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January 23, 1998

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JAN 23 1998

Federal Communications Commission
Office of Secretary

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, DC 20554

Re: **Ex Parte Filing**
CC Docket 97-121, CC Docket 97-137
CC Docket 97-208 and CC Docket 97-231

Dear Ms. Salas:

Enclosed please find two copies of "Ameritech's View of the Roadmap" for inclusion in the above referenced dockets. Thank you for your attention to this matter. Should any questions arise in connection with this filing, please contact the undersigned.

Sincerely,

Lynn S. Starr

Attachment

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Federal Communications Commission
Office of Secretary

THE FCC's MICHIGAN SECTION 271 ORDER
CC DOCKET 97-137

AMERITECH'S VIEW OF THE "ROADMAP"

A PLAN FOR "GETTING TO YES"

Ameritech

JANUARY 21, 1998

(FOR DISCUSSION PURPOSES)

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EXECUTIVE SUMMARY

Introduction and Purpose Section 271 of the Telecommunications Act of 1996 may survive its current legal challenges, or it may be found on appeal to be unconstitutional, or it may be legislatively modified. Regardless of those future outcomes, Ameritech – for planning purposes – assumes it will be necessary to demonstrate that it has opened the local market to competition, in compliance with Sections 251 and 252 of the 1996 Act. Therefore, for purposes of discussion, this paper assumes Section 271 and the Commission's "roadmap" will continue to govern Ameritech's entry into long distance.

The Commission described its interpretation of Section 271 in its Order that denied Ameritech's application to provide long distance service in Michigan. The substantive requirements identified in that Order have been called the "roadmap." (CC Docket 97-137, FCC 97-298) In its South Carolina 271 Order, the Commission reaffirmed the guidance it provided in the Michigan 271 Order and, in a few areas not addressed in its prior Order, provided additional guidance for future applications. (CC Docket 97-208, FCC 97-418)

This paper has two purposes. First, it is intended to convey Ameritech's understanding of the Commission's expectations for a successful 271 application. The goal is to facilitate an open dialogue between Ameritech and the Commission, State commissions and the Department of Justice to achieve a successful application. Second, this memo provides a summary of Ameritech's position on, and the current status of, the substantive requirements of the "roadmap."

Next Steps Although Ameritech's application was denied, the Commission recognized the significant accomplishments made to open the local exchange market to competition: "Ameritech has committed considerable resources and has expended tremendous efforts in implementing many of the steps necessary to receive in-region, interLATA authority . . . ." (¶ 403) Ameritech remains committed to providing its customers with a meaningful alternative to existing long distance services available today, and so also remains committed to a successful 271 application. To those ends, Ameritech proposes the following next steps:

- Review substantive issues with state staff, DOJ and Commission staff to reach mutual understandings and resolutions without further delay.

- All parties commit to an open and candid working relationship, with – and this is critically important – two-way dialog.

- After staff review, Ameritech will supplement the state dockets to reflect new information and performance results.

- After state review, Ameritech will refile with the FCC.

Ameritech believes these proposed steps are consistent with and responsive to recent statements from the Commission encouraging a more open and cooperative 271 process. As Chairman Kennard recently stated: ". . . by working together *before* a section 271 application is filed . . . interested parties can seek to eliminate uncertainties and resolve potential disputes . . . ." See Separate Statement of Chairman Kennard (CC Docket 97-208, December 24, 1997, emphasis in original); See also Separate Statement of Commissioner Ness (CC Docket 97-208, p. 2) and Separate Statement of Commissioner Powell (CC Docket 97-208, p. 1), and Statement released January 15, 1998. Ameritech prepared this paper, which discusses each of the 271 requirements identified by the Commission, to initiate such "open dialogue" and this "getting to yes" process.

Summary of Ameritech's Position Based on Ameritech's understanding of the Commission's "roadmap" requirements, there are many substantive areas that are clearly resolved, and others that require further clarification or reconsideration:

I. Track A Findings

Ameritech agrees with the Commission's legal conclusions regarding the statutory requirements to comply under "Track A." There appear to be only two remaining issues: what constitutes "predominant" and whether PCS service is "telephone exchange service." In contrast, Ameritech disagrees with the Commission's existing legal interpretations regarding the availability of Track B. However, this paper does not address Track B because the Commission has indicated that it will provide specific guidance on this issue in a future proceeding.

II. Checklist Compliance

Issues That Are Or Will Be Resolved. As the Commission noted, seven of Ameritech's fourteen checklist items were in "limited dispute." These include: poles and conduit, directory assistance and operator services, white page directory listings, numbering administration, call routing databases and associated signaling, local dialing parity, and reciprocal compensation. As described in this paper, Ameritech has resolved all issues raised relative to these checklist items. In addition, Ameritech has continued to work with carriers as new disputes arise – which they surely will in such a complex area. Based upon Ameritech's original showing, and the resolution of these limited disputes, there should be no question that these seven checklist items fully satisfy the checklist. Finally, although the Michigan 271 Order did not address the applicability of reciprocal compensation for calls to information service providers, Ameritech believes that such calls are not entitled to reciprocal compensation because they are exchange access, not local calls. Ameritech has established and funded an escrow account for these disputed amounts, and strongly encourages the Commission to promptly resolve this significant pending legal issue.

In addition, most of the other checklist concerns identified in the Michigan 271 Order have been or will be fully resolved. These issues include: interconnection and call blockage, 911 and E911 services, long-term number portability, and resale of intraLATA toll service. With respect to interconnection, Ameritech will provide the call blockage information the Commission requested, and will demonstrate that all identified blockage concerns have been adequately

resolved. With respect to the functioning of our OSS, Ameritech has implemented numerous system design modifications to improve already industry-leading flow-through and processing intervals. Reconciliation of E911 databases in Michigan has been completed, and additional 911 performance reporting will be provided. Ameritech's next application will demonstrate its ability to implement long-term number portability on schedule, subject only to obtaining regulatory authority to offer the service and obtain cost recovery. Finally, the concerns regarding intraLATA toll resale will be addressed in our next application.

Checklist Issues That Are Not Resolved. In contrast to these very significant checklist accomplishments and resolutions, a number of competitive checklist items still require Commission clarification or reconsideration. These items include: the meaning of "nondiscriminatory" access to OSS, pricing of checklist items, unbundled local transport, unbundled local switching and combinations of network elements. Ameritech's concerns with these items are detailed in the body of this paper and summarized below:

> **Operational Support Systems.** Ameritech agrees that nondiscriminatory access to OSS is necessary for a successful 271 application. However, Ameritech believes that the Commission's discussion of nondiscriminatory access in the Michigan 271 Order is internally inconsistent, and contrary to the statutory standard. The Commission should clarify that "equivalent access" or "nondiscriminatory access" for network elements, including OSS, and for resold services, is defined as "substantially the same time and manner as the ILEC provides for itself." Nondiscriminatory access cannot be defined as "equal" for these elements or services. This is not the statutory standard and it is a standard that is technically infeasible for an ILEC to ever meet. The Commission's South Carolina 271 Order correctly defines nondiscriminatory access as "substantially the same time and manner," not as "equal" to itself. In addition, there is no retail comparison for many of the OSS pre-ordering and ordering functions. For example, Ameritech does not provide a "firm order confirmation" to itself; the system either accepts or rejects the order. Finally, as the Commission has requested, Ameritech will provide updated evidence regarding its manual and electronic OSS capacities. However, Ameritech is concerned that the Commission has been far too negative regarding business decisions to use manual processing for certain services or processes.
>
> **Performance Measures.** As a result of the Commission's Order, Ameritech is evaluating additional potential performance measurements. However, Ameritech is concerned that the Commission has shown little regard for the practical consequences of adding additional performance measurements, in particular, those measurements that did not exist or were not previously used for Ameritech's retail operation. Ameritech plans to propose that some of the additional measurements identified by the Commission or included in the prior application are not required or have been rendered redundant by other measurements.
>
> **Pricing of Checklist Items.** As the Commission recognized, the State commissions in Ameritech's region have applied the pricing principles in Section 252 in a manner consistent with the FCC's views. Ameritech believes that these pricing determinations

are determinative for checklist compliance. An applicant should not be forced to meet two separate, and potentially conflicting, pricing standards for the same element or service. That being said, Ameritech notes that neither the Commission nor the Department of Justice raised any substantive objections to Ameritech's prices in their review of Ameritech's Michigan 271 application. Ameritech believes that the prices in its states would clearly satisfy any Commission review that might be applied in the context of a 271 application.

Unbundled Local Transport. As the Commission is aware, Ameritech has appealed its Shared Transport Order. Pending a final outcome, Ameritech is not aware of any way to implement the Shared Transport Order in a manner consistent with the Eighth Circuit's Order on Rehearing, which vacated Rule 51.315(b).

Regardless of the outcome of the Shared Transport appeal, the Commission needs to address the obligations associated with a requesting carrier providing service using unbundled network elements that seeks to interconnect with a third-party, facilities-based local exchange carrier. The end office interconnection trunks used by the incumbent LEC and such third-party carriers are not network elements. Therefore, requesting carriers will be required to negotiate and obtain their own end office interconnection arrangements. As an interim, short-term measure, other potential options, including "transiting" and indirect interconnection, may need to be considered.

Unbundled Local Switching. Ameritech's position on "shared trunk ports" and access to the "same" routing instructions used to route Ameritech's traffic should be resolved by the pending Shared Transport appeal.

Again, regardless of the Shared Transport appeal, the Commission should reconsider its position that the purchaser of unbundled local switching line cards is entitled to "exclusive" use of all switching functionality for that end user. This position is operationally incorrect, prohibitively expensive to implement and inconsistent with the Commission's own procompetitive rules and policies. If the Commission reconsiders this narrow issue, significant price arbitrage and extensive network recording costs would be eliminated, and there would be no need to develop the "factor-based" approach discussed above.

Combinations of Network Elements. The provision of existing, preassembled combinations of network elements, including the so-called UNE Platform, at cost-based rates is no longer required. Therefore, Ameritech will demonstrate in its next application that a requesting carrier can obtain access to unbundled network elements in a manner that allows the requesting carrier to combine such elements, in an end-to-end fashion, to provide telecommunications services. In making this showing, Ameritech will be guided by the Commission's discussion in its South Carolina 271 Order. However, this area contains many unanswered questions and policy determinations, which need to be worked through. Until the pending appeals before the U.S. Supreme Court and the Eighth Circuit

Court of Appeals become final and non-appealable, Ameritech will comply with the "combination" requirements in its approved interconnection agreements.

III. Section 272 Requirements

Ameritech has addressed all of the concerns noted by the Commission: Ameritech created a Board of Directors for ACI; it will post "actual rates" for all functions provided to or received from BOC affiliates; and all transactions between February 8, 1996 and May 12, 1996 will be available for inspection. Ameritech is concerned, however, that despite the specific directive regarding Section 272 compliance, the Michigan 271 Order disclaims to be a "roadmap." If the Commission is aware of additional 272 concerns, they should be disclosed.

IV. Public Interest

Ameritech is concerned with some of the specific "illustrative" factors described in the Michigan 271 Order. Clearly, the public interest standard should not be used to create new and changing hurdles or requirements; nor should the already complex 271 process be converted into an omnibus complaint docket, overriding standard State commission or FCC forums and procedures. Rather, the focus of the public interest inquiry should be on the benefits customers will be afforded when a Section 271 application is granted.

* * * *

AMERITECH'S VIEW OF THE "ROADMAP"

This paper describes Ameritech's understanding of the substantive requirements of the Commission's Section 271 "roadmap." It is organized by the major requirements identified by the Commission: Track A, Competitive Checklist, Section 272 and Public Interest. For each area, Ameritech first identifies its understanding of the Commission's requirements; this discussion is in normal font. Ameritech then describes its position regarding those requirements and offers suggestions for resolution of outstanding, unclear or inconsistent items; this discussions is in italics.

I. "TRACK A" FINDINGS (¶¶ 62-104)

The Order resolves four issues of statutory construction relating to § 272(c)(1)(A), also known as "Track A."

* The requirement of "binding agreement" does not preclude agreements that contain only "interim" prices. Nor does an individual agreement have to contain each of the 14 competitive checklist items. (¶¶ 72-73)

* The phrase "unaffiliated competing provider" does not require any specific geographic penetration or market share. Rather, all that is required is that providers serve more than a *de minimis* number of end users for a fee. Several thousand lines is not *de minimis*. (¶¶ 76-78)

* When an applicant relies upon more than one competing provider to satisfy Track A, each such carrier need not provide service to both residential and business customers. This aspect of Track A may be satisfied if multiple carriers collectively serve residential and business customers. (¶ 82)

* Unbundled network elements that a competing provider has obtained from a BOC constitute the competing provider's "own telephone exchange service facilities" for purposes of Track A. (¶¶ 93-101)

Ameritech agrees with the Commission's legal conclusions. There appear to be only two remaining legal issues for purposes of Track A: what constitutes "predominantly" over a competing provider's facilities, an issue that was not addressed in the Michigan 271 Order, see ¶ 103; and whether PCS service is "telephone exchange service" for purposes of Track A, as Ameritech has argued. See Comments of Ameritech in Docket 97-231 filed on November 25, 1997. Finally, a concern is raised by the Commission's discussion in ¶ 79 of the Michigan 271 Order. Although it may be appropriate to consider competitive conditions as part of the Commission public interest inquiry, it is not appropriate to require any market share or geographic penetration requirement. See e.g. ¶ 391.

Ameritech did not rely on Track B and, therefore, the Michigan 271 Order does not address this issue. The availability and required showing for a Track B application are now before the Court of Appeals for the District of Columbia in connection with SBC's Oklahoma application. Ameritech filed an amicus brief in that matter. In addition, in its South Carolina Order, the Commission clarified its SBC Oklahoma Order and indicated its intent to provide more specific guidance on this issue in a future proceeding. Therefore, although Ameritech may file Track B applications in the future, this issue is not discussed in detail in this memorandum.

II. CHECKLIST COMPLIANCE

A. Implementation of the Checklist

* The term "provide" means either to "furnish" or "make available" for commercial use.

* To be "providing" a checklist item, an applicant must have a concrete and specific legal obligation to furnish the item upon request pursuant to state-approved interconnection agreements that set forth prices and other terms and conditions.

Ameritech agrees with the Commission's legal conclusion. Ameritech believes that approved tariffs and statements of generally available terms also demonstrate a legal obligation "to provide." In addition, interim prices approved by a state Commission should be acceptable for purposes of checklist compliance. See fn 247 where the Commission leaves this issue unresolved.

B. Checklist Items of Limited Dispute

The Order notes that 7 of the 14 checklist items were in "limited dispute" and merely summarizes the parties' contentions. The Commission urges Ameritech to work with these parties to resolve these and any remaining issues. ¶ 116. These issues include:

Poles and Conduit (¶¶ 117-118)

- Address MCTA rate complaint

- Document provision of access to poles to AT&T

- Document structure procedures are final and have enforceable intervals

Directory Assistance and Operator Services (¶¶ 119-120)

- Document customized routing to support unbundled OS/DA (¶ 119)

- Document unbundled access to directory assistance database

White Page Directory Listings (¶ 121)

- No pending disputes or concerns identified

Numbering Administration (¶ 122)

- Resolve PhoneMichigan NXX dispute in Saginaw

Call Routing Databases and Associated Signaling (¶ 123)

- Resolve Brooks Fiber signaling interruption of 14,000 calls
- Demonstrate that Ameritech offers unbundled access to its AIN databases and AIN service creation environment

Local Dialing Parity (¶ 124)

- Demonstrate unbundled access to directory assistance databases

Reciprocal Compensation (¶¶ 125-126)

- Address Brooks Fiber and TCG reciprocal compensation complaints
- Address MCI tandem switching reciprocal compensation complaint

Ameritech has or is resolving each of the above-mentioned disputed areas and has continued to work with carriers as new disputes arise – which they surely will in such a complex area. Based on Ameritech's original showing, and the resolution of these disputes, there should be no question that these checklist items will be fully satisfied upon Ameritech's next filing.

The FCC's Ameritech Michigan Order did not address the applicability of reciprocal compensation for calls to information service providers. Such calls are not entitled to reciprocal compensation because they are exchange access, not local calls. This legal issue is pending in state commissions and at the FCC. The Commission should resolve this issue. In the interim, Ameritech has established and funded an escrow account for the disputed amounts.

C. Operation Support Systems (¶¶ 128-221)

The Order outlines a general approach to analyzing the adequacy of a BOC's operation support systems (OSS) and then provides a detailed analysis of certain OSS functions.

1. Background and Meaning of "Nondiscriminatory" Access (¶¶ 129-132)

- The Commission notes that the incumbent LEC's duty to provide access to OSS functions falls within its duty under § 251(c)(3) to provide unbundled network elements under terms and conditions that are "nondiscriminatory, just and reasonable" and its duty under § 252(c)(4) to offer resale services without imposing any limitations that are "discriminatory or unreasonable." (¶ 130)

- "To meet the nondiscriminatory standard for OSS, an incumbent LEC must provide to competing carriers access to OSS functions . . . "that is equivalent to what it provides itself, its customers or other carriers." Additionally, the Commission notes that incumbent LECs must provide network elements, including OSS functions, on terms and conditions that "provide an efficient competitor with a meaningful opportunity to compete."

Ameritech agrees that nondiscriminatory access to OSS is required. However, Ameritech believes that the Commission's discussion of nondiscriminatory access in the Michigan 271 Order is internally inconsistent and in conflict with the statutory provisions regarding nondiscriminatory access applicable to network elements and resold services. To the extent the Commission interprets the nondiscriminatory standard for OSS to be that the BOC provide access to OSS functions "equal" to the access that it "provides to its retail operations," see e.g. ¶¶ 130, 143 and 166, the Commission's nondiscriminatory access standard is in conflict with §§ 251(c)(3) and (c)(4). While an "equal to itself" standard governs interconnection, that is because § 251(c)(2) requires that interconnection be "at least equal in quality to that provided by the local exchange carrier to itself. . . . " This "equal to itself" statutory standard is not included in §§ 251(c)(3) or (c)(4).

The Commission should clarify that "equivalent access" or "nondiscriminatory access" for network elements, including OSS, and for resold services is defined as "substantially the same time and manner as the ILEC provides for itself." See ¶¶ 135; 167. Equivalent access cannot be defined as "equal" for these elements or services. This is not the statutory standard and is a standard that is technically infeasible for an ILEC to ever meet.

The Commission's recent South Carolina Order correctly defines nondiscriminatory access as "substantially the same time and manner," and not as "equal" to itself. See e.g. Docket 97-208, ¶¶ 98, 102, 104, 105, 115, 116, 122, 132 and 150. This is also consistent with the Commission's First Report and Order in Docket 96-98 that articulated the "substantially same time and manner" standard. See ¶ 518.

2. General Approach to Analyzing the Adequacy of OSS (¶¶ 133-156)

- Access to OSS must support each of the three competitive entry strategies available under the Act. (¶ 133)

- A BOC's provision of access to OSS functions includes several components: (1) a point of interface (or gateway) for the competing carrier's internal operation support systems to interconnect with the BOC's; (2) electronic or manual processing links between the interface and BOC's internal operation support systems; and (3) the internal legacy systems that a BOC uses in providing network elements and resale services. (¶ 134)

- In assessing OSS compliance, the Commission has adopted a two-part inquiry. First, the Commission must determine whether the BOC has deployed the necessary system, and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions. Second, the Commission must determine whether the OSS functions that the BOC has deployed are operationally ready, as a practical matter. (¶¶ 136-138)

- The Commission provides further guidance on the meaning of "equivalent access" depending on whether the function provided has a retail analog.

    * If the function has a retail analog, the BOC must provide access "that is <u>equal</u> to the level of access that the BOC provides to itself . . . in terms of quality, accuracy and timeliness." (¶ 139) (emphasis added.)

    * The Commission finds that OSS functions associated with preordering, ordering and provisioning for resale services and repair and maintenance for both resale and unbundled network elements all have retail analogs. In addition, daily usage billing has a retail analog. (¶ 140)

    * If an OSS function has no retail analog, such as ordering and provisioning of unbundled network elements, the BOC must demonstrate that the access satisfies its "duty of nondiscriminatory access," which the Commission appears to define as access that "provides an efficient competitor a meaningful opportunity to compete." (¶ 141)

    * If a BOC relies upon performance standards required by an approved interconnection agreement, the Commission must also find that the above "statutory" performance standards are also met, even if greater than those required by the approved agreement. (¶ 142)

Ameritech does not believe there is a retail comparison for many of the OSS pre-ordering and ordering functions. For example, Ameritech does not provide a "firm order confirmation" to itself; the system either accepts or rejects the order.

Moreover, as discussed above, Ameritech believes that, as the Commission correctly recognized in its South Carolina Order, the appropriate nondiscriminatory access standard is "substantially the same," rather than the impossible "equal" standard. For example, a "firm order

confirmation" for EDI orders can never be instantaneous, as is order entry in the retail environment. But "FOC" performance consistent with contract obligations provides a new entrant with an opportunity to compete. This inconsistency should be eliminated. Such tension was noted by the Commission itself: "We also recognize that there may be situations in which a BOC contends that, although equivalent access has not been achieved for an analogous function, the access that it provides is still nondiscriminatory within the meaning of the statute." fn 345.

Finally, the Commission should not disregard state-approved interconnection performance standards. The 1996 Act's reliance on negotiated interconnection agreements reflects the fact that different technical solutions may be adopted by different parties – and that's perfectly acceptable. So long as these agreed-upon approaches provide the requesting carrier with a meaningful opportunity to compete, they should not be second-guessed or micromanaged.

3. Analysis of Ameritech's Provision of Access to OSS Functions (¶ 157-203)

The Order then applies the foregoing standards to the evidence in the record. The Commission notes Ameritech's "numerous measures" to construct interfaces and solve problems in an "expeditious manner." The Commission concludes, however, that it is unable to find that the access Ameritech currently provides for unbundled network elements or resold service is "equivalent to the access it provides to itself." (¶ 158)

OSS Functions for Unbundled Network Elements

- Ameritech needs to demonstrate that it provides OSS access to both individual network elements and combinations (by the requesting carrier) of network elements. (¶ 160)

- Ameritech must also be able to provide combinations of network elements, including the combination of all network elements, which some parties refer to as the "UNE Platform" or the "Platform." (¶ 161)

Ameritech will comply with the "combination" requirements in its approved interconnection agreements until the appeals before the U.S. Supreme Court and the Eighth Circuit Court of Appeals become final and non-appealable. In addition, as discussed below in more detail, Ameritech will provide unbundled network elements in a manner that enables the requesting carriers to combine such network elements, in an end-to-end fashion, to provide a telecommunications service.

OSS Functions for the Ordering and Provisioning of Resale Services

- Ameritech needs to provide actual installation intervals for its retail operations and competing carriers. (¶¶ 164-171)

- The Commission is concerned that Ameritech's apparent reliance on manual processing is causing, or could cause, a deterioration in performance as volume of orders increase. Specific concerns that were identified included:

    * Improve "flow-through" on Orders in "1PE" status and split accounts. (¶¶ 174-180)
    * Demonstrate a reduction in modified due dates, due to Ameritech causes, and document reasons for changes. (¶¶ 181-185)
    * Improve intervals for firm order confirmations notices and order reject notices. (¶¶ 186-188)
    * Document and demonstrate OSS capacity in response to increased demand. (¶¶ 189-199)

- Control/eliminate double-billing problems. (¶¶ 200-203)

Ameritech has implemented numerous system design modifications to improve flow-though and processing intervals. In addition, the potential for double-billing has been effectively managed, controlled and reduced to immaterial levels.

Additionally, Ameritech will provide updated evidence regarding its manual and electronic capacity. However, Ameritech is concerned that the Commission has been far too negative regarding business decisions to use manual processing for some services or processes. For example, although the Commission "expected" Ameritech to fully automate split accounts, in Ameritech's judgment, after careful review, the costs to "fully automate" this function far outweigh the benefits. Likewise, the Commission's statement that substantial and continued reliance on manual capacity is not "consistent with the requirement that there be equivalent access" would be justified only if the competing carrier's provisioning intervals or performance was not substantially the same as that provided by Ameritech to itself. See e.g. ¶ 196. In short, the cost/benefit analysis for these types of business and system decisions should be made by the incumbent carrier, and such carrier should then be held accountable for reasonable results.

4. Additional Performance Measures (¶¶ 209-213)

- Prior to its next application, Ameritech must clearly define the meaning and scope of its performance measurements. (¶ 209)

- In order to provide the Commission with "the appropriate empirical evidence" upon which to determine whether Ameritech is providing nondiscriminatory access to OSS functions, Ameritech should provide, as part of a subsequent Section 271 application, the following performance data, in addition to the data that it provided in the original application (¶ 212):

    * Average installation intervals for resale

    * Average installation intervals for loops

* Average installation intervals for loops

* Comparative performance information for unbundled network elements

* Service order accuracy and percent flow-through

* Held orders and provisioning accuracy

* Bill quality and accuracy

* Repeat trouble reports for unbundled network elements

- In addition, Ameritech must ensure that its performance measurements permit comparisons with Ameritech's retail operations, and are sufficiently disaggregated to permit meaningful comparisons. (¶ 212)

Ameritech has retained Arthur Andersen to assist in the definition, methodology and reliability of performance measurements, including its review of Ameritech's duty to provide nondiscriminatory access. See e.g. ¶ 216.

As a result of the Commission's Order, we are now evaluating over 100 different potential performance measurements – many of which were not requested in negotiation nor required in state arbitration. However, Ameritech is concerned that the Commission has shown little regard for the practical consequences of adding additional performance measurements, in particular, those measurements that did not exist or were not previously used for Ameritech's retail operations. See e.g. ¶ 208. A proposed list of the performance measurements, and levels of disaggregation, will be provided.

5. Other OSS Related Concerns (¶¶ 214-221)

The Commission identified a number of additional OSS related concerns "to provide guidance to Ameritech before it files another Section 271 application." (¶ 214) These issues are identified below.

- Improve Ameritech's electronic service ordering guide ("ESOG") and other OSS support training and materials with respect to unbundled network elements. (¶ 215)

- The Commission is encouraged by Ameritech's commitment to transition to agreed upon industry standards in a timely manner. (¶ 217)

- Demonstrate capacity for preordering interface, as of the date of the next filing. (¶ 218)

- Provide detailed explanation of actions Ameritech has undertaken to transition to the EDI standard for the ordering or unbundled loops. (¶ 219)

- Provide detailed evidence regarding the operational readiness of both Ameritech's T1M1 and the graphical user interface (GUI) tool, as an alternate method of access to the T1M1 interface. (¶ 220)

- Provide detailed evidence to demonstrate that Ameritech provides timely and accurate billing on terms and conditions that are nondiscriminatory, just and reasonable and demonstrate delivery of improved daily usage files that are at parity with retail operations. (¶ 221)

Ameritech will address or resolve each of these concerns.

D. <u>Interconnection in Accordance with §§ 251(c)(2) and 252 (d)(1) (¶¶ 222-255)</u>

- The Commission notes that it is an incumbent LEC's duty to provide interconnection "at least equal in quality to that provided by the local exchange carrier to itself" . . . <u>and</u> on terms and conditions that are "just, reasonable and nondiscriminatory . . . ." (¶ 222)

- The Order concludes that Ameritech failed to provide adequate data by which the Commission could compare call completion rates for calls originating from Ameritech customers and terminating on Ameritech's or competing CLECs' networks, respectively. The Order also specifies the types of data Ameritech should submit with its next application. This evidence includes:

  * The rate of actual trunk and call blockage This data should include size of trunk group, percent of blockage, percent of call blockage, and/or call completion between Ameritech-to-Ameritech and Ameritech-to-CLEC calls. (¶¶ 232-235)

  * Provide more detailed information to the extent Ameritech reroutes calls to competing LECs' NXXs when they are blocked as compared to the extent which it reroutes calls to its own NXXs. (¶ 235)

  * Clarify the impact of volatility on blockage objectives. (¶ 241)

  * Describe in more detail trunk blockage which Ameritech claims is caused by inadequate engineering or architecture by the competing local exchange carrier. (¶ 242)

  * Demonstrate that interconnection is being provided at parity. (¶ 244)

  * Demonstrate that the end office integration blockage problems articulated by TCG have been resolved. (¶¶ 246-251)

* Provide to CLECs data they need to remedy network blockage. (¶¶ 252-253)

Ameritech will provide the call data the Commission requested that will demonstrate parity in network performance, and will demonstrate that all other identified concerns have been resolved.

E. Nondiscriminatory Access to 911 and E911 Services (¶¶ 256-279)

- The Commission interprets the term "nondiscriminatory" as "access to its 911 and E911 services in the same manner that a BOC obtains such access, i.e. at parity." (¶ 256)

- The Order concludes that Ameritech must "do what is necessary to ensure that its 911 database is populated as accurately, and that errors are detected as quickly, for entries submitted by competing carriers as it is for its own entities."

- For facilities-based carriers that physically interconnect with Ameritech, Ameritech has the additional duties of providing nondiscriminatory access to the 911 database and dedicated 911 trunking. (¶¶ 256-279)

- In response to the above requirements, the Michigan 271 Order states that Ameritech's next application must describe and document the:

  * Steps taken by Ameritech to detect and correct errors in CLEC's 911 databases, including resolution of the Southfield complaint and demonstration that the root cause of the three database errors identified and discussed by the Commission, has been corrected. (¶¶ 260-264)

  * Data comparing CLEC to Ameritech 911 accuracy. (¶¶ 265-266)

  * 911 error rates of CLEC compared to Ameritech. (¶ 267)

  * Accuracy rate in processing CLEC compared to Ameritech 911 order requests. (¶ 268)

  * Nondiscriminatory access to 911 database. (¶ 269)

* Data on quality and efficiency of input of manual 911 orders. (fn 694)

* Status on the "view-only" upgrade. (¶ 270)

* Status of the mechanized feed to 911 database. (¶¶ 270-271)

* 911 daily error report and demonstrate Ameritech has implemented verification procedures. (¶ 272)

* Procedures are in place to prevent disconnection of 911 trunk groups. (¶ 273)

* Preventative measures Ameritech has undertaken with respect to database reconciliation and reloads. (¶¶ 275-276)

Reconciliation of 911 database in Michigan has been completed, all identified issues are being resolved and implemented, and additional performance reporting will be provided. Ameritech has appealed the MPSC's Order regarding certain legal liability issues under Michigan state law, which are not relevant to checklist nondiscriminatory access requirements.

F. Additional Concerns (¶¶ 280-343)

In order to provide "further guidance" regarding checklist compliance, the Commission discussed five additional issues, but made no findings regarding Ameritech's compliance with these issues. (¶ 280)

1. Pricing of Checklist Items (¶¶ 281-297)

The Commission's Order does not reach the question of whether Ameritech's pricing of checklist items complies with the requirements of Section 271. To facilitate future applications, the Commission discusses its general concerns regarding pricing and the principles it believes must be provided in an application to demonstrate pricing compliance. (¶ 281)

According to the Commission, the Act gives it the "exclusive responsibility" for determining whether a BOC has complied with the checklist and, therefore, requires the Commission "to assess whether a BOC has priced interconnection, unbundled network elements, transport and termination, and resale in accordance with the pricing requirements in Section 252(d)." The Commission concludes that Congress intended it "in addressing Section 271 applications, to construe the statute and apply a uniform approach to the phrase 'based on cost' when assessing BOC compliance with the checklist." In addition to being a checklist item, pricing is also "a relevant concern" in the public interest inquiry. (¶¶ 281-288) The Commission then provides the substantive pricing standards it expects an applicant to demonstrate:

TELRIC-Based Pricing

- A BOC cannot be deemed to comply with the checklist unless it demonstrates that prices for interconnection required by Section 251, unbundled network elements and transport and termination are based on forward-looking economic costs. (¶ 289)

- The forward-looking economic costs are to be implemented through a method based on total element long-run incremental cost. (¶ 290-291, fn 747)

- TELRIC-based prices for network elements must also be geographically deaveraged to account for the differing costs of billing and maintaining networks in different geographic areas of varying population density. (¶ 292)

- In order to meet the competitive checklist for reciprocal compensation, such rates must not only be based on TELRIC principles, but new entrants and BOCs must also each be compensated for the use of the other's network for transport and termination. (¶ 293)

- The Commission expects a BOC to include in its application detailed information concerning how unbundled network elements prices were derived and whether cost studies are interim or permanent. (¶¶ 291, 294)

Pricing for Resold Services

- A BOC must demonstrate that its recurring and non-recurring rates for resold services are set at retail rates less reasonably "avoidable" costs. (¶ 295)

Non-Recurring Charges

- Non-recurring charges in connection with unbundled network elements and interconnection must reflect forward-looking economic costs. (¶ 296)

- Non-recurring charges associated with services made available for resale charges that have a retail equivalent are to be priced based on the avoided cost standard. (¶ 296, fn 752)

- Non-recurring charges associated with resale that have no retail equivalent, should be based on forward-looking economic costs. (¶ 296, fn 752)

Continuing Compliance

- The Commission notes that it may be necessary as a "condition of authorization" that the BOC commit to continue to price interconnection, unbundled network elements, transport and termination, and resold services in accordance with the checklist pricing principles described above. (¶ 297)

As the Commission notes, the State commissions in Ameritech's region have applied the pricing principles in Section 252 in a manner consistent with the FCC's views. However, the State commissions have required geographic deaveraged rates only for unbundled loops.

In any event, Ameritech believes that price determinations reached by a state commission under Section 252 are determinative for checklist compliance. An applicant should not be forced to meet two separate, and potentially conflicting, pricing standards for the same element or service. The Commission's concerns that a State commission may not properly apply the statutory provisions of Section 252 is adequately addressed by the Act's appellate review procedures which would provide either party an opportunity to appeal a State commission determination to the U.S. District Court. See ¶ 284. In any event, neither the Commission nor the Department of Justice raised any substantive objections to Ameritech's prices in their review of Ameritech's Michigan 271 application.

2. Unbundled Local Transport (¶¶ 298-318)

The Commission summarized its Third Reconsideration Order, released on August 18, 1997 (the Shared Transport Order), which describes the incumbent LEC's obligation with respect to providing "shared transport." (¶ 306) According to the Commission:

- LECs are required to provide access to "all transmission facilities connecting incumbent LEC's switches" that is between end offices, between and end office and a tandem, and between tandems.

- A requesting carrier that purchases unbundled shared transport and unbundled switching is entitled to the "same routing table" that the ILEC uses.

- The ILEC must also permit the requesting carrier to use the "transport links that the incumbent LEC uses to route and carry its own traffic."

- Shared transport can be used to originate or terminate access traffic and access charges are to be collected by the requesting carrier.

After an extensive examination of Ameritech's shared transport offerings, the Commission finds that none of the offerings meets subsections (2) and (5) of the competitive checklist. (¶¶ 307-318)

Ameritech has appealed the Shared Transport Order because we believe it requires an improper preassembled combination of network elements, and otherwise is inconsistent with Sections 251(c)(3) and 251(c)(4).

Pending a final outcome, Ameritech is not aware of any way to implement the Shared Transport Order in a manner consistent with the Eighth Circuit's Order on Rehearing, which vacated rule 51.315(b). As the Commission itself recognized in the Shared Transport Order, if Ameritech

were to provide unbundled local transport and unbundled local switching for trunk ports and circuits which it currently uses to support its own traffic, on an unbundled basis, in a manner that permitted the requesting carrier to do the recombination, then Ameritech would be unable to use these same trunk ports and circuits for its own traffic and, indeed, would disrupt service for its customers. Ameritech presumes that the Commission does not intend such a result.

Regardless of the outcome of the Shared Transport appeal, the Commission needs to address the obligations associated with a requesting carrier providing service using unbundled network elements that seeks to interconnect with a third party, facilities-based local exchange carrier. The end-office interconnection trunks between the ILEC and such third-party carriers are not "network elements." According to the Commission, "shared transport" is limited to interoffice transport "between ILEC switches." Further, the Commission has assumed the point of interconnection for a carrier using such transport is at the ILEC's switch, not at the third party's switch. "Dedicated transport" is limited to transport between the ILEC and the "requesting carrier." Therefore, requesting carriers providing service with unbundled switching and transport will be required to obtain customized routing, and negotiate and obtain their own end office interconnection arrangements with all other facilities-based local exchange carriers in the area they intend to serve. As an interim, short-term measure, other potential options, including "transiting" and indirect interconnection, may need to be considered.

3. Unbundled Local Switching (¶¶ 319-331)

- The Commission finds that Ameritech improperly limits the ability of competitors to use local switching to provide exchange access. The Order states that Ameritech's position is that a purchaser of local switching must also purchase a dedicated trunk and dedicated trunk port in order to be entitled to originating exchange access. With respect to terminating access charges, Ameritech's position is that the owner of the dedicated trunk port is entitled to use the switching functionality to complete the call to the called party. (¶¶ 323-326)

- The Commission finds that since an incumbent LEC must make transport available on a "shared basis," the trunk ports to which such trunks are attached must likewise be made available on a shared basis." Therefore, the Commission finds that Ameritech may not require a purchaser of unbundled local switching to purchase a dedicated trunk port. (¶ 327)

- Based upon its Shared Transport Order, the Commission reiterates that Ameritech must grant purchasers of unbundled local switching access to the routing tables and routing instructions that Ameritech uses to transport its own traffic. (¶ 328)

- The Commission is concerned with Ameritech's claim that it is "not now technically feasible for Ameritech switches to provide precise usage data or originating carrier identity for terminating local usage or to identify terminating access usage with the called number." The Commission notes Ameritech has proposed an interim approach to estimate such terminating usage based on a ratio of

originating/terminating minutes of use, and that it will implement a long-term solution only after it has exhausted its judicial remedies. (¶ 330)

- Ameritech needs to defend its so-called "switch feature request" process. (¶ 331)

- Ameritech needs to resolve custom routing complaints and the status of a bona fide request process versus a standard offering to provide customized routing capability for unbundled switching. (¶ 331)

Ameritech's position on "shared trunk ports" and access to the "same" routing instructions used to route Ameritech's traffic may be resolved by the pending Shared Transport appeal. Ameritech will demonstrate the reasonableness of its switch feature request process and document its ability to provide customized routing.

Again, regardless of the outcome of the Shared Transport appeal, the Commission should reconsider its position that the purchaser of unbundled local switching line cards is entitled to "exclusive" use of all switching functionality for that end user. This position is operationally incorrect because it ignores the fact that purchasers of trunk ports also have access to switching functionality, and would be prohibitively expensive to implement. It is also inconsistent with the Commission's own rules and procompetitive policies. For example, it appears to deny the purchaser of unbundled local transport who purchases a trunk port the use of shared switching functionality to complete either local or toll calls. If the Commission reconsiders this narrow issue, significant price arbitrage anomalies and significant (and unnecessary) network recording costs will be eliminated because the purchaser of unbundled local transport will be assessed the use of originating and terminating switching to complete the originated call.

4. Combinations of Network Elements (¶¶ 332-337)

- The Commission notes that incumbent LECs "shall provide such unbundled elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service." (¶ 333)

- The Commission also cited to its rule 51.315(b) that provided that incumbent LECs may not separate network elements that the incumbent currently combines. "The Eighth Circuit recently upheld these determinations." "We emphasize that, under our rules, when a competing carrier seeks to purchase a combination of network elements, an incumbent LEC may not separate network elements that the incumbent currently combines." (See ¶ 333, fn 863, ¶¶ 836, 871)

- The Commission concludes that Ameritech has not demonstrated that it has deployed adequate OSS functions for its ordering, provisioning and billing of combinations of unbundled network elements. In future applications, Ameritech should demonstrate that new entrants are able to combine unbundled network elements to provide

telecommunications service as required by the Act and the Commission's regulations. (¶¶ 335-337)

The provision of existing, preassembled combinations of network elements at cost-based rates is no longer required. Therefore, Ameritech will demonstrate in its next application that a requesting carrier can obtain access to unbundled network elements in a manner in which the requesting carrier can combine such elements, in an end-to-end fashion, to provide telecommunications services. In making this showing, Ameritech will be guided by the Commission's discussion of this issue in its South Carolina 271 Order. See Docket 97-208, ¶¶ 182-209. Until the pending appeals before the U.S. Supreme Court and the Eighth Circuit Court of Appeals become final and non-appealable, Ameritech will comply with the "combination" requirements in its approved interconnection agreements.

5. Number Portability (¶¶ 338-343)

- The Order identifies a few factual and legal issues regarding Ameritech's provisioning of interim number portability. (¶¶ 340-341):
  - * Route index-portability hub
  - * Direct inward dialing with SS7 protocol
  - * Interim rates for interim number portability
- Ameritech needs to demonstrate that it will be able to implement long-term number portability. As part of that showing, the Commission expects to see a demonstration that the BOC will provide nondiscriminatory access to OSS to support the provision of long-term number portability (¶ 342)

Ameritech will demonstrate that route index-portability hub is not a required interim number portability method and has been rejected by State commissions and the FCC. All the other concerns will be addressed, including a complete demonstration of Ameritech's capability to implement long-term portability on schedule, subject to obtaining regulatory authority to offer the service and obtain cost recovery. Ameritech needs further clarification regarding OSS support for long-term number portability since that database is operated by a third party administrator, not Ameritech.

III. COMPLIANCE WITH § 272 REQUIREMENTS (¶¶ 344-373)

Section 272 requires a BOC to provide interLATA telecommunications service through a separate affiliate, and establishes structural and nondiscrimination safeguards that are designed to prevent anticompetitive discrimination and cost shifting. The Commission notes that this requirement is of "crucial importance" to ensure that competitors of BOCs will have "nondiscriminatory access . . ." and "these safeguards further discourage, and facilitate detection

of, improper cost allocation and cross-subsidization between the BOC and its Section 272 affiliate." (¶¶ 344-348)

A. **Compliance with § 272(b)(3) Requirements**

- After extensive discussion, the Commission concludes that ACI, Ameritech's 272 affiliate, should have a separate Board of Directors. (¶¶ 349-361)

- The Order also observes the fact that the Presidents of both ACI and Ameritech Michigan at the time reported to the same Ameritech Corporate Executive Vice President which "underscores the importance of a separate directors requirement . . . ." (¶ 362)

B. **Compliance with § 272(b)(5) Requirements**

- The Commission found that Ameritech Michigan and ACI are required to provide the "actual rate," not merely the valuation method they used for their transactions. (¶ 369)

- Although Ameritech Michigan and ACI disclosed all transactions entered between them on or after May 12, 1997, and all transactions entered into prior to that date that were still in effect, the Commission determines that all transactions between Ameritech Michigan and ACI that occurred after February 8, 1996, should be made available for public inspection. (See ¶¶ 370-371)

- The Order notes that Ameritech should state in future applications whether it has transferred to AIIS or ALDIS, non-BOC affiliates, "any network facilities that are required to be unbundled pursuant to Section 251(c)(3), and if so, the timing and terms of any such transfer." If such transfers have occurred, the Commission expects all transactions between those divisions and ACI to be disclosed in compliance with Section 272(b)(5). (¶ 373)

Ameritech has addressed the concerns noted above. Ameritech created a Board of Directors for ACI, and elected ACI's president as the sole director. Ameritech will post "actual rates," that is, a specific or average rate per unit, for all functions provided to or received from BOC affiliates. The transactions between February 8, 1996 and May 12, 1996, will be available for inspection. No assets have been transferred from either AIIS or ALDIS to ACI; all transactions with these business units and ACI regarding telephone exchange service or exchange access will be posted.

Ameritech is concerned, however, that despite the very specific directive regarding compliance with Section 272, the Michigan 271 Order disclaims to be a "roadmap" for this issue. See ¶