prepared to file the appropriate costs support and explanation as to the pricing methodology used in determining the price of the LSP.

VIII. OTHER ISSUES

A. Alternative Regulation

Ameritech raised three issues relative to how the wholesale tariff should be treated for purposes of its Alternative Regulation Plan: (1) whether it is a new or existing service; (2) whether it should be assigned to the carrier basket; and (3) exogenous change treatment. The Company stated that it had accepted Staff's and AT&T's proposal that its wholesale tariff be treated as a new service. Ameritech and Staff are also in agreement that it should be placed in the carrier basket. The Company contended that AT&T's proposal to create a fifth basket just for the wholesale tariff had no public policy rationale to support it and should be rejected.

Staff also noted that assigning the wholesale tariff to the carrier basket is consistent with the treatment of unbundled loops and ports approved in the Customers First proceeding.

Ameritech contended that, if revenue shortfalls result from Commission prescription of wholesale rates lower than what could be justified on an avoided cost basis, these shortfalls must be treated as an exogenous change.

Staff agreed that it may be appropriate to consider exogenous change treatment for initial cost associated with providing wholesale service. However, such treatment is not warranted at this point in time because these costs are extremely difficult to quantify and isolate as being due to or as a result of the provision of wholesale services. Until Ameritech makes a strong showing, exogenous factor treatment of start-up costs should not be approved by the Commission

Staff further disagrees with Ameritech over whether the revenue reductions resulting from Staff's pro rata approach to contribution would trigger exogenous change treatment. The Company took the position that there was no policy basis for denying such treatment because Staff's pricing approach results in a regulatorily mandated reduction in the Company's revenues to achieve broader policy objectives relative to competition.

Ameritech contended that Staff's attempt to justify its position on the grounds that the Company would face "reduced risks" in providing wholesale, rather than retail, services was not supported by the record. It stated that Staff had nowhere explained how the Company's risks has been reduced. In fact, Ameritech argued that they have increased, not decreased, because nothing in the conventional, month-to-month wholesale service relationship insulated the Company from retail demand uncertainties in the marketplace and the Company will be even less able to predict or influence customer buying decisions when resellers are performing the marketing function. It contrasted this with discounts offered under volume and term agreements where Ameritech will face reduced risks and where the Company will not seek exogenous change treatment for voluntarily negotiated discounts beyond the avoided cost level. Ameritech also disputed Staff's contention that the revenue effects would be difficult to quantify, suggesting that this issue should be left to any price index filing where exogenous change treatment was sought.

Ameritech further contended that Staff's position that exogenous change treatment should not apply to revenues lost when

ACI (Ameritech's long distance affiliate) is the subscriber was not timely raised and has no legitimate public policy or evidentiary basis. The Company argued that ACI is a separate company and that its future revenues cannot and should not be "imputed" to Ameritech. The Company also noted that there was no evidence in this record that ACI would earn profits at Staff's proposed rates, particularly in view of the fact that it has no customer base, has no existing revenue stream, and its marketing expenses are likely to be significantly higher than either its established IXC resale competitors or Ameritech.

The Company also proposed exogenous change treatment as one possible alternative to recovery of one-time costs associated with development of the systems and interfaces required to facilitate a wholesale offering. This proposal is discussed further in the service cost section of this Order.

Commission Conclusion

The Commission agrees with Ameritech and Staff that its wholesale tariff should be treated as a new service for purposes of the Alternative Regulation Plan and should be assigned to the carrier basket. The Commission is of the opinion that exogenous factor treatment should not be extended to wholesale start-up costs at this point in time. If, however, Ameritech makes a strong showing of these initial start-up costs, then the Commission will consider granting exogenous treatment at that time.

As for exogenous factor treatment for revenue reductions resulting from Staff's pricing proposal, the Commission rejects any such treatment.

B. **AT&T's Arbitration Proposal**

Claiming that the Customers First implementation experience justifies a new approach, AT&T proposed that all disputes arising out of the wholesale tariff be sent first to an arbitrator for formal arbitration, pending a final decision by the Commission after a hearing conducted in accordance with normal complaint procedures. The arbitrator's decision would be binding on the parties during the complaint process.

Ameritech opposed this proposal. First, the Company stated that AT&T's characterization of the aftermath of the Customers First decision was misleading. The Company stated that it did comply with the plain terms of the Commission's Order and that Docket 96-0296 is addressing issues which the Commission did not address at all or

which were not clearly resolved in what Order and which are minor in the overall context of the Customers First proceeding. The Company stated that it would be improper as a matter of policy to have these kinds of issues addressed by an arbitrator who has had no prior involvement in or understanding of the Commission's order in this proceeding.

Ameritech and Staff also took the position that the Commission cannot delegate its authority to issue orders that are binding on the parties to an independent arbitrator, even on an interim basis, under the PUA.

Commission Conclusion

The Commission will not adopt AT&T's dispute resolution proposal. Existing complaint procedures are available if there are disputes over the wholesale tariffs filed by Ameritech or Centel and establishing new arbitration procedures as AT&T proposes would not be appropriate from a policy or legal perspective.

C. **Term and Volume Plans**

As part of its overall approach to the wholesale marketplace, Ameritech stated that it will offer both month-to-month arrangements as well as volume and term agreements which provide deeper discounts. Staff took the position that volume and term agreements are appropriate in principle, but should be examined on a case-by-case basis to ensure that the LEC does not favor its affiliates. The Company stated that it did not oppose case-by-case review where appropriate. However, the Company stated that Staff's concerns seemed far-fetched, given Ameritech's nondiscrimination obligations under both state law and the federal Act. The Company also noted that Staff had proposed volume and term agreements as a critical component of its alternative platform proposal.

TC Systems and AT&T oppose volume and term agreements in principle. TC Systems claimed that such agreements are " ... highly anti-competitive and [are] directly aimed at facilities-based competitors." AT&T claimed that volume and term agreements were inappropriate because the marketplace for wholesale services was noncompetitive.

Ameritech responded that volume and term agreements are standard service arrangements in virtually all industries. Ameritech contends that these arrangements permit the closer alignment of prices with costs, and decrease costs and uncertainty on both sides of the transaction. Ameritech also maintains that, in

the telecommunications industry, the underlying carrier has an incentive to reduce its risks by filling existing capacity and assuring a more stable revenue stream. In return, the purchasing carrier benefits from lower and more certain prices. Ameritech argues that the wholesale marketplace was competitive in the sense that Ameritech must face self-supply by carriers like AT&T and MCI, as they construct their own facilities in the future and strand Ameritech's network plant. Thus, Ameritech stated that its business incentives in introducing volume and term wholesale offerings had everything to do with managing its own risks in the marketplace and nothing to do with TC Systems as a competitor for the IXCs' wholesale business.

Commission Conclusion

The Commission believes that volume and term agreements are appropriate pricing alternatives for wholesale services. They provide benefits to both the incumbent carrier and the reseller in terms of reduced risk and lower rates, respectively. The Commission also does not want to prejudge any issue that would impact the platform offering proposed by Staff. Accordingly, if Staff or any carrier believes that a specific term and volume offering is unjust, unreasonable or discriminatory, existing complaint and investigatory procedures are available to address such issues.

D. Pricing of Wholesale Services and Unbundled Loops

MFS contends that the Commission must set wholesale rates and the prices for unbundled loops in a consistent manner. Ameritech responded that there are differences in the federal pricing standards applicable to wholesale services and network elements (which would encompass unbundled loops) that may ultimately require more significant changes in unbundled loop pricing (either upward or downward). However, Ameritech committed to modify its unbundled loop prices when it files its compliance tariff after the Commission's order in this proceeding to remove avoided retail costs.

Given Ameritech's commitment, there is no need for this Commission to address this issue.

E. Future Wholesale Prices

Staff takes the position that its pricing methodology should be used on a going forward basis, so that wholesale prices change every time retail prices change. Ameritech took the position that