

348. *If the Commission is aware of additional 272 concerns, they should be disclosed to Ameritech.*

C. Other Concerns Raised in the Record (¶¶ 374-380)

The Commission also summarizes three allegations, made by commenters, that Ameritech has violated either Commission rules or engaged in anticompetitive conduct.

- The Commission concludes that the inbound telemarketing script that Ameritech proposes to use once it receives interLATA approval would violate the “equal access” requirements of § 251(g). (¶¶ 375-376)
- The Commission notes there have been a number of complaints filed regarding Ameritech's provision of intraLATA toll service to competing LECs and Ameritech's ValueLink intraLATA toll service plans for retail customers. (¶¶ 377-378)
- The Commission also notes a number of issues regarding “win-back” programs; and Ameritech's representations regarding use of customer proprietary network information until the Commission's rules implementing § 222 are released. (¶¶ 379-380)

Ameritech agrees with the Commission's revised views regarding use of marketing scripts by BOCs authorized to provide interLATA service. See South Carolina Order at ¶ 231-239. The concerns regarding intraLATA toll, including cancellation clauses, and win-back will be addressed in the next application. The Commission should not permit the Section Michigan 271 Order process to be turned into an omnibus docket for all business disputes and regulatory matters, especially those pending before a State commission, such as terms and conditions for intrastate, intraLATA toll service.

Ameritech has concerns with the Commission's discussion of customer-specific contracts in its South Carolina Order. See, e.g. ¶ 220. Ameritech believes that certain customer-specific contracts are not available directly to the public within the statutory definition of “telecommunications service,” and, therefore, not subject to resale.

IV. PUBLIC INTEREST (¶¶ 381-402)

The Commission identifies a number of relevant issues related to the meaning and scope of the public interest inquiry. (¶ 381)

- The Commission rejects arguments that the public interest inquiry should be limited to assessing compliance with the checklist or whether BOC entry will enhance competition in the long distance market. Rather, the Commission concludes that Congress granted it broad discretion to consider factors relevant to the achievement of the goals and objectives of the 1996 Act. (¶¶ 382-385)

- As part of its public interest analysis, the Commission must be satisfied based on an adequate factual record that the BOC has undertaken actions necessary to ensure that the local telecommunications market is, and will remain, open to competition. The Commission's public interest analysis may also include an assessment of whether all procompetitive entry strategies are available to new entrants. (§§ 386-387)
- In addition, the Commission's public interest analysis will include an assessment of the effect of BOC entry on competition in the long distance market. "We believe that BOC entry into that market could further long distance competition and benefit consumers." (§ 388)
- The Commission notes that the most procompetitive evidence that all entry strategies are available is actual entry by new competitors. "We emphasize, however, that we do not construe the 1996 Act to require that a BOC lose a specific percentage of its market share, or that there be competitive entry in different regions, at different scales, or through different arrangements, before we would conclude that BOC entry is consistent with the public interest." (§ 391)
- Evidence that a BOC has agreed to performance monitoring is probative evidence that a BOC will continue to cooperate with new entrants after it has received authorization. (§ 393)
- The Commission will be particularly interested in whether such performance monitoring includes appropriate, self-executing enforcement mechanisms. (§ 394)
- The Commission will be interested in knowing whether a BOC has provided new entrants with optional payment plans for the payment of non-recurring charges. (§ 395)
- In the absence of broad-based competitive entry, the Commission will examine the record to determine whether the lack of entry is the result of continuing barriers to entry, the BOC's lack of cooperation, the business decisions of new entrants, or some other reason. (§ 402)

Ameritech is concerned with some of the specific "illustrative" factors described in §§ 391-398. 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 and 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.