

will stimulate others to respond both in their own markets and by competing in the markets in which SBC/Ameritech will be the incumbent LEC. Schmalensee/Taylor Aff. ¶ 16; Carlton Aff. ¶ 10; Gilbert/Harris Aff. ¶ 28. The merger thus carries forward the market-opening policies of the 1996 Act by encouraging new entrants in a great many local markets.

Conditions are already conducive to entry in each of the relevant markets. See Schmalensee/Taylor Aff. ¶¶ 37-41; Section IV, below. For example, in local exchange service, entry barriers for resellers are very low. A CLEC may resell retail services either under an approved resale agreement or pursuant to an intrastate resale tariff. Since no substantial network investments are necessary, resellers can and do materialize almost overnight. Moreover, resellers can offer market-wide (“universal”) service almost immediately, with little risk. They can challenge LECs as one-stop suppliers and establish primary-provider relationships with minimal investment. Any reseller can readily increase its “capacity” without effective limit. In sum, there is as much potential resale competition as there is ILEC capacity, and there are as many potential competitors as there are potential retailers of any mass-market good or service.

Entrants seeking to deploy capital most profitably use the unbundling alternative for many of their nonstrategic plant needs, but not for switching.¹⁰⁰ SBC and Ameritech themselves plan to rely heavily on unbundled elements in implementing the National-Local Strategy. While many carriers have already bought loops from SBC and Ameritech, only a very few entrants have ordered unbundled switching from SBC and

¹⁰⁰ The avoidance of access charges creates an additional incentive for interexchange carriers to deploy their own switching facilities for local exchange service. See 47 C.F.R. § 51.509(b) (establishing collection costs and usage – sensitive charges for shared transmission and tandem switching).

none have done so from Ameritech, even though both companies stand ready and able to furnish it at any time.

Although by definition not as low as those for pure resale competition, entry barriers for facilities-based competition on an unbundled basis are quite modest. Schmalensee/Taylor Aff. ¶ 40. New entrants can install and operate powerful switching systems with relatively modest investment, as compared to the much higher cost of deploying an entire network. Tables 7, 8, 11, 12, and 13 (at the “Tables” attachment) depict the extensive facilities-based entry that has already occurred in SBC’s and Ameritech’s regions. In addition, numerous carriers have excess switching capacity that can readily be used to provide the same local switching services performed in SBC and Ameritech end offices.¹⁰¹ Interexchange carriers are also adding end-office (Class 5) switches to their networks in the 13 states served by SBC, SNET and Ameritech. Moreover, because trunking costs are low and declining, switches do not have to be located in close proximity to a customer, or to a LEC central office. A relatively small number of switches can thus provide unbundled competitive service to a large geographic area.¹⁰²

C. The Merger Will Not Impair Regulatory Effectiveness

For several reasons, this merger will not impede regulatory effectiveness, through the use of benchmark comparisons or otherwise. First, even at five – Bell Atlantic,

¹⁰¹ See, e.g., J. Dix and D. Rohde, AT&T Plots Invasion of Baby Bell Turf, Network World, July 8, 1996, at 1 (noting AT&T’s effort to use its Digital Link services embedded base of Class 4 switches to provide local service to the company’s dedicated access customers).

¹⁰² See Intelcom Group, MFS Gain Strong Buy Recommendation From Investment House, Fiber Optics News, Feb. 26, 1996, available at 1996 WL 2327659 (stating that fiber-based CLECs can serve a 125-mile radius area with a single switch).

BellSouth, GTE, SBC/Ameritech and U S West – the number of large LECs among which to compare and contrast local service performance would remain adequate for the Commission’s regulatory needs. As discussed in Section II.E, above, the original number of RBOCs created at divestiture had no regulatory significance. Moreover, as the Commission noted in SBC/Telesis, “nothing in the Communications Act or the antitrust laws requires the present number of RBOCs, or any particular number of them.”

SBC/Telesis ¶ 32.

In addition to the development of more sophisticated regulatory tools, the increasingly competitive telecommunications environment makes the number of large LEC benchmarks less important. Competition alone will drive the provision of services to the most beneficial mix of quality and price. The Commission itself recognized that in a competitive environment, the use of benchmarks becomes “moot.”¹⁰³ Indeed, to the extent that benchmark information, such as tariffed rates, service requirements or cost data, is publicly available, it may even inhibit competition.¹⁰⁴ Overall, a reduction by one in the number of large LECs available for benchmark comparisons will not impede regulatory effectiveness.

¹⁰³ See In re International Settlement Rates, Report and Order, 12 FCC Rcd. 19806, ¶ 14 (1997).

¹⁰⁴ See In re Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, Second Report and Order, 11 FCC Rcd. 20,730, at ¶ 37 (1996) (observing that “requiring nondominant interexchange carriers to file tariffs for interstate, domestic, interexchange services may harm consumers by impeding the development of vigorous competition, which could lead to higher rates”).

IV. THE MERGER IS IN THE PUBLIC INTEREST

In order to approve the transfer to SBC of ultimate control of Ameritech's FCC authorizations, the Commission must find that those transfers are consistent with the public interest, convenience and necessity. As interpreted by the Commission, that determination includes consideration of whether the applicants are qualified to control the licenses being transferred and whether the transaction is consistent with the policies of the Communications Act. BA/NYNEX ¶¶ 29-32; SBC/Telesis ¶¶ 12-13.

A. SBC Is Qualified To Control the Licenses

There is no doubt that SBC is eminently qualified to control these authorizations. SBC's qualifications to operate these authorizations are, of course, well known to the Commission. SBC is the ultimate parent of companies holding numerous FCC authorizations, including the same types of authorizations at issue here.¹⁰⁵

SBC's qualifications to control these authorizations cannot reasonably be questioned. Indeed, as recently as last year, in connection with its approval of the SBC/Telesis merger, the Commission reviewed "the citizenship, character, and financial and technical qualifications" of SBC. The Commission noted that SBC "is a Commission licensee and communications carrier of longstanding," and it found, as it should find here, that SBC "possesses those qualifications."¹⁰⁶ Similarly, Ameritech is unquestionably qualified as the transferor of the authorizations at issue.

¹⁰⁵ A list of the categories of FCC authorizations held by subsidiaries or affiliates of SBC is contained in the FCC Form 430 filed herewith.

¹⁰⁶ SBC/Telesis ¶ 11. While some of the parties that filed comments in that proceeding sought to cast SBC in an unfavorable light, the Commission noted that "[n]o party claims that SBC lacks any of the qualifications just mentioned," *id.*, nor could any party to this proceeding plausibly do so in connection with the merger of SBC and Ameritech.

SBC is the parent of SWBT, Pacific Bell and Nevada Bell, which collectively serve over 33 million access lines within SBC's seven in-region states. As the owner of several of the country's largest telephone companies, SBC is well qualified to exercise ultimate control over the authorizations used in Ameritech's local exchange business.

There can also be no issue regarding SBC's qualifications to control the CMRS and other authorizations held by Ameritech's subsidiaries. Through its CMRS subsidiaries – Southwestern Bell Mobile Systems (“SBMS”), Southwestern Bell Wireless (“SWBW”) and Pacific Bell Mobile Services (“PBMS”) – SBC is the second largest cellular provider in the U.S., with operations in both the five states in which SWBT operates as well as in a number of out-of-region markets. SBMS and SWBW provide high quality, competitive service to their customers and, as a result, have an average market penetration rate that is significantly above the national average. In addition, PBMS is a rapidly expanding PCS provider in California and Nevada, and SBC has committed substantial financial and other resources to ensure that PBMS is meeting the FCC's objectives for PCS to become a new and effective competitor to the existing cellular systems in those states.

SBC's financial qualifications to control and operate Ameritech's authorizations are also beyond challenge. As demonstrated by the audited financial statement of SBC for the year ending December 31, 1997 (a copy of which is attached hereto), SBC has sufficient resources to ensure that Ameritech's operations will continue to serve the public interest, convenience and necessity. Further, since the transaction will be structured as a stock-for-stock merger, no new capital will be required to complete it. Thus, SBC's qualifications should simply not be an issue in these proceedings.

B. Analytical Framework

As discussed above, the Commission has interpreted the public interest standard applicable to proposed license transfers to require an overall balancing of the benefits of a transfer with potential harms to competition. See BA/NYNEX ¶ 2. Beneficial effects in a number of markets, or promotion of the overall policies of the Communications Act, can overcome potential harms to competition in a specific market. Id. ¶14.

In assessing the potential for competitive harm, the analysis begins by defining the relevant product and geographic markets. Next, the Commission identifies the participants in those markets, especially the most significant market participants. The Commission then evaluates the effects of the merger on competition in the relevant market, including potential unilateral or coordinated effects. The Commission also considers the merger's effect on the Commission's ability to constrain market power as competition develops. These potential anti-competitive effects must be balanced against merger-specific efficiencies such as cost reductions, productivity enhancements, or improved incentives for innovation. In addition, the Commission considers whether the merger will support the general policies of market-opening and barrier-lowering that underlie the 1996 Act. Id. ¶37.

Here, as shown in Section III, above, there is no potential for competitive harm. But even if the Commission were to find such a potential in a given market, such as the loss of limited potential competition in St. Louis, the Commission would have to weigh that against the overwhelming procompetitive and other benefits the merger will provide in a great many markets, both within SBC's and Ameritech's regions as well as in telecommunications markets throughout the country and around the globe. As the

Affidavit of Professor Carlton shows, the balance in this case clearly favors the merger.

Carlton Aff. ¶ 41.¹⁰⁷

C. Competition Is Flourishing and the Merger Will Promote Additional Competition in Many Telecommunications Markets

As discussed in Section II, above, this merger offers the prospect of tremendous procompetitive effects in local markets throughout the country, as well as in global telecommunications markets. It will also benefit the public interest by creating a new, major U.S. participant in the global telecommunications marketplace. In addition, the substantial cost savings and other synergies that will be achieved as a result of this merger, described in Section II.D, will provide benefits in all the markets served by SBC and Ameritech, now and in the future. These enormous procompetitive and other public interest benefits produced directly by this merger are themselves sufficient for the Commission to find the merger in the public interest even if it found – contrary to fact – that there could be a conjectural loss of potential competition in selective geographic areas. See BA/NYNEX ¶¶ 178, 192.

In this section, we describe the various markets in which SBC and Ameritech participate and identify the actual competition in those markets and the effects of the merger on competition.

1. Local Exchange and Exchange Access

The merger will promote competition in local markets throughout the current SBC and Ameritech regions and beyond. As we have shown, the National-Local Strategy and the other plans of the new SBC will inject tremendous new competition into

¹⁰⁷ See also H. Hovenkamp, Federal Antitrust Policy § 13.4a (1994) (given the elusive nature of potential competition, it must be disregarded when weighed against improvements in actual competition that are likely to flow from a merger).

local markets, in addition to the competition that has already been produced by regulatory, technological and market developments. Gilbert/Harris Aff. ¶ 28.

Section 251 of the Telecommunications Act of 1996 requires SBC and Ameritech to offer their services at “wholesale” rates, to allow competitors to interconnect at any technically feasible point and to offer piece parts (like local loops) for lease on an unbundled basis. As a result, CLECs can enter the market using a variety of strategies. A CLEC may resell retail services either under an approved resale agreement or pursuant to an intrastate resale tariff.

Alternatively, a CLEC can install facilities, such as switches or fiber networks, and combine those facilities with network elements obtained from the incumbent on an unbundled basis. SBC’s and Ameritech’s implementation of these requirements has considerably lowered entry barriers, and numerous local competitors have entered markets throughout the two regions. See Schmalensee/Taylor Aff. ¶¶ 38-41, 43; Pampush Aff. ¶ 13; Table 1 at the “Tables” attachment.

Over 39 competitors provide service using a resale strategy in Ameritech’s region, and 25 do so in SBC’s states. See Appenzeller Aff. ¶ 15; Table 3 at the “Tables” attachment. In St. Louis, there are presently some 9 different CLECs reselling SBC local lines. See Table 5 at the “Tables” attachment. In Chicago, some 22 companies are reselling Ameritech local service – including AT&T, MCI, LCI and Cable & Wireless. See Table 6 at the “Tables” attachment.

In addition, competitors that connect their own switches to unbundled SBC or Ameritech loops face little difficulty in serving any profitable group of potential customers. Pampush Aff. ¶ 14. Competitors have already installed 547 switches in

SBC's region, and 120 in Ameritech's.¹⁰⁸ These competitors include interexchange carriers and their affiliates like AT&T/TCG/TCI and MCI/WorldCom/MFS/ Brooks/UUNet; cable companies like Time Warner and Cox; and a host of smaller carriers like Connect Communications (of Little Rock, Arkansas) in SBC's region, and Buckeye Telesystem (a subsidiary of Buckeye Cablesystems in Toledo) in Ameritech's. See Schmalensee/Taylor Aff. ¶¶ 48-62; Tables 7 and 8 at the "Tables" attachment. In the St. Louis LATA, at least 7 local competitors are operating 17 switches, and at least 13 local competitors are operating 37 switches in the Chicago LATA. See Schmalensee/Taylor Aff. ¶ 43; Pampush Aff. ¶ 9; Tables 9 and 10 at the "Tables" attachment. In addition, interexchange carriers that already have switches in the relevant geographic markets could readily use those switches in the provision of local service.

There are also extensive competitive transport facilities throughout the SBC and Ameritech regions and in the relevant geographic markets at issue in this transaction. Competitors' fiber networks currently total over 6,500 route-miles in SBC's region, and over 5,000 miles in Ameritech's.¹⁰⁹ Competitive landline transport is already available in every one of SBC's and Ameritech's states. See Tables 11 and 12 at the "Tables" attachment; Maps 3-29 at the "Maps" attachment; Pampush Aff., Attachment A.

¹⁰⁸ See Pampush Aff. ¶ 13; Search of Local Exchange Routing Guide, Bellcore Traffic Routing Administration, Science Applications Int'l Corp. (July 1, 1998) ("LERG"). The LERG is based on information that is provided to Bellcore by incumbent and competitive local carriers. LERG switch counts do not always agree with counts from other sources, including public statements by the carriers themselves. Some of these discrepancies are due to the blurring of definitional lines between switching entities and rate centers. The bright line that once distinguished central office switches from other switching equipment has been fading as a new generation of remote switches and remote digital terminals (RDTs) have emerged with limited switching capabilities.

¹⁰⁹ Pampush Aff. ¶ 14. This is a conservative estimate based on the information available. It includes existing plant, planned networks and networks under construction.

In St. Louis, for example, MCI/WorldCom/MFS/Brooks/UUNet has operated a network since 1995.¹¹⁰ AT&T/TCG's network, which is even more extensive than WorldCom's, serves the entire St. Louis metro area.¹¹¹ Similar, though smaller, networks are operated by Digital Teleport¹¹² and Intermedia.¹¹³ Together competitors have deployed some 484 route miles of fiber in that LATA.¹¹⁴ See Map 15 at the "Maps" attachment. This is, of course, in addition to the extensive cable television network operated by TCI, which AT&T plans to use to provide competitive local telephone

¹¹⁰ See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: MFS-WorldCom at 11 (9th ed. 1998).

¹¹¹ See Map 15 at the "Maps" attachment.

¹¹² Digital Teleport's St. Louis network has been in operation since 1995. It consists of 200 route miles (17,700 fiber miles), with 27 buildings on-net, is collocated in 4 central offices, and is served by a Nortel DMS-500 Switch engineered to handle local and long distance traffic. Digital Teleport also operates networks in Fulton and Mexico, Missouri – both within the St. Louis LATA. The Fulton network consists of 5 route miles (360 fiber miles), with 7 buildings on-net. The Mexico network consists of 5 route miles (360 fiber miles). See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: Digital Teleport at 3 (9th ed. 1998).

¹¹³ See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: Intermedia at 8-9 (9th ed. 1998).

¹¹⁴ See New Paradigm Resources Group and Connecticut Research, 1997 CLEC Report: Annual Report on Local Telecommunications Competition (8th ed. 1997); New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, (9th ed. 1998); Teleport Communications Group, TCG Facts (visited July 14, 1998) <<http://www.tcg.com/tcg/aboutTCG/TCGfacts.html>>.

service.¹¹⁵ In Chicago, MCI/WorldCom/MFS/Brooks/UUNet,¹¹⁶ AT&T/TCG¹¹⁷ and NEXTLINK¹¹⁸ operate their own networks.¹¹⁹ CLECs with networks planned or under construction in Chicago include Allegiance Telecom¹²⁰ and Metromedia Fiber Network.¹²¹ Together, these networks account for some 648 route miles of fiber in that

¹¹⁵ See, e.g., AT&T Press Release, AT&T, TCI to Merge (Jun. 24, 1998), available at <<http://www.att.com/press/980624.cha.html>> (AT&T CEO Michael Armstrong said: "Today we are beginning to answer a big part of the question about how we will provide local service to U.S. consumers").

¹¹⁶ See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: MFS-WorldCom at 11 (9th ed. 1998).

¹¹⁷ TCG operates a 412 route-mile network (16,750 fiber miles) with 76 buildings on-net. Opened in 1990, the network extends through Oak Brook, Rolling Meadows, Waukegan, Skokie, and Gary, Indiana. See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: TCG at 10, 24 (9th ed. 1998).

¹¹⁸ NEXTLINK launched its 40 route-mile Chicago network in February 1998. See NEXTLINK Press Release, NEXTLINK Communications Reports Strong Sales and Revenue Growth, Apr. 30, 1998; see also New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: NEXTLINK at 13 (9th ed. 1998).

¹¹⁹ See Illinois Commerce Commission, Annual Report on Telecommunications 1997 (visited July 19, 1998) <http://icc.state.il.us/icc/Doclib/AR/013198_TEL.polf>.

¹²⁰ See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: Allegiance at 3 (9th ed. 1998).

¹²¹ Metromedia's planned network, which it expects to complete in the fall of this year, will include 50 route-miles of fiber (21,600 fiber miles). See *id.* at Carrier Profile: Metromedia at 8.

LATA.¹²² See Map 25 at the “Maps” attachment. Chicago is another major cable market for TCI,¹²³ and is likely to be a major local exchange market for AT&T/TCG.¹²⁴

As described in Section II.A, above, the merged SBC/Ameritech will become a significant new competitor in 30 of the largest local exchange markets throughout the country. Out-of-region, the merger’s impact will be unambiguously pro-competitive: the merger will introduce a major new competitor into many of the largest local exchange markets in the country. And as described in more detail in Section V.C.5, below, the new SBC’s strategy will spur local exchange competition and the development of new and improved services nationwide, in the new SBC’s own region as much as elsewhere, as other major competitors like the other ILECs, AT&T/TCG/TCI, WorldCom/MCI/MFS/Brooks/UUNet, and Sprint respond in kind. See Schmalensee/Taylor Aff. ¶¶ 7, 16; Carlton Aff. ¶ 10.

Within SBC’s or Ameritech’s regions, the merger will not in any way alter or diminish the ability of others to compete in local exchange markets. Neither competitors,

¹²² See New Paradigm Resources Group and Connecticut Research, 1997 CLEC Report: Annual Report on Local Telecommunications Competition 449-450 (8th ed. 1997); New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: Metromedia at 24 (9th ed. 1998); TCG, TCG Facts (visited July 14, 1998), <<http://www.tcg.com/tcg/about/TCG/TCGfacts.html>>.

¹²³ Following TCI’s purchase of MediaOne’s cable network in Chicago, TCI’s Bill Fitzgerald declared that “The Chicago area is a strategically important market” for his company and that the acquisition had “further positioned [TCI] as a leading telecommunications provider in this region.” Joseph Cahill, TCI Sets Its Sights on Chicago: Eyes MediaOne Deal, Crain News Service, Aug. 18, 1997, at 4.

¹²⁴ See, e.g., J. Cahill, AT&T Takes on Familiar Turf: Local Monopoly: It Eyes Up to 5 percent of Ameritech’s Chicago Market, Crain’s Chicago Business, Jan. 27, 1997; AT&T Leases Fiber Route From Jones Intercable for Chicago Suburbs Service, M2 Presswire, Aug. 27, 1996; AT&T Target Chicago as First Fiber Buildout, Fiber Optic News, Aug. 5, 1996.

state commissions nor this Commission will allow any backsliding in the market-opening process. SBC and Ameritech already face in-region competitors that are large, experienced, robust and ambitious. The main CLECs already have established customer bases within SBC's and Ameritech's regions. Nearly every local phone customer is already signed up with one or another of the long distance companies. Some 60 percent of those residential customers likewise have an established business relationship with a cable company. Millions more have established business relationships with wireless carriers unaffiliated with SBC or Ameritech.

The main CLECs also have powerful brand names that cut across all consumer segments. AT&T/TCG/TCI and MCI/WorldCom/MFS/Brooks/UUNet have assembled entities with strong reputations in the business and consumer ends of the market. Schmalensee/Taylor Aff. ¶¶ 48-54. Other CLECs are aggressively marketing their services through a variety of means. The major IXC-CLECs have far more extensive national marketing organizations than either SBC or Ameritech.¹²⁵ Though they tend to have smaller advertising budgets, smaller CLECs focus intensely on fewer markets, aggressively targeting select customers in select areas.

SBC and Ameritech will not enjoy any supply-side differentiation from other entrants. Numerous carriers – AT&T/TCG/TCI, MCI/WorldCom/MFS/Brooks/UUNet, Sprint, and others – have extensive experience either directly in local telephony or in large-scale operation support systems; in any event, experience, know-how and systems themselves are available from independent suppliers. The wide availability of resale will

¹²⁵ See, e.g., M. Roberts, Montgomery Securities, Bell Atlantic/NYNEX Merger: Another "Time To Go" Signal, Communications Services, Apr. 23, 1996 (noting that analysts agree that weak marketing skills are a key "strategic disadvantage" for RBOCs competing against interexchange carriers.).

make it easy to assemble copycat packages of any differentiated bundle that succeeds in the market. Technological differences in products offered through unbundled switching are likely to involve software or hardware features that are readily available from third-party vendors – hence, again, subject to easy imitation. Other competitors also have equal, if not greater, abilities to bundle a wide variety of services together.

AT&T/TCG/TCI, for example, will have a unique ability to bundle facilities-based local, long distance, wireless, Internet and cable services together. The merger will position the new SBC to compete more effectively in this changing environment.

Finally, the merger will enhance the ability of the new SBC to provide competitive, innovative, new services and more effectively to market existing services to customers. In-region local customers will enjoy the benefits of the numerous synergies and efficiencies that the merger will effect, including each company's particular network, market research and product development expertise and cost savings derived from increased scale.

2. Wireless Services

In each of their cellular markets, SBC and Ameritech compete not only with the other cellular carriers but also with at least two PCS licensees and also one or more SMR providers, including Nextel, the nation's largest provider of such services.¹²⁶ This is consistent with the pattern of wireless competition created by the Commission's licensing policies. There are 117 different companies holding cellular and PCS licenses in areas where SBC controls wireless properties and 83 different wireless license holders in areas where Ameritech controls wireless properties. In both regions, the largest license holders

¹²⁶ In their PCS markets, of course, SBC and Ameritech face two cellular competitors in addition to other wireless carriers.

are affiliated with interexchange carriers.¹²⁷ After the merger, the new company will still compete against AT&T in 107 service areas, against Sprint in 119 areas and against other companies like GTE, BellSouth, AirTouch, Omnipoint, PCS Primeco, Alltel/360°, U.S. Cellular, and many others. See Maps 30-37 at the “Maps” attachment.

Numerous other competitors have built nationwide wireless networks using spectrum bands other than those dedicated to cellular and PCS. WinStar’s “Wireless Fiber” provides local, long distance, and Internet access services using the 38 GHz band.¹²⁸ WinStar’s Chicago network has been operational since April 1997,¹²⁹ and the company expects to begin operating in St. Louis within a year.¹³⁰ Teligent plans to use low cost, microwave digital wireless technology to reach small- to medium-sized businesses in Chicago.¹³¹ Nextel has built a nationwide wireless network using SMR spectrum; the company is operational in 6 states in SBC’s region, and all 5 states in Ameritech’s region. It is present in both Chicago and St. Louis. See Map 37 at the “Maps” attachment.

¹²⁷ AT&T holds 3 MTA and 65 BTA licenses in SBC’s region and 5 MTA and 30 BTA licenses in Ameritech’s, covering over 80 percent of the population in SBC’s region, and nearly 100 percent in Ameritech’s. Sprint’s licenses cover the entire country. See Map 20 at the “Maps” attachment.

¹²⁸ See WinStar, The Business (visited July 20, 1998) <<http://www.winstar.com/indexTheBuis.htm>>.

¹²⁹ See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: WinStar at 8 (9th ed. 1998).

¹³⁰ See New Paradigm Resources Group and Connecticut Research, 1998 CLEC Report: Annual Report on Local Telecommunications Competition, Carrier Profile: WinStar at 9 (9th ed. 1998).

¹³¹ See Conversation: Teligent Inc.’s Alex Mandl, Wash. Post, Feb. 2, 1998, at F10 (stating that Teligent is currently installing a DMS-500 in Chicago). See generally

Joining SBC's and Ameritech's CMRS properties will improve the licensees' ability to offer the type of service that the Commission has endorsed and sought to promote – seamless, broad coverage. The Commission has recognized that the development of larger calling scopes is pro-competitive and provides consumer benefits.¹³² In addition to a wider calling scope, the combined company will better be able to offer consumers consistency of advanced features that depend on the existence of an integrated, regional network that can be designed and operated to minimize costs and maximize efficiencies.¹³³

3. Internet Services

The merger will stimulate increased competition in the national market for Internet services. Local phone companies provide much of the lower-speed Internet access over conventional, circuit-switched dial-up lines. Internet access is provided by almost 4,500 Internet service providers (“ISPs”) in North America, including the major IXCs. The Internet's backbone networks are operated by some 29 national providers, including WorldCom/UUNet, MCI (whose Internet business is being sold to Cable & Wireless), GTE and Sprint, among others.¹³⁴ Regional Bells are not, of course, numbered among them.

Teligent Press Release, Teligent Reports First Quarter Financial Results (May 12, 1998), available at <<http://www.teligentinc.com/news/rdlb.html>>.

¹³² See, e.g., In re Bell Atlantic Mobile Systems, Inc. and NYNEX Mobile Communications Co., Order, 10 FCC Rcd. 13368, ¶ 48 (1995) (citing In re Application of Corpus Christi Cellular Telephone Co., Memorandum Opinion and Order, 3 FCC Rcd. 1889 (1988)).

¹³³ As discussed above, the merger will not reduce competition in any paging market.

¹³⁴ See Bill McCarthy, Directory of Internet Service Providers, Boardwatch Magazine, Winter 1998, at 5; J. Rickard, Measuring the Internet, Boardwatch Magazine Directory of Internet Service Providers, July/Aug. 1997, at 20.

In addition to these providers, cable operators are rapidly upgrading their networks to offer high-speed data services¹³⁵ and are already supplying high-speed cable modem service in a number of states in the SBC and Ameritech regions. See Schmalensee/Taylor Aff. ¶ 61; Table 13 at the “Tables” attachment. Over 11 million (10 percent) of all U.S. homes already have access to high-speed cable modem service. A number of new “data CLECs,” as well as more established CLECs like AT&T/TCG/TCI and Intermedia, are now providing competitive digital subscriber line services throughout the U.S. At least five such companies already provide such services in California: Covad, NorthPoint Communications, WorldCom/MCI/MFS/Brooks/ UUNet, Rhythms NetConnections, and ACI.¹³⁶ Several digital satellite networks are expected to be fully operational shortly, including Iridium (Fall 1998), GlobalStar (1999), Ellipso (2001), Astrolink (2001), Spaceway (2001) and Teledesic (2003); each of these networks plan to offer both voice and data services, and may provide Internet access.¹³⁷

¹³⁵ See generally Cable Datacom News, Commercial Cable Modem Launches in North America (visited July 20, 1998), <<http://cabledatacomnews.com/cmhc7.htm>> (showing that more than 40 companies have deployed commercial cable modem services in over 50 cities). Microsoft has invested \$1 billion in Comcast and over \$200 million in Road Runner, a cable-based Internet access company. See A. Gould et al., Oppenheimer & Co. Inc., Media Stocks: Cable Stocks Reconsidered – Industry Report, Investext Rpt. No. 2562652, at *2 (Jul. 3, 1997) (stating “[t]he \$1 billion Microsoft investment clearly points to the cable infrastructure as the preferred provider of high-speed data.”); Microsoft Press Release, Microsoft Invests \$1 Billion in Comcast (June 9, 1997), available at <<http://www.microsoft.com/presspass/press/1997/jun97/comcaspr.htm>>; Microsoft, Compaq Get in on Road Runner, L.A. Times, June 16, 1998, at D18.

¹³⁶ See Petition of Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell for Relief from Regulation, CC Dkt. No. 98-91, at 15-17 (FCC filed Jun. 9, 1998).

¹³⁷ See Iridium LLC Reports Second Quarter Results, PR Newswire, July 14, 1998 at 18:12:00; J. Moran, Satellite Use Boom is Taking Communications to New Level, Star Tribune, June 21, 1998, at 7D; News Briefs, Mobile Satellite News, July 9, 1998; Ellipso, Inc. Meets Construction Milestone, PR Newswire, June 22, 1998 at 10:35:00; Lockheed Martin Touts Its Astrolink System, Communications Today, Sept. 19, 1997; Satellites Will Fill Global Skies, Asia-Pacific Telecommunications, Apr. 1, 1998 available in 1998

As described in Section II.A, above, the new SBC plans to deploy high-speed data networks and services as part of the National-Local Strategy. In addition, both Ameritech and SBC are now beginning to deploy these services within their respective regions. As discussed in Section II.E, above, the deployment of Internet and other high-speed data services requires a significant investment in new technology, and a large learning curve. The merger will spread development costs and risks across a broader base, sharply reducing unit costs and accelerating the delivery of new services to market.

SBC and Ameritech are tiny players in the market for Internet services today; holding less than 2% of the national market combined.¹³⁸ The only effect of this merger will be to create a company better able to compete in a critically important, rapidly growing market that is dominated by other companies.

4. Long Distance and International Service

The merger will help reduce concentration and promote competition in long distance and international markets alike. As the Commission has found, the interexchange market today is less than fully competitive, particularly in residential markets.¹³⁹ AT&T, WorldCom/MCI, and Sprint together earn over 80 percent of U.S.

WL 10658895; J. Robertson, Telecom EOMs Battle Local Bells Over xDSL Data Right, Electronic Buyers' News, July 13, 1998, available at 1998 WL 13059021.

¹³⁸ Moreover, SBC and Ameritech do not provide Internet access service in overlapping areas.

¹³⁹ See In re Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services In Michigan, Memorandum Opinion and Order, 12 FCC Rcd. 20543, ¶ 16 (1997) (noting that “not all segments of [the long distance] market appear to be subject to vigorous competition,” and in particular, “the relative lack of competition among carriers to serve low volume long distance customers.”). Chairman Kennard recently wrote to the CEOs of the three largest IXCs “regarding the growing body of evidence that suggests that the nation’s largest long distance companies are raising rates when their costs of providing

long distance revenues.¹⁴⁰ The market is still characterized by a considerable degree of consciously parallel pricing by the three major facilities-based carriers.

As described in Section II.A, above, the new SBC will add a significant measure of new competition to this market. The company will market long distance service along with local exchange, Internet access, and other services in 30 of the largest markets outside of its region. By capturing a credible share of domestic long distance traffic out-of-region, and in-region once Section 271 approvals are secured, the merged company can only add to competitive choices in this very large market.

The company is equally committed to compete in providing service on U.S.-international routes, which are often less competitive than the domestic long distance market. AT&T, MCI/WorldCom and Sprint account for nearly 82 percent of all U.S. international telecommunications revenue.¹⁴¹ SBC and Ameritech possess complementary international strengths that will position the new SBC as one of a smaller number of global competitors. No other U.S. carrier has invested as much in foreign telecommunications carriers as the combined SBC/Ameritech. Moreover, as described in Section II.C, the new SBC plans to expand its international presence significantly, building facilities in 14 foreign cities to serve large national and international business

service are decreasing.” Letters from Chairman Kennard to Michael C. Armstrong, Bert Roberts and William T. Esrey, February 26, 1998.

¹⁴⁰ FCC, Long Distance Market Shares: First Quarter 1998 table 3.2 (June 1998), available at <http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State-Link/ixc.html#marketshares>.

¹⁴¹ See FCC, Long Distance Market Shares: First Quarter 1998 table 5.1 (June 1998), available at <http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State-Link/ixc.html#marketshares>.

customers. For U.S.-based companies, this should lead to lower international termination rates and lower costs in conducting international business operations.

5. Global Seamless Services for Large Business Customers

The merger of SBC and Ameritech will also provide substantial benefits by creating a strong new competitor offering sophisticated, integrated telecommunications services to large global customers. As the Commission has repeatedly noted in recent years, large national and transnational business customers occupy a discrete market of their own. This product market, the Commission has concluded, is for “Global Seamless Services” and is “of worldwide geographic scope.”¹⁴² This market is populated by the most demanding customers – customers with the most far-flung locations to connect and with the most sophisticated demands for advanced services. It is competition in this critical market that will ultimately propel and define competition in more familiar markets, such as the markets for local and long distance service to residential and small business customers.

The new SBC will rank among the few enterprises with the resources, scale and international presence to compete on a truly global scale. The company will have the economies of scope and scale essential to permit it to develop integrated services and market them worldwide, at competitive prices. It will also have a large base of employees with the technical skills needed to build local exchange businesses from the ground up, and the financial strength and reputation for reliability it will need to compete effectively in this market. Just as the merger will permit the new SBC to follow its customers wherever they

¹⁴² See In re Request of MCI Communications Corp. and British Telecomm. plc, Declaratory Ruling and Order, 9 FCC Rcd. 3960 (1994) (“BT/MCI I”); In re the Merger of MCI Communications Corp. and British Telecomm. plc, Memorandum Opinion and Order, 12 FCC Rcd. 15351 (1997) (“BT/MCI II”).

have domestic telecommunications needs, the same will be true for customers with transnational requirements.

The global seamless services market is necessarily limited to “only a handful of major competitors world-wide,” the Commission found, because “[c]ompetition in these markets requires significant resources, which must extend throughout the world.”¹⁴³ Indeed, even two of the largest telecommunications companies in the U.S. – MCI and Sprint – had to find equally large international partners in order to be able to enter this market. The Commission approved British Telecom’s investment in MCI, and Deutsche Telekom’s and France Telecom’s investment in Sprint, on the grounds, *inter alia*, that each of these alliances would add an additional player into the global seamless services market.¹⁴⁴

As one of the few competitors that will be capable of serving the large-customer market, the new SBC will certainly increase competition in this market.¹⁴⁵ As described above, only a small number of competitors presently are serving this market, each of which is being assisted by one or more foreign partners. Moreover, the ability of U.S. firms to compete in this market is quite limited due to the need to have an extremely broad geographic presence.

¹⁴³ BT/MCI II at ¶¶ 91, 130.

¹⁴⁴ See BT/MCI I at ¶ 51 (as “arguably . . . first entrant” into the global seamless service market, new BT/MCI alliance will have a “procompetitive effect”); In re Sprint Corporation, Declaratory Ruling and Order, 11 FCC Rcd. 1850, ¶¶ 84, 86 (1996) (The Joint Venture between Sprint, FT and DT will “have a procompetitive effect” as it will “add another significant competitor to this market.”), modified, 12 FCC Rcd. 8430 (1997).

¹⁴⁵ Cf. id. ¶ 87 (“The establishment of a new, viable competitor in [the global seamless services market] should result in more competitive options for U.S. customers, particularly in terms of pricing and variety of services available for large scale, high-end customers such as multinational corporations.”).

More importantly, however, it is by unleashing a new round of competition at the top end of the market that the SBC/Ameritech merger will propel competition throughout local exchange markets generally. That is SBC/Ameritech's own business strategy – to offer voice, long distance and data services to the largest business customers, and to use the infrastructure deployed to serve smaller businesses and residential customers. Kahan Aff. ¶ 41. As described in Section II.A, above the new SBC intends to offer packages of local, long distance, data and other telecommunications services in 30 new markets.¹⁴⁶ Actual and potential competitors for the business of large business customers will have to make competitive responses. Markets throughout SBC's region, and the rest of the U.S, will ride this wave of new competitive entry by the nation's largest carriers. This will spur further competition by the niche players, and in due course unleash incumbent local phone companies to compete in-region in long distance voice and data markets as well.

6. Video Services

The Commission has defined video markets as “local markets in which consumers can choose among particular multichannel or other video programming distribution services.”¹⁴⁷ Some 87 percent of those subscribing to multi-channel video systems are

¹⁴⁶ As the Commission has found, bundled service packages can “have clear advantages for the public,” such as greater convenience and the ability to secure volume discounts by aggregating purchases of different services. See In re Applications of Craig O. McCaw and American Tel. and Tel. Co., 9 FCC Rcd. 5836, ¶¶ 73-75 (1994), aff'd sub nom SBC Communications Inc. v. FCC, 56 F.3d 1484 (D.C. Cir. 1995), recon. in part, 10 FCC Rcd. 11,786 (1995) (“AT&T/McCaw”); see also 142 Cong. Rec. S713 (daily ed. Feb. 1, 1996) (statement of Sen. Harkin) (joint marketing allows “low cost integrated service, with the convenience of having only one vendor and one bill to deal with”); S. Rep. No. 104-23, at 43 (joint offerings constitute a “significant competitive marketing tool”).

¹⁴⁷ See In Re Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, Fourth Annual Report, 13 FCC Rcd. 1034, ¶ 11 (1998).

served by traditional cable companies.¹⁴⁸ In its most recent Annual Assessment, the Commission concluded that the main form of competition to incumbent cable operators today is coming from wireless alternatives like DBS, LMDS and MMDS, not wireline cable overbuilders. With over 5 million subscribers, DBS is “the most significant alternative to cable television,”¹⁴⁹ and today more people are signing up for DBS than for cable.¹⁵⁰ An additional 2 million customers use home satellite dishes.¹⁵¹ SMATV systems offer a further competitive alternative for the 25 to 30 percent of the U.S. population that lives in multiple dwelling units.¹⁵² Other terrestrial wireless cable providers offer further competitive options.¹⁵³ And the high-speed Internet data networks discussed in Section IV.C.3, above, will soon be video capable, at which point the video and Internet markets should converge.

This merger will not adversely affect competition in the market for multichannel video programming distribution. For the present, the main competitive alternatives to cable are wireless ones, with the exception of SNET’s and Ameritech’s overbuilds, and the Commission has taken the necessary steps to issue the licenses and promote

¹⁴⁸ See id.

¹⁴⁹ See id.

¹⁵⁰ See D.H. Leibowitz et al., Donaldson, Lufkin & Jenrette Securities, Direct Broadcast Satellite (DBS) Industry - Industry Report, Investext Rpt. No. 2601562, at *2 (Nov. 21, 1997).

¹⁵¹ See Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, Fourth Annual Report, 13 FCC Rcd. 1034, ¶ 11 (1998).

¹⁵² See D.H. Leibowitz et al., Donaldson, Lufkin & Jenrette Securities, Direct Broadcast Satellite (DBS) Industry - Industry Report, Investext Rpt. No. 2601562, at *2 (Nov. 21, 1997).

¹⁵³ See Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, Fourth Annual Report, 13 FCC Rcd. 1034, ¶11 (1998).

competition in that segment of the market. With respect to Ameritech's overbuild systems within its region, this merger would simply replace SBC for Ameritech as the party with ultimate control over those competitive systems.

7. **Alarm Monitoring**

Markets for alarm monitoring services are regional in scope, often comprising several metropolitan areas or states. Major alarm monitoring providers like ADT, Borg Warner and Ameritech use centralized operations centers to provide service. Some 11,500 local regional and national companies provide alarm monitoring services.¹⁵⁴ The largest player, ADT, has less than an 8 percent market share; the top 10 firms serve just 18 percent of the market.¹⁵⁵

SBC currently does not participate in alarm monitoring and, if this merger is approved, Ameritech will simply continue its alarm monitoring business. The merger should have little if any impact on this market, and can have no possible adverse effect.

D. CONCLUSION: The Merger Will Advance the Policies of the Communications Act and Provide Substantial Net Benefits to Competition and the Public Interest

The merger of SBC and Ameritech, more than any transaction in recent memory, will advance the policies of the Communications Act. The National-Local/Global Strategy enabled by the merger will inject new competition into scores of domestic and international markets. This will stimulate a new era of competitive telecommunications and dismantle any remaining impediments to competition. The merger will also enhance

¹⁵⁴ See B.K. Langenberg, Credit Suisse First Boston, Tyco International Company Report, Investext Rpt. No. 2601367 (Nov. 17, 1997).

¹⁵⁵ See The 1998 SDM 100, Security Distributing and Marketing (SDM) Magazine, (visited July 16, 1998) <<http://www.sdmmag.com/list.htm>>; Insider Report, Security

the international competitiveness of the U.S. telecommunications industry. In addition, it will enhance the merged company's efficiency and facilitate the delivery of new and upgraded services to consumers.

There is no doubt that each of these results of the merger is a substantial benefit to the public interest. Any ultimate reckoning of net benefits would find the merger overwhelmingly in the public interest.

V. RELATED GOVERNMENTAL FILINGS

In addition to the filings with the Commission, SBC and Ameritech are taking steps to satisfy the requirements of other governmental entities with respect to the merger.

First, the Department of Justice will conduct its own review of the competitive aspects of this transaction pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18A, and the rules promulgated under that Act. On July 20, 1998, SBC and Ameritech each submitted to the Department of Justice and the Federal Trade Commission a pre-merger notification form and an associated documentary appendix.

Second, the Illinois Commerce Commission and the Public Utility Commission of Ohio will review the merger under the laws of those states, and filings will be made shortly.

Third, the approval of certain state public utilities commissions may be required in connection with Ameritech's authorizations to provide intrastate interexchange service

Distributing and Marketing (SDM) Magazine (visited July 20, 1998)
<<http://www.sdmmag.com/98stats.htm>>.

in 45 states and local exchange service in eight out-of-region states. SBC and Ameritech also may need to surrender certain authorizations as required by state and federal law.

Fourth, the local franchising authorities in the majority of jurisdictions in which Ameritech has received franchises for competitive cable systems will review the transfer of control effected by this merger.

Finally, SBC and Ameritech will make certain notifications to or filings with regulatory authorities in one or more European countries in which SBC or Ameritech holds direct or indirect investments in telecommunications companies.

The Applicants fully expect that these reviews by the Department of Justice, the Illinois and Ohio Commissions and other governmental entities will confirm that the merger of SBC and Ameritech is not anticompetitive and is in the public interest.

VI. ADDITIONAL AUTHORIZATIONS

In addition to seeking the Commission's approval of the transfers of control of the FCC authorizations covered in these applications, the Applicants are also requesting the additional authorizations described below, and they are simultaneously filing an application for a declaration by the Commission, under Section 212 of the Communications Act and Part 62 of the Commission's Rules, that, upon consummation of the merger, all of SBC's post-merger carrier subsidiaries (including SWBT, Pacific Bell, Nevada Bell, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Inc., Michigan Bell Telephone Company, The Ohio Bell Telephone Company and Wisconsin Bell, Inc.) will be "commonly owned carriers." The Applicants are also simultaneously filing applications to transfer control to SBC of certain Section 214 authorizations controlled by Ameritech.

A. After-Acquired Authorizations

As set forth in the relevant exhibit to each of these transfer of control applications, Ameritech controls entities which hold a number of FCC authorizations, all of which would be affected by this proposed transaction. While the applications for approval of the transfer of ultimate control of these authorizations are intended to be complete, the licensees involved in this proposed transaction may have on file, and may file for, additional authorizations for new or modified facilities, some of which may be granted during the pendency of these transfer of control applications.

Accordingly, the Applicants request that the grant of the transfer of control applications include authority for SBC to acquire control of:

- (1) any authorization issued to Ameritech's subsidiaries and affiliates during the Commission's consideration of the transfer of control applications and the period required for consummation of the transaction following approval;
- (2) construction permits held by such licensees that mature into licenses after closing and that may not have been included in the transfer of control applications; and
- (3) applications that will have been filed by such licensees and that are pending at the time of consummation of the proposed transfer of control.

Such action would be consistent with prior decisions of the Commission.¹⁵⁶

¹⁵⁶ See, e.g., SBC/Telesis, 12 FCC Rcd. 2624 at ¶ 93; In re Applications of Craig O. McCaw and American Tel. & Tel., 9 FCC Rcd. 5836, ¶ 137 n.300 (1994), aff'd sub nom. SBC Communications Inc. v. FCC, 56 F.3d 1484 (D.C. Cir. 1995), recon. in part, 10 FCC Rcd. 11786 (1995) ("AT&T/McCaw").

B. Blanket Exemptions to Cut-Off Rules

Pursuant to Sections 22.123(a), 24.423(g)(3), 24.823(g)(3), 25.116(b)(3), 90.164(b) and 101.29(c)(4) of the Commission's Rules, the Applicants request a blanket exemption from any applicable cut-off rules in cases where Ameritech's subsidiaries or affiliates file amendments to pending Part 22, Part 24, Part 25, Part 90 and Part 101 or other applications to reflect the consummation of the proposed transfer of control. The exemption is requested so that amendments to pending applications to report the change in ownership would not be treated as major amendments requiring a second public notice period. The scope of the transaction between SBC and Ameritech demonstrates that any ownership changes are not made for the acquisition of any particular pending application, but are part of a larger merger undertaken for legitimate business purposes. The grant of such an exemption would be consistent with previous Commission decisions routinely granting a blanket exemption in cases involving large transactions.¹⁵⁷

C. Unconstructed Systems/Antitrafficking Rules

The overwhelming majority of the FCC authorizations that are the subject of the proposed transfer of control applications consist of constructed facilities. However, certain facilities in the point-to-point microwave service are authorized but not yet constructed. Under Section 101.55(d) of the Commission's Rules, the transfer of control of such facilities does not implicate the Commission's antitrafficking restrictions because the transfer of these unconstructed facilities is incidental to the larger transaction

¹⁵⁷ See, e.g., In re Applications of PacifiCorp Holdings, Inc. and Century Tel. Enterprises, Inc., 13 FCC Rcd. 8891, ¶ 45 (1997); SBC/Telesis, 12 FCC Rcd. 2624 at ¶ 91; AT&T/McCaw, 9 FCC Rcd. 5836 ¶ 137; In re Applications of Centel Corp. and Sprint Corp. and FW Sub. Inc., 8 FCC Rcd. 1829, ¶ 23, review denied, 8 FCC Rcd. 6162 (1993).

involving the transfer of control of an ongoing, operating business.¹⁵⁸ Pursuant to Sections 1.2111(a), 24.439(a), 24.839(a) and 101.55(d), this Exhibit and the Plan demonstrate that the proposed transaction is a stock-for-stock exchange based upon the valuation of Ameritech as a whole. No separate payments are being made with respect to any individual FCC authorizations or individual facilities.¹⁵⁹

VII. CONCLUSION

For the foregoing reasons, the Commission should conclude that the merger of SBC and Ameritech serves the public interest, convenience and necessity and should grant the applications to transfer control of Ameritech's FCC authorizations to SBC.

¹⁵⁸ In addition, Ameritech holds authorizations for unconstructed cellular and PCS facilities; however, no restrictions exist against transferring control of these authorizations. The cellular authorizations are not unserved area systems and were not initially obtained by Ameritech through a comparative renewal proceeding. See 47 C.F.R. § 22.943(b)-(c) (1997). Likewise, Ameritech did not receive the PCS authorizations through the use of set-asides, installment financing, bidding credits or bidding preferences. Thus, there are no restrictions on their transfer pursuant to 47 C.F.R. §§ 1.2111, 24.439, 24.839 (1997).

¹⁵⁹ See, e.g., SBC/Telesis, 12 FCC Rcd. 2624 at ¶ 91.

Description of Transaction

DESCRIPTION OF THE TRANSACTION

On May 10, 1998, SBC and Ameritech entered into an Agreement and Plan of Merger, under which Ameritech would become a first-tier, wholly-owned subsidiary of SBC. A copy of the Merger Agreement follows this attachment. The Applicants plan to consummate the merger within a year, after the necessary federal and state regulatory approvals have been received* and certain other preconditions have been met.

Under the Merger Agreement, SBC Delaware, Inc., a wholly-owned SBC subsidiary formed to accomplish the merger, will merge into Ameritech, with Ameritech as the surviving corporation. The stockholders of Ameritech will receive, on a tax-free basis, newly-issued shares of SBC. The Merger Agreement provides for a fixed exchange ratio of 1.316 shares of SBC common stock for each share of Ameritech common stock.**

Following the merger, SBC will own all of the stock of Ameritech. SBC itself will be owned approximately 56% by the pre-merger stockholders of SBC and 44% by the pre-merger stockholders of Ameritech.*** Ameritech will continue to own the stock of its subsidiaries, which will continue to hold all of the FCC authorizations they currently hold. While SBC will become the new parent of Ameritech, there will be no

* A description of these regulatory approvals, in addition to this Commission's review, is set forth in Section V of the Exhibit to which this description is attached.

** On May 8, 1998, the last trading day before the public announcement of the merger, the closing prices of SBC common stock and Ameritech common stock, as reported on the NYSE Composite Transactions Tape, were \$42 3/8 per share \$43 7/8 per share, respectively.

*** Following the consummation of SBC's pending merger with SNET, the combined entity will be owned approximately 42.5 percent by the pre-merger shareholders of Ameritech.

transfer of direct control of the FCC authorizations since the current licensees will continue to hold their authorizations. Ameritech's headquarters will remain in Chicago, and its state headquarters will remain in each of its five states. It will continue to use the Ameritech name in each of those states, and five additional SBC board seats will be created for current members of the Ameritech board.

**Agreement and
Plan of Merger**

AGREEMENT AND PLAN OF MERGER

Among

AMERITECH CORPORATION

SBC COMMUNICATIONS INC.

and

SBC DELAWARE, INC.

Dated as of May 10, 1998

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SEC	5.1(e)
Securities Act	5.1(d)(i)
Significant Subsidiary	5.1(b)(i)
SNET	6.1(b)(vii)

<u>Term</u>	<u>Section</u>
SNET Agreement	6.1(b) (vii)
Stockholders Meeting	6.4
Subsidiary	5.1(a)
Substitute Option	6.10(a) (i)
Substitute Option Price	6.10(a) (i)
Superior Company Proposal	6.2(a)
Superior SBC Proposal	6.2(b)
Surviving Corporation	1.1
Takeover Statute	5.1(j)
Tax	5.1(m)
Tax Return	5.1(m)
Taxable	5.1(m)
Taxes	5.1(m)
Termination Date	8.2(i)
Termination Fee	8.5(b)
Utilities Laws	5.1(d) (i)

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (hereinafter called this "Agreement"), dated as of May 10, 1998, among Ameritech Corporation, a Delaware corporation (the "Company"), SBC Communications Inc., a Delaware corporation ("SBC"), and SBC Delaware, Inc., a Delaware corporation and a wholly-owned subsidiary of SBC ("Merger Sub," the Company and Merger Sub sometimes being hereinafter together referred to as the "Constituent Corporations").

RECITALS

WHEREAS, the respective Boards of Directors of each of SBC, Merger Sub and the Company have approved this Agreement and the merger of Merger Sub with and into the Company (the "Merger") upon the terms and subject to the conditions set forth in this Agreement;

WHEREAS, it is intended that, for federal income tax purposes, the Merger shall qualify as a reorganization under the provisions of Section 368(a) of the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder (the "Code");

WHEREAS, for financial accounting purposes, it is intended that the Merger shall be accounted for as a "pooling-of-interests;" and

WHEREAS, the Company, SBC and Merger Sub desire to make certain representations, warranties, covenants and agreements in connection with this Agreement.

NOW, THEREFORE, in consideration of the premises, and of the representations, warranties, covenants and agreements contained herein, the parties hereto agree as follows:

ARTICLE I

The Merger; Closing; Effective Time

1.1. The Merger. Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time (as defined in Section 1.3) Merger Sub shall be merged with and into the Company and the separate corporate existence of Merger Sub shall thereupon cease. The Company shall be the surviving corporation in the Merger (sometimes hereinafter referred to as the "Surviving Corporation") and

shall continue to be governed by the laws of the State of Delaware, and the separate corporate existence of the Company with all its rights, privileges, immunities, powers and franchises shall continue unaffected by the Merger except as set forth in Article III hereof. The Merger shall have the effects specified in the Delaware General Corporation Law, as amended (the "DGCL").

1.2. Closing. The closing of the Merger (the "Closing") shall take place (i) at the offices of Sullivan & Cromwell, 125 Broad Street, New York, New York 10004 at 9:00 A.M., local time, on the second business day after the date on which the last to be fulfilled or waived of the conditions set forth in Article VII (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the fulfillment or waiver of those conditions) shall be satisfied or waived in accordance with this Agreement or (ii) at such other place and time and/or on such other date as the Company and SBC may agree in writing (the "Closing Date").

1.3. Effective Time. Immediately following the Closing, the Company and SBC will cause a Certificate of Merger (the "Certificate of Merger") to be executed, acknowledged and filed with the Secretary of State of Delaware as provided in Section 251 of the DGCL. The Merger shall become effective at the time when the Certificate of Merger has been duly filed with the Secretary of State of Delaware or such other time as shall be agreed upon by the parties and set forth in the Certificate of Merger in accordance with the DGCL (the "Effective Time").

ARTICLE II

Certificate of Incorporation and By-Laws of the Surviving Corporation

2.1. The Certificate of Incorporation. The certificate of incorporation of the Company as in effect immediately prior to the Effective Time shall be the certificate of incorporation of the Surviving Corporation (the "Charter"), until duly amended as provided therein or by applicable law, except that (i) Article Fourth of the Charter shall be amended to read in its entirety as follows: "FOURTH. The aggregate number of shares that the Corporation shall have the authority to issue is 1,000 shares of Common Stock, par value \$1.00 per share."; (ii) Article Fifth of the Charter shall be deleted in its entirety and shall read as follows: "FIFTH. Reserved."; (iii) Article Eighth, Section B of the Charter shall be amended to read in its

entirety as follows: "B. Number. The number of directors, their terms and their manner of election shall be fixed by or pursuant to the By-Laws of the Corporation."; (iv) Article Ninth of the Charter shall be deleted in its entirety and shall read as follows: "NINTH. Reserved." and (v) Article Tenth of the Charter shall be amended to read in its entirety as follows: "TENTH. The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in any manner now or hereafter permitted or prescribed by statute."

2.2. The By-Laws. The by-laws of Merger Sub in effect at the Effective Time shall be the by-laws of the Surviving Corporation (the "By-Laws"), until thereafter amended as provided therein or by applicable law.

ARTICLE III

Officers and Directors

3.1. Directors of Surviving Corporation. The directors of Merger Sub at the Effective Time shall, from and after the Effective Time, be the directors of the Surviving Corporation until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Charter and the By-Laws.

3.2. Officers of Surviving Corporation. The officers of the Company at the Effective Time shall, from and after the Effective Time, be the officers of the Surviving Corporation until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Charter and the By-Laws.

3.3. Election to SBC's Board of Directors. At the Effective Time of the Merger, SBC shall increase the size of its Board of Directors in order to enable up to five members of the Board of Directors of the Company to be members of the SBC Board of Directors, which persons shall be selected by the SBC Board of Directors in consultation with the Chief Executive Officer of the Company and the Board of Directors of the Company (the "Director Designees"), and the SBC Board of Directors shall appoint each of the Director Designees to the SBC Board of Directors as of the Effective Time, with such Director Designees to be divided as nearly evenly as is possible among the classes of directors of SBC.

ARTICLE IV

Effect of the Merger on Capital Stock; Exchange of Certificates

4.1. Effect on Capital Stock. At the Effective Time, as a result of the Merger and without any action on the part of the holder of any capital stock of the Company:

(a) Merger Consideration. Each share of Common Stock, \$1.00 par value per share, of the Company (each a "Company Share" and together the "Company Shares") issued and outstanding immediately prior to the Effective Time (other than Company Shares that are owned by SBC, Merger Sub or any other direct or indirect subsidiary of SBC (collectively, the "SBC Companies") or Company Shares that are owned by the Company or any direct or indirect subsidiary of the Company and in each case not held on behalf of third parties (collectively, "Excluded Company Shares")) shall be converted into and become exchangeable for 1.316 (the "Exchange Ratio") shares of Common Stock, par value \$1.00 per share, of SBC ("SBC Common Stock"), subject to adjustment as provided in Section 4.4 (the "Merger Consideration"). All references in this Agreement to SBC Common Stock to be issued pursuant to the Merger shall be deemed to include the corresponding rights ("SBC Rights") to purchase shares of SBC Participating Preferred Stock pursuant to the SBC Rights Agreement (as defined in Section 5.1(b)(ii)), except where the context otherwise requires. At the Effective Time, all Company Shares shall no longer be outstanding, shall be cancelled and retired and shall cease to exist, and (A) each certificate (a "Certificate") formerly representing any of such Company Shares (other than Excluded Company Shares) and (B) each uncertificated Company Share a "Registered Company Share") registered to a holder on the stock transaction books of the Company (other than Excluded Company Shares), shall thereafter represent only the right to the Merger Consideration and the right, if any, to receive pursuant to Section 4.2(d) cash in lieu of fractional shares into which such Company Shares have been converted pursuant to this Section 4.1(a) and any distribution or dividend pursuant to Section 4.2(b), in each case without interest.

(b) Cancellation of Shares. Each Excluded Company Share issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, no longer be outstanding, shall be cancelled and retired without payment of any consideration therefor and shall cease to exist.

(c) Merger Sub. At the Effective Time, each share of Common Stock, par value \$1.00 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into one share of common stock of the Surviving Corporation, and the Surviving Corporation shall be a wholly-owned subsidiary of SBC.

4.2. Exchange of Certificates for Shares.

(a) Exchange Procedures. Promptly after the Effective Time, the Surviving Corporation shall cause an exchange agent selected by SBC with the Company's prior approval, which shall not be unreasonably withheld (the "Exchange Agent") to mail to each holder of record as of the Effective Time of a Certificate or Registered Company Shares, as the case may be, (other than holders of a Certificate or Registered Company Shares in respect of Excluded Company Shares) (i) (x) in the case of holders of Certificates, a letter of transmittal specifying that delivery shall be effected, and that risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates (or affidavits of loss in lieu thereof) to the Exchange Agent (the "Certificate Letter of Transmittal") or (y) in the case of holders of Registered Company Shares, a letter of transmittal specifying that the exchange for SBC Shares shall occur only upon delivery of such letter of transmittal to the Exchange Agent (the "Registered Letter of Transmittal"), each such letter of transmittal to be in such form and have such other provisions as SBC and the Company may reasonably agree, and (ii) instructions for exchanging Certificates or Registered Company Shares for (A) uncertificated shares of SBC Common Stock registered on the stock transfer books of SBC in the name of such holder ("Registered SBC Shares") or, at the election of such holder, certificates representing shares of SBC Common Stock and (B) any unpaid dividends and other distributions and cash in lieu of fractional shares. Subject to Section 4.2(g), upon (I) surrender of a Certificate for cancellation to the Exchange Agent together with a Certificate Letter of Transmittal, duly executed, the holder of such Certificate or (II) upon delivery of a Registered Letter of Transmittal, duly executed, the holder of such Registered Company Shares, as the case may be, shall be entitled to receive in exchange therefor (x) Registered SBC Shares or, at the election of such holder, a certificate representing that number of whole shares of SBC Common Stock that such holder is entitled to receive pursuant to this Article IV, (y) a check in the amount (after giving effect to any required tax withholdings) of (A) any cash in lieu of fractional shares determined in accordance with Section 4.2(d) hereof plus (B) any cash dividends and any other dividends or other

distributions that such holder has the right to receive pursuant to the provisions of this Article IV, and any Certificate so surrendered and any Registered Company Share in respect of which a Registered Letter of Transmittal is so delivered shall forthwith be cancelled. No interest will be paid or accrued on any amount payable upon due surrender of any Certificate or delivery of a duly executed Registered Letter of Transmittal, as the case may be. In the event of a transfer of ownership of Company Shares that is not registered in the transfer records of the Company, Registered SBC Shares or a certificate representing the proper number of shares of SBC Common Stock, as the case may be, together with a check for any cash to be paid upon due surrender of the Certificate or upon the delivery to the Exchange Agent of the duly executed Registered Letter of Transmittal and any other dividends or distributions in respect thereof, may be issued and/or paid to such a transferee if, in the case of holders of Certificates, the Certificate formerly representing such Company Shares is presented to the Exchange Agent, and, in the case of holders of Registered Company Shares, if the Registered Letter of Transmittal is delivered to the Exchange Agent in either case accompanied by all documents required to evidence and effect such transfer and to evidence that any applicable stock transfer taxes have been paid. If any Registered SBC Shares or any certificate for shares of SBC Common Stock is to be issued in a name other than that in which the Certificate surrendered in exchange therefor or the Registered Company Shares exchanged therefor, as the case may be, is registered, it shall be a condition of such exchange that the Person (as defined below) requesting such exchange shall pay any transfer or other taxes required by reason of the issuance of Registered SBC Shares or a certificate for shares of SBC Common Stock in a name other than that of the registered holder of the Certificate surrendered or the Registered Company Shares exchanged, as the case may be, or shall establish to the satisfaction of SBC or the Exchange Agent that such tax has been paid or is not applicable.

For the purposes of this Agreement, the term "Person" shall mean any individual, corporation (including not-for-profit), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, Governmental Entity (as defined in Section 5.1(d)(i)) or other entity of any kind or nature.

(b) Distributions with Respect to Unexchanged Shares; Voting.

(i) Whenever a dividend or other distribution is declared by SBC in respect of SBC Common Stock, the record date for which is at or after the Effective Time, that declaration shall include dividends or other distributions in respect of all shares of SBC Common Stock issuable pursuant to this Agreement. No dividends or other distributions in respect of such SBC Common Stock shall be paid to any holder of any unsurrendered Certificate or Registered Company Shares for which a Registered Letter of Transmittal shall not have been delivered, until such Certificate is surrendered for exchange or such Registered Letter of Transmittal is delivered, as the case may be, in accordance with this Article IV. Subject to the effect of applicable laws, following surrender of any such Certificate or delivery of any such Registered Letter of Transmittal, as the case may be, there shall be issued and/or paid to the holder of the Registered SBC Shares or the certificates representing whole shares of SBC Common Stock, as the case may be, issued in exchange therefor, without interest, (A) at the time of such surrender or delivery, as the case may be, the dividends or other distributions with a record date after the Effective Time and a payment date on or prior to the date of issuance of such whole shares of SBC Common Stock and not previously paid and (B) at the appropriate payment date, the dividends or other distributions payable with respect to such whole shares of SBC Common Stock with a record date after the Effective Time but with a payment date subsequent to surrender or delivery, as the case may be. For purposes of dividends or other distributions in respect of shares of SBC Common Stock, all shares of SBC Common Stock to be issued pursuant to the Merger shall be deemed issued and outstanding as of the Effective Time.

(ii) Registered holders of unsurrendered Certificates or Registered Company Shares for which a duly executed Registered Letter of Transmittal shall not have been delivered shall be entitled to vote after the Effective Time at any meeting of SBC stockholders with a record date at or after the Effective Time the number of whole shares of SBC Common Stock represented by such Certificates or Registered Company Shares, as the case may be, regardless of whether such holders have surrendered their Certificates or delivered duly executed Registered Letters of Transmittal, as the case may be.

(c) Transfers. After the Effective Time, there shall be no transfers on the stock transfer books of the Company of the Company Shares that were outstanding immediately prior to the Effective Time.