

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

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MAY 27 1998

In the Matter of)
)
Implementation of Section 703(e))
of the Telecommunications Act)
of 1996)
)
Amendment of the Commission's Rules)
and Policies Governing Pole Attachments)
)

CS Docket No. 97-151

**Reply Comments of Ameritech Corporation
on Petitions of Reconsideration**

Ameritech Corporation respectfully submits the following comments to the Comments and Oppositions to the Petitions for Reconsideration filed by various parties in the above captioned docket.

I. The Commission's Provisions Regarding Third Party Overlapping Should be Clarified.

Ameritech concurs with SBC's comment that the Commission should clarify the control of the pole owner over overlapping. As the Commission noted in the Report and Order¹, overlapping, whether by a party with an existing attachment or by a third party, is subject to denial or the imposition of conditions for reasons of safety, reliability or generally applicable engineering practices. Ameritech permits existing attaching parties to overlap their attachments, but requires the party to provide notice to Ameritech before overlapping so that any concerns regarding safety, reliability or generally applicable

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engineering practices can be considered and addressed before the overloading takes place. Though Ameritech does not support extending overloading to unrelated third parties, if it continues to be mandated, the Commission should clarify that a pole owner may require notice from the existing attaching party before the overloading commences so that any safety, reliability or engineering concerns regarding the proposed overloading can be timely addressed.

II. The Commission Should Affirm that ILEC-Owned or Controlled Buildings are not Rights-of-Way.

Winstar² supports Telligent's Petition renewing the request for access to building risers and roofs for wireless carriers. To the extent that Winstar and Telligent seek to extend the definition of "right-of-way" to risers, space or rooftops of ILEC owned or leased central offices or administrative buildings, Ameritech concurs in Sprint's³ comments that the Commission properly concluded that these ILEC properties are not "right-of-way" for purposes of Section 224 obligations.⁴ ILECs hold no monopoly on rooftops that justify the requirement that ILECs accommodate every wireless provider in their buildings, other than for collocation under Section 251(b)(6).

¹ Implementation of Section 703(e) of the Telecommunications Act of 1996, CS Docket No. 97-151, Report and Order, Pars. 64 and 68, ("Report and Order").

² Comments of Winstar Communications, Inc., Supporting and Opposing Petitions for Reconsideration, 5/12/98, pp. 5-8.

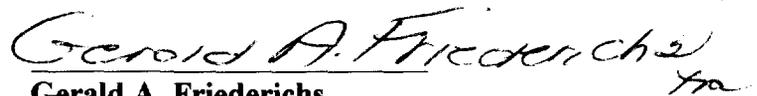
³ Reply Comments of Sprint Corporation, 5/12/98, pp. 1 and 2.

⁴ In the Matter of Implementation of Local Competition Provisions in the Telecommunications Act of 1996, CC Docket 96-98, First Report and Order, Par. 1185.

Similarly, Ameritech agrees with GTE⁵'s comments supporting the Commission's case-by-case approach to providing access to rights-of-way. As GTE notes, right-of-way is not a homogenous product that lends itself to standard offerings in the way that poles or conduit do. For example, rights-of-way may be narrow linear rights in unimproved land suitable for direct buried cable and for which the utility paid a nominal, one time fee. Or they may consist of a license to use property for an equipment node that is complex and requires recurring payments. In addition, use of rights-of-way may vary significantly by requesting party. Some wireline providers may want access for burying cable in the same fashion as a utility; others providers may want access only for equipment nodes locations. Wireless providers may want access for towers or transmitters. Clearly one rule cannot fit all situations. In any event, the pricing formulae of Sections 224(d) and (e) establish the cost based standard for pricing of access. The appropriateness of a utility's application of the standard to any given request is best left to the case-by-case determination of the Commission, at least until predictable patterns emerge.

Based on the foregoing, Ameritech requests that the Commission reconsider the Report and Order consistent with Ameritech's Comments and Reply in this proceeding.

Respectfully submitted,


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May 28, 1998

⁵ Comments of GTE on Petitions for Reconsideration, 5/12/98, pp. 2-4.

CERTIFICATE OF SERVICE

I, Janis L Griffin, do hereby certify that a copy of the foregoing Reply Comments of Ameritech Corporation on Petitions For Reconsideration has been served on the parties listed on the attached service list, via first class mail, postage prepaid, on this 28th day of May, 1998.

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