

**DSSA**

---

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April 27, 1999

VIA FEDERAL EXPRESS

Ms. Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth St. SW Room TW-A 325  
Washington, D.C. 20554

**RECEIVED**  
**APR 29 1999**  
**FCC MAIL ROOM**

Re: **SBC Communications Inc. and Ameritech Corporation**  
**(CC Dkt. No 98-141)**

Dear Ms. Salas:

DSSA and Neighborhood Learning Networks ("NLN"), Intervenors in the Illinois Commerce Commission hearing related to Ameritech and SBC, file these comments in responses to Chairman Kennard's letter of April 1, 1999.

DSSA is an owner and manager of government assisted housing developments in Illinois and the Midwest. It creates service-enriched environments in government assisted housing, including the use of on-site computer learning centers, so that the housing can function as "transitional" space rather than a way of life. Neighborhood Learning Networks is a collaboration of Chicago area community technology centers and neighborhood groups to create technology supported neighborhood learning and employment networks.

On April 13, 1999, we wrote to Jackie Hayes (Exhibit A), enclosing copies of our Ameritech/SBC materials, as well as a letter written on March 13, 1999 to John Porter (Exhibit B) outlining the value of "gathering, analyzing and evaluating" the various public technology interventions funded over the past five years. We are also enclosing a copy of our most recent in the ICC proceeding (Exhibit C) which summarizes the arguments we have been making in the Illinois proceeding.

As a preliminary matter, DSSA/NLN agrees with the concerns and proposed conditions recommended to you by Ellis Jacobs, Counsel for the Edgemont Neighborhood Coalition in his letter to you of April 15, 1999 (Exhibit D). Good observations. Good recommendations.

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DSSA/NLN has three major concerns that it would like to share with you. First, we believe the proposed merger will “chill” and decrease competition in providing services to basic service customers, customers on the wrong side of the digital divide and Illinois residents **without** basic telephone service and that Ameritech/SBC should be required to demonstrate that these customer groups will not be adversely affected by the merger as a condition of the merger. Second, in order to provide support for these underserved markets, we have proposed an Illinois Community Technology Fund which will: a. aggregate and inform demand in currently underserved markets; b. fund creative and replicable public technology initiatives; c. provide technical and financial support for community technology centers; and d. gather, disseminate and commercialize examples of effective public technology initiatives around the country and world. And third, to date there has been very little involvement by groups traditionally representing disadvantaged and underserved Illinois markets in both the ICC and FCC proceedings. Their interests have not been adequately represented in Illinois, and in Washington.

### **1. The Adverse Effect of the Merger on Certain Residential Markets.**

There appears to be a competitive marketplace in Illinois for long distance service and for the needs of large corporate customers. Both long distance carriers and CLECs are competing aggressively in these markets. Competition in the local exchange market is another matter. There is little competition. This is particularly true for those residential markets: using only the traditional basic telephone service; on the wrong side of the digital divide; and those without basic telephone service.

These specific markets have been essentially ignored in the ICC proceedings. They haven't been identified, except by DSSA/NLN, as market segments. Their needs haven't been described or discussed. There has been no service base line established for these markets, so it is difficult to predict with any confidence how or whether their conditions will be affected by the merger. However, with Illinois ranking in the bottom five states in basic telephone service penetration, with a growing digital divide in both Chicago and Illinois, and with the obvious need for Ameritech/SBC to generate the revenues to pay the dividends to keep their investors happy, it is likely that these “captive” telephone markets in Illinois will be disadvantaged by the Ameritech/SBC merger.

DSSA/NLN has argued in its various briefs before the ICC that Ameritech/SBC has the burden of proof in these matters, to show that the merger **will not** have an adverse effect on customer markets, rather than Intervenors representing these customer groups, without access to either current customer information or business plans, being required to show that the merger **will have** adverse effect. Ameritech/SBC has not responded to this challenge.

Virtually all of the Intervenors in the ICC proceeding have argued that the merger will adversely effect competition. However, their fallback position has been that the ICC could be satisfied on the competition issue if there was some requirement that Ameritech/SBC assure the

ICC that there was adequate competition, or a structure to assure competition, as a prior condition to the approval of the merger. Given the importance in the 1996 TA to the role that Section 271 was to play in creating a competitive marketplace for telecommunications services, and the relative ineffectiveness of the "carrot" of long distance service to achieve that objective, perhaps it is time to require that the solution be some variant of the open market assumptions of Section 271 as a condition of FCC merger approval. It is the FCC, and not the DOJ, that has the special expertise to determine when a telecommunications market is sufficiently open to achieve the variety of marketplace benefits envisioned by the 1996 TA.

**Proposed Condition #1.** The FCC should require as a condition of the proposed merger that Ameritech/SBC comply with some appropriate variant of Section 271 to assure that various residential markets will receive the benefits of a competitive marketplace.

## **2. The Illinois Community Technology Fund.**

DSSA/NLN has developed a four part program designed to serve the needs of particular residential markets. These programs are set out in our recent Exceptions to the Proposed Order (pps 11-16 in Exhibit C). One program is an information/marketing initiative, to bring to disadvantaged markets a clear understanding of the benefits of telecom services and the most effective and cost-effective ways to acquire them. This program would build upon a basic "consumer protected" marketing and communication program. The second program is an Illinois version of TIIAP, a program to support the development of creative public technology interventions that can be replicated in other underserved markets. This is the principal program that Pac Tel/SBC agreed to in creating the California Community Partnership. The third program is a fund for community technology centers. This program would be modeled on the current program operated by SBC in Missouri, and the long standing program that Ameritech has supported in Ohio, and which was recently expanded as part of their settlement with the Public Utility Commission of Ohio. The fourth program is an effort to gather, analyze, disseminate and commercialize the "best practices" developed throughout the country and world to provide telecom products and services to disadvantaged markets. The term, "best practices," are not intended to mean "most revenue" for Ameritech/SBC. Rather they are intended to mean "most cost effective and efficient" models for helping disadvantaged and underserved markets learn about and use modern telecommunications services.

We believe that all of the programs in the Illinois Community Technology Fund are in the long term business interests of Ameritech/SBC. They are intended to be marketing expenditures, to aggregate, inform and demonstrate the types of telecom services that could be meaningful and of use to disadvantaged and underserved markets. Unfortunately, Ameritech/SBC are concentrating their energies on serving the large corporate market which is currently perceived as the most attractive market segment.

There is danger that this orientation will prejudice the ability of other markets to receive the broadband connections that will enable telecommunications services to be used to their fullest,

and, in effect, to further widen and exacerbate the digital divide. The financial services industry, when confronted with a similar condition of apparent differences in market attractiveness, was obliged to create a Community Reinvestment Act ("CRA") to assure that all market segments were treated fairly.

**Proposed Condition #2.** The Ameritech/SBC merger should be conditioned upon the creation of a package of market informing and aggregating programs, like those recommended for the Illinois Community Technology Fund, so that currently disadvantaged and underserved markets do not fall further behind as Ameritech/SBC concentrate their energies on serving all of the needs of their large corporate customers.

### **3. Lack of Involvement by Logical Intervenors in the ICC Merger Proceedings.**

In California there were more than 100 community groups in 9 major coalitions that participated in the Pac Tel/SBC merger proceedings. Their involvement ultimately resulted in the creation of a California Community Partnership with \$82 million in commitments by Pac Tel/SBC to support public technology initiatives in disadvantaged communities. In Illinois, on the other hand, there were **no** similar groups either participating, or represented by others, in the Ameritech/SBC merger proceeding before the ICC. DSSA/NLN intervened in the proceedings after the close of direct testimony in the case so that at least someone represents the interests of disadvantaged markets, and expresses concern over the implications of a growing digital divide, in Illinois.

The Metropolitan Planning Council, a prominent Chicago planning and economic development organization (to which Ameritech belongs), issued a report in October of 1998, "Putting Our Minds Together," which called for an aggressive program to "mitigate the digital divide." Coupling this report with a sophisticated group of community based organizations in Chicago, one would have thought that the interests of disadvantaged groups would have been aggressively represented in the ICC proceedings.

They weren't. There were two reasons. First, the funding relationships between Ameritech and the non-profit community had a "chilling" effect on the willingness of community groups to participate in the ICC proceedings, making demands for programs similar to those that were agreed to by PacTel/SBC in California. Second, these are complex, technical, costly, and protracted proceedings. There is not adequate experience or manpower in the legal aid system in Illinois to provide this type of level of representation.

Given this situation, it is troubling to think about the aggressiveness and effectiveness of future interventions on behalf of disadvantaged and underserved markets with respect to: a. delays in providing broadband infrastructure to low income communities; b. promoting the aggressive marketing and implementation of an expanded lifeline program like the Universal Service Assistance Program discussed by Ellis Jacobs (Exhibit D).; c. developing true "best practices" which clearly communicate service options to disadvantaged, poor and non-English speaking

markets in ways that are in the real interests of consumers, rather than merely increasing revenues for Ameritech/SBC.

**Proposed Condition #3.** Some mechanism should be created for awarding attorney fees or other appropriate economic incentives to successful interventions on behalf of disadvantaged or underserved markets.

DSSA/NLN is pleased to have been given the opportunity to share our concerns and ideas with you. We would welcome the opportunity to discuss these ideas with you further, either in Washington or in Chicago, either individually or with other informed representatives like Ellis Jacobs of Ohio and Mark Savage of California. Please feel free to contact me at 847-356-7800 or by email ([DSSA310@aol.com](mailto:DSSA310@aol.com)).

Sincerely,



Don S. Samuelson

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April 13, 1999

Jackie Hayes  
Common Carrier Bureau  
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Washington, D.C. 20554

**RECEIVED**

**APR 29 1999**

**FCC MAIL ROOM**

Re: Ameritech/SBC Merger

Dear Jackie:

Thank you for taking the time to talk with me today. I am enclosing some of the materials we talked about in our phone conversation. I would be happy to expand on them with you or other members of the FCC staff. The enclosed materials include:

- Rebuttal Testimony of Don Samuelson on behalf of DSSA and the Neighborhood Learning Networks before the ICC on Docket #98-0555 regarding the Ameritech/SBC Merger;
- Initial Brief filed on February 24, 1999;
- Reply Brief filed on March 11, 1999;
- Summary of the programs we are proposing as part of our recommended remedies;
- Letter written on March 13, 1999 to Congressman John Porter suggesting the value of gathering, analyzing and evaluating the various existing demonstrations of public technology interventions funded by the Department of Education, the National Science Foundation, the Department of Housing and Urban Development, the Department of Labor, and other governmental agencies interested in workforce development or **"mitigating the digital divide."**

Illinois has a merger statute which requires that "savings" from the merger be determined. In this respect, Illinois is like California, and unlike the other states in the Ameritech service area which appear to have no merger approval provisions (Wisconsin, Indiana and Michigan) or which have no mandatory "savings" provision (Ohio). California, as you know, required that the Pac Tel/SBC merger create and fund in a significant way a California Community Partnership to provide assistance to disadvantaged or underserved markets and other remediation programs.

The positions we have taken in the merger proceedings in Illinois before the Illinois Commerce Commission are relatively clear, simple and consistent.

**First**, we argue that the “standard” of Illinois Commerce Commission review should be a “public interest” or “public convenience” standard, and not the mere compliance with a narrow reading of the merger statute.

**Second**, because of the uncertain and likely negative effect the merger will have upon prospective competition in the residential markets in Illinois, in particular the poor or otherwise disadvantaged markets, we have recommended that the Illinois Commerce Commission require the compliance of Ameritech/SBC with the Section 271 checklist process, in Illinois, to the satisfaction of the ICC, to assure that the merger results in a competitive marketplace in Illinois for all sectors of the telecom marketplace.

**Third**, we propose that there be a more careful review of the determination of merger savings, drawing upon the framework – if not the numbers – developed by Ameritech/SBC in Illinois, the methodology developed in California for projecting the savings in Pac Tel/SBC, and the various savings projections made by SBC and Chairman Whitacre in presentations to the financial community and in the April 12<sup>th</sup> Business Week article at page 84.

**Fourth**, we argue that the savings should be allocated to consumers rather than shareholders (since the shareholders will be receiving a \$13.2B premium in the deal), and the savings ought to be allocated to consumers equally in the form of rate reductions and programs funded by estimated savings which relate to awareness raising, education and access. We feel that the compliance by Ameritech/SBC with the Section 271 checklist standards before the approval of the merger are the best guarantee that the marketplace will create optimum combinations of alternatives, quality services and lower costs.

There are four program areas which we have been advancing before the ICC. One relates to the “preparation” of the market through consumer education and awareness raising efforts. The second relates to the development of an Illinois version of the Commerce Department’s TIAP program, to involve neighborhood and community groups in the development of effective and replicable public technology interventions. The third involves the support for community technology centers, like those supported by Ameritech in Ohio, and SBC in Missouri. And finally, we propose the aggressive and comprehensive gathering of “best practices” in the U.S. and abroad, which advance the interests of disadvantaged and underserved markets in learning about and using the types of technology interventions that can help to level the technology playing field and mitigate the digital divide. As my letter to John Porter points out, I think it is important that there be comprehensive and rigorous review of the results of existing programs of this type so that they can be efficient and cost effective.

I would be happy to expand upon these points, or modify this letter in whatever way might be most effective in bringing these concerns and ideas to the consideration of the Federal Communications Commission or its Staff.

Sincerely,



Don S. Samuelson

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March 13, 1999

To: Representative John Porter  
Chair – House Appropriations Subcommittee on Labor, Health and Human  
Services, and Education

From: Don Samuelson

Re: Department of Education request for \$65M in FY 2000 for Community  
Technology Centers – and the need for an overall strategy and context.

Patricia McNeil, Assistant Secretary of Education for Vocational and Adult Education, in  
a prepared statement before the Subcommittee on March 10, said:

“The Department also includes \$65 million for Community-Based Technology Centers (CTCs) in the Education Reform request. CTCs will give adults in economically distressed urban and rural communities access to technology for learning. Our nation has a digital divide. Minority and low-income homes are unlikely to have the computers and Internet connections that are increasingly common in American homes. Many low-income people do not have even the most basic computer skills and have no way to acquire them. The CTCs will make it possible for residents to come to a local center and not only use computers for Internet access, writing a business letter, or preparing a resume, but receive instruction in computer use and basic skills from qualified adult educators. This proposal builds on previous public investments in community-accessible computers, which have demonstrated that computer access can literally make a difference in people’s lives – through new jobs and other opportunities. This initiative will increase the numbers of communities that have centers and ensure that centers are available to adults with limited reading and basic skill.”

1. This proposal should be put in a broader context, involving the efforts of HUD, Commerce, Labor, and the FCC. And an effort should be made to collect, organize, analyze and make sense of our current experience with CLCs.
  - a. You are familiar with the HUD Neighborhood Networks program. It has supported more than 400 computer learning centers in HUD housing developments. There are almost 600 more in some phase of planning. Niles Terrace in Waukegan. Northwest Tower in Chicago.
  - b. The Department of Commerce has a TIAP program which has been supporting innovative uses of technology (including computer learning centers) for inner city, disadvantaged and rural communities for over five years. It has accumulated a wonderful collection of demonstration projects which warrant replication.

- c. The Department of Labor has provided support for the instructional programs going on in CLCs in HUD housing, for welfare-to-work objectives. And DOL has supported CLCs more generally.
  - d. The Department of Education has a Technology Challenge Grant program, to support the use of technology to promote community/adult education and lifelong learning. Waukegan won an award in 1995. Chicago won in 1997.
  - e. The Department of Education has a 21<sup>st</sup> Century Learning Center program, designed to create computer learning centers and other after-school programs, to take care of children during the key time period from 3:00 to 6:00, after school is out, before the working parents come home.
  - f. A number of state public utility commissions are requiring that computer learning centers be set up by telecom companies as parts of rate hearings, and more recently the merger hearings involving SBC/Pac Tel (California) and Ameritech/SBC (Illinois). SBC has created community technology centers in Missouri. Ameritech has created a program in Ohio. The California PUC has required SBC/Pac Tel to create an \$82 million education and access fund for technology initiatives in "disadvantaged" communities in California. SBC has agreed to fund a similar system of public technology initiatives in Ohio. A similar request is before the Illinois Commerce Commission related to the Ameritech/SBC merger hearing in Illinois.
2. There are trade associations around the country which have tended to specialize in the development and improvement of computer learning centers and community networks. This experience base should be collected, organized and disseminated.
- a. HUD has its Neighborhood Networks program.
  - b. CTCNet, in Boston, is an NSF funded effort to support the development of community technology centers in inner city neighborhoods and rural communities. It has more than 400 affiliates. It will be holding its annual conference this June in Chicago.
  - c. AFCN, the Association for Community Networking, is an association of community networks providing awareness raising, training, low cost access and other services to needy populations. It has a substantial number of affiliates.
  - d. TIIAP has a substantial collection of public technology initiatives that it has funded over the past five years.
  - e. UK Communities Online is a similar trade association operating out of the UK.
  - f. There are similar initiatives like this going on throughout the world.
-

3. This is really a matter of technology equity and ought to be viewed in a comprehensive, rather than piecemeal approach.
  - a. There are a substantial number of groups involved in this effort. They are funded by all sorts of agencies, under a variety of programs, in all sorts of ways.
  - b. These groups represent markets that can be served over time by competition in the deregulated telecommunications marketplace.
  - c. There are some wonderful examples of individual centers around the country.
  - d. There are some promising examples of developing models of how these various programs might work together in a coordinated way to create "neighborhood learning, employment and business incubation networks" in disadvantaged communities.

**In Summary.** On a closing note, I would be happy to work with appropriate Subcommittee staff to consider ways in which these various initiatives might be integrated, and coordinated so that efficiencies can be created and good experiences can be replicated and brought to scale. And I would be happy to organize a panel or two of individuals, representing these various groups, that could provide written and oral testimony to your Subcommittee.

There is a rapidly increasing use of concepts like technology "have-nots," "know-nots" and "access-nots," and the recognition that we are developing a "digital divide" between those who know about and use technology (generally the better educated and the upper income groups) and those that do not (the poor, the less educated). The "haves" use technology in their work. They very often have computers, modems and Internet access in their homes. The "have-nots" are much more dependent upon access in public institutions like schools and libraries. But the basic point of Patricia McNeil's statement is that, today, we need to identify and support other neighborhood locations and institutions that can participate in the effort to mitigate the digital divide.

The TIAP proposal recently submitted by the Neighborhood Learning Network to create and support a West Town Learning and Employment Network represents one such strategy. It was built out of the experiences developed in Waukegan in 1995 involving Niles Terrace, the HUD LIHPRHA project, and the DOE Technology Challenge Grant won by Alan Brown and the Waukegan School System in 1995. The basic ideas were generated in your district. They have simply been adapted and moved to another HUD development, Northwest Tower, and the West Town neighborhood in Chicago.

Community Technology Centers should certainly be funded at the requested level. In addition, there should be funding for a prompt, comprehensive and rigorous review of the various community technology centers funded, by a variety of sources, to date.

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

SBC Communications, Inc., SBC )  
 Delaware Inc., Ameritech )  
 Corporation, Illinois Bell )  
 Telephone Company d/b/a Ameritech )  
 Illinois, And Ameritech Illinois )  
 Metro, Inc. ) ICC Docket No. 98-0555  
 )  
 Joint Application For Approval Of )  
 The Reorganization Of Illinois Bell )  
 Telephone Company d/b/a Ameritech )  
 Illinois, And The Reorganization Of )  
 Ameritech Illinois Metro, Inc. In )  
 Accordance With Section 7-204 Of )  
 The Public Utilities Act And For All )  
 Other Appropriate Relief. )

**NEIGHBORHOOD LEARNING NETWORKS'  
RESPONSE TO EXCEPTIONS TO PROPOSED ORDER**

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 (312) 701-9300

Attorneys for Intervenors Neighborhood  
 Learning Networks, Inc. and DSSA

April 22, 1999

## SUMMARY OF THE ARGUMENT

Virtually all parties take exception to the Proposed Order's approach to assessing this merger in two critical respects: satisfaction of the public interest and SBC/Ameritech's burden of proof. First, the Commission should apply a broad "public interest" test--not, as urged by SBC/Ameritech, conduct a narrowly circumscribed review confined to the seven findings required by Section 7-204(b).

Second, SBC/Ameritech must show that the proposed merger will NOT diminish service quality (§ 7-204(b)(1), NOT subsidize non-utility activities (§ 7-204(b)(2), NOT have an adverse effect on competition (§ 7-204(b)(6), and NOT result in adverse rate impacts on retail customers (§ 7-204(b)(7). The Intervenors do not have the burden of showing that the proposed merger will result in these adverse effects. The Joint Applicants have the burden of proof with respect to all required merger findings. They have the additional burden of demonstrating why this proposed merger is in the public interest. They have not met these burdens.

The Joint Applicants must show that the merger will not have a significant adverse effect on competition in ALL markets over which the Commission has jurisdiction. These include various customer markets: big business; small and medium business; premium residential customers; "basic" residential customers; those residents on the wrong side of the digital divide; and, the very substantial number of Illinois residents who have no phone service at all. The Proposed Order fails to consider the merger's impact on each of these markets, leaving that task to the Commission.

There is no persuasive testimony in the record that this proposed merger will not have a significant adverse effect on competition for these "basic," "digitally divided" and

essentially “left out” residential markets. In fact, there is a great deal of testimony that this merger will adversely effect these underserved residential markets.

This merger is essentially about giant utilities seeking to consolidate market positions with respect to the profitable data transmission needs of Fortune 500 companies. The Joint Applicants appear to have given almost no thought to the merger’s consequences for underserved and disadvantaged residential markets. This lack of testimony and concern in this proceeding is particularly shocking since specific remedies were developed for these underserved markets in the SBC/Pac Tel merger proceeding in California and in the recent SBC/Ameritech merger settlement in Ohio.

Section 7-204(c) requires that a determination be made of the “savings” that will result from the merger. There are three questions which need to be addressed in the calculation of savings. What are the categories of savings? What are the time periods during which the savings occur? And what are the amounts of savings? There are differences of opinion on each of these points. But the Proposed Order does not describe process for either estimating the savings now, or calculating them at some later date.

The Commission can impose whatever conditions it deems necessary to support the merger findings required by § 7-204 AND to assure that the public interest will be served through the creation of a competitive marketplace serving all customer markets. There seems almost unanimous agreement among the Intervenors that if this merger is to be approved, it must be on the condition that the Joint Applicants demonstrate to the Commission’s satisfaction that the local exchange network is open and competitive. This can be done by assuring compliance with the TA '96 Section 271 checklist, with such penalty provisions to assure compliance on items not completed at the time of merger approval.

Because the Ameritech shareholders are receiving a \$13.2 premium for their shares, and most of the value in Ameritech was created during the 75 years when it was a regulated monopoly and shareholders took minimal risk, the Proposed Order correctly allocates 100% of the savings to ratepayers.

In California, ratepayers were compensated through a combination of surcredits and the creation of a California Community Partnership, an economic and community development program to increase awareness, training and access to telecommunications in the state's underserved communities. We have proposed a similar ratepayer remedy in Illinois through establishment of a consumer-controlled Illinois Community Technology Fund. That Fund would inform and aggregate underserved markets, support neighborhood based public technology initiatives, fund community technology centers, and gather and disseminate the most effective practices to mitigate the digital divide, and to build a more productive work force in Illinois. The California PUC concluded that "the benefits of the CPC will go beyond the benefits arising from a simple refund to ratepayers."

**I. SBC MUST SHOW THAT THE PROPOSED MERGER IS IN THE PUBLIC INTEREST**

Various Intervenors have used different arguments to support their positions that Joint Applicants need to demonstrate a greater public good to this proposed merger than simply the narrow compliance with the seven findings of § 7-204(b). The MCI Exceptions Brief argues for broad public interest review through § 7-102. It makes a very persuasive case at pages 1-9 that the language of § 7-204(e) that "No other Commission approvals shall be required for mergers that are subject to this Section," when read in the broader context of legislative history, was not intended to limit the public policy considerations of a merger. AT&T, assuming

that § 7-102 presents a broader standard of review than § 7-204, takes the same position in its Exception Brief at page 21.

The CUB Exceptions Brief (pp. 4-8) argues for the need for a “public interest” standard as the “linchpin” of the Public Utilities Act. For that reason, there was no need to refer to the requirements of § 7-102. The ICC Staff took the position in its Exceptions Brief (pp. 2-6) that § 7-204 would require the same public interest and convenience factors as § 7-102, but it would be a “stricter test” and not permit the “balancing” of interests of § 7-102. In addition, the ICC Staff at page 68 read the language of § 7-204(f) as authorizing “the Commission to consider the interest of a public utility’s customers when ruling on merger applications.” While CUB and the ICC Staff took different routes, they both endorsed the same broad “public interest” review standard proposed by MCI and AT&T.

The Joint Applicants took a crabbed view of the basic standard. While they agreed with the Proposed Order at page 28 of their brief that it was proper to reject “any argument that § 7-204(f) creates a broad “public interest” – type standard, they also argued that § 7-204(f) “authorizes only such conditions as are necessary to make the seven findings required by § 7-204(b). The basic argument of the Joint Applicants at page 30 is that: “The *only* basis for disapproval ... lies in § 7-204(b)(1)-(b)(7), because if those seven requirements are met (either by the merger as filed or as a result of conditions), the merger must be approved.” To the Joint Applicants, any “public interest” consideration outside of the narrow reading of the § 7-204(b) merger provisions are irrelevant.

The position of the Joint Applicants is clear. And it is lonely. While they have taken the position that the only way for the Commission to review the most important telecommunications merger in the history of the State of Illinois is through the seven criteria of

§ 7-204(b), and that the Commission is limited in its imposition of merger conditions to the same seven criteria, virtually all of the Intervenor's have taken the position that some criteria of public interest, public convenience, public importance or common sense be brought to bear on the proposed merger of these two giant monopolies.

**II. SBC HAS FAILED TO MEET ITS BURDEN OF PROOF WITH RESPECT TO EACH OF THE SEVEN SPECIFIC FINDINGS REQUIRED BY § 7-204**

SBC seems satisfied in the first sentence of page 1 of its Exceptions Brief with its statements that the Hearing Examiners' Proposed Order "correctly concludes that the proposed merger between SBC Communications Inc. and Ameritech Corporation ("Joint Applicants") satisfies each of the criteria of Section 7-204(b) and warrants approval."

The AT&T Exceptions Brief at page 4 is the first of many intervenors to object to the Proposed Order's review of the evidence and the requirements of burden of proof. It states: "(T)he HEPO ignores the virtually *per se* anti-competitive concerns addressed by Staff, Government and Consumer Intervenor's, and competitive carriers – concerns that were expressly validated by the FCC in its BA/Nynex Order. In effect, the HEPO improperly shifts the burden of proof to the intervenor's."

The ICC Staff Brief at page 14 makes the same point: "First, staff emphasizes that the burden of proof regarding section 7-204(b)(1) under the proposed reorganization lies with the Joint Petitioner's – not Staff." It states later in its discussion of service quality, that "the company did not present a *prima facie* case that the residential, small and medium business customer's service would not diminish because of the concentration of the Joint Applicants' resources on large corporate customer's. The Joint Applicants only produced rhetoric explaining that "synergies," "best practices," and "economies of scale" would benefit the quality of telecommunications services Ameritech provided to its customer's. The company, however, did

not explain how each of their buzz words would impact residential, small, and medium business customers.” The ICC Staff make similar points on other of the § 7-204(b) criteria throughout their Exceptions Brief.

Burdens of proof and other important procedural requirements provide important safeguards to the regulatory process, particularly in a case of historic proportion like this. The FCC waved a warning flag in Bell Atlantic/Nynex. While approving the merger with conditions, the FCC said that “future applicants bear an additional burden in establishing that a proposed merger will, on balance, be pro-competitive and therefore serve the public interest, convenience and necessity.” (BA/Nynex Order at 16.) More recently, later in the week in which the Proposed Order was issued in Illinois, FCC Chairman Kennard wrote to SBC Chairman Whitacre and Ameritech Chairman Notebaert that he was concerned about competition and consumer issues in the SBC/Ameritech record before the FCC. (See Kennard letter of March 30, 1999, attached as Exhibit A.)

The Hearing Examiners should clearly set out in each of the required findings under § 7-204(b) their findings to support their conclusions as to whether the Joint Applicants have met their burden of proof, including whether they have demonstrated that the proposed merger suits the public convenience.

**III. THIS PROPOSED MERGER WILL HARM THE LONG TERM INTERESTS OF BASIC RESIDENTIAL CUSTOMERS, THOSE ON THE WRONG SIDE OF THE “DIGITAL DIVIDE,” AND RESIDENTS OF ILLINOIS WITHOUT BASIC TELEPHONE SERVICE**

Neighborhood Learning Networks agrees with and defers to the comprehensive arguments made by other Intervenors on the adverse effects on competition this merger will have on most Illinois customer markets. The ICC Staff has devoted 88 pages in its Exceptions Brief to this topic (pp. 47-135). MCI provided an excellent summary of the history of SBC’s efforts to

enter the Illinois market at pages 16-20 of its Exceptions Brief, and discussed additional competition issues at pages 23-29. The AT&T Exceptions Brief argued competition at pages 1-21. The State's Attorney argued competition points from pages 23-32 of its Exceptions Brief. CUB argued that competition would suffer in pages 18-25 of its Exceptions Brief. The 21<sup>st</sup> Century Exception's Brief made an interesting argument at pages 14-16 that SBC was a "unique potential competitor of Ameritech Illinois." The Exceptions Brief of the Attorney General made strong competition arguments at pages 16-24.

In the aggregate, these positions represent an impressive and persuasive collection of competition concerns. There is unanimity among the Intervenors on the point that this merger, as proposed, will have an adverse effect on competition in Illinois.

The ICC Staff at page 47 of their Exceptions Brief stated that "the HEPO's analysis should clearly identify each relevant market and address each market separately." We strongly agree with that point. In the DSSA/NLN Rebuttal Testimony of December 18, 1998, we discussed the "digital divide," technology "have-nots" and the adverse impact that a two class technology society would have on the future economy of metro-Chicago and Illinois. In our Initial Brief at page 5, we quoted extensively from the Metropolitan Planning Council Report, calling for "Aggressive Plans to Mitigate the Digital Divide":

(t)here is considerable danger that certain segments of Metropolitan Chicago's population...will be excluded from the advancements afforded by the digital network infrastructure. Much of this is tied to financial resources, as some families, schools, and communities are unable to afford or do not understand the imperative of information technology. Yet, the price for leaving some behind is too high."

We quoted extensively from both national and Illinois statistics (page 7), argued that the economic well being of the region was connected to the productivity and skill standards of all sectors of the workforce and referred approvingly to remediation programs to mitigate the

digital divide that were being supported by SBC (California and Missouri) and Ameritech (Ohio).

James Kahan, the lead witness for SBC in the cross examination phase of these proceedings was asked about the needs of the underserved populations that were to be aided by the California Fund, funded out of the SBC/Pac Tel merger. Kahan acknowledged:

“I believe (that) the penetration of basic telephony service is lower in those communities. . . So they don’t have access to basic service. They don’t know what is available at what price. They don’t know how to get it. They don’t (know) how to order it. A lot of them have language problems. So there are a number of problems, but I think one of the undertakings. . . of the fund was to examine exactly what groups don’t have access to the telecom capabilities and why and what can be done to solve that problem.” (Kahan testimony at 447.)

When later asked a question about the possible public interest obligation that SBC might have with respect to residents of inner city and poor neighborhoods—the consumers and markets that financial institutions are obliged to serve under the Community Reinvestment Act—Kahan said:

“Well, first of all, we have a view about customers that . . . I believe is somewhat unique in the industry in that we’ve done analysis of the needs and expenditures of customers throughout our service territory and found some very interesting conclusions.

One is that not all wealthy people are good telecommunications customers and not all economically disadvantaged people are bad. . . (W)e have great customers throughout geographic, social, economic areas. Besides our obligation to be the provider of last resort where we’re the ILEC, we have a business opportunity. And the business opportunity is (to) serve those customers that have a need and a desire and can benefit from our services and that’s what we want to do . . .

(W)hen we enter the market, we’re going to provide services, common services, offer them to everybody. And we believe that there are many economically disadvantaged customers that can benefit from an alternative supplier.” (Id. at 453-54; emphasis added.)

When asked about whether these services were being supplied pursuant to marketing rather than charitable considerations, Kahan said:

“(T)here are a large group of economically disadvantaged customers who have the ability to pay, want the services, don’t know how to get them. That’s one thing. There’s another group of customers that may have the same desires, but cannot economically afford to pay. That’s a different question. And I think, once again, that is a policy question not just for Ameritech or SBC, but it involves the Commission’s leadership in terms of how they are to be served, how is that going to be subsidized, and how to do it, I would hope, in a competitively, neutral fashion.” (Id. at 454; emphasis added.)

Ohio conditioned its merger on the development of a program to promote the various Ameritech programs designed to advance its universal service obligations, to make them strong and effective, not afterthoughts. Similarly, California conditioned its approval of SBC/PacTel on the development of a Universal Service Task Force. It is significant that Illinois ranks among the five lowest states in the country with respect to the provision of basic telephone service, right along with Mississippi, Louisiana, Arkansas and New Mexico. It is certainly in the public interest to condition the approval of this merger on the development of some clear prompt and meaningful plan to reverse this deplorable condition for our most needy customer market.

**IV. MERGER SAVINGS MUST BE DETERMINED AND ALLOCATED IN WAYS THAT ARE CLEAR, FAIR AND IN THE PUBLIC INTEREST AS PART OF THIS MERGER REVIEW**

The Joint Applicants at page 25 of their Exceptions Brief state that “none of the proponents of savings allocations to ratepayers presented any evidence or arguments that would provide a basis . . . for allocating any of the merger savings . . . to ratepayers.” Two are obvious. First, for most of Ameritech’s long history, it was a regulated monopoly, a “rate-of-return” company. A great deal of its current marketplace value was created during times when its returns were virtually guaranteed. Its current value was not entirely created out of the “hot fire” of competition, through superior management, creativity or entrepreneurial skill. Therefore, it is “fair” to allocate some of the value of the merger to shareholders. Under the circumstances, the question is not whether ANY of the savings ought to be allocated to ratepayers. Rather, it is why ALL of the premium should be allocated to the shareholders. In many respects, the modern

Ameritech was a joint venture between shareholders seeking predictable returns and ratepayers willing to accept services from a monopoly in exchange for regulatory control over prices.

The second reason is that there will be a “lag” between the time that savings are realized by the Joint Applicants and the time that ratepayers realize the combination of lower prices and superior service that will come from the new unregulated marketplace. As several Intervenors point out, there will be some period of time when rates will be in place (based on earlier cost assumptions which will be modified by the merger) and the Joint Applicants will be experiencing lower costs. The merger savings can be used to compensate ratepayers for the lack of competition benefits during this time period.

How should the savings be allocated between shareholders and ratepayers? The Ameritech shareholders are about to receive a premium of \$13.2 billion for their shares. Under any standard, they are being extraordinarily well compensated by this merger. Based on financial projections made in recent weeks by both SBC and Ameritech to the investment community, and confirmed by substantial profit increases reported yesterday at Ameritech annual stockholder meeting, several leading financial managers have recommended “buy” for both SBC and Ameritech because they project very substantial increases in stock value over the coming 12 months. Thus, Ameritech shareholders would participate in an even greater premium for selling their company and ending an era in Illinois.

The Joint Applicants argue audaciously that: (1) all of the premium should go to the shareholders; (2) none of the savings should go to the ratepayers; and (3) the first priority on savings should go to fund the cost of providing the independent merger commitments made by Mr. Whitacre to Mr. Notebaert. SBC/Ameritech wants everything. The Proposed Order is correct in reaching its conclusion that all the merger savings should be allocated to ratepayers.

This position is fair and reasonable under the circumstances and should be affirmed by the Commission.

Next, there needs to be greater attention to the calculation of the amount of the merger savings. The numbers are all over the map. The Joint Applicants have stated that there are \$98 million in savings, to be offset by \$67 million in merger costs, resulting in a net merger savings amount of \$31 million. The GCIs have calculated savings to be upwards of \$343 million per year for 10 years. And the Joint Applicants, as well as several Intervenors, have postponed the hard thinking required on this point by suggesting that the savings will be determined, if any, when they occur. Both the State's Attorney at pages 36-43 of their Exceptions Brief, and CUB, at pages 43-50, argue correctly that § 7-204(c) requires the Commission to rule NOW on the allocation of savings resulting from the proposed reorganization.

While it might be possible to "allocate" savings – say 25% here, 50% there and 25% some other place – without determining the amount of the savings, it would seem to satisfy both common sense and the public interest to "determine" the amount of the savings. Substantial, but evidently not enough, time was devoted to this issue during the evidence introduction, cross-examination and briefing processes.

Three questions need to be addressed in the calculation of savings. First, what are the categories of savings? Second, what are the time periods during which the savings occur? And third, what are the amounts of the savings? There is room for differences of opinion in each of these areas. But there needs to be a clear and understood process and structure, for either estimating the savings now, or calculating them at some later date.

There must have been some assumptions on these points made by Ameritech when it provided testimony that there would be \$98 million in savings over three years. SBC Chairman Whitacre, in the April 12, 1999 cover story in *Business Week* estimated that there would be \$1.2 billion in annual Ameritech savings. (Exhibit A to Neighborhood Learning Networks' Exceptions Brief.) Surely, he had some assumptions in mind with respect to categories, time periods and amounts. A process was developed in California to reconcile initially wildly disparate savings estimates to a final amount of more than \$600 million over 5.6 years. A host of revenue, expense and savings projections have been made to Wall Street in connection with this merger. With these analytical frameworks available for guidance, the Commission should be able to determine the estimated savings that will result from this merger.

While the ICC Staff has argued that the savings should be based on "actual" rather than "projected" numbers – no doubt to assure that ratepayers in Illinois benefit fully from the real savings to result from this merger – it is possible to begin with agreed upon estimates, which can be adjusted based on "actual" numbers when they materialize, like our IRS system of estimated tax payments and a year end adjustment. That would seem an easy accommodation of the ICC Staff's desire for the avoidance of shortchanging the public by agreeing to estimated numbers which may turn out to be low, and the real need for the benefits of this merger to flow to ratepayers now rather than later.

There may be adequate "information" buried in the record for the Commission to be comfortable in determining the amount of the merger savings. However, Neighborhood Learning Networks is not convinced that the "analysis" of the information in the record is sufficient for the Commission to be satisfied that it is on solid ground in this area. We think the differences of opinion are largely the result of the failure to work toward the development of an

framework – categories, time period and amounts – that could be applied to the savings “facts” supplied by the Joint Applicants and debated by the Intervenors.

On reflection, there is no real comfort in waiting until the “actual” numbers materialize. The first full year of operation will be 2000. The audit will be completed in mid to late 2001. The Joint Applicants will then issue their position on “savings.” Then the real arguments will begin as to the amount, allocation and legitimacy of costs and all of the other conflict points that will arise between parties in a zero sum game. The framework for making savings determinations must be made now, while the Joint Applicants have the great incentive to get the merger approved, and the Commission’s decision is critical to that approval.

**V. THIS MERGER MUST BE CONDITIONED ON § 271 COMPLIANCE SUFFICIENT TO DEMONSTRATE TO THIS COMMISSION THAT ILLINOIS IS A COMPETITIVE MARKETPLACE**

Virtually every Intervenor has argued that the Commission should “condition” its approval of the proposed merger on the showing of the Joint Applicants that they have created the type of competitive marketplace in Illinois contemplated by the FCC under its §§ 251 and 271 procedures. At present, only .22% (less than ¼ of 1%) of local exchange calls are originated on facilities other than those of Ameritech. That means that 99.78% of the calls are made on the Ameritech network. About 3% of the calls are made by CLECs under resale agreements. The FCC has concluded that the § 271 compliance requirements are what enables competitors to access the incumbent local exchange network in ways, and on terms, that will permit service and price competition.

As several Intervenors have argued, and as the *Business Week* cover story on SBC and Chairman Whitacre emphasized, SBC was the one company with the size, profitability, aggressive attitude and the insider knowledge of incumbent techniques that could have forced Ameritech to make its network available to competitors. Since SBC has withdrawn from its

earlier efforts to enter the Ameritech market independently, the most practical alternative available now is to require the Joint Applicants to comply with § 271-like requirements, to the satisfaction of the Commission, and for the purpose of assuring the Commission that the proposed merger would not adversely affect competition.

SBC represented in January during cross examination that it had achieved compliance with 10 of the 14 points on the § 271 checklist and that it “expected” to achieve compliance in both Texas and California by the end of the year. SBC Chairman Whitacre emphasized in the *Business Week* article how important long distance service was to the business future of SBC. Given the volume and quality of evidence and argument that has been devoted to the competition issue in this merger proceeding, and the unlikelihood that the Joint Applicants can satisfy their burden of proof in showing that the proposed merger will not adversely affect competition in all customer markets in Illinois, it would seem SBC should welcome the opportunity to bring their § 271 compliance system to Illinois, to “adapt” it to the circumstances here, to the satisfaction of the Commission for the limited purpose of assuring the Commission that competition would not be adversely affected by this merger. Only one state is involved. It is the ICC alone that must be satisfied.

Perhaps this is an issue in which a “collaborative process” might be undertaken, so that the Commission would have the benefit of the views of the ICC Staff and representative Intervenor interests, with outside expertise like Competitive Systems of Chicago, and could be assured that some combination of performance, process and penalties could be created to assure the Commission that the competitive marketplace structure contemplated by the FCC and the Telecommunications Act of 1996 could be established in Illinois as a condition of this historic combination of companies.

**VI. THE MERGER SHOULD BE CONDITIONED ON THE CREATION OF AN ILLINOIS COMMUNITY TECHNOLOGY FUND, MODELED ON THOSE OF CALIFORNIA AND OHIO, TO SERVE THE INTERESTS OF UNDERSERVED AND DISADVANTAGED MARKETS**

It has been the special purpose of DSSA and Neighborhood Learning Networks in this proceeding to bring attention to the “digital divide” that exists in Chicago and Illinois and to argue for the development of the type of remediation programs that have been developed in both California and Ohio, in merger proceedings like this one. Our prior submissions – Rebuttal Testimony, Initial Brief and Reply Brief – have set out our arguments and recommendations in full.

Our Exceptions Brief described (pp. 12-16) the principal operating functions that would be performed by the proposed Illinois Community Technology Fund. We now attach as Exhibit B an organizational chart indicating one possible governance structure that would assure that the utilities would have representatives on the Board, but that the Board would be controlled by educational and consumer interests and their elected representatives.

Public technology programs similar to the ones we are proposing have been developed in both California and Ohio. Over the past six months we have had numerous conversations with representatives of these initiatives. We have visited California. And representatives from both California and Ohio came to Illinois earlier this month to share their experiences and ideas with both government and consumer Intervenors in this proceeding and with neighborhood and community groups. Since this visit, there has been a heightened awareness and interest in this merger proceeding by a growing number of neighborhood and community groups.

It is important to emphasize that “underserved” markets are markets nonetheless. Executives at SBC conceded this in their cross examination testimony. They need and use

telecom services. They want to know their options. They want to know how these services can be useful to them in developing skills, self sufficiency and businesses that can build social and real capital in disadvantaged inner city neighborhoods. They need access to broadband connectivity. They need to know how to use the devices, like computers and web TV, that provide access. There is a need to know how to purchase and use the various software and other services that enable the devices to perform useful and relevant functions. Finally, there is a need for disadvantaged and underserved markets to appreciate the real and meaningful values that these new technologies could provide to them, their families and their neighborhoods.

The Illinois Community Technology Fund is designed to provide awareness, training and access to underserved and disadvantaged markets in these new telecommunication services. In effect, it is an effort to “aggregate” and inform demand generate customers for the Joint Applicants, and to define the types of products and services that would be most useful in these markets. It is an effort to bring “technology” to worker skills so that the result is “productivity” that can produce better workers for the State’s economy, more valuable skill sets for Illinois residents and their families and the optimum use of the digital economy for the future well being of the Chicago region and Illinois. These were the basic points made by the Metropolitan Planning Council in its important report, “Putting Our Minds Together,” which was the single attachment which we made to the Rebuttal Testimony we offered in this proceeding on December 18, 1998, and the reading of which prompted us to participate in this proceeding.

## CONCLUSION

The Illinois Commerce Commission--and all Illinoisans--face a new era in telecommunications. It is not the role of the Commission to preside over a "quick cash out" of billions of dollars in telecommunications stock value built through decades of cooperation between public and private sectors to expand productive telephone service in Illinois. It is the Commission's duty to hold SBC/Ameritech to its burden of proof, and to require that any merger approved serve the public interest and convenience.

The cost of not having good telecommunications connections increases daily. In five years the digital divide could be a chasm dangerously separating population groups and markets and retarding Illinois' economy. The programs to be formulated by the proposed Illinois Community Technology Fund will bring new products and services at reduced costs for all, and will enable the least connected residents of Illinois to share in the telecommunications revolution in ways that benefit us all. At a minimum, this must be a precondition to any merger.

Dated: April 22, 1999

Respectfully submitted,

---

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> more that the FCC could do to address our concerns.

>

> 1. Edgemont is concerned that the merger will exacerbate the  
> digital divide.

>

> There are two dynamics at work here. On the one hand, a larger  
> company with a greater geographic reach, more competitive activities and a  
> greater distance between the headquarters and underserved communities, is  
> likely to be less focused on and less responsive to the needs of low  
> income communities for access to advanced telecommunications technology.  
> On the other hand, to the extent the merger is successful in promoting  
> reliance on broadband infrastructure and advanced services, those who are  
> left behind will be at an even greater disadvantage when it comes to  
> economic opportunity, civic involvement and access to basic social  
> services. As the FCC knows, the recent NTIA report, Falling Through the  
> Net II, shows that the digital divide actually grew between 1994 and 1997.  
> Unaided, the market is plainly not addressing this problem.

>

> The merger settlement in Ohio attempts to mitigate the digital  
> divide in two ways. First, it creates a Community Technology Fund to fund  
> technology access projects in low income communities. While the details  
> of the Ohio fund have yet to be fleshed out, the design is modeled on the  
> fund agreed to as part of the SBC/Pacific Telesis merger. Seven hundred  
> fifty thousand (\$750,000) dollars a year for three years has been  
> committed to this fund. Stip. at 19.

>

> Second, a total of one million dollars is allocated to support  
> existing and to create new community computer centers in low income  
> communities in the State. Those centers provide hands-on access to  
> computers and telecommunications along with workshops and tutoring, in  
> neighborhoods that otherwise would have no such access. Stip. at 20.

>

> Both of these commitments are important steps in the right  
> direction. Unfortunately, the funds that are allocated can only scratch  
> the surface of the problem. The community computer center funding, for  
> example, is only sufficient to provide three years of barebones funding to  
> six centers.

>

> Proposed Condition: Edgemont recommends that the FCC condition any  
> merger upon SBC/Ameritech providing substantial funding to technology  
> access programs like those described above.

>

> 2. Edgemont is concerned that the combined company will delay  
> providing broadband infrastructure to low income communities.

>

> As we learned in the Ohio merger case, ILEC infrastructure  
> investment is targeted to areas of high growth, which in Ohio is in the  
> outer suburbs. This, combined with the fact that competitors will  
> initially target those very same areas which in turn will draw further  
> ILEC attention, gives rise to our concern that the inner city and low  
> income rural areas will be the last to receive important broadband  
> infrastructure. Indeed, Ameritech is conducting its pilot of ADSL  
> technology in Wheaton, Illinois, an affluent, virtually all white suburb  
> of Chicago. It is there that Ameritech is learning what customers want

> from a broadband service, how that service can be marketed and how it can  
> be priced.

>  
> The merger agreement in Ohio addresses this concern by requiring  
> that for five years after the merger, at least 10% of the central offices  
> receiving ADSL or ADSL type services must be offices in large urban areas  
> with relatively large numbers of low income households (approximately 10%  
> of the central offices in Ohio fit this description). Stip. at 15.

>  
>  
> This commitment is significant but could be strengthened by the  
> inclusion of low income rural central offices, by applying the commitment  
> to all broadband technologies, and by keeping it in place for longer than  
> five years.

>  
> In fact, in Edgemont's estimation an even more effective way of  
> ensuring that the benefits of broadband technologies are made widely and  
> equitably available would be by requiring that any time a broadband  
> service is made available to any customer in a defined area, it must be  
> made available to all customers in that area within a reasonable time  
> period. The "defined areas" would be drawn so that each included high  
> growth and wealthy areas, along with low income and low growth areas.

>  
> Proposed Condition: The FCC should seek an anti-redlining commitment,  
> like those described above, from the joint applicants in this case.

>  
> 3. Edgemont is concerned that a combined company will not  
> actively work to increase telephone penetration.

>  
> Low income communities in Ohio and elsewhere still have alarmingly  
> low rates of telephone penetration. An even larger, further distant  
> company with ever greater competitive opportunities will not, on its own,  
> pay needed attention to its least profitable potential customers.  
> Edgemont's experience with Ameritech bears this out. In 1995 Ameritech  
> Ohio committed to operate an expanded lifeline program, the Universal  
> Service Assistance Program (USA). Unfortunately Ameritech exhibited a  
> distinct lack of zeal in implementing the program. The company's  
> performance was so bad that Edgemont and other consumer parties had to  
> file a Motion to Show Cause why the company should not be found in  
> violation for failing to implement the USA program. The Commission found  
> merit in that Motion and on December 30, 1998 ordered Ameritech to  
> undertake a variety of actions to improve the program.

>  
> In the course of litigating this motion, Edgemont learned that  
> Ameritech Ohio was loath to spend money to adequately staff or publicize  
> the USA program. On the few occasions, however, when Ameritech officials  
> in Ohio recommended spending money on the program, they were overruled by  
> the corporate offices in Chicago. Chicago, not surprisingly, was less  
> sensitive to the needs of low income communities in Ohio than Cleveland  
> had been. It is likely that the merged company, headquartered in San  
> Antonio will be even less responsive.

>  
> Edgemont's experience with the USA program also taught us a lot  
> about what it takes to operate an effective lifeline program. There are a

- > number of steps the merged company could take to increase subscribership
- > levels.
- > Proposed Conditions:
- >
- > A. ab The FCC should seek a commitment from the joint applicants
- > to offer a robust lifeline/link-up type program. Such a program would
- > expand upon the Federal programs and, at a minimum,
- >
- > i. ab offer a subsidy greater than what is currently
- > mandated,
- >
- > ii ab extend eligibility to the working poor with incomes
- > up to 150% of poverty,
- >
- > iii. be well publicized in the communities where it is
- > needed,
- >
- > iv. provide for automatic enrollment of categorically
- > eligible people as is done in New York State,
- >
- > v. ab have sufficient well trained staff to promptly
- > handle all inquires about the program and to expeditiously enroll people
- > in it and,
- >
- > vi. ab have the goal of increasing the level of telephone
- > subscribership in presently underserved communities to the penetration
- > level for the state as a whole.
- >
- > B. ab The company should cease the disconnection of basic local
- > service of any residential customer where that customer fails to pay for
- > long distance or other services. Pennsylvania has had such a policy for a
- > number of years and many attribute that state's high level of telephone
- > penetration to that policy.
- >
- > C. ab The merged company should create a universal service equal
- > access fund that (a) provides an incentive for the company to increase
- > telephone penetration among low income households and (b) provides funds
- > for other entities, including competitors, to act to increase telephone
- > penetration to the extent the merged company is ineffective in doing so.
- > The fund would be paid into by the merged company according to a formula
- > based upon the disparity between telephone penetration among low income
- > Ohioans and the general Ohio population.
- >
- > In order to provide maximum incentive, the company
- > should have a one year, ramp-up period during which it does not pay into
- > the fund. At the end of this period the initial determination would be
- > made of the penetration rate disparity. The company's contribution would
- > change each year based upon recalculation of the penetration rate
- > disparity. This fund is described in detail in the attached testimony of
- > Roger Colton (R. Colton at 31) which was filed in the Ohio merger case by
- > Edgemont.
- > D. ab The merged company should create a mechanism to ensure that
- > its performance in the areas which support the ability of at-risk
- > households to keep telephone service do not degrade. A benchmark would be

> arrived at for each of five indicators for the past year and compared to  
> performance in the areas in each of the years after the merger. The  
> indicators rely on existing data to measure termination rates, money at  
> risk, deferred payment agreement success, weighted arrears, and percent of  
> customers in debt. Degraded performance on an aggregated index of those  
> indicators, would result in a penalty being assessed. If there are four  
> consecutive years without degradation the mechanism would dissolve. This  
> proposal is also more fully described in the testimony of Roger Colton (R.  
> Colton at 40).

>  
> E. The merged company should commit to not hard-sell extra  
> features or "packages" to residential customers. Specific practices  
> should be listed and made off limits.

>  
> All of the commitments recommended above need to be specific and  
> concrete with clear timetables and significant penalties if they are not  
> properly implemented. Progress reports and supporting data should be  
> provided to parties filing comments in this proceeding and those parties  
> should be given the right to trigger a compliance review and enforcement  
> action.

>  
> In conclusion, Edgemont appreciates the opportunity to file these  
> comments. We would welcome the opportunity to discuss these ideas with  
> you further. Please do not hesitate to call me at (937) 228-8088, ext.  
> 111 if you have any questions.

>  
> Yours,

>  
> \_\_\_\_\_  
> Ellis Jacobs  
> Counsel for the Edgemont

> Neighborhood Coalition

>  
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