hardly begun, Brooks Fiber believes that Ameritech's OSS simply does not have sufficient demonstrated capacity to manage the volume of orders -- for both resale and unbundled loops -- that Ameritech reasonably can expect to receive in a competitive environment.

c. Ameritech's System Lacks Performance Standards and Reports

Although Ameritech claims to track and report upon the performance of its OSS on a monthly basis,[43] Brooks Fiber has *never* received a report on the performance of Ameritech's OSS. The reasons for Ameritech's failure to provide Brooks Fiber with OSS performance reports are clear. First, Brooks Fiber and Ameritech have never agreed upon -- or even discussed -- standards for OSS performance. Without such standards, there can be no basis for performance reports. Second, Ameritech is not providing Brooks Fiber with access to its OSS. As already noted, Brooks Fiber is not a reseller, and therefore requires access to OSS for unbundled loops. Since OSS for unbundled loops does not presently exist in Michigan, it is not surprising that Ameritech has failed to provide Brooks Fiber with OSS performance reports. There is, in fact, no OSS on which to report.

C. Poor Service Order Performance.

As a result of Ameritech's failure to implement an OSS system, Ameritech's performance in processing and filling service orders is consistently inadequate. Under §26.13 of its Interconnection Agreement with Brooks Fiber (the "Interconnection Agreement"), Ameritech is

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[43] Ameritech Application at 33.

required to install Brooks Fiber service orders for 1-10 unbundled loops within 5 days, 11-20 unbundled loops within 10 days, and 21+ unbundled loops within a negotiated period of time. Using the intervals provided in the Interconnection Agreement, Brooks Fiber has determined that Ameritech's service order performance for the months of February, March and April were as follows:

February	58% completed on time
March	63% completed on time
April	55% completed on time

Incident reports detailing recent examples of Ameritech's poor service order performance are attached hereto as Exhibit C.[44]

In an apparent attempt to support its premature §271 application and avoid paying liquidated damages for its failure to comply with the service order performance intervals set forth in its Interconnection Agreement,[45] Ameritech has filed false reports of its service order performance with the DOJ and the Commission showing substantially better service order performance statistics. Although Brooks Fiber has repeatedly requested that Ameritech explain the basis for its service order performance statistics, Ameritech has refused to provide Brooks

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[44] Ameritech "incident reports" are prepared by Brooks Fiber employees in the ordinary course of business to identify problems or difficulties experienced with Ameritech in order to rectify them. The various incident reports attached as Exhibits to this brief are representative of the types of problems Brooks Fiber experiences with Ameritech on a daily basis. They are not exhaustive.

[45] Pursuant to the Interconnection Agreement, Ameritech must pay liquidated damages to Brooks Fiber in the event that its service order performance falls below 90% for three consecutive months.

Fiber with any supporting documentation. The reason for Ameritech's refusal to provide supporting documentation recently became apparent. At the MPSC OSS hearing, Ameritech witness Warren Mickens testified that Ameritech does not use the service order performance intervals set forth in its Interconnection Agreement with Brooks Fiber for any purpose other than planning, and unilaterally assigns (and reassigns) new due dates for Brooks Fiber orders based upon Ameritech's estimate of the time needed to complete those orders.[46]

Predictably, instead of addressing the problem of its poor service order performance, Ameritech has issued blanket denials and engaged in misrepresentations and diversionary tactics. Ameritech has claimed, for example, that Brooks Fiber failed to provide Ameritech or the DOJ with supporting information, even though Brooks Fiber explained the selection criteria used to generate the service order performance report to Ameritech at a meeting held at Brooks Fiber's offices on May 8, 1997, and provided the DOJ with all raw data used to determine Ameritech's service order performance on May 27, 1997. Ameritech has also attempted to shift the blame for its poor service order performance by accusing Brooks Fiber of "choosing" not to use its OSS to select due dates.[47] However Ameritech personnel have informed Brooks Fiber that it will not be

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[46] An excerpt from the transcript of Mr. Mickens' testimony is appended hereto as Exhibit D. Mr. Mickens has also attempted to attack Brooks Fiber's statistics by submitting a copy of a letter addressed to Carl Cooper, Director of Engineering for Brooks Fiber, dated May 22, 1997, to the MPSC. Mr. Cooper replied to Mr. Mickens' letter responding to the many misrepresentations contained therein. A copy of Mr. Cooper's letter is appended as Exhibit E.

[47] See, Ameritech's Submission of Additional Information dated June 2, 1997, in MPSC Case No. U-11104, pp. 10-11. Ameritech also attempted to support this contention in a filing before the MPSC by submitting a letter from Neil E. Cox, President of AIIS, to D. Craig Young, President of Brooks Fiber, dated April 23, 1997. Ameritech failed, however, to disclose or attach

permitted to select due dates for installation of unbundled loops using Ameritech's OSS. Although Ameritech has failed fully to explain why it intends to prevent Brooks Fiber from selecting due dates, it appears that Ameritech intends to limit the ability to select due dates using Ameritech's OSS to resellers. Brooks Fiber is not a reseller. Therefore the availability or non-availability of OSS for the selection of due dates would not have an appreciable impact on Ameritech's failure to comply with the service order intervals provided in the Interconnection Agreement. Ameritech's attempt to shift the blame for its poor performance by accusing Brooks Fiber of "choosing" not to use a system that Ameritech has not implemented and has refused to provide to Brooks constitutes a blatant attempt to deceive the Commission.

Brooks Fiber has attached a report detailing Ameritech's service order performance for February, March and April, 1997.[48] The attached report only reflects service order delays caused by Ameritech. In order to address a claim by Ameritech that orders received after 3:00 p.m. CST are considered to be received on the following day, Brooks Fiber counts orders for 1-10 lines as completed on time within 6 days, 11-20 lines as completed on time if filled within 11 days, and more than 21 lines as completed on time, every time. Brooks Fiber notes, however, that Ameritech's arbitrary 3:00 p.m. cutoff time is nowhere reflected in the Interconnection Agreement. All due dates delayed by Brooks Fiber or the customer were counted as completed on time regardless of whether Ameritech actually completed the orders on time. Furthermore,

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Mr. Young's response to Mr. Cox's letter responding to the many misrepresentations contained in Mr. Cox's letter. A copy of Mr. Young's letter is appended as Exhibit F.

[48] *See* Exhibit G.

any due dates requested by Brooks Fiber after 6 days (for orders for 1-10 lines) or 11 days (for orders for 11-20 lines) were counted as completed on time regardless of whether Ameritech actually completed the orders on time. Saturdays, Sundays and holidays also are excluded from the day count. Brooks Fiber notes, however, that Saturdays, Sundays and holidays are not excluded in the Interconnection Agreement. Also, no delays caused by new installations or special construction are included. Supporting documentation for Brooks Fiber's report on Ameritech's service order performance is attached, along with other information filed by Brooks Fiber in the MPSC's §271 docket after Ameritech filed its most recent application with the Commission, as Exhibit H.

D. Discriminatory treatment with regard to 911 services.

Before Ameritech may provide in-region interLATA services pursuant to 271 of the 1996 Act, Ameritech must provide nondiscriminatory access and interconnection to 911 and E911 services to Brooks Fiber.[49] Either intentionally or through gross negligence, Ameritech has failed to provide nondiscriminatory access or interconnection to 911 and E911 services to Brooks Fiber, and in so doing, has put the public health, safety and welfare at risk while restraining competition in the local exchange marketplace.

1. Refusal to Provide Nondiscriminatory Access to 911 Services.

Brooks Fiber recently began to provide local exchange service in Lansing, Michigan. Shortly after Brooks Fiber began to provide local exchange service, Ameritech unilaterally

[49] 47 U.S.C. § 271(c)(2)(b)(vii).

deactivated all 911 trunks serving Brooks Fibers switch without cause or warning. As a result, Ameritech terminated 911 service to all of Brooks Fiber's Lansing customers for 9 days.

On May 7, 1997, Jason DeJongh, Director of Operations for Brooks Fiber, was notified by Brooks Fiber's Lansing switch staff that its 911 trunks were not functioning. Mr. DeJongh was informed that an Ameritech technician was instructed by another Ameritech employee, later determined to be Pat Anderson, to "busy out" all three 911 trunks serving the Brooks Fiber switch. Mr. DeJongh immediately called that technician and requested that the trunks be put back in service. The technician refused. Mr. DeJongh then attempted to call Ms. Anderson, but was told that she was "not available." Mr. DeJongh then called other Ameritech representatives, including service managers and account managers, who might be able to restore 911 service to Brooks Fiber's customers, but without success. Eventually, Mr. DeJongh reached Rick Kasza at Ameritech, who was able to restore Brooks Fiber's 911 trunks to service. Even after 911 service was restored to Brooks Fiber's customers, however, Ms. Anderson continued to threaten to deactivate Brooks Fiber's 911 trunks.

After service was restored, Mr. DeJongh asked Ameritech to explain its deactivation of Brooks Fiber's 911 trunks. Despite the fact that Ameritech had been coordinating cutovers for live customers in Lansing since March, Ameritech's only excuse was that it was unaware that Brooks Fiber had any live customers in Lansing. Mr. DeJongh has requested a written explanation from Ameritech, which Ameritech has failed to provide. Although Ameritech has promised the MPSC that it will "take appropriate steps to remedy any demonstrated problems," to Brooks Fiber's knowledge, Ameritech has taken no steps to ensure that those responsible for jeopardizing the health, safety and welfare of Brooks Fiber's customers will not do so again.

2. Refusal to Provide Nondiscriminatory Interconnection to 911 Services.

In early November, 1996, Ameritech and Brooks Fiber agreed to upgrade Brooks Fiber's 911 feed to Ameritech. On December 18, 1996, Ameritech and Brooks Fiber agreed to implement a TCP/IP Connect Direct solution to handle both 911 and directory assistance transmissions between Brooks Fiber and Ameritech. The upgrade was supposed to have been completed by January 15, 1997. Ameritech still has not implemented the upgrade and has refused to reply to inquiries regarding the status of the project.

E. Failure to Provide Interconnection on Rates, Terms and Conditions That Are Just, Reasonable and Nondiscriminatory.

Although some of the interconnection problems with Ameritech have been addressed, serious problems remain. Ameritech has refused, for example, to interconnect to receive intraLATA toll traffic from Brooks Fiber, even though it has done so for other independent telephone companies.[50] Ameritech has also failed to enter into a "type-2" interconnection agreement to address compensation for interconnection with cellular and paging companies, even though it has entered into such agreements with other independent telephone companies.[51] Furthermore, Brooks Fiber continues to experience difficulties with the quality of interconnection provided by Ameritech. Ameritech and Brooks Fiber deliver traffic to each other over separate trunk groups. Each is responsible for monitoring traffic on its trunks to the other to

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[50] This issue is the subject of the formal complaint and answer appended hereto as Exhibit I. Although the parties have agreed to settle this dispute, settlement has not been approved by the MPSC.

[51] This issue is also the subject of the formal complaint and answer appended hereto as Exhibit J. Ameritech does not appear to be willing to settle this complaint.

ensure that the interconnection facilities are adequate to handle the volume of traffic. Ameritech has not been adequately monitoring its trunks to Brooks Fiber and, as a result, customers were recently unable to call Brooks Fiber customers due to network blockage on Ameritech's trunks. When Ameritech added additional trunks to alleviate the network blockage, the trunks were improperly installed, resulting in the total failure of Ameritech's intraLATA toll trunks to Brooks Fiber. Although Ameritech responded quickly when Brooks Fiber identified the problem and brought it to Ameritech's attention, this problem could have been avoided altogether if Ameritech monitored its interconnection with Brooks Fiber as it does for itself and coordinated the installation of additional trunks with Brooks Fiber to ensure network reliability. The immediate result of this interconnection problem to Brooks Fiber was the loss of an important customer and significant loss of goodwill in the community; Ameritech was not affected. Ameritech's failure to provide interconnection on rates, terms and conditions that are just, reasonable and nondiscriminatory violates the first requirement of the competitive checklist. Incident reports detailing recent examples of interconnection problems with Ameritech are attached hereto as Exhibit K.

F. Discriminatory Treatment With Regard to Installation of Network Elements.

Ameritech frequently discriminates against Brooks Fiber in providing service. As explained above, Brooks Fiber must rely on Ameritech to provide it with FOC dates to install service orders for its customers. Ameritech orders receive preferential FOC dates. Ameritech will provide Brooks Fiber with one FOC date and then offer the same customer an earlier FOC date if they switch to Ameritech. Ameritech orders also receive priority for installations. In

March, 1997, Ameritech completed 98.9% of its customers' service orders on time[52] compared to only 63% of Brooks Fiber's customers' service orders. In April, 1997, Ameritech completed 98.6% of its customers' service orders on time[53] compared to only 55% of Brooks Fiber's customers service orders. In the event of a shortage of Ameritech technicians, Ameritech will pull employees off of Brooks Fiber jobs and reassign them to Ameritech jobs. Another form of discriminatory treatment frequently occurs with new installations. Although Ameritech will build new loops to the existing location of the Network Interface Device ("NID") and reconnect the customer side of the NID for itself without charge, it frequently builds new loops to different locations, sometimes on the opposite side of the building, and disconnects the customer side of the NID for Brooks Fiber customers, leaving them without service. Ameritech's discriminatory treatment with regard to installation of network elements violates the second requirement of the competitive checklist. Incident reports detailing recent examples of discriminatory treatment by Ameritech are attached hereto as Exhibit L.

G. Poor Coordination of Customer Cutovers.

Ameritech and Brooks Fiber must coordinate their cutovers in order to minimize customer down time. Brooks Fiber knows that Ameritech is capable of adequate cutover coordination because difficult cutovers have been accomplished without undue interruption of customer service on several occasions. However, Ameritech has increased customer down time on many cutovers by cutting off service prior to the scheduled time, refusing to begin cutovers at

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[52] *See* affidavit of Warren L. Mickens on behalf of Ameritech Michigan at p.24.
[53] *Id.*

the scheduled time, providing Brooks Fiber with inaccurate information regarding network configuration or available facilities, performing improper installations and generally refusing to cooperate (e.g., taking extended breaks in the middle of a cutover, withdrawing and reassigning personnel to work on Ameritech jobs, maintaining inadequate staffing levels, refusing to authorize overtime, etc.). Ameritech's poor coordination of customer cutovers violates the second and fourth requirements of the competitive checklist. Incident reports detailing recent examples of poor cutover coordination by Ameritech are attached hereto as Exhibit M.

H. Refusal to Provide Certain Unbundled Services.

Ameritech has refused to provide certain services it provides to its own customers to Brooks Fiber on an unbundled basis, even though it is technically feasible to do so. Ameritech refuses to unbundle off-premises extension ("OPX") lines unless the customer keeps at least one line with Ameritech. Ameritech has also refused to provide fractional T1s on the same basis it provides to its own customers. There is no technical reason not to provide OPX lines and fractional T1s to Brooks Fiber on a nondiscriminatory basis -- Ameritech merely finds it inconvenient to bill for such services. Although Brooks Fiber has created a solution to Ameritech's billing problem, Ameritech still refuses to provide these services to Brooks Fiber's customers on a nondiscriminatory basis. Ameritech's refusal to provide unbundled services violates the fourth requirement of the competitive checklist. Incident reports detailing recent examples of Ameritech's refusal to provide unbundled services are attached hereto as Exhibit N.

I. Discriminatory Access to SS7 Signaling and Refusal to Provide Interim Telecommunications Number Portability Without Impairment of Functioning, Quality, Reliability and Convenience.

SS7 is the industry standard network signaling system used to provide basic routing information, call set-up and termination functions, caller ID, enhanced 800 service, wide area Centrex, virtual private networks and other types of advanced telecommunication services. Brooks Fiber relies on Ameritech to provide it with SS7 in order to route customer calls. Recent problems coordinating the provision of SS7 to Brooks Fiber have caused serious service interruptions, on one occasion blocking more than 14,000 calls. These problems could have easily been avoided if Ameritech had coordinated its activities with Brooks Fiber.

Ameritech is also required to provide Brooks Fiber with interim number portability with as little impairment of functioning, quality, reliability and convenience as possible. In order to provide caller ID to its customers on DID trunks, Brooks Fiber requested that Ameritech provide Brooks Fiber with Direct Inward Dialing (hereinafter "DID") interim number portability with SS7 in 1995. Although Ameritech provided SS7 DID for its own customers, it refused to provide SS7 DID for Brooks Fiber customers *for more than a year*, stating that since "its usefulness is only marginal as an enhancement to an interim service, we have decided that it is not appropriate to pursue a more thorough technical trial or the other substantial activities needed to develop the technology into a new service offering." Letter from Eric Larsen, Ameritech Information Industry services, March 12, 1996. However, in a recent interview with Reuters news service, Ameritech CEO Richard Notebaert identified SS7 calling features like caller ID as a central part of its strategy to fight competition for local service. "The beauty is we started these strategies three years ago and they work." Interview with Richard Notebaert, January 28, 1997.

Ameritech's delay strategy had its desired effect in preventing Brooks Fiber from competing with Ameritech's "very profitable" caller ID services for more than a year, and caused serious injury to both Brooks Fiber (who lost customers) and customers (who were forced to pay monopoly prices for caller ID). Discriminatory access to SS7 signaling and refusal to provide interim telecommunications number portability without impairment of functioning, quality, reliability and convenience violates the tenth and eleventh requirements of the competitive checklist. Copies of the documents referred to in this section are attached hereto as Exhibit O.

J. Discrimination with regard to dialing parity and tying arrangements.

Ameritech has consistently refused to implement dialing parity for intraLATA toll calls in Michigan. Since early 1994, Ameritech has failed to comply with orders from the MPSC and other courts to implement dialing parity. Ameritech cannot be said to have complied with the requirement for dialing parity until it has implemented dialing parity in Michigan as required by the MPSC.

In addition to ignoring MPSC's orders regarding dialing parity, Ameritech has also been using long-term contracts for intraLATA toll service, known as "ValueLink" contracts, to prevent competition for local exchange customers.[54] ValueLink contracts are for intraLATA toll service only; they do not purport to restrict the customer's choice for local exchange service. However, customers that sign ValueLink contracts for intraLATA toll service are unable to switch their local exchange service to Brooks Fiber because Ameritech, although it accepts

[54] *See* footnote 49, *supra*.

intraLATA toll traffic from other independent telephone companies in Michigan, refuses to accept intraLATA toll traffic from Brooks Fiber. Ameritech claims that it has no obligation to provide intraLATA toll service and has refused to accept such calls from Brooks. However, Ameritech does accept such calls from other independent telephone companies in Michigan. The effect of this action is to tie the provision of one type of service in one market to the provision of another type of service in another market, thereby injuring competition for both types of service. Ameritech's discrimination with regard to dialing parity and tying arrangements violate the twelfth requirement of the competitive checklist.

K. Refusal to pay reciprocal compensation.

Section 251(b)(5) of the Act imposes an obligation on all local exchange carriers to establish reciprocal compensation arrangements for the transport and termination of telecommunications. Ameritech contends that it has complied with this requirement because it has "agreed" to pay reciprocal compensation to Brooks Fiber. However, Ameritech has not actually paid reciprocal compensation to Brooks Fiber; in fact, for the period February, 1996 to March 1997, Ameritech has failed to pay Brooks Fiber $1,972,230.17 of reciprocal compensation. A copy of a letter from Dennis Perkins, Vice President and Corporate Controller of Brooks Fiber, to Eric Larsen, Account Manager of Ameritech regarding Ameritech's failure to pay reciprocal compensation, is attached as Exhibit P.

Although Ameritech's Application argues that Ameritech need not *actually provide* any service required under the Act in order to satisfy the checklist requirements, mere agreement to pay reciprocal compensation is not sufficient under the Act. Ameritech actually must *pay*

reciprocal compensation to comply with the Act. Since Ameritech is not paying Brooks Fiber reciprocal compensation in accordance with the Act, it is not in compliance with the checklist and cannot be permitted to provide in-region interLATA services in Michigan.

IV. Ameritech Has Not Met The Separate Affiliate and Nondiscrimination Safeguards Requirements Of Section 272.

In order to obtain in-region, interLATA service authority, Ameritech also must satisfy the separate affiliate requirements of Section 272(b) of the Act and the nondiscrimination safeguards requirements of Section 272(c) of the Act. Although Ameritech's Application and supporting affidavits declare an intention to comply with all of the separate affiliate and nondiscrimination safeguard requirements, Ameritech's performance in dealing with competitors so far offers no reason to expect that these obligations, too, will not be ignored after Ameritech obtains in-region, interLATA authorization. Accordingly, the Commission should not rely on Ameritech's assurances and should deny Ameritech's Application.

V. Ameritech Has Not Demonstrated That Granting Of Its Application Will Serve The Public Interest.

In addition to the particular requirements already discussed, the Act requires the Commission to find, before approving a §271 application, that the applicant's entry into the in-region, interLATA market will serve the public interest, convenience and necessity. The record shows that granting Ameritech's application will not serve -- and in fact will be actively detrimental to -- the public interest.

Contrary to Ameritech's claim, the public interest inquiry is not a process in which the supposed need for greater long distance competition trumps -- or even has equal weight with --

the conditions for competition in the local exchange market. The public interest inquiry requires the Commission to apply its expert judgment to determine, on the entire record, whether the local exchange market in Michigan "has been irreversibly opened to competition."[55] This showing, in turn, can be sustained only when significant local competition exists, and when overall market conditions, including the level of BOC cooperation with competitors, justify a conclusion that the BOC will not be able to stifle competition when its §271 application is granted. Only when substantial competition exists and conditions hospitable to competition have been assured may the Commission permit BOCs to offer in-region, interLATA service.[56]

Unfortunately, local exchange competition in Michigan is neither substantial nor "irreversible." Ameritech continues to enjoy an overwhelming monopoly of local service; the Act has not been fully implemented, and, in fact, is meeting with BOC resistance to this Commission's implementation efforts. Local competition is a negligible phenomenon, based almost entirely on resale and use of unbundled Ameritech network elements, and Ameritech has amply displayed the obstructionist approach by which, if the pending application is granted, it will eliminate competition and sustain its monopoly.

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[55] DOJ Evaluation at 41.

[56] "The basic thrust of the bill is clear: competition is the best regulator of the marketplace. Until that competition exists, monopoly providers of services must not be able to exploit their monopoly power to the consumer's disadvantage. . . . Telecommunications services should be deregulated after, not before, markets become competitive." 142 Cong. Rec. S688 (daily ed. Feb. 1, 1996)(statement of Sen. Hollings). "[B]efore any regional Bell company enters the long-distance market, there must be competition in its local market." 142 Cong. Rec. E204 (Feb. 23, 1996)(statement of Rep. Forbes).

A. Incomplete implementation of the Act.

There are three aspects to the reforms contemplated by the Act: opening the local exchange markets to competition, universal service reform and access charge reform. Until the Act has been fully implemented and all of the rules for each of these three aspects of the Act are in place, it would be premature to permit a Bell operating company to provide in-region interLATA service. Already the BOCs are fighting opening local exchange and exchange access markets to competition in the Eighth Circuit Court of Appeals. The BOCs also have threatened to challenge the recently-promulgated universal service and access charge reform rules. Further challenges have been made in state and federal courts all over the country. The BOCs should not be permitted to avail themselves of the benefits of the Act and provide in-region interLATA service while at the same time challenging their obligations to open the local exchange market to competition under the Act.

B. Lack of competition for local service.

There is, at present, no real competition for local service in Michigan. Nearly all of the lines in the state are owned by Ameritech, and less than one half of one percent of all lines are served by a provider other than Ameritech.[57] The only reason why any competition for local service exists in Michigan is the incentive of in-region interLATA service. Indeed, both the FCC and Ameritech have acknowledged that without the incentive of in-region interLATA service,

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[57] See DOJ Evaluation at 52-53 (finding that SBC's service of 92% of the access lines in Oklahoma gave SBC a market share "so near 100% as to be practically indistinguishable from a complete monopoly").

there is no incentive to permit the development of competition for local service.[58] It is, therefore, absolutely critical that there be real competition for local service before Ameritech is allowed to provide in-region interLATA services in Michigan.

Since there is no real competition for local service in Michigan at this time, Ameritech should not yet be allowed to provide in-region interLATA service in Michigan. The lack of competition for local service has been formally recognized by the MPSC in its order approving ACI's application to provide local exchange service in MPSC Case No. U-11053:

> In reaching its decision, the Commission places emphasis on the differences between the current levels of competition in the local exchange and long distance markets. There is virtually no competition in local exchange markets at this time.[59]

Until the MPSC determines that there is real competition for local service, it is premature to allow Ameritech to provide in-region interLATA service in Michigan.

C. Continuing Anti-competitive Behavior and The Possibility of Remonopolization.

Until Ameritech stops all anti-competitive behavior and implements effective and independently verifiable safeguards to prevent their reoccurrence, it is premature to allow it to

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[58] "We find that incumbent LECs have no economic incentive, independent of the incentives set forth in section 271 and 274 of the 1996 Act, to provide potential competitors with opportunities to interconnect with and make use of the incumbent LEC's network and services." First Report and Order regarding Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 at ¶ 55. "'The big difference between us [Ameritech] and them [GTE] is they're already in long distance,' he said. 'What's their incentive' to cooperate? he asks." Statement of Richard Notebaert, Chairman and CEO of Ameritech Corporation, Washington Post, Oct. 23, 1996 p. C14.

[59] Aug. 28, 1996 Order at p. 28.

provide in-region interLATA service in Michigan. Ameritech, as the monopoly provider of local exchange service, currently holds approximately ninety nine point five percent of the market share in Michigan. Yet in spite of this huge competitive advantage, and in spite of the fact that only a few small competitors exist to challenge its market dominance, Ameritech still engages in widespread anti-competitive conduct designed to prevent any competition for local exchange service. Given Ameritech's expressed desire to provide in-region interLATA service in Michigan, one might expect Ameritech to encourage the development of competition for local exchange service. However, the opposite has occurred.

Although Ameritech, as a BOC, developed its monopoly by historical accident; it remains responsible for the means by which it maintains its monopoly power. Ameritech's business conduct and economic performance both reveal its intent to maintain its monopoly control over the local exchange market. Furthermore, recent examples of Ameritech's use of its monopoly power in the local exchange market to curtail competition in other markets (e.g. ValueLink contracts, refusing to comply with MPSC orders to implement dialing parity for intraLATA toll calls, etc.) also clearly reveals Ameritech's predatory intent. It is clear that Ameritech's anti-competitive behavior must cease before Ameritech can be allowed to provide in-region interLATA service in Michigan.

Brooks Fiber has received many reports of unfair competition by Ameritech. Ameritech has created a "winback" department to target customers who have switched or are considering a switch to Brooks Fiber. Ameritech employees frequently disparage Brooks Fiber's service, telling customers that Brooks Fiber's service is inferior, or that if they switch to Brooks Fiber

their service will receive less priority than with Ameritech. Ameritech sales representatives are frequently tipped-off when Brooks Fiber requests Customer Service Records ("CSRs") for potential customers. The Ameritech sales representatives then contact those customers and attempt to dissuade them from switching to Brooks Fiber, even before the customer has decided to switch to Brooks Fiber. Customers who have considered switching to Brooks Fiber have also informed us that Ameritech told them that they would be dropped from directory assistance if they switched to Brooks Fiber.

We have also received information that Ameritech has been attempting to sign large customers in exchanges served or about to be served by Brooks Fiber to long-term contracts with high penalties for early termination, and to get existing customers in those exchanges to amend their existing contracts for even longer terms in order to lock in Ameritech's monopoly share and prevent competition. Even when a customer decides to terminate these long-term contracts, Ameritech will frequently refuse to provide or will provide inaccurate information regarding the penalty for early termination. This has created customer confusion, and as a result, the customer will refuse to switch service until the situation is resolved. Because the customer remains with Ameritech pending resolution of the situation, Ameritech has no incentive, and has so far refused, to resolve any of these disputes. Ameritech has also on occasion refused to disclose or provide copies of customer contracts either to Brooks Fiber pursuant to a signed Letter of Agency ("LOA") or to the customer itself, to prevent Brooks Fiber from offering competitive bids to certain customers. Ameritech's anti-competitive behavior violates all of the requirements

of the competitive checklist. Incident reports detailing recent examples of some of Ameritech's anticompetitive activities are attached hereto as Exhibit Q.

D. Other Impediments to Competition.

Although Ameritech has not typically denied access to its poles, ducts, conduits and right of way, Brooks Fiber is subject to persistent discrimination from municipalities and other public utilities in Michigan. For example, municipalities extract "franchise fees" from competitive local exchange carriers to gain access to public rights of way that are not assessed against Ameritech. Other public utilities, such as Consumers Power, have taken the position that competitive local exchange carriers are not entitled to access their poles, ducts, conduits and rights of way under Michigan law and have raised their fees more than 500% higher than those charged other companies making pole attachments. Although Ameritech may not be directly responsible for such discrimination, it clearly benefits from it. This in turn gives Ameritech another discriminatory competitive advantage over its competitors. Unequal access to poles, ducts, conduits and rights of way violates requirement three of the competitive checklist. Incident reports detailing recent examples of some of these discriminatory access by Ameritech problems are attached hereto as Exhibit R.

V. Conclusion

The requirements for BOC provision of in-region interLATA service are numerous and complex. Most of these requirements will take time to fully implement and both incumbent and competitor must work together to accomplish this. Although Ameritech has taken steps to comply with some of the requirements for providing in-region interLATA services in Michigan,

it is clear that Ameritech has not yet fulfilled all of those requirements. When the day comes that Ameritech has completed all requirements for providing in-region interLATA services in Michigan, Brooks Fiber will gladly concur in its application. However, that day has not yet arrived. Accordingly, Ameritech's application to provide in-region interLATA services in Michigan must be denied, and a rulemaking to clarify the BOCs' obligations under Section 271 should be initiated.

Respectfully Submitted:
Brooks Fiber Communications
of Michigan, Inc.

By: Todd J. Stein
Its: Attorney

Of Counsel
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2000 Pennsylvania Avenue, N.W.
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Dated: June 10, 1997

CERTIFICATE OF SERVICE

I, Kimberly E. Thomas, do hereby certify that the foregoing **OPPOSITION OF BROOKS FIBER COMMUNICATIONS OF MICHIGAN TO AMERITECH'S APPLICATION** was mailed on this 10th day of June, 1997, via first class U.S. mail to the following:

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Washington, D.C. 20037

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Kimberly E. Thomas

EXHIBIT A

ECN Connection Request Form

Complete the front portion of the form and submit to the Ameritech Resale Customer Service Office. Upon approval, the back portion will be completed and returned by an Ameritech representative. Router information is not required for dial-up connections. Allow four to six weeks for processing.

Business Partner Information

Company Name Brooks Fiber Communications

Address 2855 Oak Industrial Dr. N.E

City Grand Rapids State MI Zip 49506

Contact Name Leon Hollowell

Title Operations Analyst

Phone 616-224-4317 Pager 616-680-2227

Engineer Name Leon Hollowell

Title Operations Analyst

Phone 616-224-4317 Pager 616-680-2227

Confidential Information
Contains confidential and proprietary information and/or trade secrets of Ameritech. May not be used, reproduced or disclosed (in whole or in part) except in accordance with the agreement between Ameritech and recipient.

Circuit Termination Location Company Name Brooks Fiber Communications

Address 2855 Oak Industrial Dr. N.E.

City Grand Rapids State MI Zip 49506

Router IP Address 198.252.224.1

Subnet Mask 255.255.255.255

Message Server IP Address 131.187.253.33

Subnet Mask 255.255.255.255

Connection Type (check one)

☐ T1 ☑ Frame Relay