



BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Review of Ameritech )  
Ohio's Economic Costs for Interconnection, )  
Unbundled Network Elements, and Re- ) Case No. 96-922-TP-UNC  
ciprocal Compensation for Transport and )  
Termination of Local Telecommunications )  
Traffic. )

ENTRY

The Commission finds:

- (1) On June 19, 1997, the Commission issued an Opinion and Order, as modified and clarified in Entries on Rehearing issued September 18, 1997 and November 6, 1997, addressing in detail the total element long run incremental cost (TELRIC) studies submitted by Ameritech Ohio (Ameritech) in this matter. These TELRIC studies were developed to establish the rates for unbundled network elements which Ameritech proposes to charge competitors for provisioning unbundled network elements as required by the Telecommunications Act of 1996 and this Commission's local service guidelines set forth in Case No. 95-845-TP-COI.
- (2) As required by the Commission's September 18, 1997 Entry on Rehearing, Ameritech, on October 31, 1997, submitted another version of its TELRIC studies to the Staff and the parties that signed confidentiality agreements with the company in this proceeding. Staff has been meeting with the parties to determine whether the requirements of the June 19, 1997 Opinion and Order and the subsequent Entries on Rehearing have been followed. The Staff's review of the TELRIC studies submitted on October 31, 1997, is expected to conclude shortly.
- (3) At this time, the Commission deems it appropriate to commence a second phase of this proceeding. During this second phase, Ameritech is directed to develop TELRIC studies covering issues emanating from the past arbitration proceedings and to submit those studies for Commission review and approval. Those issues on which Ameritech is directed to develop TELRIC studies include compliance inspections, dial tone tests, unbundled dark fiber, manual interfaces, and the unbundled network element of shared interoffice transmission facilities (also known as shared transport) as defined by

the Federal Communications Commission in its Third Order on Reconsideration, CC Docket 96-98, released August 18, 1997. This shared interoffice transport extends to all of Ameritech's interoffice transport facilities and not just to interoffice facilities between an end office and tandem. Thus, Ameritech is required to provide shared interoffice transport between Ameritech end offices, between Ameritech tandems, and between Ameritech tandems and end offices. Ameritech is not, however, required to provide shared transport between its switches or serving wire centers and requesting carriers' switches. Nor is Ameritech required to provide shared transport between its switches and its serving wire centers.

In addition to the five TELRIC studies identified above, Ameritech is directed to develop and submit for Commission consideration, TELRIC studies governing the network element combinations that Ameritech voluntarily agreed to provide in the AT&T Communications of Ohio, Inc. (Case No. 96-752-TP-ARB) and MCI Telecommunications Corporation (Case No. 96-888-TP-ARB) arbitrations. As a final matter, we note that Ameritech has been directed to develop and submit for Commission approval, guidelines which will provide requesting carriers with a clear indication of the circumstances under which non-recurring charges will be applied so that these carriers can make informed decisions regarding which services and unbundled components to request from Ameritech.

- (4) Ameritech is directed to develop the TELRIC studies and the non-recurring charge guidelines identified in Finding (3) and to file such with the Commission and with the parties entering into confidentiality agreements with the company by April 30, 1998. Staff is directed to work with the parties to identify a procedure whereby these additional studies are subject to the appropriate regulatory scrutiny.

It is, therefore,

ORDERED, That Ameritech comply with Finding (4). It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

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Craig A. Glazer, Chairman

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Jolynn Barry Butler

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Ronda Hartman Fergus

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Judith A. Jones

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Donald L. Mason

JRJ/vrh

Entered In The Journal  
March 19, 1998

Gary E. Vigorito  
Secretary

Signed By Commissioners  
Butler  
Fergus  
Jones  
Mason



BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Review of Ameritech )  
Ohio's Economic Costs for Interconnection, )  
Unbundled Network Elements, and Recipro- ) Case No. 96-922-TP-UNC  
cal Compensation for Transport and Termi- )  
nation of Local Telecommunications Traffic. )

SECOND ENTRY ON REHEARING

The Commission finds:

- (1) On June 19, 1997, the Commission issued an Opinion and Order addressing in detail the total element long run incremental cost (TELRIC) studies submitted by Ameritech Ohio (Ameritech) in this matter. These TELRIC studies were intended to establish the rates for unbundled network elements which Ameritech proposes to charge competitors for provisioning unbundled network elements as required by the Telecommunications Act of 1996 (1996 Act)<sup>1</sup> and this Commission's local service guidelines set forth in Case No. 95-845-TP-COI (845 Guidelines).
- (2) On September 18, 1997, the Commission issued an Entry on Rehearing modifying and clarifying, to the limited extent addressed therein, the June 19, 1997 Opinion and Order.
- (3) On October 20, 1997, applications for rehearing of the Commission's September 18, 1997 Entry on Rehearing were timely filed by Ameritech, AT&T Communications of Ohio (AT&T), and MCI Telecommunications Corporation (MCI)<sup>2</sup> pursuant to Section 4903.10, Revised Code, and Rule 4901-1-35, Ohio Administrative Code. Memoranda contra the applications for rehearing were timely filed by Ameritech and jointly by AT&T and MCI.
- (4) In their joint application for rehearing, AT&T and MCI aver that the Commission erred in its September 18, 1997 Entry on Rehearing concerning the application of the 20 percent reduction in shared costs. AT&T and MCI allege that, rather than adopt their position and reduce the shared cost percentage

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<sup>1</sup> Codified as 47 U.S.C. 151 *et seq.*

<sup>2</sup> Consistent with their earlier practices in this matter, AT&T and MCI submitted a joint application for rehearing.

originally proposed by Ameritech by 20 percent, the Commission predominately adopted the Ameritech recommendation for treatment of shared costs which relies upon unsupported demand forecasts. The Commission's ruling is, according to AT&T and MCI, against the weight of the evidence presented at the hearing.

- (5) Rehearing on this issue is denied. The Commission fully considered the evidence of record in making the clarification of shared costs set forth in our September 18, 1997 Entry on Rehearing. We have consistently noted that Ameritech's proposed methodology for allocating shared costs was a reasonable starting point; however, we also share the concerns raised by the intervenors (including AT&T and MCI) with particular inputs into the shared cost calculation. In fact, we specifically pointed to the insufficient evidence in the record supporting Ameritech's demand forecasts as one of the justifications for reducing the pool of recoverable shared costs by 20 percent. Therefore, contrary to the position expressed by AT&T and MCI, we did consider the lack of evidence supporting the demand forecasts when reaching a decision on the issue of shared costs.

It was also not unreasonable for us to acknowledge in the September 18, 1997 Entry on Rehearing that adopting AT&T and MCI's position on shared costs recovery (namely, that the 20 percent reduction should have been made to the percentage mark-up which resulted from the application of the shared costs to the extended TELRICs proposed by Ameritech) would amount to a double reduction in the amount of recoverable shared costs. It is undisputed by AT&T and MCI that the overall effect of the Commission's June 19, 1997 Opinion and Order as modified on rehearing actually reduced the TELRIC prices proposed by Ameritech. Thus, it is clear that inserting the lower TELRIC prices into a shared cost calculation multiplied by a percentage mark-up reduced by 20 percent (as proposed by AT&T and MCI) would result in an unjustified additional reduction in Ameritech's recoverable joint costs. On the other hand, permitting Ameritech to recover the entire pool of joint costs (as reduced by 20 percent to reflect the legitimate concerns expressed by the intervenors regarding the lack of evidence supporting particular items proposed to be recovered) does not result in an unjustified additional reduction in Ameritech's recoverable joint costs. For these reasons,

the joint application for rehearing submitted by AT&T and MCI must be denied.

- (6) Ameritech argues in its application for rehearing that the Eighth Circuit Court of Appeals (Eighth Circuit), in a Order on Rehearing issued October 14, 1997, conclusively determined that Section 251(c)(3) of the 1996 Act does not obligate an incumbent local exchange carrier (ILEC), such as Ameritech, to permit a competitive local service provider to purchase an assembled platform of combined elements in order to offer competitive telecommunications services.<sup>3</sup> Rather, Ameritech avers, the Eighth Circuit was clear that an ILEC must provide access to the network elements only on an unbundled (as opposed to a combined) basis. Consequently, Ameritech maintains that the September 18, 1997 Entry on Rehearing must be modified in two respects. Namely, the Commission should eliminate Ameritech's obligation to perform cost studies for combinations of two or more unbundled network elements. Also, the Commission should cancel the further proceedings intended to investigate whether or to what extent Ameritech must provide "common transport" as requested by a number of competitive local service providers.
- (7) Ameritech's application for rehearing concerning certain unbundled network combinations it agreed to provide to AT&T and MCI in their respective interconnection agreements as well as the cancellation of further proceedings on the issue of shared/common transport is denied.

Regarding combinations, the Commission found that the obligation to conduct and produce cost studies regarding certain network element combinations, agreed to by Ameritech as part of an arm's length negotiation with AT&T and MCI and incorporated into the parties' respective interconnection arrangements, was valid and enforceable.<sup>4</sup> The Eighth Circuit's Order on Rehearing notwithstanding, Ameritech's agreement, through the give and take of an arm's length negotiation process, establishes an independent basis upon which to enforce the terms of the interconnection arrangements, as negotiated, and to require the company to provide TELRIC studies for certain unbundled network combinations. In so doing, we are enforcing the terms of the

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<sup>3</sup> *Iowa Utilities Board v. FCC*, Nos. 96-3321, et al., Order on Petitions for Rehearing (October 14, 1997).

<sup>4</sup> The Commission approved AT&T's interconnection agreement in Case No. 96-752-TP-ARB and MCI's in Case No. 96-888-TP-ARB on February 20, 1997, and May 22, 1997, respectively.

interconnection arrangement to which Ameritech agreed. In making this decision, we affirm our previous position that we are not passing judgment on the manner in which Ameritech proposes to price the network element combinations it agreed to provide as part of the interconnection agreements. Rather, without an actual cost study, with supporting documentation, we have no way of knowing whether the prices Ameritech proposes to charge AT&T and MCI for unbundled network element combinations are reasonable. It should also be noted that the Eighth Circuit's October 14, 1997 Order on Rehearing is not at all clear regarding state decision-making. The decision centered on the FCC's authority under federal law relative to the states and did not address state action under federal law or state action under state law. We need not reach this issue at this time since our local guidelines, for the present, appear to be generally similar to the Eighth Circuit's decision on combinations. We will continue to examine this issue in the future as it is presented to us.

Ameritech's request for a cancellation of the further proceeding to investigate the issue of shared/common transport is likewise denied. As noted in the September 18, 1997 Entry on Rehearing, the issue of shared/common transport is highly complex and has engendered significant debate. Conflicting decisions being rendered by the Federal Communications Commission (FCC) and the Eighth Circuit Court of Appeals further complicates this matter. It is clear, however, that the FCC, when faced with a similar argument as that made to this Commission by Ameritech, rejected Ameritech's contention and found shared transport to be an unbundled network element.<sup>5</sup> Thus, at a minimum, Ameritech must submit for our review and approval a TELRIC study on the unbundled network element of shared transport as defined by the FCC. The Eighth Circuit's October 14, 1997 Order on Rehearing, which further clarified the issue of combinations, only reinforces our earlier determination that shared/common transport be subject to a further inquiry designed to sort out precisely what Ameritech's obligations are on the issue. For all the foregoing reasons, Ameritech's October 20, 1997 application for rehearing is denied.

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<sup>5</sup> Ameritech distinguishes "common transport" from "shared transport". The former, according to Ameritech, represents basic network connectivity and, as such, is a transport service as compared to shared transport which is a network element. Common transport is, Ameritech maintains, thus inextricably intertwined with switching.

It is, therefore,

ORDERED, That the applications for rehearing timely filed by Ameritech and jointly by AT&T and MCI are denied as set forth in Findings (5) and (7). It is, further,

ORDERED, That copies of this Entry on Rehearing be served upon all parties of record, their counsel, and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

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Craig A. Glazer, Chairman

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Jolynn Barry Butler

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Ronda Hartman Fergus

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David W. Johnson

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Judith A. Jones

JRJ:geb

Entered In The Journal  
November 6, 1997

Gary E. Vigorito  
Secretary