systems could prevent the competitor from providing timely service to its customers. For that reason, the Commission will continue to require Ameritech to demonstrate that its OSS interfaces are fully functional and usable – that they are tested and operational, and that competitors have full specifications and information to enable the competitors to write software to work with those interfaces – before the Commission can approve a Statement.

The Commission is also concerned that the OSS interfaces remain useful in the future, since these OSS interfaces will continue to be critical to the competitors' ability to provide service. Ameritech will have to, over time, revise and update these interfaces to incorporate changes and upgrades in its own systems; the systems to which the OSSs provide access. However, when these changes and updates are implemented, the competitors must rewrite their own order taking, processing and tracking software to work with the revised interfaces (and debug the new software, and retrain their service representatives, etc.). As was described, and unrebutted, in the hearing, Ameritech could potentially release upgrades and changes frequently enough to prevent the competitors from ever having fully functional software for handling service orders or serving their customers. It is critical that Ameritech have a change management process, defined and in place, to prevent this from happening, even unintentionally.

Ameritech did not present any evidence that it had a change management system complete and in place. It is reasonable to require that such a system be completed and in place before the Commission approves the Statement. To meet this requirement, the change management system must: (1) provide sufficient notice of impending changes to allow users to modify and debug their own systems, and to retrain their service representatives, (2) bundle small and incremental changes into batched upgrades, thus limiting the number of rewrites users

must undertake and (3) allow users input into the scheduling of upgrades, and allow production users an opportunity to object to Ameritech's implementation of releases which are not backwards compatible.

The Commission has special concerns about upgrades that are not backwards compatible--that is, that will not allow software written to the previous versions of the specifications to function. If a CLEC is using the OSS interfaces to place orders and to serve its customers, and Ameritech implements a non-backwards-compatible upgrade, the CLEC must upgrade or it will be unable to process orders or serve its customers. If the CLEC cannot complete the rewrite of its systems, and/or the training of its service representatives on the rewritten systems, it will be out of business until it completes the tasks. Given that the timing of non-backwards-compatible interfaces can be, quite literally, a matter of survival for the competitors, it is reasonable to give them a strong voice in determining the timing of such upgrades.

Consider the example frequently used by Joe Rogers, who testified for Ameritech on OSS issues, of Ameritech offering "left handed call waiting." Assume an upgrade to the OSS interface would be necessary to allow CLECs to order left-handed call waiting; that a new field must be used, and contain either an "R" for standard call waiting or an "L" for the left-handed version. A backward-compatible upgrade would assume that, if the provider did not enter anything in the field, the order was for regular call waiting. Thus CLECs using software written to older versions of the Ameritech specification, which did not use the L/R field, could continue to place orders, but would be unable to order left-handed call waiting. On the other hand, an upgrade which was not backward compatible would reject all orders which did not have that field

filed in with either an "L" or and "R." In such cases, CLECs who had not upgraded to the new standard could not place any orders, not even for regular call waiting.

If left-handed call waiting is a service that customers want, then the CLECs have a strong incentive to upgrade to the versions of the OSS interfaces that allow it to order the service so they do not lose customers or potential customers who want left-handed call waiting. On the other hand, if an upgrade does not provide a CLEC with any desirable additional functionality, efficiency or the ability to order new services, then the CLEC will have no reason to incur the costs of upgrading to a newer version. A CLEC would not choose to pay for new software systems if it gains no benefit from the upgrade, and it is not reasonable for the Ameritech OSS upgrades to force it to incur such expenses unnecessarily.

Ameritech has expressed concerns that the CLECs should not have the ability to delay new upgrades for strategic reasons. CLECs would only have an incentive to object to an upgrade if it were not backwards compatible, and if the cost of implementing the upgrade exceeded any possible benefit the CLEC could obtain from that upgrade. However, it is reasonable to expect that Ameritech Industry Information Services (AIIS), the business group that administers the interfaces, will continually talk to these CLECs, and be able to reach a compromise in most cases. AIIS representatives have testified that that is their job. If a CLEC gains no benefit for the costs of upgrading, but Ameritech has its own reasons for desiring the upgrade, then Ameritech might have to absorb some of the CLEC's costs for implementing a non-backwards-compatible upgrade, or Ameritech may have to add some functions to the upgrade that the CLEC would value. Alternatively, if some CLECs benefit from an upgrade, but others do not, those benefiting may have to cover the costs of upgrading for those not benefiting. Such arrangements

are routine in competitive marketplaces, where customers are free to choose not to buy upgrades. It is reasonable for this Commission to impose a substitute for this market mechanism and foreclose Ameritech's complete control over both the number and scheduling of non-backwards-compatible upgrades.

Ameritech has suggested that any upgrade which moves towards or implements some or all of a national standard be exempted from the objection process. Several CLECs have testified to the advantages that a single set of interfaces, written to national standards, would produce. Therefore, CLECs should have incentives to implement such upgrades, provided that they do not implement only those portions of the national standard that provide benefits to Ameritech or to a particular subset of competitors. Likewise, competitors might object if Ameritech made the transition to national standards in a number of small, non-backwards compatible steps instead of a single upgrade, thereby requiring CLECs to incur the expense of rewriting, debugging and retraining many times. Therefore, the Commission does not find it reasonable for any non-backwards-compatible upgrades to be exempted from objection, even if they are intended to move towards a national standard.

Objections and appeals should be handled in an expeditious manner so as to limit the impact to the proposed implementation schedule if it is determined to be reasonable. In discussions with Ameritech, staff has discussed several schedules under which appeals to this Commission, even if an initial staff determination were appealed to the Commission, would be handled rapidly enough to maintain the initial roll-out schedule. A reasonable roll-out schedule would only be delayed if the upgrade proved highly controversial, with enough users on each side

to require a hearing before the Commission could issue its determination. Even in that event, the appeal may be concluded in time to meet the original roll-out schedule.

Ameritech raised in comments the question of whether it should be allowed to follow the FCC rules, as contained in 47 CFR §§ 50. 307 through 50.335, for changing OSS interfaces. The Commission agrees that the FCC rules would adequately meet the requirements listed above, if Ameritech stipulates to several clarifications on uncertainties in how these rules apply to OSS interfaces. The FCC rules generally cover notification to competitors of network upgrades and introduction of new services. OSSs are only included by peripheral mention. The rules are written to address purchases of hardware and redesigns of networks, and do not work as well for OSSs and computer interfaces.

Ameritech could adopt the FCC mechanism in its change management plan, and that plan would comply with the requirements listed above and in Appendix B, provided that Ameritech states:

1. That it agrees that the "telephone exchange service providers" which will be notified of any proposed changes to an OSS interface includes all users of that interface.

2. That it will notify all such users of all changes, whether or not it uses the short-term notice procedures.

3. That it considers all changes to its OSSs to come under the FCC rules.

4. That the make/buy point is when, and therefore notice would not occur until, all technical specifications of the new interface are final.

5. That the notice issued by Ameritech include a description of the relevant technical specifications and/or standards complete enough to give interface users enough information to assess how the change will affect them.

6. That, if the FCC decides it does not have, or waives, jurisdiction over an objection filed by a particular type of interface user or regarding a non-backwards-compatible OSS change, Ameritech agrees that any such disputes shall fall under the jurisdiction of the Public Service Commission of Wisconsin, and that a change management system which complies with the above rules will apply to such users.

The Commission acknowledges that Ameritech is working very hard to accomplish the task of providing access to its OSS. This is a brand new undertaking for local exchange carriers. Ameritech has been proactive in developing and using industry standards. However, Ameritech must finish the task before the Commission can approve its Statement. Competing providers need assurances of the stability and readiness for use of Ameritech systems before investing in facilities and committing resources to applying these interfaces in practice. The Commission finds it will need to revisit the issue of whether Ameritech's OSS are tested and operational in any future filing of a Statement. Proper review has required a significant commitment of Commission resources. Ameritech has filed its complete Statement three times already while access to its OSS was not yet tested and operational. Accordingly, it is reasonable for the Commission to establish a threshold set of data that must be filed before Ameritech can file another Statement with the Commission. Ameritech may refile for approval of its Statement when it is confident that those thresholds are met.

Appendix B to this order enumerates the data that must be filed. Ameritech must gather all the information listed therein and submit it to the Commission along with any future filing requesting approval of the Statement. Any item listed in Appendix B that is not supplied with a filing of the Statement is sufficient grounds for rejection of the Statement. Further, any significant revision of the data supplied pursuant to Appendix B constitutes a refiling of the

Statement and will be treated as a new application for approval of a Statement for purposes of the 60-day federal timeline for review.

In addition, the Commission now finds it appropriate to establish a new order requirement regarding OSS. The first order's requirements stated, "Operations support systems and electronic interfaces must be tested and operational before tariffs are acceptable for filing." The Commission finds the Act and the rules issued thereunder provide sufficient criteria that must be met regarding OSS before a Statement can be approved without having OSS functionality as a prerequisite to tariff filing. Manual systems do exist to process orders and provide other functions to competing LECs. Having tariffs on file that state OSS access is part of the offering of interconnection is important, but not sufficient for approval of a Statement. The full availability of that access on a nondiscriminatory basis, as discussed in these findings, is the necessary prerequisite for approval. Therefore it is reasonable for this Commission to establish a new requirement as follows: Operations support systems must be tested and operational before a Statement will be approved. Those systems must be available on a nondiscriminatory basis.

3. Performance benchmarks must be included in unbundled element offerings. Ameritech's offering must state that issues regarding type, standards, levels, and frequency of performance benchmarks may be referred to the Commission.

In Ameritech's January 10, 1997, and March 3, 1997, filed Statements, Ameritech had added language to the Statement to address these items. Staff recommended in its comments on these filings that it is appropriate for this language to appear in the Statement rather than the tariff. Tariffs are not generally used to express actual performance standards or dispute processes. Adding these items to the Statement rather than the tariff is acceptable. The

Statement does not, however, yet specify actual performance benchmarks or parity reports. Lack of finality on these items may not in and of itself be sufficient reason to reject a Statement, although significant inadequacies in performance benchmarks and parity reports would be sufficient. The Statement under review is still too vague to meet the Commission's performance benchmark requirement.

4. Ameritech's offering must state the maximum time interval for provision of service. At the request of any interconnecting party, that time interval may be appealed to the Commission.

Staff did not find a specific reference to maximum time intervals in Ameritech's January 10, 1997, or March 3, 1997, Statements. Ameritech may consider it included in the reference to performance benchmarks discussed above. The tariffs should include a general reference to the maximum time interval for provision of a service. The specific time intervals need not be included in the tariffs, however, if they are not, they must be included in the Statement language.

5. (a) Ameritech must revise its rates for unbundled elements to reflect the appropriate economic lives as set forth in the Final Order in docket 05-DT-101, dated September 15, 1995.

In Ameritech's Statement refiled on January 10, 1997, Ameritech contested this requirement and instead filed an opinion by the law firm of Foley and Lardner, which was supported by a paper of an economist, Dr. Debra Aron. In this Commission's February 20, 1997, oral decision, the Commission upheld this order requirement. The March 3, 1997, refiled Statement is in compliance with this order requirement.

The opinion filed by the law firm of Foley and Lardner asserted the docket 05-DT-101 order had not taken into consideration the sea of changes in telecommunications markets and would, therefore, be improper and unreasonable to use in setting unbundled rates. It also cited the pricing standard in § 252(d)(A)(i), which states that cost is to be "determined without reference to a rate-of-return or other rate-based proceeding."

The order in docket 05-DT-101 was issued to comply with the requirements of s. 196.09(9), Wis. Stats. That statute was created by 1993 Wisconsin Act 496 (the Wisconsin Act), the landmark legislation which refocused telecommunications regulation in Wisconsin to promote competition and opened telecommunications markets to competition. The intent of the Wisconsin Act closely matches that of the federal Act. The order in docket 05-DT-101 was based upon analysis of a telecommunications market that would be opened to competition. In s. 196.09(9)(a), Wis. Stats., the depreciation ranges are to be used by telecommunications utilities for public utility purposes. Therefore, reference to this section for analysis of depreciation lives used in a TELRIC study is not the equivalent to a reference to depreciation lives set in a rate-of-return proceeding. The Wisconsin Act specifically provided price cap plans for electing telecommunications utilities. Ameritech selected price regulation at its earliest opportunity. While this range of rates may be applied in rate-of-return situations, the range is applicable to all public utilities, including those under price cap or other alternative regulatory plans.

Dr. Aron asserted that the depreciation ranges determined in docket 05-DT-101 are inconsistent with the idealized assumptions of forward-looking cost models. She claims the range of depreciation rates were derived from historical observations of networks. However, the depreciation ranges in the order in docket 05-DT-101 do reflect changing technologies and

obsolescence as they provide for substantially faster recovery than current retirements would dictate. Historical retirements average 5 percent or less of plant each year, while the depreciation ranges provide for recovery of up to 8.5 percent of the plant each year. The difference between the historical retirement rate and the 8.5 percent rate demonstrates anticipation of future obsolescence not evident in historical retirements trends. The range reflects economic life and not physical life. In addition, the models used do not, themselves, fully reflect economic costs as they do not reflect annual valuation changes but instead develop the levelized cost over the economic life.

Dr. Aron contended the risk of stranded plant is not reflected in the depreciation ranges. The models themselves reflect this risk in the use of fill factors. This Commission has already recognized and concluded in the first order in this docket "that fill factors that are lower than is feasible engineering-wise can still be reasonable now that facilities-based competition can exist and the uncertainty of the demand forecasts is greater." The Commission finds no inconsistency with the range of depreciation rates determined in docket 05-DT-101 and the idealized forward-looking cost models.

The Wisconsin Act also recognized the importance of responding to technological change. The provisions s. 196.09(9)(a)(2), Wis. Stats., require the depreciation ranges to be updated biennially, and allow for earlier review upon request. Ameritech has not appealed the order in docket 05-DT-101 or requested an earlier review. Docket 05-DT-102 is currently open to evaluate revision of these depreciation ranges. Because of the dynamic nature of the ranges of depreciation rates set under s. 196.09(9), Wis. Stats., application of the ranges set thereunder to TELRIC studies is reasonable and appropriate.

The Commission considered the overall depreciation rate when making reference to the order in docket 05-DT-101. The composite 8.5 percent depreciation rate is reasonable when the relative investment in long-lived assets like poles and wire and the relative investment in short-lived assets like electronics is considered. However, it is reasonable to allow Ameritech to propose revision of its rates for unbundled network elements to reflect changes in the range of depreciation rates allowed in future proceedings. Such revision will be subject to Commission review and approval.

MCI asserted that Ameritech's adjustments, to meet the Commission's depreciation rate adjustment, did not lower prices for unbundled elements by as much as would be predicted by its sensitivity analysis. Staff sensitivity analysis shows the adjustment resulting from the depreciation requirement was within the magnitude expected.

MCI makes a generic appeal that cost studies should be further reviewed allowing more time and participation. The Commission finds that the cost studies have been thoroughly examined and that paper proceedings have been adequate and included sufficient opportunity to comment. The Commission determined cost studies were not being revisited in this proceeding.

5. *(b) No adjustment is required on this issue in the first order.*

5. *(c) Ameritech must revise all its rates for unbundled elements to reflect joint and common costs based on 1997 total joint and common costs divided by 1997 total demands.*

Ameritech's January 10, 1997, Statement did not comply with this requirement. Ameritech had increased its markup for unbundled elements to include those retailing costs that would be avoided in the wholesale environment. The Commission determined that only those

costs that would continue in a wholesale environment are appropriate to include in the markup on unbundled elements for joint and common costs.

MCI asserts that defects exist in Ameritech's forecast of joint and common costs and Ameritech has not properly allocated these costs to unbundled elements on a per-unit basis. The first order explains that staff analysis of joint and common costs started with actual historical costs related to network services. These were adjusted for known changes based on the Arthur Andersen growth rate of 8 percent a year. This growth rate was deemed reasonable in light of the more complex business environment that will exist. That order also explained that staff raised concerns about the demand units over which costs were spread. Accordingly, the Commission required that the annual joint and common costs were to be allocated over all demands. In practice the TELRIC cost was summed for all demand units of both bundled and unbundled services and was compared to the annual joint and common costs to determine the markup percent. The Commission reaffirms its first order requirements regarding the amount and allocation of joint and common cost.

Ameritech's March 3, 1997, Statement and associated tariffs now comply with this requirement. The markup on TELRIC is now 23.4 percent and is applied uniformly. The first order indicated, "Staff estimated the effect of this adjustment will be to reduce Ameritech's proposed mark-up on TELRIC from 27 to 22 percent." With the further identification of costs that will continue in the wholesale environment as is discussed under "Resale" below, the Commission finds that the 23.4 percent markup is reasonable.

6. (a) Ameritech must remove the differential pricing of Zone A, Zone B, and Zone C and price all unbundled loops on a geographically uniform basis, unless

Ameritech proposes an economically rational system of deaveraged prices, together with full technical, economic, and cost support.

Ameritech's January 10, 1997, filing did not fully comply with this requirement. Ameritech filed an average rate that was higher than the highest rate of Zone C. Ameritech's March 3, 1997, filing does comply with this requirement because it has computed average loops rates based on relative access lines in each former Zone.

Time Warner and MCI assert that a statewide average loop rate is not based on cost and proper zone rates should be established. The Commission reaffirms its decision stated in its first order that Ameritech's zone pricing scheme does not sufficiently reflect cost variability factors for loops. Maintaining a statewide average loop rate is more reasonable in the short time period that it is likely to be in effect, than to adopt a flawed zone pricing scheme in conjunction with average-priced retail lines when the combination has been shown to have unreasonable price squeezing effects. Under its election to be a price regulated utility, Ameritech's retail prices are only frozen by statute until September 1997. Ameritech may request approval for deaveraging both retail line and wholesale loop rates on a common basis at that time.

6. *(b) No adjustment is required on this issue in the first order.*

6. *(c) Ameritech must include in the price of a port only those features that appear on a typical port for the service line classification, including separate residence and business ports.*

Ameritech's January 10, 1997, filing included separate prices for unbundled residence and business ports. However, Ameritech had refused staff access to cost support information stating that the material was proprietary to Bellcore. In the Commission's February 20, 1997,

APPENDIX B

Threshold to Refile

Ameritech must gather and submit to the Commission all of the following information with the filing of another statement.

Processing

1. Evidence demonstrating that all five interfaces, pre-ordering, ordering, provisioning, repair and maintenance, and billing are providing predictable and reliable results.

a. The demonstration can be in the form of a complete and representative sample of live transactions or test simulated transactions.

1. The formulation, execution, and review of test simulated transactions can not be carried out unilaterally by Ameritech. An independent third party may be engaged to review the testing or participation of industry parties may be used. The test must include sufficient volumes to simulate the volumes of transactions that could be expected to occur in production.

b. Evidence must be in the form of data collected on test or live transactions.

1. Complete and representative data available at the date of filing that can be used for trend analysis must be included for all of the following for each interface:

A. The processing results (complete, reject, delay),

B. The numbers of manual versus automatically processed transactions,

C. The reasons for rejection, or manual processing on both the Ameritech and CLEC sides of an interface, and

D. The occurrence of and clearing time for all service affecting troubles.

c. The demonstration must show predictable and reliable processing of transactions associated with standard offerings by the interfaces.

Parity

2. Evidence demonstrating the interfaces are processing transactions in substantially the same time and manner that Ameritech provides to itself for comparable transactions for all five interfaces.

a. Evidence must be in the form of complete and representative data.

Pre-ordering

1. A measure of CLEC response time for each of the pre-ordering functions, customer service records, telephone number, and due date.

A. A means of demonstrating the performance of pre-ordering functions occurs in a reasonable length of time.

2. A measure of Ameritech customer service representative response time for each of the pre-ordering functions, customer service records, telephone number and due date.

Ordering

3. A measure of CLEC due dates missed for each type of order. Examples include: with dispatch of a field technician and without dispatch of a field technician. Analysis

should be provided for active products and services. A request pending past its due date must be included as a missed due date.

A. A means of demonstrating the performance of provisioning of unbundled loops occurs in a reasonable length of time.

B. A means of demonstrating that all due dates are available to both Ameritech and CLEC representatives in a nondiscriminatory manner.

4. A measure of Ameritech due dates missed for each type of order. Examples include: with dispatch of a field technician and without dispatch of a field technician. Analysis should be provided for active products and services. A request pending past its due date must be included as a missed due date.

Provisioning

5. A measure of CLEC response time for provisioning messages. Each type of provisioning messages should be included, order acknowledgment, order confirmation, order completion.

A. A means of demonstrating the performance of order acknowledgments and order confirmation is in a reasonable length of time.

6. A measure of Ameritech order completion information availability.

Repair and Maintenance

7. A measure of CLEC response intervals related to repair and maintenance. Intervals will include notice acknowledgment, and repair completion. Further detail may be provided including grouping by complexity of work.

A. A means of demonstrating the performance of acknowledgments are in a reasonable length of time.

B. A means of demonstrating the all repair scheduling and dispatching is available to both Ameritech and CLEC representatives in a nondiscriminatory manner.

8. A measure of Ameritech response interval for repair and maintenance completion in the same groupings as the CLEC comparisons.

Billing

9. A means of demonstrating CLEC billing accuracy to include the speed and accuracy of daily usage feed information and the accuracy of monthly CLEC bills.

A. A means of demonstrating that the rates charged to CLECs are consistent with filed tariffs or interconnection agreements.

10. A means of demonstrating Ameritech billing accuracy.

b. The data must demonstrate that the interfaces are processing transactions in substantially the same time and manner that Ameritech provides to itself for comparable transactions.

Specifications

3. Evidence that users have access to all specifications and documentation needed to use all five interfaces.

a. Evidence includes the manuals provided to competing providers to assist them to use each of the interfaces.

b. Evidence includes statements for each interface detailing what the current industry standards are and the extent and reason for any difference from industry standards.

c. Evidence includes documentation of the USOCs for ordering standard offerings of resale services and unbundled network elements, plus common combinations of unbundled network elements.

Change Management

4. The terms and conditions of the Change Management Process for each of the five interfaces.

a. The terms and conditions are to include at a minimum

1. The frequency of batched changes.

2. The circumstances under which changes more or less frequently that the batched changes will be allowed.

3. Description of the explanation that will be given for the need for each change, including if the change was requested by the industry or initiated by Ameritech.

4. A description of the process by which users of the interface will have meaningful input into the scheduling of batch updates.

5. A commitment that all updates will meet one of the two following criteria.

A. The upgraded interfaces are backwards compatible. That is that any software written to previous specifications will continue to operate as before, or

B. That none of the production users of the affected interface has filed an objection to the implementation schedule for the update. If an objection is filed, it may be appealed to the Commission, which may approve the original schedule, or set a revised schedule.

b. Adoption of the FCC rules, as contained in 47 CFR §§ 50.307 through 50.335, with the modifications required in the Findings of Fact, would meet minimum terms and conditions.

Correspondence

5. A file of all correspondence with CLECs concerning inquiries related to the use of the interfaces.

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ATTACHMENT C

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

SPRINT COMMUNICATIONS COMPANY L.P.)

Petition for Arbitration of Interconnection Rates, Terms, Conditions and Related Arrangements with Michigan Bell Telephone Company d/b/a Ameritech Michigan.	)	Case No. U-11203

DECISION OF ARBITRATION PANEL

I.

HISTORY OF PROCEEDINGS

On April 15, 1996, Sprint Communications Company L.P. (Sprint) requested that Michigan Bell Telephone Company d/b/a Ameritech Michigan (Ameritech) enter into negotiations pursuant to §§ 251 and 252 the of the Telecommunications Act of 1996 (the Act), 47 USC §§ 251 and 252, to establish an interconnection agreement with Ameritech. During the months that followed, the parties began negotiations regarding a generic agreement involving the networks in the various states in which both companies (or their affiliates) operate -- namely, Illinois, Indiana, Michigan, Ohio and Wisconsin. As defined in the Act, Ameritech is an Incumbent Local Exchange Carrier (ILEC). Sprint is a "requesting telecommunications carrier" within the meaning of 47 USC § 252(a) of the Act, a "telecommunications carrier" as defined by 47 USC

The Panel disagrees with Ameritech's position that it is not required to provide transit service under the Act. In Case Nos. U-11151 and U-11152, the arbitration panel determined that Ameritech is required to offer transit service. Ameritech objected to that determination. In the Commission's November 26, 1996 order in those cases, the Commission rejected Ameritech's arguments and upheld the arbitration panel's decision that Ameritech is required to offer transit service.

The Panel therefore concludes that Ameritech must provide transiting service and therefore, Ameritech's proposed language to the contrary is rejected. Further, the Panel finds that Ameritech is entitled to fair compensation based on the unbundled cost for switching and transport, as provided in the language proposed by Sprint in §§ 7.3.3 and 9.3.4.5.

ISSUE 13 (Sprint)

ISSUE VIII (Ameritech)

a. Should the contract include Sprint's proposed language for §§ 6.5.3, 12.5, and 26.3.1, which would allow Sprint to avail itself of certain terms agreed to between Ameritech and third party carriers?

b. Should Sprint be prohibited from collocating hubbing equipment?

c. How often should the implementation team meet during the testing and implementation phases of interconnection?

DECISION:

a. The Panel concludes that Sprint's proposed language should not be incorporated into the contract, but that both parties should be left free to pursue their respective positions concerning more favorable terms reached by other parties with Ameritech, should that occur.

b. Sprint should be allowed to collocate hubbing equipment. Thus, the Panel rejects Ameritech's proposed § 12.5.

c. The Panel finds that Sprint's proposed language in §§ 18.4 and 18.5 should be adopted.

REASONS FOR DECISION:

a. Sprint proposed language for § 6.5.3 (meet-point arrangements), § 12.5 (collocation arrangements), and § 26.3.1 (liability limitations) intended to secure its interpretation of § 251(I) of the Act, which requires a local exchange carrier to make available any interconnection, service, or network element provided under an agreement approved pursuant to § 252 of the Act to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the approved agreement. Specifically, should Ameritech agree with another requesting carrier to terms that Sprint finds to be more favorable regarding any of the three issues, Sprint desires to be able to adopt any one or more of the more favorable provisions.

Ameritech takes the position that the Act does not permit Sprint to pick and

choose an individual rate, an individual term, or an individual condition that appears in another Ameritech agreement. It argues that section of the Act requires that Ameritech make available "any interconnection, service, or network element," but is silent concerning other arrangements like the contractual provisions at issue here.

In its November 26, 1996 order in Case Nos. U-11151 and U-11152, the Commission adopted Ameritech's proposal to delete the section of the contract between AT&T and Ameritech that would have contained a statement concerning most favored nations status, and left the parties to pursue their differing interpretations of § 252(I). The Commission noted that the proper interpretation of that statutory section "is a major issue that does not need to be addressed at this time." In order to avoid delay in the interconnection process, the Commission approved the contract with the most favored nations provision excised.

The Panel finds it appropriate to follow the Commission's lead on this issue and therefore rejects Sprint's proposed § 6.5.3, the relevant portion of § 12.5, and § 26.3.1. The parties are free to pursue their respective positions concerning provisions in agreements between Ameritech and third party requesting carriers.

b. Ameritech proposed language in § 12.5 of the contract that would prohibit Sprint from collocating "switching equipment, equipment used to provide enhanced services, or equipment used to facilitate hubbing architectures."

Although 47 C.F.R. § 51.323(c) speaks to the incumbent LECs' right to prohibit

collocation of switching equipment and equipment for enhanced services, it is silent as to equipment related to hubbing. As recognized by the arbitration panel in Case Nos. U-11151 and U-11152, supra, hubbing equipment is not switching equipment, as asserted by Ameritech. Rather, the panel found that, based on Ameritech's toll access tariffs (specifically, Ameritech Tariff F.C.C. No. 2, 5th Revised Page, 65, 3rd Revised Page 68.2 and 7th Revised Page 236), hubbing equipment is a "wire center where 'bridging, multiplexing, or cross-connection functions are performed.'" Thus the panel concluded, hubbing equipment is used for interconnection or access to unbundled network elements and a requesting carrier must be allowed to collocate such equipment.

The Commission's November 26, 1996 order in those cases approved the arbitrated agreement, without objections or any modifications related to this issue. Therefore, the Panel concludes that Sprint should be allowed to collocate hubbing equipment, consistent with the findings of the arbitration panel and Commission approval in Cases Nos. U-11151 and U-11152. The Panel finds no reason to depart from the direction taken in that case. Therefore, the Panel rejects Ameritech's proposed language for § 12.5.

c. The Panel is persuaded that weekly meetings may be necessary to expedite interconnection. Should the parties discover that this frequency is not needed, they may mutually agree not to meet.

ATTACHMENT D

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the petition of **AT&T COMMUNICATIONS OF MICHIGAN, INC.,** for arbitration to establish an interconnection agreement with Ameritech Michigan.	)	Case No. U-11151
In the matter of the petition of **AMERITECH MICHIGAN** for arbitration to establish an interconnection agreement with AT&T Communications of Michigan, Inc.	)	Case No. U-11152

At the November 26, 1996 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. John C. Shea, Commissioner
Hon. David A. Svanda, Commissioner

ORDER APPROVING AGREEMENT ADOPTED BY ARBITRATION

I.

HISTORY OF PROCEEDINGS

On August 1, 1996, AT&T Communications of Michigan, Inc., (AT&T) filed a petition for arbitration with the Commission regarding the terms, conditions, and prices for interconnection and related arrangements with Ameritech Michigan pursuant to Section 252(b) of the federal Telecommunications Act of 1996 (the FTA), 47 USC 252(b). In accordance with the proce-

subject. The Commission disagrees. There is no basis for Ameritech Michigan's position that new rates should always be applied retroactively to the effective date of the interconnection agreement, whether established by legislative or regulatory action. Adoption of AT&T's proposal with regard to the retroactivity of rate changes ensures the parties an opportunity to address whether rates should be applied retroactively or prospectively at the time the rate change is being determined. Accordingly, the Commission finds that the arbitration panel's decision on Issue 49 should be approved.

Availability of Interconnection, Service, or Network Elements

Issue 54 concerns an effort by the parties to incorporate their interpretations of Section 252(i) of the FTA, which requires a local exchange carrier to make available any interconnection, service, or network element provided under an agreement approved pursuant to Section 252 of the FTA to which it is a party to any other requesting telecommunication carrier upon the same terms and conditions as those provided in the agreement.

AT&T insists that Section 252(i) should be interpreted to mean that AT&T is entitled to retain (1) any unrelated term or condition of its interconnection agreement and (2) any provision of the agreement that relates to the processes, procedures, and systems for interconnection services that were implemented by the parties in the event that AT&T elects to adopt an individual interconnection, service, or network element arrangement contained in an agreement between AT&T and a third-party. On the other hand, Ameritech Michigan argues that the interconnection agreement should contain a provision that denies AT&T the right to avail itself of any arrangement in an agreement between Ameritech Michigan and a third-party if Ameritech Michigan demonstrates to the Commission that it would incur greater costs to provide the