services (treated as non-regulated for Title II accounting purposes) provided on an integrated basis are already defined in Section 32.5280 of the Rules, Nonregulated Operating Revenue. More specifically, Section 32.5280 (b) states, "This account shall be debited and regulated revenue accounts shall be credited at tariffed rates when tariffed services are provided to nonregulated activities . . .".

3. ALARM MONITORING (SECTION 275).

Ameritech agrees (NPRM at ¶¶ 52–53) that the current rules are sufficient to protect against the subsidization concerns of Section 275(b)(2) and the subsidization of alarm monitoring services as defined in Section 275(e).

4. PAY TELEPHONE SERVICES (SECTION 276).

Ameritech maintains that, to the extent the Joint Cost Rules are still considered necessary, adoption of the CI-III safeguards are sufficient to prevent subsidization (NPRM at ¶ 58). While the Act specifically cites the adopting of the CI-III safeguards at a minimum, the Act also allows for forbearance. As Ameritech said in its comments in CC Docket 96-128,

phones as nonregulated, which is in agreement with the present NPRM (at ¶ 59).

D. Safeguards for Separated Operations Are Adequate.

1. MANUFACTURING AND INTERLATA SERVICES (SECTION 272).

a. The NPRM (at ¶ 68) seeks comment on whether there are any additional accounting or recordkeeping requirements that should be adopted to implement the separate books requirements of Section 272(b)(2) and whether GAAP should be mandated. Ameritech maintains that the statute's requirements are clear in this respect, and therefore the Commission need not take any further steps to implement this provision other than to adopt GAAP. Also, the biennial audit required in Section 272(d) will ensure that books are maintained in accordance with the requirements of the Act and GAAP.

The NPRM (at ¶ 74) requests comment on whether and how the rules should be amended to meet the requirements of Section 272(b)(5) that transactions be "reduced to writing and available for public inspection." and the need to protect sensitive or confidential information. If forbearance from enforcement of the Joint Cost Rules is granted, no rule need be amended nor any new rule established. The Commission need only

require by order that the company make the agreements available at a company designated office.

If the Commission's rules are streamlined or if the rules are left as they currently are, the current CAM requirements require the public disclosure of transactions with affiliates (Section 64.903(a)(4)). No additional public disclosure requirements would be necessary. The Commission's standards on the protection of confidential information should apply.[22]

There is no need to amend the affiliate rules to reflect valuations reflected in publicly filed agreements when no tariffs are filed. Under the current rules, or under the USTA streamlining proposal, if there is no tariff rate, the valuation requires either the prevailing price or cost, which would include the rates filed in the interconnection and collocation agreements, both of which are consistent with Sections 272(e)(3) and (e)(4) (NPRM at ¶ 86).

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[22] The Commission is currently evaluating this issue in *In re* Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, GC Docket No. 96-55, Notice of Inquiry and Notice of Proposed Rulemaking (released March 25, 1996) (hereinafter referred to as "Confidentiality Notice").

The NPRM (at ¶ 89) requests comment on the tentative conclusion that the affiliate transaction rules should apply between each BOC and any interLATA affiliate under Section 272(a). Ameritech agrees with that. The NPRM also asks how those rules should be adapted to recognize the regulated status of the affiliates on both sides of the transactions. Ameritech submits that to the extent that the rules apply, there is no adaptation or codification in the rules needed other than a Commission order to apply the rules. The Commission should not, however, extend its rules to transactions between other regulated affiliates, or to transactions between nonregulated affiliates, because that would exceed the scope of the Act and this proceeding.

Ameritech opposes the application of the Joint Cost Rules to an interLATA affiliate that also provides nonregulated services (NPRM at ¶ 90). Section 254(k) does not extend the application of the Joint Cost Rules to affiliates engaged in regulated and nonregulated activities. Furthermore, these regulated affiliates have no incentive to cross-subsidize because the services they will be providing are competitive and not under rate-of-return regulation.

No additional accounting safeguards are needed when the interLATA affiliate shares marketing personnel with a BOC other than the affiliate transaction rules (NPRM at ¶ 91).

The NPRM (at ¶¶ 92–93) seeks comment on the necessity and desirability of specifying the contents of the biennial audit report, distribution to the relevant state commission, and whether the report should address compliance with Sections 272(e)(3) and (e)(4). Ameritech maintains that the Section 272(d) requirements on the scope, distribution, and access to documents are clearly articulated and require no further specification by the Commission. The content and report format should be determined by the independent auditor in conformance with professional standards. The biennial audit required by Section 272(d) should occur in alternate years of the separate Part 64 audit required by Section 64.904 of the Commission's rules, as modified in USTA's streamlining proposal. Each audit should cover the most recent fiscal period.

2. CERTIFYING ENTITIES (SECTION 273).

The Commission also asks (NPRM at ¶ 97) whether Section 273 requires or permits separate or different accounting treatment from subsidiaries under Section 272. The rules should not apply where both entities are nonregulated. The Commission has not found it within its

authority and public interest responsibilities to impose regulations on nonregulated affiliates and should not deviate from this practice now. The 1996 Act grants no such authorization for such action. The provisions of Section 273(d)(3)(B), which require conformity with GAAP, are sufficient.

To the extent the Joint Cost Rules are considered necessary, they satisfy the requirements of Section 273(g) to prevent cross-subsidization between a BOC and its affiliates and third parties (NPRM at ¶ 98).

3. ELECTRONIC PUBLISHING (SECTION 274).

In response to the question raised in ¶ 106 of the NPRM, Ameritech believes there is no need for different accounting treatment for affiliate transactions required by Section 274 as compared to Section 272, irrespective of the language differences. The Affiliate Transaction Rules, to the extent they continue to apply, provide adequate accounting for joint activities permitted under Section 274(c)(2). Furthermore, there is no need to distinguish for Title II accounting purposes between transactions involving a BOC and its "separated affiliate" and its electronic publishing joint venture (NPRM at ¶ 105).

The NPRM seeks comment on the desirability and necessity of specifying what the annual compliance review required by Section

274(b)(8) should cover (NPRM at ¶ 106). Ameritech maintains that the requirements of the annual compliance review are already clear, and that therefore the Commission need not specify in further detail how the compliance reviews should be conducted. In addition, the Commission should apply its current practices on the protection of material which is confidential and proprietary (NPRM at ¶ 107).[23]

The NPRM (at ¶ 108) requests comment on how to apply the requirement of Section 274(f) that the electronic publishing affiliate must file a report "substantially equivalent to the Form 10-K" in cases where the affiliate does not file an actual Form 10-K with the Securities and Exchange Commission. This requirement should be applicable to the financial information reporting requirements (*i.e.*, income statement and balance sheet) as found in the SEC's regulations. SEC Regulation S-X, Rule 4-01, requires that financial information be presented in accordance with GAAP because, according to the regulation, to do otherwise is considered misleading and inaccurate.

Application of the SEC's Form 10-K reporting regulations will also serve as the control mechanism for ensuring that the books and records

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[23] *See* Confidentiality Notice, *supra* note 22.

of the separated affiliate are maintained in accordance with GAAP, thereby obviating any need to issue additional rules addressing the Section 274(b)(1) and Section 274(b)(3)(C) requirements that transactions be "auditable in accordance with generally accepted auditing standards" (NPRM at ¶¶ 109–111).

The NPRM (at ¶ 112) also requests comment on whether the Commission needs to distinguish between asset transfers and services in the case of electronic publishing, when Section 274(b)(4) specifically only mentions assets. Ameritech maintains that to the extent the affiliate transaction rules apply, there is no need to distinguish.

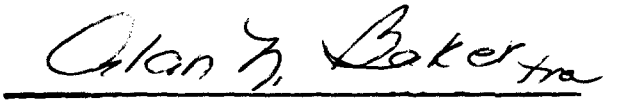
E. Voluntarily Separated Operations.

The NPRM (at ¶¶ 118–120) requests comment on whether the affiliate transaction rules with the proposed modification should apply to BOC activities that Sections 260, 271, 275, and 276 might permit, but not require, to be offered through a separate affiliate. To the extent the affiliate transaction rules are otherwise necessary, their application to such voluntarily-established subsidiaries, with no modification, is consistent with the Act. There is no adaptation or codification of the rules needed to recognize that the transaction is between two regulated affiliates other than the Commission directive to apply the rules.

IV. Conclusion

The Commission has ample authority and discretion to forbear from regulation the Joint Cost Rules for no-sharing price cap carriers for both the integrated and separated operations of the BOCs emanating from the Act. The Joint Cost Rules, adopted under a rate of return methodology, have no practical significance. If forbearance is not a public policy option at the present time, the Commission should adopt USTA's streamlining proposal, which is consistent with the Act's mandate to adopt a deregulatory policy framework or, lastly, leave the rules as they are with no modifications.

Respectfully submitted,



ALAN N. BAKER
Attorney for Ameritech
2000 West Ameritech Center Drive
Hoffman Estates IL 60196
(847) 248-4876

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