30 South Wacker Drive
Chicago, IL 60606
Office 312/750-5200

Original

97-137

Ameritech®

Kelly R. Welsh
Executive Vice President and
General Counsel

DOCKET FILE COPY ORIGINAL

RECEIVED

MAY 21 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

May 21, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, DC 20554

RE: Application by Ameritech Michigan under
Section 271 of the Communications Act

Dear Mr. Caton:

Enclosed please find an original plus six copies of Ameritech Michigan's Application to Provide In-region, InterLATA Services in the State of Michigan. In accordance with the requirements contained in the Commission's Public Notice regarding applications under Section 271 of the Communications Act (FCC 96-469, December 6, 1996), the attached Application is comprised of (i) a "Brief in Support of Application by Ameritech Michigan for Provision of In-Region, InterLATA Services in Michigan" and (ii) supporting documentation, which includes the following:

- Approved Section 252 Interconnection Agreements (Volume 1);
- Affidavits and supporting documentation that demonstrate compliance with the requirements of Section 271(d)(3) (Volumes 2 and 3); and
- A copy of the complete, existing record of Michigan Public Service Commission's inquiry into Ameritech Michigan's compliance with Section 271 (Volume 4).

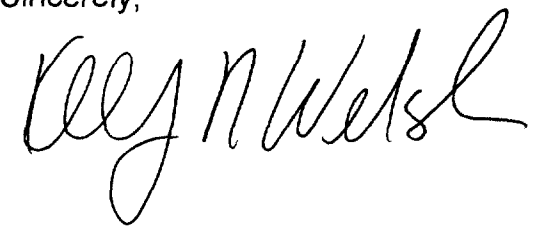
No. of Copies rec'd 0+6
List A B C D E

The Brief in Support contains each of the items required by the Commission's Public Notice dated December 6, 1996. Also attached hereto are the required Anti-Drug Abuse Act certification and an affidavit signed by a duly authorized employee certifying that all information supplied in the Application is true and accurate. A statement describing the efforts made to narrow issues in dispute will be filed separately on or before May 26, 1997.

This "public version" of Ameritech Michigan's application, in which confidential information has been redacted, can be made available for public inspection. We have enclosed a computer diskette containing the Brief in Support and electronically available supporting documentation. Ameritech will also post this electronic filing on its internet home page. In addition, we have submitted a complete copy of this Application to the Department of Justice, the Michigan Public Service Commission and ITS, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C.

Please contact me if you have any questions or if we can be of any further assistance.

Sincerely,



cc: U.S. Department of Justice
Michigan Public Service Commission

DOCKET FILE COPY ORIGINAL

Ameritech Michigan
Michigan, May 21, 1997

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

In the Matter of Application by Ameritech Michigan Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan

CC Docket No. 97-137

Anti-Drug Abuse Certification

Pursuant to 47 C.F.R. § 1.2002, I hereby certify that no officer or director of Ameritech Michigan or any party to this application, nor any person holding 5% or more of the outstanding stock or shares of any party to this application, is subject to a denial of Federal Benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

Executed on May 20, 1997, at Chicago, Illinois.

John T. Lenahan
Assistant General Counsel

SUBSCRIBED AND SWORN TO
before me this 20th day
of May 1997.

Janis L Griffin
Notary Public

OFFICIAL SEAL
JANIS L GRIFFIN
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXPIRES 06/03/97

Ameritech Michigan
Michigan, May 21, 1997

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

In the Matter of Application by Ameritech Michigan Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan	CC Docket No. _____

AFFIDAVIT

The undersigned, a duly authorized employee of Ameritech, hereby certifies that all information supplied in the Application by Ameritech Michigan, Inc. to Provide In-region, InterLATA Services in Michigan, dated May 21, 1997, is true and accurate.

Executed on May 20, 1997, at Chicago, Illinois.

John T Lenahan

John T. Lenahan
Assistant General Counsel

SUBSCRIBED AND SWORN TO
before me this 20th day
of May 1997.

Janis L Griffin

Notary Public

OFFICIAL SEAL
JANIS L GRIFFIN
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 06/03/97

Original

97-137

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

RECEIVED

MAY 21 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Application by Ameritech Michigan Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan

CC Docket No. _____

BRIEF IN SUPPORT OF APPLICATION BY AMERITECH MICHIGAN FOR PROVISION OF IN-REGION, INTERLATA SERVICES IN MICHIGAN

Kelly R. Welsh
John T. Lenahan
Michael J. Karson
Larry A. Peck
Gary L. Phillips
AMERITECH CORPORATION
30 South Wacker Drive
Chicago, Illinois 60606
(312) 750-5000

John M. Dempsey
Craig A. Anderson
AMERITECH MICHIGAN
444 Michigan Avenue
Detroit, Michigan 48226
(313) 223-7676

John Gockley
AMERITECH COMMUNICATIONS, INCORPORATED
9525 West Bryn Mawr
Rosemont, Illinois 60018
(847) 928-4396

Stephen M. Shapiro
Theodore A. Livingston
Douglas A. Poe
John E. Muench
Christian F. Binnig
MAYER, BROWN & PLATT
190 South LaSalle Street
Chicago, IL 60603
(312) 782-0600

Kenneth S. Geller
Mark H. Gitenstein
MAYER, BROWN & PLATT
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 463-2000

Antoinette Cook Bush
Mark C. Del Bianco
SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 New York Avenue, N.W.
Washington, D.C. 20005
(202) 371-7230

COUNSEL FOR AMERITECH

May 21, 1997

EXECUTIVE SUMMARY

Ameritech Michigan ("Ameritech") hereby submits its application for Ameritech Communications, Inc. ("ACI") to provide in-region, interLATA services in Michigan. Section 271(d)(3) of the 1996 Act establishes the standards under which this Commission shall evaluate Ameritech's application. The following brief, together with the attached record evidence, demonstrate that Ameritech has satisfied each of those standards:

Section 271(c)(1)(A) Interconnection Agreements. Ameritech has complied with Section 271(c)(1)(A) by entering into MPSC-approved interconnection agreements with three predominantly facilities-based competitors: Brooks Fiber, MFS and TCG. These carriers are competing, unaffiliated providers of telephone exchange services that together serve residential and business customers in Michigan either exclusively or predominantly over their own facilities — including their own local switches, fiber optic networks, trunk lines and self-constructed loops.[1/] Moreover, pursuant to those agreements, Brooks Fiber, MFS and TCG may purchase each checklist item at the rates and on the terms and conditions in Ameritech's MPSC-approved interconnection agreements with AT&T and Sprint.

Section 271(c)(2)(B) Competitive Checklist. Ameritech has fully implemented the competitive checklist of Section 271(c)(2)(B) by providing each of the fourteen checklist items to its Section 271(c)(1)(A) competitors at rates and on terms and conditions that comply with the 1996 Act and the Commission's regulations.[2/] Ameritech actually furnishes substantial

---

1/ See Affidavit of Robert G. Harris and David J. Teece.

2/ See Affidavit of William C. Palmer; Affidavit of Daniel J. Broadhurst; Affidavit of Theodore A. Edwards.

quantities of thirteen checklist items to its Section 271(c)(1)(A) competitors, as well as to other carriers in Michigan. Moreover, Ameritech is operationally ready to furnish, maintain and repair, and bill unbundled local switching ("ULS"), the single checklist item that no Section 271(c)(1)(A) competitor has ordered to date.[3]

Through industry standard-compliant and expert-approved electronic interfaces, competing carriers have access to Ameritech's operational support systems ("OSS") functions, which are the "back office" databases and information that competing carriers use to order products and to support the provision of service to end users, in a manner on par with Ameritech's retail service. Ameritech has developed, tested and implemented its OSS interfaces, and furnishes other carriers with design specifications and product-specific documentation to facilitate their use of those interfaces.[4] Outside experts have reviewed these materials, suggested improvements that have been implemented by Ameritech, and concluded that the materials satisfy industry standards.[5] In addition, through extensive testing and actual use, Ameritech has demonstrated that its OSS interfaces are operationally ready and have the capacity to handle estimated future demand.[6]

Once an order is placed, Ameritech ensures the nondiscriminatory provisioning of all checklist items. Ameritech has established detailed operational procedures, pursuant to which it provisions, maintains and repairs each of the checklist items without regard to the carrier that

---

[3] See Affidavit of Daniel J. Kocher.

[4] See Affidavit of Warren L. Mickens; Affidavit of Joseph A. Rogers.

[5] See Affidavit of Rachel Foerster; Affidavit of Robert H. Meixner.

[6] See Affidavit of Warren L. Mickens; Affidavit of Joseph A. Rogers; Affidavit of Robert H. Meixner.

placed the order.[7] Moreover, technical constraints inherent in Ameritech's network would prevent Ameritech (if it were so inclined) from discriminating against other carriers or in favor of itself and its affiliates.[8] Finally, Ameritech has established and meets MPSC-approved performance standards for provisioning and related functions, and extensive reporting requirements permit competing carriers to monitor Ameritech's compliance.[9]

Section 272 Separate Affiliate Safeguards. Pursuant to Section 272, Ameritech has established a separate affiliate, ACI, to provide in-region, interLATA services in Michigan. Ameritech Michigan and ACI will abide by the structural and transactional standards under which ACI will operate independently of Ameritech Michigan and the other Ameritech Bell operating companies.[10] In addition, Ameritech Michigan will not discriminate in favor of ACI, or against any of ACI's competitors, in the installation or maintenance and repair of any goods, services, facilities, information, products or services, including OSS functions and switched and special access services.[11] When ACI engages in affiliate transactions with Ameritech Michigan or any other Ameritech affiliate, all Ameritech entities will abide by this Commission's accounting and cost allocation rules, and also will conduct the required biennial

---

7/ See Affidavit of John B. Mayer.

8/ See Affidavit of Daniel J. Kocher.

9/ See Affidavit of Warren L. Mickens.

10/ See Affidavit of Patrick J. Earley.

11/ See Affidavit of Steven L. Kriz; Affidavit of Paul V. La Schiazza; Affidavit of Warren L. Mickens.

audit.[12] And, finally, Ameritech Michigan and ACI will fully comply with the 1996 Act's and this Commission's joint marketing requirements.[13]

Public Interest. Ameritech's entry into long distance is consistent with the public interest. Specifically, Ameritech's entry will bring substantial benefits to consumers — particularly small business and residential users — by increasing both price and service competition in the highly concentrated long distance business.[14] Indeed, outside experts estimate that Ameritech's entry into long distance will bring millions of dollars in benefits to telecommunications consumers in Michigan.[15] Equally important, the competitive risks of permitting Ameritech to compete in long distance are remote. The statutory and regulatory safeguards established under the 1996 Act, as well as economic and technological constraints, make it virtually impossible for Ameritech to use its position to obstruct competition in the provision of either local or long distance services.[16] At the same time, barriers to entry have been eliminated, and the local exchange market in Michigan is open to competition.[17]

By satisfying the requirements of Section 271(d)(3), Ameritech has taken all of the steps that Congress determined would give all carriers an opportunity to compete in local

---

[12] See Affidavit of Richard E. Shutter; Affidavit of John W. Putnam.

[13] See Affidavit of Patrick J. Earley; Affidavit of Paul V. La Schiazza.

[14] See Affidavit of Paul W. MacAvoy; Affidavit of Robert Crandall and Leonard Waverman.

[15] See Affidavit of Paul W. MacAvoy; Affidavit of Robert Crandall and Leonard Waverman.

[16] See Affidavit of Richard J. Gilbert and John C. Panzar; Affidavit of G. Mitchell Wilk and Steven M. Fetter; Affidavit of Daniel J. Kocher.

[17] See Affidavit of Robert G. Harris and David J. Teece.

telecommunications services in Michigan. These efforts have accomplished one fundamental goal of the 1996 Act: opening the local exchange to effective competition. Moreover, new competitors are taking advantage of the opportunities created by the 1996 Act. Hence, one of the two principal goals of the 1996 Act has been achieved in Michigan — opening the local exchange to greater competition. It is now time to advance the second goal — opening long distance service to increased competition.

TABLE OF CONTENTS

Page

EXECUTIVE SUMMARY i

I. SUMMARY OF ARGUMENT 2

II. PRELIMINARY MATTERS 5

A. Statement Regarding Status of Interconnection Agreements Pursuant To Section 252 5

B. Statement of How Ameritech Meets the Requirements of Section 271(c)(1) 7

C. Statement of Status Regarding Michigan Public Service Commission Inquiry Into Compliance With Section 271 7

III. AMERITECH IS PROVIDING ACCESS AND INTERCONNECTION TO COMPETING PREDOMINANTLY FACILITIES-BASED PROVIDERS OF TELEPHONE EXCHANGE SERVICES TO RESIDENTIAL AND BUSINESS CUSTOMERS 8

A. Ameritech Has Satisfied the Requirement of One or More Approved Agreements 8

B. Ameritech Has Satisfied the Requirement that the Competing Providers Serve Residential and Business Customers 9

C. Ameritech Has Satisfied the Requirement of a Facilities-Based Competing Provider 9

IV. AMERITECH HAS FULLY IMPLEMENTED THE COMPETITIVE CHECKLIST 15

A. The Access and Interconnection that Ameritech is Providing to Brooks Fiber, TCG and MFS Satisfies the "Competitive Checklist" in Section 271(c)(2)(B) 15

1. Ameritech Satisfies its Checklist Obligations by Furnishing or Making Available Each Checklist Item to Competing Carriers . . . 18

TABLE OF CONTENTS (continued) **Page**

2. Ameritech's Operations Support Systems, Performance Benchmarks and Prices Ensure That All Checklist Items Are Provided in a Nondiscriminatory Manner 21

B. Ameritech is Providing Each Item of the Competitive Checklist at Rates and on Terms and Conditions That Fully Satisfy the Act 35

V. AMERITECH MICHIGAN AND ACI SATISFY THE REQUIREMENTS OF SECTION 272 OF THE 1996 ACT 55

A. Ameritech Michigan and ACI Comply with the Structural and Transactional Requirements of Section 272(b) 56

B. Ameritech Michigan Will Comply with the Nondiscrimination Safeguards Set Forth in Section 272(c)(1) 58

C. Ameritech Michigan Will Comply with the Audit Requirements Set Forth in Section 272(d) 59

D. ACI and Ameritech Michigan Will Comply with the Nondiscrimination Requirements Set Forth in Section 272(e) 59

E. ACI and Ameritech Michigan Will Comply with the Joint Marketing Provisions Set Forth in Section 272(g) 60

VI. AMERITECH'S APPLICATION IS CONSISTENT WITH THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY 62

A. The Competitive Benefits of Ameritech's Entry into Long Distance Services Are Substantial 64

1. The Current Concentrated Structure and Noncompetitive Performance of the Long Distance Industry 64

2. The Consumer Benefits of Ameritech Entry into Long Distance Telecommunications 66

B. The Competitive Risks of Ameritech's Entry into Long Distance Services Are Remote 71

TABLE OF CONTENTS (continued) **Page**

1. The Michigan Legislature and the MPSC Have Played a Leading Role in Opening the Local Exchange to Competition 72

2. Competing Providers Are Entering the Local Exchange Business in Michigan at a Rapid Pace 74

3. The 1996 Act, and Regulatory and Technological Constraints, Make it Virtually Impossible for Ameritech to Impede Competition in Long Distance Services 78

a. Safeguards Against Cross-Subsidization 79

b. Safeguards Against Discrimination 83

(1) Statutory and Contractual Safeguards 83

(2) Technical Barriers to Discrimination 86

c. Private and Public Enforcement Reinforces the Safeguards Against Any Risk to Competition in Long Distance Services 86

C. The Actions Taken by Ameritech to Open the Local Exchange to Competition are Irreversible 89

VII. CONCLUSION 93

Ameritech Michigan
Michigan, May 21, 1997

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

In the Matter of Application by Ameritech Michigan Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan	CC Docket No. _____

BRIEF IN SUPPORT OF APPLICATION
BY AMERITECH MICHIGAN FOR PROVISION
OF IN-REGION, INTERLATA SERVICES IN MICHIGAN

Pursuant to Section 271(d) of the Telecommunications Act of 1996 ("the 1996 Act" or "the Act"), Ameritech Michigan submits this Brief in support of its Application to the Federal Communications Commission ("the Commission") for Ameritech Communications, Inc. ("ACI") to provide in-region, interLATA services, and services treated as such under Section 271(j) of the Act, in Michigan.[1/]

1/ This Brief generally refers to Michigan Bell Telephone Company, d/b/a Ameritech Michigan, the "Bell operating company" ("BOC") providing service within the State of Michigan, as "Ameritech." The term "Ameritech" also encompasses Ameritech Corporation and all of its affiliates. However, Ameritech's wholly-owned long distance affiliate, Ameritech Communications, Inc., is referred to as "ACI" where necessary to distinguish it from other Ameritech affiliates. Because Ameritech seeks authority on behalf of ACI, and any wholly-owned subsidiaries it may later create or acquire, to provide interLATA services in Michigan, references to ACI also encompass any wholly-owned affiliates of ACI. Accompanying this Brief are 4 volumes of interconnection agreements, affidavits and other supporting materials.

I. SUMMARY OF ARGUMENT

With the passage of the 1996 Act, Congress provided a detailed framework to expeditiously expand competition for all telecommunications services. Indeed, the first sentence of the Conference Report states that the purpose of the Act is "to provide for a procompetitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition."[2] As the Commission has noted, one of the "principal" goals of the 1996 Act, therefore, is to "increase[ ] competition" in "long distance services."[3]

The 1996 Act thus reflects Congress' judgment that entry into long distance by a Bell Operating Company ("BOC") that has fulfilled all of the requirements established by the Act will generate substantial benefits for all Americans. As demonstrated in this Brief and its attachments, Ameritech has fully satisfied these requirements. Specifically, Ameritech has satisfied each of the conditions set forth in Section 271(d)(3) of the 1996 Act.[4]

First, Ameritech has entered into interconnection agreements with Brooks Fiber, MFS, and TCG, each of which has been approved by the Michigan Public Service Commission ("MPSC") under Section 252 of the Act. These agreements satisfy the requirement of Section 271(c)(1)(A) that they be with competing providers of telephone exchange services,

---

[2] H.R. Conf. Rep. No. 104-458, 104th Cong., 2d Sess. 113 (1996).

[3] In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 96-325, First Report and Order, ¶ 3 (Aug. 8, 1996) ("Local Competition First Report and Order").

[4] All "Section" citations are to the 1996 Act, P.L. 104-104 (Feb. 8, 1996), which is codified in Title 47 of the United States Code.

offered exclusively or predominantly over their own facilities, to residential and business customers. See Section III, infra.

Second, Ameritech has fully implemented each of the "competitive checklist" items contained in Section 271(c)(2)(B). The pricing and provisioning of each item comply with the Act's "checklist," ensuring that all entrants have an opportunity to compete for local exchange service customers. See Section IV, infra.

Third, the requested authorization will be carried out in accordance with the requirements of Section 272 and the Commission's regulations implementing that provision. Ameritech complies and will continue to comply with these requirements. See Section V, infra.

Finally, Ameritech's request is consistent with the public interest, convenience and necessity. The local exchange in Michigan is open to competition. This has been accomplished by the 1996 Act and the Commission's applicable regulations; reforms initiated by the State of Michigan, including the MPSC; and Ameritech's implementation of the Act's competitive checklist. Ameritech's entry into long distance will provide additional competition in long distance services in Michigan, leading to significant consumer benefits through more competitive pricing and the development of new and innovative service offerings. Moreover, market, statutory, regulatory, and technological constraints provide ample protection against any residual competitive concerns — typically voiced most vociferously by those whose entrenched market position would be challenged by additional long distance competition. See Section VI, infra.

* * *

This Application is the culmination of more than four years of procompetitive efforts by Ameritech, in conjunction with state and federal regulatory authorities, to achieve two of this nation's principal telecommunications goals — increased competition in both local exchange

services and long distance services. In its pioneering Customers First Plan, announced in March 1993, Ameritech initiated a major advance in telecommunications policy by proposing a framework for eliminating legal, economic and technical barriers to local exchange competition. Ameritech proceeded on the premise that competition for all services, local and interLATA, means better service, more competitive pricing and greater customer choice. Congress based the 1996 Act on the same procompetitive, deregulatory policy. Thus, Ameritech was well prepared for local competition; indeed, it had already implemented much of what the Act required.

Ameritech now has taken the additional steps that Congress and the Commission concluded give other carriers an opportunity to compete in local exchange services in Michigan.[5] As a result, competing carriers have entered the local exchange business in Michigan, including Brooks Fiber, MFS, TCG, USN, MCI and AT&T. Therefore, one of the two principal goals of the 1996 Act has been achieved in Michigan — local exchange service is open to competition. By granting this Application, the Commission can take a giant step toward achieving the second goal — increased competition in the concentrated long distance market.

---

[5] Ameritech is one of several parties seeking judicial review of the Commission's Local Competition Interconnection Regulations. See Iowa Utilities Board v. FCC, No. 96-3321 and consolidated cases (8th Cir.), pet'n for review of Local Competition First Report and Order. Notwithstanding the pendency of that petition for review and the limited stay order entered by the Eighth Circuit, Ameritech Michigan is complying with the Commission's regulations as adopted and will comply with any revised regulations adopted to comply with any action taken by the court of appeals.

II. PRELIMINARY MATTERS

A. Statement Regarding Status of Interconnection Agreements Pursuant To Section 252.

Ameritech has entered into the following agreements pursuant to negotiations and/or arbitrations under Section 252 of the 1996 Act with MFS, Brooks Fiber, TCG, AT&T, MCI, Sprint, USN, WinStar and AirTouch. The interconnection agreements and MPSC orders described below are contained in Volume 1 accompanying this brief.

1. MFS Intelenet of Michigan, Inc. ("MFS") and Ameritech entered into a negotiated interconnection agreement on May 17, 1996. The MPSC approved the agreement on December 20, 1996, and the parties filed the approved, executed agreement on December 30, 1996.

2. Brooks Fiber Communications of Michigan, Inc. ("Brooks Fiber") and Ameritech entered into a negotiated interconnection agreement on August 5, 1996. The MPSC approved the agreement on November 26, 1996, and the parties filed the approved, executed agreement on December 6, 1996.

3. After a period of negotiations between TCG Detroit ("TCG") and Ameritech, TCG filed a petition for arbitration on July 16, 1996. The MPSC entered a final arbitration decision on November 1, 1996. The parties then filed an executed agreement, and the MPSC approved that agreement on February 28, 1997.

4. After a period of negotiations between AT&T Communications of Michigan, Inc. ("AT&T") and Ameritech, AT&T filed a petition for arbitration on August 1, 1996. The MPSC entered a final arbitration decision on November 26, 1996. On February 28, 1997, the MPSC issued an order resolving remaining issues. The parties then filed for approval an executed

agreement that complied with the MPSC orders of November 26, 1996 and February 28, 1997. The MPSC approved that agreement on April 4, 1997.

5. After a period of negotiations between MCI Telecommunications Corporation ("MCI") and Ameritech, MCI filed a petition for arbitration on August 30, 1996. The MPSC entered a final arbitration decision on December 20, 1996. However, because certain issues have not been resolved, MCI and Ameritech have not filed, and the MPSC has not approved, an executed agreement.

6. After a period of negotiations between Sprint Communications L.P. ("Sprint") and Ameritech, Sprint filed a petition for arbitration on September 20, 1996. The MPSC entered a final arbitration decision on January 15, 1997. The parties then filed an executed agreement, and the MPSC approved that agreement on April 4, 1997.

7. USN Communications ("USN") and Ameritech reached an agreement through negotiations. The MPSC approved the agreement on January 28, 1997, and the parties filed the approved, executed agreement on February 6, 1997.

8. WinStar Wireless ("WinStar") and Ameritech entered into an agreement through negotiations on November 27, 1996. The MPSC approved the executed agreement on March 10, 1997.

9. AirTouch Cellular ("AirTouch") and Ameritech entered into an agreement through negotiations on December 17, 1996. The MPSC approved the agreement on February 11, 1997, and the parties filed the approved, executed agreement on February 21, 1997.

On January 24, 1997, AT&T filed a Complaint for Declaratory and Other Relief under the Telecommunications Act of 1996 in the United States District Court for the Eastern District of Michigan, Southern Division, naming Ameritech Michigan and the Commissioners of the

MPSC as defendants. On May 5, 1997, AT&T filed a second Complaint and moved to consolidate the two suits. These suits remain at the pleading stage. There are no pending federal court actions with regard to any of the other interconnection agreements.

B. Statement of How Ameritech Meets the Requirements of Section 271(c)(1).

As described in detail in Section III of this Brief, Ameritech has met the requirements of Section 271(c)(1) by entering into interconnection agreements with MFS, TCG and Brooks Fiber, all of which have been approved by the MPSC under Section 252(e) of the Act. These agreements satisfy the requirements of Section 271(c)(1)(A) that they be with competing providers of telephone exchange service, offered exclusively or predominantly over their own facilities, to residential and business customers. Brooks Fiber serves both residential and business customers. MFS and TCG are certified by the MPSC to serve both residential and business customers. Ameritech Michigan is unaware whether any of the Michigan customers of MFS or TCG subscribe to residential service, but, by approved Michigan tariff, both MFS and TCG hold themselves out as being able to furnish such service.

C. Statement of Status Regarding Michigan Public Service Commission Inquiry Into Compliance With Section 271.

On June 5, 1996, the MPSC issued an Order initiating Docket No. U-11104, an inquiry into Ameritech's compliance with Section 271(c) of the 1996 Act. On August 28, 1996, the MPSC issued an order establishing procedures for this inquiry.

On November 12, 1996, Ameritech filed a Submission of Information in response to Attachment A to the MPSC's August 28 Order, which set forth questions concerning general telecommunications market conditions in Michigan. On December 4, 1996, other parties filed comments in response to Ameritech's Submission. On December 16, 1996, Ameritech filed its

Submission of Information in response to the MPSC's Attachment B, which set forth questions concerning Ameritech's compliance with the competitive checklist in Section 271(c) of the Act. Interested parties filed comments in response.[6] Ameritech and all other interested parties have updated these submissions with additional filings, the most recent of which were filed on May 14, 1997. The entire file from this docket, as of May 15, 1997, is contained in Volume 4 accompanying this Brief.

III. AMERITECH IS PROVIDING ACCESS AND INTERCONNECTION TO COMPETING PREDOMINANTLY FACILITIES-BASED PROVIDERS OF TELEPHONE EXCHANGE SERVICES TO RESIDENTIAL AND BUSINESS CUSTOMERS.

Ameritech has met all of the requirements of Section 271(c)(1)(A) of the Act. First, it has entered into three agreements — with Brooks Fiber, MFS and TCG — specifying the terms and conditions under which it is providing access and interconnection for unaffiliated competing providers of telephone exchange services. These agreements have been approved by the MPSC under Section 252(e) of the Act. Second, the competing providers are offering telephone exchange services to residential and business subscribers. Finally, the competing providers are offering such services exclusively or predominantly over their own facilities.

A. Ameritech Has Satisfied the Requirement of One or More Approved Agreements.

The comprehensive agreements that Ameritech has entered into with Brooks Fiber, MFS and TCG satisfy the first requirement under Section 271(c)(1)(A). The MPSC approved the Brooks Fiber Agreement by order dated November 26, 1996; the TCG Agreement by order dated February 28, 1997; and the MFS Agreement by order dated December 20, 1996.

---

[6] Also, on February 5, 1997, the MPSC filed its Comments in CC Docket No. 97-1, in which it concluded that Ameritech satisfied the requirements of Section 271(c) of the Act.

Pursuant to these agreements, Ameritech is providing access and interconnection to Brooks Fiber, MFS and TCG. Likewise, Brooks Fiber, MFS and TCG have implemented these agreements and are offering telephone exchange services to their customers in competition with Ameritech.

B. Ameritech Has Satisfied the Requirement that the Competing Providers Serve Residential and Business Customers.

Section 271(c)(1)(A) states that the agreement or agreements entered into by the BOC must specify the terms and conditions under which access and interconnection is provided to "one or more unaffiliated competing providers of telephone exchange service . . . to residential and business subscribers." Ameritech has satisfied this requirement because Brooks Fiber, MFS and TCG are unaffiliated competing providers of telephone exchange services that together serve business and residential customers.[7]

C. Ameritech Has Satisfied the Requirement of a Facilities-Based Competing Provider.

The final requirement in Section 271(c)(1)(A) is that the BOC have an implemented agreement with an operational carrier that offers service "either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities in combination with the resale of the telecommunications services of another carrier." This requirement is clearly satisfied because Ameritech has implemented agreements with Brooks

---

[7] According to Brooks Fiber, approximately 29% of its lines in service in Michigan provide service to residential customers and 71% provide service to business customers. See Brooks News, "Brooks Fiber Properties Reports Record First Quarter Revenues," "First Quarter Results," p. 3 (April 28, 1997); Ameritech Michigan's Submission of Information, Case No. U-11104, Attachment A, Response to Question No. 2, Exhibit 2.9, "Brooks Fiber Reports Results of Operation of Grand Rapids, Michigan Unit for Competitive Switched Services," released Oct. 24, 1996 (Mich. Pub. Serv. Comm'n dated Nov. 12, 1996) ("Ameritech MPSC Submission, Attachment A").

Fiber, MFS and TCG, all of which are operational and offer local exchange services exclusively or predominantly over their own telephone exchange service facilities.

To provide telephone exchange services, Brooks Fiber, MFS and TCG use various facilities, many of which they have purchased or constructed themselves. For example, the local exchange service facilities over which Brooks Fiber offers services include:

- A Nortel DMS-500 switch located in Grand Rapids and Lucent 5ESS switches in Traverse City and Lansing;
- More than 300 miles of fiber optic cable connecting Brooks Fiber's switches to about 275 buildings in Grand Rapids and Traverse City;
- Fiber optic networks in Lansing, Ann Arbor and Traverse City;
- Collocated equipment in XX Ameritech wire centers (used to interconnect with Ameritech's network and gain access to its unbundled network elements);
- Approximately 4,600 trunk lines from Brooks Fiber's switch to Ameritech's tandem and end office wire centers;
- Approximately 9,000 loops that Brooks Fiber has constructed and installed itself; and
- Approximately XXXXXX loops ordered or in service from Ameritech.

Harris/Teece Aff., pp. 47-53; Edwards Aff., ¶ 9.[8/]

[8/] The affidavits of Daniel P. Broadhurst ("Broadhurst Aff."), Patrick J. Earley ("Earley Aff."), Theodore A. Edwards ("Edwards Aff."), Rachel Foerster ("Foerster Aff."), Daniel J. Kocher ("Kocher Aff."), Steven L. Kriz ("Kriz Aff."), Paul V. La Schiazza ("La Schiazza Aff."), John B. Mayer ("Mayer Aff."), Robert H. Meixner ("Meixner Aff."), John W. Putnam ("Putnam Aff."), Warren L. Mickens ("Mickens Aff."), William C. Palmer ("Palmer Aff."), Joseph A. Rogers ("Rogers Aff."), and Richard E. Shutter ("Shutter Aff.") are in Volume 2 accompanying this Brief. The affidavits of Robert Crandall and Leonard Waverman ("Crandall/Waverman Aff."), Richard J. Gilbert and John C. Panzar ("Gilbert/Panzar Aff."), Robert G. Harris and David J. Teece ("Harris/Teece Aff."), Paul W. MacAvoy ("MacAvoy Aff."), and G. Mitchell Wilk and Steven M. Fetter ("Wilk/Fetter Aff.") are in Volume 3 accompanying this Brief.

Similarly, the local exchange service facilities over which MFS offers services include:

- An Ericsson AXE 10 switch located in Detroit;
- 135 miles of fiber optic cable connecting MFS's switch to about 110 buildings in the Detroit area;
- Collocated equipment in XX Ameritech wire centers (used to interconnect with Ameritech's network and gain access to its unbundled network elements);
- More than 4,100 trunk lines from MFS's switch to Ameritech's tandem and end office wire centers;
- Approximately 26,400 loops that MFS has constructed and installed itself; and
- Approximately XXXXXX loops ordered or in service from Ameritech.

Harris/Teece Aff., pp. 47, 63-66; Edwards Aff., ¶ 10.

Finally, the local exchange service facilities over which TCG offers services include:

- A Lucent 5ESS switch in the Detroit area;
- A 155-mile fiber optic network in Detroit and the surrounding suburbs;
- Connections from its fiber ring to approximately 22 buildings in the Detroit area;
- Collocated equipment in XX Ameritech wire centers (used to interconnect with Ameritech's network and gain access to its unbundled network elements);
- Approximately 4,300 trunk lines running from its switch to Ameritech's tandem and end office wire centers; and
- Approximately 5,300 loops that TCG has constructed and installed itself.

Harris/Teece Aff., pp. 47, 60-63; Edwards Aff., ¶ 11.

The overwhelming proportion of the telephone exchange services provided by Brooks Fiber, MFS and TCG are services that utilize facilities that these competitors have constructed themselves or obtained from third parties, as opposed to services that consist simply of the

resold services of Ameritech.[9] Indeed, neither Brooks Fiber nor TCG is serving any local customer through resale. With respect to MFS, its resale of service to approximately 2,145 non-Centrex lines in Michigan is modest in comparison to the facilities-based services that MFS provides. See Harris/Teece Aff., pp. 47, 63-66.

The distinction between (1) services provided by a carrier over its own facilities and (2) its resale of the services of another carrier is critical to the "facilities-based" concept in the 1996 Act. Section 271(c)(1)(A) juxtaposes two (and only two) alternative arrangements for competing carriers to provide telephone exchange service: first, "over their own telephone exchange service facilities," and second, through the "resale of the telecommunications services of another carrier." Because Section 271(c)(1)(A) describes only two possible methods of providing service, facilities-based service necessarily encompasses all service other than resold service.

The legislative history of the 1996 Act confirms that, in using the facilities-based concept, Congress sought to distinguish between resellers of telephone exchange services and all other providers. Thus, the Conference Report makes clear that the Act

> includes the "predominantly over their own telephone exchange service facilities" requirement to ensure a competitor offering service exclusively through the resale of the BOC's telephone exchange service does not qualify, and that an unaffiliated competing provider is present in the market.

H.R. Conf. Rep. No. 104-458, 104th Cong., 2d Sess. 148 (1996) (emphasis added).

The Conference Report also states:

> With respect to the facilities-based competitor requirement, the presence of a competitor offering the following services specifically does not suffice to meet the requirement:

---

[9] See Ameritech Michigan's Answer to Brooks Fiber's Motion to Reopen and/or Reconsider Comments, Case No. U-11104, pp. 4-10 (Mich. Pub. Serv. Comm'n dated March 28, 1997) ("Ameritech MPSC Answer to Motion to Reopen").