

and

(ii) nondiscriminatory, and

(B) may include a reasonable profit.

(2) CHARGES FOR TRANSPORT AND TERMINATION OF TRAFFIC.—

(A) IN GENERAL.—For the purposes of compliance by an incumbent local exchange carrier with section 251(b)(5), a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless—

(i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier, and

(ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.

(B) RULES OF CONSTRUCTION.—This paragraph shall not be construed—

(i) to preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or

(ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls, or to require carriers to maintain records with respect to the additional costs of such calls.

(3) WHOLESALE PRICES FOR TELECOMMUNICATIONS SERVICES.— For the purposes of section 251(c)(4), a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier. (Emphasis added).

(e) (3) PRESERVATION OF AUTHORITY.—Notwithstanding paragraph (2), but subject to section 253, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

This part of the FTA is even more important considering the Eighth Circuit Federal Court action which placed interconnection ratemaking matters clearly within the purview of the state commission for the time being.

A review of AM's statement reveals it has not received authority from the MPSC to sell any of the interconnection services contained therein. Further, the Commission currently has pending before it Ameritech cost studies in Cases Nos. U-11155, U-11156 and Advice 2438(b). The Commission has previously rejected the Ameritech cost studies which were filed in those cases. Further, on October 2, 1996, the arbitration panel in Case No. U-11138 rejected the Ameritech cost studies. Ameritech currently does not have a cost study before the Commission which has been determined to be consistent with either state or federal law. Until such time, this Commission can not approve any statement of generally available terms pursuant to § 252(f) of the FTA. It should be further noted that a number of arbitrations are currently pending before the Commission in which an arbitration panel will determine, based on the same standards which are to be used in this instance, the cost based prices for many of the items listed in Ameritech's statement of generally available terms and conditions. Any questions regarding whether the pricing standards have been met will be addressed soon in the arbitration proceedings.

In addition to applicable pricing standards, the FTA, § 251 imposes significant interconnection obligations which are not satisfied by Ameritech's statement of

interconnection, unbundled network elements, number portability, directory listings, resale, and collocation (to name a few) are also being contested in arbitrations in terms of their compliance with § 251 of the FTA and the rules and regulations which have been issued pursuant to that FTA. The MPSC should not determine that these terms are acceptable under this general statement when the issue is about to reach them in other cases.

On page 18 of its application, Ameritech says that these are the terms and conditions that they are willing to offer for interconnection, but this is what they did offer and potential interconnectors are contesting parts of this. Ameritech, on page 1, says the reason for § 252(f) is to facilitate negotiations and demonstrate compliance with § 251. However, the purpose of § 252(f) is to demonstrate the availability of services the terms and prices of which have not been set elsewhere.

Conclusion

Ameritech is pursuing Track A and is therefore precluded from pursuing Track B. Hence, a statement of generally available terms and conditions pursuant to FTA, § 252(f) is not permitted.

If Track B is permitted to proceed simultaneously with Track A, the filed statement does not comport with the requirements of the FTA, § 252(f). At best, Ameritech's statement is premature because procedures exist which would permit AM to prepare and file a statement which would comply with state and federal requirements.

The MPSC should reject the filed statement. MTA, § 203(2) requires providers to file applications which:

Shall contain all information, testimony, exhibits, or other documents and information on which the person intends to rely to support the application. . . . (Emphasis added).

As filed, Ameritech's application is incomplete. Under Michigan law (§ 203(2)), the MPSC can suspend the application. Unfortunately, under the FTA, the MPSC must deal with the statement within 60 days including reconsideration. FTA, § 252(f)(3).

To preserve its authority it appears reasonable for the MPSC to act on the information currently available for review. The information or lack thereof compels the MPSC to reject this statement. AM would then be permitted to file a statement if needed and appropriate which complies with the appropriate legislative standards.

Respectfully submitted,

MICHIGAN PUBLIC SERVICE COMMISSION
STAFF


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DATED: October 21, 1996
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Michigan Consumer Federation
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LINDA ANDREAS

Subscribed and sworn to before me

this 21st day of October, 1996.



Tina L. Bibbs, Notary Public
Ingham County, Michigan
My Commission Expires: 11/13/99

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to consider AMERITECH MICHIGAN's compliance with the competitive checklist in Section 271 of the Telecommunications Act of 1996.

Case No. U-11104



MPSC STAFF RESPONSE TO AMERITECH APPLICATION FOR APPROVAL OF IT'S STATEMENT OF GENERALLY AVAILABLE TERMS

On September 30, 1996, Ameritech Michigan (AM) filed, pursuant to § 252(f) the Federal Telecommunications Act of 1996 (FTA), an application for approval of a statement of generally available terms and conditions that it offers within Michigan to comply with the requirements placed on telecommunication carriers in § 251 of the FTA. The only purpose for such a statement is to permit AM to achieve authority to enter the in-region interLATA telecommunications market.

The FTA permits Ameritech to enter the in-region interLATA market in one of two ways as presented in § 271(c)(1)(A) [Track A] or § 271(c)(1)(B) [Track B]. Section 271 provides, in part, as follows:

(c) Requirements for Providing Certain In-Region InterLATA Services.—

(1) Agreement or statement.—A Bell operating company meets the requirements of this paragraph if it meets the requirement of subparagraph (A) or subparagraph (B) of this paragraph for each State for which the authorization is sought.

(A) Presence of a facilities-based competitor.—A Bell operating company meets the requirements of this subparagraph if it has entered into one or more binding agreements that have been approved under section 252 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated

competing providers of telephone exchange service (as defined in section 3(47)(A), but excluding exchange access) to residential and business subscribers. For the purpose of this subparagraph, such telephone exchange service may be offered by such competing providers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities in combination with the resale of the telecommunications services of another carrier. For the purpose of this subparagraph, services provided pursuant to subpart K of part 22 of the Commission's regulations (47 C.F.R. 22.901 et seq.) shall not be considered to be telephone exchange services.

(B) Failure to request access.—A Bell operating company meets the requirements of this subparagraph if, after 10 months after the date of enactment of the Telecommunications Act of 1996, no such provider has requested the access and interconnection described in subparagraph (A) before the date which is 3 months before the date the company makes its application under subsection (d)(1), and a statement of the terms and conditions that the company generally offers to provide such access and interconnection has been approved or permitted to take effect by the State commission under section 252(f). For purposes of this subparagraph, a Bell operating company shall be considered not to have received any request for access and interconnection if the State commission of such State certifies that the only provider or providers making such a request have (i) failed to negotiate in good faith as required by section 252, or (ii) violated the terms of an agreement approved under section 252 by the provider's failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement. (Emphasis added).

At the present time, AM currently has three applications pending before the MPSC pursuant to § 252 which seek approval of binding negotiated interconnection agreements with licensed basic local exchange carriers - MFS (U-11098), Brooks (U-11178) and USN (U-11182). Section 302(1)(a) of the Michigan Telecommunications Act (MTA) requires licensed providers to serve all persons, business and residential, in the territory covered by the license. Also pending before the MPSC are arbitration cases between Ameritech and AT&T (U-11151 and U-11152), MCI (U-11168), Sprint (U-11203) and TCG (U-11138). These four cases involve basic local exchange carriers

who have been licensed or have a license application pending to provide basic local exchange service.

Under the provision of Track A, there appears to be a number of providers which will have either negotiated or arbitrated interconnection agreements to provide service to both residential and business customers. Further it is Staff's understanding that Brooks and MFS are providing some facilities based local service. AT&T and MCI have indicated in their applications for basic local exchange licenses that they intend to ultimately provide facilities based service. By virtue of the three applications for approval of negotiated interconnection agreements and the four pending arbitrations, it appears Ameritech is pursuing Track A under FTA, § 271.

Under FTA, § 271, there is no linkage between Track A or Track B. In addition, Track A and Track B are mutually exclusive by virtue of the specific language of § 271. It states:

A Bell operating company meets the requirements of the paragraph if it meets the requirements of subparagraph A [Track A] or subparagraph B [Track B]. (FTA, § 271(c)(1)). (Emphasis added).

With no linkage between Tracks A and B, and Ameritech's actions under Track A, Ameritech has no authority to simultaneously pursue Track B. Subsequently a statement pursuant to § 252(f) is unnecessary and in fact not permitted. Under FTA, § 271(d)(3), the FCC is limited to certain considerations when making a determination on granting interLATA authority. Again the FTA requires FCC action on either Track A [§ 271(d)(3)(A)(i)] or Track B.

[§ 271(d)(3)(A)(ii)].

Only if it is assumed that Ameritech can simultaneously pursue Track A and Track B do the provisions of § 252(f) for the statement of generally available terms and conditions come into play. This section provides as follows:

(f) STATEMENTS OF GENERALLY AVAILABLE TERMS.—

(1) IN GENERAL.—A Bell operating company may prepare and file with a State commission a **statement of the terms and conditions that such company generally offers within that State to comply with the requirements of section 251 and the regulations thereunder and the standards applicable under this section.**

(2) STATE COMMISSION REVIEW.—A State commission may not approve such statement unless such statement complies with subsection (d) of this section and section 251 and the regulations thereunder. Except as provided in section 253, **nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of such statement, including requiring compliance with intrastate telecommunications service quality standards or requirements.** (Emphasis added).

Ameritech claims it offers the items the statement identified. It should be pointed out that in order to offer interconnection service or elements, AM must comply with Michigan law and MPSC action. Specifically, FTA, § 252 provides, in part, as follows:

(d) PRICING STANDARDS.—

(1) INTERCONNECTION AND NETWORK ELEMENT CHARGES.—
Determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of subsection (c)(2) of section 251, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section—

(A) shall be—

(i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable),

and

(ii) nondiscriminatory, and

(B) may include a reasonable profit.

(2) CHARGES FOR TRANSPORT AND TERMINATION OF TRAFFIC.—

(A) IN GENERAL.—For the purposes of compliance by an incumbent local exchange carrier with section 251(b)(5), a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless—

(i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier, and

(ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.

(B) RULES OF CONSTRUCTION.—This paragraph shall not be construed—

(i) to preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or

(ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls, or to require carriers to maintain records with respect to the additional costs of such calls.

(3) WHOLESALE PRICES FOR TELECOMMUNICATIONS SERVICES.— For the purposes of section 251(c)(4), a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier. (Emphasis added).

(e) (3) PRESERVATION OF AUTHORITY.—Notwithstanding paragraph (2), but subject to section 253, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

This part of the FTA is even more important considering the Eighth Circuit Federal Court action which placed interconnection ratemaking matters clearly within the purview of the state commission for the time being.

A review of AM's statement reveals it has not received authority from the MPSC to sell any of the interconnection services contained therein. Further, the Commission currently has pending before it Ameritech cost studies in Cases Nos. U-11155, U-11156 and Advice 2438(b). The Commission has previously rejected the Ameritech cost studies which were filed in those cases. Further, on October 2, 1996, the arbitration panel in Case No. U-11138 rejected the Ameritech cost studies. Ameritech currently does not have a cost study before the Commission which has been determined to be consistent with either state or federal law. Until such time, this Commission can not approve any statement of generally available terms pursuant to § 252(f) of the FTA. It should be further noted that a number of arbitrations are currently pending before the Commission in which an arbitration panel will determine, based on the same standards which are to be used in this instance, the cost based prices for many of the items listed in Ameritech's statement of generally available terms and conditions. Any questions regarding whether the pricing standards have been met will be addressed soon in the arbitration proceedings.

In addition to applicable pricing standards, the FTA, § 251 imposes significant interconnection obligations which are not satisfied by Ameritech's statement of generally available terms. The appropriate terms and conditions for

interconnection, unbundled network elements, number portability, directory listings, resale, and collocation (to name a few) are also being contested in arbitrations in terms of their compliance with § 251 of the FTA and the rules and regulations which have been issued pursuant to that FTA. The MPSC should not determine that these terms are acceptable under this general statement when the issue is about to reach them in other cases.

On page 18 of its application, Ameritech says that these are the terms and conditions that they are willing to offer for interconnection, but this is what they did offer and potential interconnectors are contesting parts of this. Ameritech, on page 1, says the reason for § 252(f) is to facilitate negotiations and demonstrate compliance with § 251. However, the purpose of § 252(f) is to demonstrate the availability of services the terms and prices of which have not been set elsewhere.

Conclusion

Ameritech is pursuing Track A and is therefore precluded from pursuing Track B. Hence, a statement of generally available terms and conditions pursuant to FTA, § 252(f) is not permitted.

If Track B is permitted to proceed simultaneously with Track A, the filed statement does not comport with the requirements of the FTA, § 252(f). At best, Ameritech's statement is premature because procedures exist which would permit AM to prepare and file a statement which would comply with state and federal requirements.

The MPSC should reject the filed statement. MTA, § 203(2) requires providers to file applications which:

Shall contain all information, testimony, exhibits, or other documents and information on which the person intends to rely to support the application. . . . (Emphasis added).

As filed, Ameritech's application is incomplete. Under Michigan law (§ 203(2)), the MPSC can suspend the application. Unfortunately, under the FTA, the MPSC must deal with the statement within 60 days including reconsideration. FTA, § 252(f)(3).

To preserve its authority it appears reasonable for the MPSC to act on the information currently available for review. The information or lack thereof compels the MPSC to reject this statement. AM would then be permitted to file a statement if needed and appropriate which complies with the appropriate legislative standards.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE COMMISSION
STAFF**


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DATED: October 21, 1996

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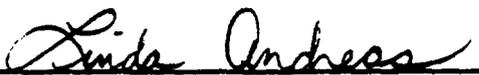
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LINDA ANDREAS

Subscribed and sworn to before me

this 21st day of October, 1996.


Tina L. Bibbs, Notary Public
Ingham County, Michigan
My Commission Expires: 11/13/99

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own)
 motion, to consider Ameritech)
 Michigan's compliance with the)
 competitive checklist in Section 271 of) Case No. U-11104
 the Telecommunications Act of 1996)
)



Affidavit of Philip S. Abrahams

Philip S. Abrahams, under oath, states as follows:

1. I am a Senior Attorney for AT&T and have been responsible for negotiating and drafting the Interconnection Agreement between AT&T Communications of Michigan, Inc. and Ameritech Michigan under Sections 251 and 252 of the Telecommunications Act of 1996 which has been submitted to arbitration before the Commission in Case No. U-11151, and am therefore familiar with that document.

2. I have also reviewed the Statements of Generally Available Terms ("SGAT") under Sections 251 and 252 of the Telecommunications Act of 1996 which has been filed by Ameritech Michigan in these proceedings.

3. Based on my review, I have determined that the SGAT is structurally identical to the Interconnection Agreement and contains substantially similar terms, except for those items which have been submitted to arbitration in Case No. U-11151.

This ends my statement.

Philip S. Abrahams
 Philip S/Abrahams

Sign and sworn to before me
 this 11th day of October, 1996.

Margaret M. Plucinsky



John Engler, Governor

Department of Consumer & Industry Services
Kathleen M. Wilbur, Director

44

6545 Mercantile Way
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517-334-6445

Commissioners

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

October 29, 1996

Case No. U-11229

Mr. Michael Holmes
Ameritech Michigan
444 Michigan Avenue
Detroit, MI 48226

Dear Mr. Holmes :

The enclosed certified copy of the complaint of the City of Southfield against Ameritech Michigan is served in accordance with the statutes and the Rules of Practice and Procedure Before the Commission.

~~The complaint was filed on October 24, 1996, on behalf of the City of Southfield, by Robert R. Block, City Administrator, 26000 Evergreen Road, P.O. Box 2055, Southfield, Michigan 48037-2055.~~

~~Ameritech's answer to this complaint shall be filed with the Commission on or before November 6, 1996.~~

Sincerely,

Dorothy Wideman
Executive Secretary

Enc.

cc: (w/o enclosure)
R. Block
M. Moore

STATE OF MICHIGAN
Michigan Public Service Commission

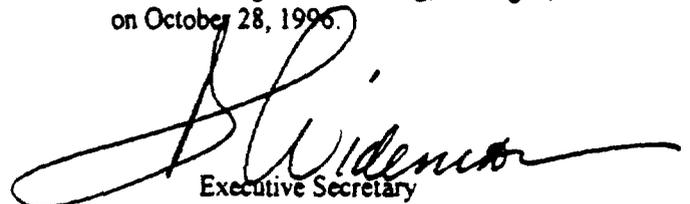
SS.

I, Dorothy Wideman, Executive Secretary of the Michigan Public Service Commission, certify that the attached copy, with the Michigan Public Service Commission seal, of the formal complaint in Case No. U-11229

City of Southfield against Ameritech Michigan

is a true and correct transcript of the original.

Sealed and signed at Lansing, Michigan,
on October 28, 1996.


Executive Secretary

44



received
10/24/96

City of Southfield

26000 Evergreen Rd. • P.O. Box 2055 • Southfield, MI 48034-2055

October 21, 1996

Mr. John Strand
Chairman
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, Michigan 48909

Dear Mr. Strand,

The City of Southfield recently communicated with Mr. William Celio, Director of the Communications Division regarding a serious problem we were encountering with the E911 database. In response to our correspondence, Ameritech drafted what was represented to be an action plan and time line to address the concerns we articulated. The first commitment, to correct the names and addresses of all affected end users in TCG's 810/204 exchange was to be completed by October 1, 1996.

Unfortunately, Ameritech failed to meet the stated commitment, this became apparent on October 12, 1996, when an in-progress shooting at an office building was reported via the 911 system. Our frantic callers remembered to dial 911, however, their calls were all classified as "Record Not Found" and many were default routed to the Oakland County Sheriff's Department. The end users were Teleport customers calling from (810) 204-1123. This incident occurred twelve days after the target date established by Ameritech to resolve the problem. It is unacceptable to jeopardize public safety as Ameritech struggles to integrate their network with their competitors.

The City of Southfield is hereby registering an official complaint against Ameritech given their demonstrated unwillingness to rectify this critical issue. Further, it is clear that we cannot accept a target date of December to address similar issues with the other resellers. We saw the worst case scenario play itself out, as terrified individuals relied on our highly touted 911 system, in their most desperate moments, only to encounter a system failure.

Mayor
Donald F. Fracassi

Council President
Eli E. Robinson

City Clerk
Mary A. Bonner

City Treasurer
Roman J. Cronkowiak

City Administrator
Robert R. Block

Suzanne Goldstein

Steve S. Hurie

City Council
Sidney Lanza

John E. Reeves

Joan Seymour

October 21, 1996
Mr. John Strand
Page 2

We look forward to aggressive action from the Commission to address this problem. Southfield staff continues to be available to provide additional details and testimony to clarify the significance and magnitude of this urgent public safety concern.

Sincerely,



Robert R. Block
City Administrator

cc: Senator Gary Peters, 14th District
James Bolger, Chairman, Emergency Telephone Services Committee
Emergency Telephone Services Committee

