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Federal Communications Commission
Office of Secretary

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

In the Matter of	)	
	)	
Application of Ameritech Michigan	)	
Pursuant to Section 271 of the	)	**CC Docket No. 97-137**
Communications Act of 1934,	)	
as amended, to Provide In-Region,	)	
InterLATA Services in Michigan.	)	

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SUMMARY

Teleport Communications Group ("TCG") is the nation's leading competitive local exchange carrier ("CLEC"), serving 52 major markets with state-of-the-art fiber optic backbone networks supplemented by wireless facilities. TCG was certificated in April 1995 as a competitive local exchange carrier in Southeastern Michigan and provides service to business customers in Detroit. TCG has entered into an arbitrated interconnection agreement with Ameritech.

The Commission should deny Ameritech's application to provide interLATA services in Michigan. Ameritech has made a number of false statements in its application about its provision of service to TCG. Ameritech has also made incorrect statements about TCG's relationship with other carriers.

Most important, Ameritech has not yet met the first and most significant requirement of the "competitive checklist" to implement the interconnection agreement according to the standard in Section 251(c)(2)C) of the Telecommunications Act of 1996 ("Act") that interconnection be "at least equal in quality" to that provided by [Ameritech] to itself...", and so its application should be denied.

Furthermore, the TCG-Ameritech agreement does not satisfy the requirements of Section 251 to provide access and interconnection at nondiscriminatory cost-based rates, because the rates in the agreement are interim rates subject to change pending the outcome of a cost study ordered by the MPSC. For this reason as well, the application should be denied.

Finally, Ameritech has not demonstrated that its application satisfies the public interest, convenience, and necessity standard of Section 271(d)(3)(C) of the Act. The Commission cannot conclude that this standard is met since Ameritech's local exchange monopoly power has not materially eroded and competitors have not obtained a meaningful presence in local exchange markets throughout Michigan. In these circumstances, there are no effective constraints on Ameritech's ability to engage in anticompetitive practices if it were permitted to enter the interLATA market. Accordingly, the Commission should deny Ameritech's application.

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COMMENTS OF TELEPORT COMMUNICATIONS GROUP INC.

Teleport Communications Group Inc. ("TCG"), on behalf of its Michigan operating affiliate, TCG Detroit (hereinafter collectively "TCG"), hereby submits its Comments on the Application of Ameritech Michigan for Provision of In-Region, InterLATA Services in Michigan ("Ameritech").[1]

I. INTRODUCTION

TCG is particularly qualified to comment on Ameritech's Application and the state of local competition in Michigan. TCG has been certificated by the Michigan Public Service Commission ("MPSC") since April of 1995 as a provider of basic local exchange service in metropolitan Detroit. It was one of the first competitive providers in Michigan to be certified to provide competitive basic local exchange services.

TCG recommends that the Commission reject Ameritech's application. First, as will be shown in more detail below, Ameritech is not meeting the "at least equal in quality

[1]The Commission should be aware that TCG has not had the necessary amount of time to digest the entirety of Ameritech's massive 10,000 page filing, particularly given the short 20-day time frame for preparing and filing comments. TCG therefore reserves the right to provide additional facts relevant to the instant application in its reply comments, as necessary, to ensure that the fullest possible record is developed for this very important case.

standard" of the competitive check list as required by Section 251(c)(2)(C) of the Act. Moreover, the TCG/Ameritech Agreement imposed by arbitration by the MPSC only contains "interim" rates, terms and conditions, not permanent and final rates as is required by the Act.[2] Second, it is premature to say that local competition is thriving in Michigan. Indeed, despite Ameritech's representations, the vast majority of Michigan consumers, including virtually all residential ratepayers, have **NO** choice of their local telephone company, and Ameritech's actions are, in part, responsible for the paltry level of local exchange competition.

Ameritech has not demonstrated that it "is providing access and interconnection" to TCG as required by Section 271(c)(1)(A)(1) of the Act because it cannot demonstrate (or at least has not demonstrated) that the interconnection it provides to TCG satisfies Section 251(c)(2)(C).[3] Ameritech ignores the plain meaning of these words. That plain meaning is confirmed by the legislative history of the Act. The Conference Committee rejected any suggestion that a promise to provide would substitute for actual provision of access and interconnection, stating "[t]he requirement that the BOC is 'providing access and interconnection' means that the competitor has implemented the interconnection request and the competitor is operational. (Emphasis supplied)."[4] Thus, actual performance, not paper promises, must be the touchstone of the Commission's inquiry.

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[2] See Section III.A., infra. *See, also*, Interconnection Agreement between TCG Detroit and Ameritech Michigan, Volume 1.4 at Section 28.0 (Supplemental Filing of Ameritech Michigan, January 17, 1997). (Referred to herein as "TCG/Ameritech Agreement").

[3]Brief in Support of Application by Ameritech Michigan for Provision of In-Region, InterLATA Services in Michigan, pp. 8-14. (Referred to herein as "Ameritech Michigan Brief").

[4]H.R. Rep. No. 104-458, 104th Cong., 2d Sess. 145 (1996).

Amazingly, Ameritech also states that the mere existence of MPSC-approved interconnection agreements with TCG, MFS and Brooks Fiber -- paper promises -- somehow translates to mean the local telephone market in the State of Michigan *is competitive* as is contemplated by Section 271(c)(1)(A) of the Act.[5] As will be discussed in Section VII infra, the Federal Communication Commission's ("Commission" or "FCC") determination of whether the local exchange market is competitive is independent of, and sequential to, verification that Ameritech has complied with the competitive checklist and that a competitor "is operational." TCG therefore urges that the Commission conduct an independent examination of Ameritech's application.[6]

II. AMERITECH DOES NOT SATISFY THE PERFORMANCE PARITY STANDARD OF SECTION 251(c)(2)(C).

Section 271(c)(2)(B)(i) requires Ameritech to interconnect with TCG in accordance with the requirements of Section 251(c)(2) and 252(d)(2). Section 251(c)(2)(C), in turn, mandates "performance parity," i.e., that Ameritech must provide interconnection to TCG "that is at least equal in quality to that provided by the local exchange carrier to itself or any subsidiary, affiliate, or any other party to which the carrier provides interconnection." Moreover, as required by the Commission in Docket 96-98, standards assuring high quality

[5]Ameritech Michigan Brief at 9-15.

[6]While it is true the Commission shall consult with the state utility commission in Section 271 applications, the recommendation of the state commission is only an opinion, and not a determinative finding. The Act does not accord the recommendation of the state utility commission "substantial weight," which is a lesser standard for any recommendation by the United States Department of Justice, where its findings shall have "substantial weight." *Compare,* Section 271(d)(2)(A) and (d)(2)(B).

must be referenced to the internal standards of the interconnecting ILEC.[7] TCG refers to this requirement as "performance parity."

As will be shown below, and in greater detail in the Affidavit of Michael Pelletier, Ameritech's assertion that the TCG/Ameritech interconnection agreement has been implemented in a manner that complies with these requirements is unsupported by any facts.[8] Indeed, TCG's experiences indicate Ameritech has failed and is failing to even attempt to comply with its statutory mandate to provide CLECs with performance parity.

A. Ameritech is Not Remedying Trunk Blocking on TCG's Network.

An example of the provisioning problems experienced by TCG is persistent failures by Ameritech to adequately manage trunks in its own network, resulting in traffic originated by Ameritech's customers and intended to be terminated on TCG's network being blocked by Ameritech's failure to provision enough trunks. Unlike Ameritech, TCG has no way of measuring the amount of traffic destined to terminate on TCG's network, because it is being blocked within Ameritech's network behind Ameritech's tandem and the interconnection point between it and TCG's network. Under the performance parity requirement of Section 251(c)(2)(C), Ameritech's blockage of traffic destined to TCG's end office switch can be no greater than the blockage of traffic to an Ameritech end office switch.

Ameritech asserts that the blocking of TCG in-bound traffic is due to TCG's failure to notify Ameritech of the addition of large customers to TCG's customer base.[9] This claim is both untrue and irrelevant, given the nature of the blocking problems.

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[7]Re Implementation of Local Competition, FCC Docket No. 96-98, FCC 96-325, First Report and Order, issued August 8, 1996 at ¶ 224.

[8]Ameritech Michigan Brief at 24. See Affidavit of Michael Pelletier, attached as Exhibit A.

[9]Affidavit of John B. Mayer on behalf of Ameritech Michigan at ¶ 19.

If Ameritech were properly managing its trunks and implementing solutions to the blocking of TCG traffic, then the incidents of blocked traffic would be intermittent. However, the blocking of traffic terminating to TCG's network has been constant virtually since the establishment of TCG's points of interconnection ("POIs") in Ameritech's tandem switches. TCG has been receiving, and continues to receive, complaints from its customers about blocked incoming traffic in both Michigan and Illinois.

In addition, Ameritech claims that it has increased the total number of one-way trunk groups from its network to the CLECs network by 34% between January 1, 1997 and March 31, 1997.[10] This augmentation of trunks between Ameritech's and TCG's networks addresses the increasing need for trunks to handle the traffic between Ameritech's tandem and TCG's switch, but does not address traffic being blocked within Ameritech's network behind the tandems interconnected with TCG. It is the blocking of traffic behind Ameritech's tandems that is of very great concern to TCG, and that Ameritech has so far refused to remedy.

The harm to TCG by Ameritech's blocking is exacerbated by Ameritech's poor network planning. Ameritech has installed trunks to carry traffic from Ameritech's network to TCG's network in such a way that there is a single point of failure at each of the POIs between the two networks. Local traffic originating on Ameritech's network to TCG is being blocked in Ameritech's network behind Ameritech's tandem. The single point of failure at each TCG POI results from the fact that Ameritech's traffic to each TCG NXX is routed to one Ameritech tandem, and the corresponding TCG POI. There is no alternative routing designated for the NXX when traffic in-bound to TCG is blocked in Ameritech's

[10] Id. at ¶ 21.

network, unlike Ameritech's own traffic. Therefore, contrary to Ameritech's position, CLEC traffic does not receive exactly the same treatment as any other traffic.[11] The creation of a single point of failure between the two networks is contrary to TCG policy for its own network deployment, and contrary to TCG's request. Indeed, Ameritech's means of handling traffic destined to TCG NXXs is inherently inferior to the multiple routing architecture used to route traffic to Ameritech NXXs so it cannot satisfy the Section 251(c)(2)(C) performance parity requirements.

TCG has become aware of the blocking problem only through customer complaints because the source of blocking is in Ameritech's network behind the tandem. Once TCG became aware of a pattern of customer traffic being blocked, TCG requested the data it needs from Ameritech to diagnose and request correction of the problem.

Ameritech met with TCG to on several occasions to discuss the trunk blocking problem in the region. By May 1, 1997 TCG believed that a proposed resolution to the trunk blocking problems was informally agreed upon.[12] Ameritech, however, later reneged on this deal.

On May 22, 1997 representatives of Ameritech met with TCG to address the implementation of the proposed solution to the blocking problem. TCG found that none of the steps committed to by Ameritech at prior meetings had been implemented at all, or in the agreed upon manner. In addition, Ameritech failed to provide the requested and agreed-upon trunk group specific traffic data necessary for TCG to assess the trunk blocking problems in

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[11] Id. at 26.

[12] Affidavit of Michael Pelletier at ¶ 13. This deal, however, did not promise a speedy fix of the problem, as is discussed in paragraph 14 of Mr. Pelletier's affidavit.

Detroit and Chicago.[13] It was also revealed at the May 22, 1997 meeting that Ameritech used the wrong kinds of records to assist in fixing the blocking problem.[14] Ameritech further refused to fix its trunks in the order of the magnitude of the problem, and instead offered to repair them in alphabetical order, hardly an example of adequate network maintenance, and -- as another example of Ameritech's failure to comply with Section 251(c)(2)(C) -- inconsistent with how Ameritech repairs and maintains its own network.[15] The result of this prioritization scheme is that the Ameritech end offices through which the greatest volume of traffic in-bound to TCG passes are not alleviated until less used routes are provided with unnecessary redundancy. Unless Ameritech can demonstrate that it uses the same illogical and absurd "system" to provision capacity to its own switches, it is clearly not providing TCG with the "at least equal" interconnection required by Section 251(c)(2)(C).

Ameritech also reneged on other vital parts of the mutually-agreed solution to the blocking problem. Both parties had agreed that the second part of the solution to the blocking problem would be to establish trunk groups between each TCG POI and each Ameritech tandem switch.[16] Ameritech agreed to route traffic as an alternate route through Ameritech tandems to the TCG POI, and as a second alternate route via intermachine trunks (IMT) between Ameritech tandems where Ameritech has multiple tandems. Ameritech indicated at the May 22nd meeting that it had not agreed to establish these trunk groups and that TCG's request was "still under advisement."

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[13]Affidavit of Michael Pelletier at ¶ 16.

[14]Affidavit of Michael Pelletier at ¶ 16.

[15]Affidavit of Michael Pelletier at ¶¶ 18-19.

[16]Affidavit of Michael Pelletier at ¶ 20.

Ameritech also reneged on the mutual agreement that the routing for TCG NXXs would be changed from the present routing in which each TCG NXX is routed only to a specific could be routed to each Ameritech tandem, as Ameritech does for its own traffic, in violation of Section 251(c)(2)(C).[17] Ameritech indicated at the May 22nd meeting that TCG NXXs can only be routed so that each NXX is routed to one tandem.

Both TCG and Ameritech had agreed that the currently existing one-way trunk groups carrying segregated local and toll traffic between TCG's switch and Ameritech tandems would be combined into one-way trunks carrying both local and toll trunks. In addition, trunk groups to be established between Ameritech end offices and TCG's switch would be two-way trunk groups carrying combined local and toll traffic.[18] Ameritech indicated at the May 22nd meeting that it now refuses to provide two-way trunk groups both between Ameritech's tandem and TCG's switch, and between Ameritech end offices and TCG's switch.

Ameritech's traffic blocking problem has been harming TCG through the loss of revenue and damage to its reputation for months, with no sign of a permanent solution for the foreseeable future. Despite TCG's repeated notifications to Ameritech, and TCG's diligent effort to find a solution for more than six months, the problem persists in Ameritech's network. Ameritech is not providing TCG interconnection that is at least equal in quality to that provided to itself, any subsidiary and affiliate, in violation of Section 251(c)(2)(C). For this reason alone, Ameritech has failed to meet Section 271(c)(2)(B)(i) of the check list, and its application has to be denied.

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[17]Affidavit of Michael Pelletier at ¶ 21.

[18]Affidavit of Michael Pelletier at ¶ 22.

B. The TCG/Ameritech Agreement Lacks Adequate Performance Standards and Reporting.

The Department of Justice, in its Evaluation of the Application of SBC Communications Inc. for Section 271 checklist authority, discussed benchmarks for performance parity standards.[19] The DOJ notes that performance parity standards in regard to operational support systems ("OSS") systems are particularly necessary.[20] Clearly, the performance parity criteria in the AT&T/Ameritech Agreement do not meet the DOJ's standard of providing effective constraints on competitive misconduct by the incumbent LEC where stable arrangements with competitors are in place.

Ameritech's asserts that it provisions orders pursuant to the AT&T\Ameritech Agreement within the prescribed interval.[21] These intervals of 14 or 15 days have not been TCG's experience. TCG's trunk orders have all been large enough to be categorized as custom orders with negotiated intervals. Ameritech's substandard provisioning intervals for DS-1 and DS-3 trunks ordered pursuant to Ameritech's access tariffs have been a persistent and serious problem for TCG. Ameritech does not provide the same provisioning intervals and service quality to TCG as it does to itself. For example, TCG has experienced repeated difficulties with firm order commitments ("FOC"); the date by which Ameritech has committed to complete an order. On numerous occasions, the commitment date for an order has arrived, but the order has not been completed because the Ameritech facilities necessary

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[19]*See,* In the Matter of the Application of SBC Communications Inc. et al. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in the State of Oklahoma, Evaluation of the United States Department of Justice (May 16, 1997) ("DOJ Evaluation").

[20]*See*, DOJ Evaluation at 50.

[21]Affidavit of Warren Mickens on behalf of Ameritech Michigan at 22.

to provision the order are not in place. Ameritech does not notify TCG that facilities are inadequate to complete the order, and Ameritech does not inform TCG until the commitment date has passed. In addition, Ameritech is assigning -- without notifying TCG-- a new FOC date to missed orders, resulting in denying TCG customers a waiver of the installation charges for missed FOC dates pursuant to tariff.[22]

The only way that Ameritech can demonstrate that it has met the standard of Section 251(c)(2)(C) is for it to provide to regulators and competitors periodic quantitative reports comparing Ameritech's service to itself and to its own major customers with its service to TCG.

TCG has requested from Ameritech detailed service quality and performance reporting, as well as a more formal process to manage and monitor TCG's and Ameritech's mutual networks.[23] Ameritech has not responded to the request except to provide TCG with a quality of service and performance report that does not contain the level of detailed information useful for TCG.[24] The reports provided to TCG do not allow TCG to understand how the quality of service and performance provided by Ameritech compares to the quality of service and performance provided to other CLECs interconnected with Ameritech. In fact, the type of negotiation and achievement of understanding with Consolidated Communications Telecom, Inc. ("CCT") regarding operating, communication and reporting procedures described by Ameritech has not regarding standards, reporting and

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[22]Please find attached Exhibit B, which provides four illustrative examples of Ameritech Michigan's failure to honor FOCs.

[23]See letter from Catherine M. Mason, Vice-President/Operations, TCG Illinois, to Ray Thomas, General Manager-AIIS, attached as Exhibit C.

[24]See, *e.g.* "Teleport/Ameritech, Quality Initiative Analysis Report for March 1997," attached as Exhibit D.

procedures, is that TCG personnel at all levels of TCG's organization have made numerous requests, both verbally and in writing, to numerous personnel at AIIS. These requests have been systematically ignored.

These performance failures and deficiencies in performance reporting on Ameritech's part must be cured before Ameritech receives interLATA authorization, for once that authorization is received, Ameritech will have no incentive to provide good service to TCG. Ameritech's application should not be considered until evidence of at least six consecutive months of positive performance reports covering every element and service Ameritech is providing to TCG and other competitors are submitted along with the application. In order to be meaningful and relevant, the performance reports must be comparisons between Ameritech self-provisioning and Ameritech's provisioning of TCG for the same class of customer in comparable geographic areas. Ameritech must further commit to continue to meet acceptable performance standards once relief has been granted, or risk forfeiting interLATA authority.

For this reason alone, Ameritech's application should be denied. In fact, the Commission need not even examine the rest of the check list items, given Ameritech's blatant failure here.[25]

C. Ameritech's Operational Support Systems are Woefully Inadequate.

The provision of electronic interfaces should enable TCG to obtain information, elements, products and services from Ameritech on a non-discriminatory basis in

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[25]As noted in fn 1, *supra*, Ameritech's voluminous filing is still being analyzed by TCG. TCG reserves the right to bring specific factual evidence in its reply comments, given the very short time frame for initial comments.

conformance with Section 271(c)(2)(B)(i). Ameritech asserts that it has opened interfaces or gateways to these OSS functions and made them available to TCG, including pre-ordering, ordering, provisioning, maintenance and repair, and billing electronic interfaces.[26] In fact, TCG is currently using electronic interfaces only for the processing of orders.[27]

Ameritech has informed TCG that the electronic interface for maintenance and repair cannot be utilized in conjunction with the channels that TCG orders pursuant to Ameritech's access tariffs. Instead, Ameritech has provided TCG with an 800 number to be used to report trouble for DS1s and DS3s. TCG's experience attempting to use the 800 number to report troubles is that delays in response time can be up to a half an hour.[28]

The perfection of electronic interfaces is a necessary prerequisite to the provision by Ameritech of service in a nondiscriminatory fashion meeting the "at least equal" standard of Section 251(c)(2)(C). These interfaces must be developed for every system and every check list element. It is insufficient for Ameritech merely to offer OSS for resale services, for example. Ameritech must offer electronic interfaces that cover all the check list items. These electronic interfaces must have been shown to be failure-proof in a fully operational environment, not merely in a trial. The electronic interfaces must have been shown to be "scalable," given the requirement that Ameritech must provide at least equal interconnection and access to several competitors who will likely place literally thousands of daily orders.

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[26]Ameritech Michigan Brief at 22.

[27]Affidavit of Michael Pelletier at ¶ 8.

[28]Affidavit of Michael Pelletier at ¶ 9.

And they must be shown to have provided at least equal quality in difficult situations, not merely in isolated locations with little traffic.[29]

III. AMERITECH'S INTERCONNECTION RATES DO NOT COMPLY WITH THE COST STANDARDS OF THE ACT.

Section 271(c)(2)(B)(xiii) requires Ameritech to provide reciprocal compensation arrangements in accordance with the requirements of Section 252(d)(2). Section 252(d)(2), in turn, sets the standards for setting just and reasonable charges for transport and termination. Section 251(c)(2)(D)also requires "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." Ameritech has failed to satisfy any of these interdependent requirements relating to the cost of services and elements it supplies to its competitors.

A. The MPSC Did Not Find in the AT&T and TCG Arbitration Proceedings That the Rates Meet the Standards of Section 252(d).

Ameritech baldly asserts in its Brief that "the MPSC has specifically found that" the rates adopted in the AT&T Arbitration Order[30] "all comply with Section 252(d)'s pricing standards." Ameritech's characterization of rates in the AT&T Arbitration Order is incorrect.[31] Nowhere in the AT&T Arbitration Order is there a specific finding that the

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[29]TCG's position is consistent with the DOJ's Evaluation in Oklahoma.

[30]In the matter of the petition of AT&T COMMUNICATIONS OF MICHIGAN, INC., for arbitration to establish an interconnection agreement with Ameritech Michigan, MPSC Case No. U-11151; and In the matter of the petition of AMERITECH MICHIGAN for arbitration to establish an interconnection agreement with AT&T Communications of Michigan, Inc., MPSC Case No. U-11152 (Consol.) (Order Approving Agreement Adopted by Arbitration, November 26, 1996) (herein referred to as the "AT&T Arbitration Order").

[31]See Re Ameritech Michigan, MPSC Case No. U-11280, Order Initiating Proceedings, issued December 12, 1996.

rates comply with Section 252(d) of the Act. In reality, the language of the AT&T Arbitration Order reveals that the preliminary rates adopted in that case were not final due to Ameritech's disregard of both state and federal pricing standards. [32] Indeed, as was noted by the MPSC: "[a]s early as January 19, 1996, Ameritech was placed on notice that its cost studies were of questionable validity. [citation omitted] Despite being forewarned, Ameritech chose to base its negotiation stance and arbitration positions on questionable data." In fact, the MPSC clearly found in the AT&T Arbitration Order that the rates are preliminary or interim in nature, not "permanent interconnection rates."[33]

Furthermore, the finding of the MPSC that the interim rates adopted in the AT&T Arbitration Order will be altered as a result of a generic cost proceeding leads to the conclusion that the MPSC implicitly found that the rates in that case do not meet Section 252(d) standards. The interim nature of the rates adopted in the AT&T Arbitration Order is acknowledged by Ameritech's own cost witness.[34]

The interim rates adopted in the TCG Arbitration Order similarly do not meet the standards of Section 252(d) of the Act. TCG's arbitrated agreement in Michigan provides for only interim rates for interconnection and unbundled network elements. Indeed, the interim nature of the rates is explicitly recognized by the Commission in the TCG Arbitration Order. The Commission characterized the rates approved in the order as "an interim

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[32]See, e.g., AT&T Arbitration Order at 5 (Ameritech's "cost studies were properly rejected"); at 6 ("the TSLRIC [total service long-run incremental cost] studies underlying Ameritech Michigan's arbitration pricing positions had both been rejected in the Commission's September 12, 1996 order in Cases Nos. U-10860, U-11155, and U-11156" as they "were inconsistent with the costing principles established in Case No. U-10620").

[33]AT&T Arbitration Order at 6-7.

[34]Affidavit of William C. Palmer on Behalf of Ameritech Michigan at 7, ¶ 15.

measure prior to the approval of studies that provide a more accurate indication of the cost of local traffic termination."[35] The MPSC also ruled that the legal sufficiency, under the Michigan Telecommunications Act, of the rates adopted in the TCG Arbitration Order "is subject to review on the basis of an approved cost study that demonstrates whether the rates equal or exceed TSLRIC."[36] After Ameritech submitted several improper cost studies which the Commission quite properly dismissed,[37] the MPSC commenced a new generic proceeding and ordered proper cost studies be performed and submitted in light of the MPSC's rulings. Therefore, arbitrated agreements with interim rates may not be used as the basis for Ameritech's interLATA entry as they do not provide the final properly cost based rates, terms and conditions pursuant to Sections 271(c)(2)(B) and 252(d) of the Act. The competitive viability as well as the legal sufficiency of the interim rates remain open to question. Only when permanent, properly cost based rates, which will endure for the life of the agreement, have been successfully negotiated or arbitrated, may scrutiny of an application for interLATA entry by Ameritech properly proceed.

Ameritech has had ample time to assure that the rates contained in its interconnection agreements do comply with the pricing standards of Section 252(d)(2). Indeed, Ameritech does not even meet Michigan's cost study requirements, which would be an important first step in producing studies consistent with Section 252(d)(2). As far back as June 5, 1996, the MPSC directed Ameritech to file new total service long run incremental cost ("TSLRIC") studies and tariffs for unbundled loops, number portability,

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[35]TCG Arbitration Order at 4.

[36]Id. at 5, fn. 3.

[37]Id. at 4. The MPSC found: "The Commission agrees with the panel that Ameritech Michigan's cost studies should not be used as a basis for the rates because the methodologies in those studies were discredited in Case No. U-10860, et al."

local call termination, and unbundled ports.[38] TSLRIC is the cost standard imposed upon basic local exchange providers by the provisions of state law, namely the Michigan Telecommunications Act.[39] On August 5, 1996, Ameritech filed an application with the MPSC for approval of a new TSLRIC study and tariff for interim number portability, Case No. U-11155, and an application for approval of new TSLRIC studies and tariffs for unbundled loops and local call termination, Case No. U-11156. If approved, the applications would have resulted in rate revisions for those services.

Far from being approved, however, those TSLRIC submissions were roundly criticized by the parties in those cases, and as early as September 12, 1996 the MPSC issued a further order summarily rejecting those proposed cost studies.[40] The MPSC therefore ordered Ameritech to refile its TSLRIC studies once they were reformulated to comply with the MPSC's Order in Case No. U-10620.

On September 26, 1996, Ameritech filed amended applications in Cases Nos. U-11155 and U-11156, in which the company submitted its reformulated cost studies. Several parties, including MPSC Staff, severely criticized the validity of the studies, largely based upon the fact that so little supporting information was supplied by Ameritech that the parties could not adequately analyze the studies. As a result of all this activity, the MPSC again refused to approve the TSLRIC cost studies filed by Ameritech, and initiated further

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[38]See, Re Permanent Interconnection Arrangements, MPSC Case No. U-10860 (Order, June 5, 1996).

[39]See Mich. Comp. Laws §§484.2102(ff) and 484.2304a.

[40]Re Permanent Interconnection Arrangements, MPSC Case Nos. U-10860, U-11155 and U-11156, (Order Rejecting Cost Studies, September 12, 1996).

proceedings to determine Ameritech's true costs.[41] The proceeding which the MPSC initiated is another new generic proceeding to examine TSLRIC cost studies under Michigan law. As of June 10, 1997, final Ameritech cost studies have yet to be approved by the MPSC.

This history of Ameritech Michigan's non compliance with the directives of state law requiring valid cost studies compel the Commission to reject Ameritech's claims that it has complied with Section 252(d) of the Act. As is shown from the above, not only does Ameritech Michigan refuse to comply with Michigan law and the directives of the MPSC, its characterization that certain interconnection agreements comply with Section 252(d) is false.

B. Ameritech is Not Paying TCG for the Termination of Calls.

Even operating under the interim rates as described above, Ameritech has failed to pay TCG for terminating Ameritech's traffic on TCG's network, thus rendering any rate meaningless and defying the Act's requirement that an interconnection agreement be operational at cost based rates. As is demonstrated in Mr. Pelletier's affidavit, Ameritech has failed to remit payments to TCG despite being invoiced for the termination of Ameritech-originated traffic.[42] Ameritech has demanded billing records more onerous and inconsistent with the measurement requirements in the TCG/Ameritech Agreement. Despite being provided with the billing records demanded, Ameritech still has neglected to remit local compensation payments to TCG. Ameritech's intentionally anti-competitive failure to compensate TCG for the termination of local traffic originated on Ameritech's network is damning evidence of Ameritech's failure to meet the Section 271(c)(2)(B) competitive check

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[41]Id. at 7.

[42]See Affidavit of Michael Pelletier at ¶ 29.

list. Clearly, Ameritech's failure to pay TCG for terminating its traffic indicates that it does not provide reciprocal compensation arrangements that are just and reasonable in accordance with either sections 252(d)(2) and 271(c)(2)(B)(xiii). For this reason alone, Ameritech has failed to meet Section 271's competitive check list.

In sum, Ameritech's application for interLATA authority should not be granted until such time as the agreements presented under Section 271(c)(1) include permanent rates for interconnection, unbundled network elements and transport and termination, and Ameritech is compensating TCG in accordance with those rates.

IV. AMERITECH HAS NOT FULLY IMPLEMENTED THE SECTION 271(c)(2)(B) COMPETITIVE CHECK LIST.

Ameritech claims that it has fully implemented the competitive check list.[43] In addition, Ameritech correctly asserts that Section 271(c)(2) of the Act requires Ameritech to provide access and interconnection pursuant to one or more agreements as described in Section 271(c)(1)(A). Section 271(c)(2)(B) mandates that access and interconnection provided by Ameritech pursuant to the interconnection agreement must include each element of the competitive check list. As is shown below and in the accompanying affidavit of Michael Pelletier, Ameritech has not yet met the check list pursuant to its interconnection agreement with TCG.

Ameritech contends that if a particular agreement does not provide for access to a particular check list item, the interconnecting competitive carrier can use a Most Favored Nation ("MFN") clause to get the desired element from another interconnection contract.[44] According to Ameritech, this constitutes "providing the service" as the service is currently

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[43]Ameritech Michigan Brief at 15.

[44]Affidavit of Gregory J. Dunny at 7, ¶12.

available. This argument is incorrect and should be rejected. Section 271(c)(1)(A) requires the actual provision of services. Provisioning constitutes more than merely making services available. Provisioning also means more than just offering a service. The provisioning of a service means it is up and running today.[45] However, even if the Commission were to construe the language of the Act to require such a low threshold as to apply to a mere offering of services, Ameritech flunks this test.

Ameritech asserts that every portion of the Section 271(c)(2)(B) check list is currently available to TCG and other competitors.[46] This contention, however, is false in several instances. The affidavit of Michael Pelletier shows that contrary to Ameritech's assertion, TCG is not currently obtaining access to signaling and call-related databases from Ameritech. Nor is TCG currently obtaining interim number portability from Ameritech. TCG has not obtained interim number portability via reassignment of NXXs.

In addition, while Ameritech claims that electronic interfaces are available,[47] TCG does not currently use them. Indeed, TCG has had trouble using an Ameritech-provided 800 number to report trouble for DS-1s and DS-3s.[48]

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[45]The Commission should be aware that Section 29.13 of TCG's agreement with Ameritech does not allow TCG to purchase individual network elements from other interconnection agreements, but rather obtain broad categories of network elements. Hence, TCG is not contractually allowed to purchase network elements with any desired level of unbundling at different rates, terms and conditions. This starkly contrasts with the typical tariff situation, where TCG can choose which unbundled network elements to purchase. In fact, it is possible that one could interpret the lack of the ability to purchase individual network elements from other interconnection agreements means Ameritech does not meet the check list by offering sufficiently unbundled network elements. See Supplemental Rebuttal Testimony of Charlotte TerKeurst at 21, Illinois Commerce Commission Docket No. 96-0404, attached as Exhibit E.

[46]See Affidavit of Michael Pelletier.

[47]Ameritech Michigan Brief at 22-23

[48]Affidavit of Michael Pelletier at ¶ 9.

Section 271(c)(2)(B)(I) also requires that Ameritech provide interconnection in accordance with the standards in Section 251(c)(2). Specifically, Section 251(c)(2)(B) requires interconnection at any technically feasible point. Ameritech has failed to install trunks at every technically feasible point at which TCG has requested interconnection. As a result, Ameritech has installed trunks for carrying traffic from itself to TCG only at single points of failure at each point of interconnection ("POI") between the two networks. This creation of a single point of failure at each POI between the two networks is contrary to TCG's request.[49] Thus, Ameritech, for this reason alone, does not meet the Section 271 check list.

A crucial element that must be satisfied in the competitive checklist is operational 911 and E911 services.[50] As is explained in greater detail in the Affidavit of Michael Pelletier, the communication between Ameritech and TCG on E911 database issues and the underlying integrity of the system is still an issue of concern. In fact, Mr. Pelletier has recently testified in a contested case proceeding before the MPSC based upon a formal complaint brought by the City of Southfield ("City") regarding a problem with recurring errors in Ameritech's E911 database.[51] Based upon the testimony of the City's witness, admissions of Ameritech witnesses and the various exhibits admitted into evidence in that proceeding, it is clear that the E911 database error rate for information about customers of competitive carriers during 1996 was significantly higher than the error rate for Ameritech's own customers. Furthermore, in one particular instance which involved a shooting incident, it is clear that

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[49]Id. at ¶ 10.

[50]See, Section 271(c)(2)(B)(vii)(i).

[51]City of Southfield v Ameritech Michigan, MPSC Case No. U-11229.