Exhibit 3

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF PETITION OF INDIANA BELL TELEPHONE COMPANY, INCORPORATED D/B/A AMERITECH INDIANA FOR THE COMMISSION TO DECLINE TO EXERCISE IN WHOLE OR IN PART ITS JURISDICTION OVER, AND TO UTILIZE ALTERNATIVE REGULATORY PROCEDURES FOR, AMERITECH INDIANA'S PROVISION OF RETAIL AND CARRIER ACCESS SERVICES PURSUANT TO I.C. 8-1-2.6 *ET SEQ.*	)))))))))))	CAUSE NO. 40849

FILED
MAY

AMERITECH INDIANA'S VERIFIED PETITION FOR RECONSIDERATION AND REHEARING OF APRIL 28, 1999 ORDER

Comes now Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana ("Ameritech Indiana" or "Company"), by its counsel, and pursuant to 170 IAC 1-1-20, hereby respectfully petitions the Indiana Utility Regulatory Commission ("Commission") to reconsider and conduct a rehearing, for the purpose of receiving non-cumulative evidence and hearing argument of counsel, of the Commission's April 28, 1999 Order ("April 28th Order") relative to Ameritech Indiana's "infrastructure investments." In support of this Petition, Ameritech Indiana states as follows:

SUMMARY

As part of the Settlement Agreement approved by the Commission's June 30, 1994 Order in Cause No. 39705, commonly known as "Opportunity Indiana," Ameritech Indiana agreed to "provide digital switching and transport facilities including, where appropriate, fiber optic facilities, to every

interested school, hospital and major government center" within its "service area on a non-discriminatory basis." Settlement Agreement ("Settlement"), ¶10(b) (emphasis added). These investments were limited to $20 million per year for each year 1994 through 1999. *Id.*

In the April 28th Order, the Commission, without notice and hearing, determined that Ameritech Indiana had not complied with the infrastructure investment provisions of the Settlement because the dollars invested by Ameritech Indiana were less than the $20 million annual maximum set forth in the Settlement. The April 28th Order should be vacated on reconsideration and rehearing for the following reasons:

- The April 28th Order fails to give effect to the words "*interested*" and "*$20 million per year*" in the Settlement. This recent attempt to rewrite the Settlement violates well established principles of contract construction that the language of an agreement be construed consistent with its plain meaning and that every word in a contract must be given effect;

- The discovery, testimony, cross-examination and presentations in Opportunity Indiana (Cause No. 39705) unequivocally establish that Ameritech Indiana's obligation under Paragraph 10(b) of the Settlement to invest in infrastructure extended only to "interested" recipients -- as measured by customer demand and a willingness to pay for service. If there was no "interested" school, hospital and major governmental center, there is no obligation to invest. The Commission cannot ignore the

contemporaneous construction of the infrastructure commitment. Moreover, the Commission was fully aware that Ameritech Indiana construed the commitment to be defined by customer demand. The Commission's acquiescence estops it from now finding that Ameritech Indiana has failed to fulfill its obligations;

- The April 28th Order misconstrues the infrastructure investment information provided by Ameritech Indiana to the Commission; and

- The April 28th Order was entered without notice and hearing of any charge against Ameritech Indiana in violation of IC 8-1-2-59. Accordingly, the April 28th Order violates Ameritech Indiana's fundamental right to due process.

Any one of these reasons compel the vacation of the April 28th Order and rehearing of this matter. The nature of additional evidence which Ameritech Indiana will introduce on rehearing is summarized in the affidavits filed with this Verified Petition as Exhibits A through H.[1] Because no

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[1] Ameritech Indiana attaches the following Exhibits in support of this Petition: Exhibit A, Affidavit of Marvin E. Bailey, Vice President, Educational Initiatives (hereinafter referred to as "Bailey Affidavit"); Exhibit B, Affidavit of Marvin F. Sacks, Director - External Relations; Exhibit C, Affidavit of Susan Brock Williams, Director State Government Relations/PAC; Exhibit D, Affidavit of Stephen E. Powell, Director - Local Government Relations; Exhibit E, Affidavit of Tom Pagan, Executive Director of the Central Indiana Educational Service Center; Exhibit F, Affidavit of Jay Matheson, Director of Distance Learning for the Central Indiana Educational Service Center; Exhibit G, Affidavit of Ruth E. Blankenbanker, Executive Director for the Corporation for Educational Communications; Exhibit H, Affidavit of Suellen K. Reed, State Superintendent of Public Instruction.

notice has been given and no opportunity for hearing provided, this evidence will not be cumulative. This evidence will:

- Establish that the April 28th Order contravenes the contemporaneous construction of the Settlement, in particular, the meaning of the words "interested" and "$20 million per year;"

- Show that the Commission's conclusions are wrong with regard to the amusement park, racetrack, discount and grocery story, hotel and automotive plant and "356 accounts" and "42 accounts" referred to in the April 28th Order;

- Explain how Ameritech Indiana accounted for costs and establish that Ameritech Indiana's calculation of its infrastructure expenditures is not based on "flawed accounting methodology" and that the "full cost" of projects is properly counted toward Ameritech Indiana's commitment;

- Demonstrate that, even though not required by the Settlement, Ameritech Indiana has, and continues to, exert substantial efforts to generate interest on the part of schools, hospitals and government centers in the enhanced services provided by the Settlement; and

- Show that the interest of schools, hospitals and major government centers have been and continue to be satisfied.

I. The April 28th Order Violates Well-settled Law by Failing to Give Effect To The Words "interested" And "$20 million per year" In The Settlement.

The Commission determined that Ameritech Indiana failed to comply with the infrastructure investment provisions of the Settlement because the dollar amount invested was less than the $20 million annual maximum. The April 28th Order found Ameritech Indiana's "actual 10(b) expenditures to be no more than $17.8 million through the end of 1997, or some $62 million less than promised" and that it "fear[ed] the shortfall to date could be even greater." April 28th Order, p. 5. The Commission concluded that "Ameritech Indiana should spend the balance of the $120 million total Opportunity Indiana infrastructure investment commitment, which balance stood at $102.2 million at the beginning of 1998." *Id.*

The Settlement explicitly provides that the infrastructure investment will be made for "*interested* schools, hospitals and major government centers." The word "interested" was included in the Settlement to make clear that the investments would be made only for customers interested in taking and paying for services via the infrastructure. Bailey Affidavit, pp. 9-15.

The April 28th Order ignores the word "interested" in the Settlement. Based solely on the amount of money invested, the Commission concluded that Ameritech Indiana has been deficient in its infrastructure investments. This is error. Thus, the Commission's interpretation of the Settlement

fails to give effect to the word "interested" with respect to customer groups for which infrastructure has been, and will be, deployed. "Interested" means that if there is no interest, as substantiated by customer demand and willingness to pay for services, Ameritech Indiana was not obligated to invest in infrastructure. Bailey Affidavit, pp. 10-15. Similarly, the April 28th Order essentially ignores the $20 million per year limitation by concluding that there is a balance due of $102.2 million. April 28th Order, p. 5.

Nor should this come as any surprise to the Commission. As shown by the Bailey Affidavit, cross-examination and discovery in the Opportunity Indiana proceeding, as well as presentations made to the Commission after the Settlement was approved, establish that if there is no interest, then there is no investment and in any event, the investment was limited to a maximum of $20 million per year. For example:

A. Supplemental Testimony. The Supplemental Testimony filed in support of the Settlement in Cause No. 39705, explained that the Settlement adopted the infrastructure investments to every interested school, hospital and government center as originally proposed by Ameritech Indiana's direct evidence. The testimony reveals the following question was asked, and the following answer was given:

> **Q9. How will the settlement handle the infrastructure commitments which the Company proposed in its filing?**
>
> A9. The Company will commit the $20M per year through 1999 to extend digital switching and transport facilities, including fiber, to every *interested* school, hospital and government center *as it originally proposed.* Cause No. 39705, Norman

Cubellis, Supplemental Testimony in Support of Settlement Agreement, p. 8 (l. 9-25) (emphasis added).

As shown below, the meaning of the word "interested" in the original proposal was clearly established.

B. Direct Testimony. The direct testimony of Mr. Robert D. Jochum in Cause No. 39705 explained that Ameritech Indiana's proposal was not to invest simply for the sake of meeting a specified dollar amount, but rather that investments would only be made based on the customers interested in the use of the technology requiring that investment:

> "the Company is willing to invest the capital required to place fiber technology to those interested schools, hospitals, and government complexes in Indiana Bell franchised areas *where the technology can and will be used.*" Jochum Direct, p. 32 (l. 11-15) (emphasis added).

The meaning of the word "interested" in the infrastructure program was identified for the Commission in Cause No. 39705 during the cross-examination of Mr. Norman Cubellis:

> Q. Well, I realize that and I don't dispute you for a minute, Mr. Cubellis, that customers want the service and they are probably asking for the service. My question really goes to whether they can afford the service or whether they can pay for the services. I am asking that if it turns out that the school systems and the local governments, the hospitals, cannot afford due to other budgetary restraints to acquire your services in order to meet the commitment of this plan, would Indiana Bell go out and spend $120 million dollars just to put fiber in the ground so that it would meet its commitment?
>
> A. Obviously no. Indiana Bell's opinion is that customers will find a way to provide this service. I have had enough dialogue with individuals to know that they can do that. And I would be happy to give you examples.[2]

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[2] The question and answer are taken from an informal transcription of notes made contemporaneous with the hearing.

C. Discovery. In response to discovery requests in Cause No. 39705, Ameritech Indiana made clear its position concerning its commitment to make infrastructure investments for interested schools, hospitals and major government centers:

OUCC-316(a): **Will the Company construct the facilities needed to link various schools, hospitals and government complexes if the customer is not willing and able to pay the associated recurring and nonrecurring charges with the fiber facility?**

Response: No, *Indiana Bell will not provide facilities to customers who are not willing to pay the recurring and nonrecurring charges associated with the use of those services that would be made available.* (Emphasis added.)

OUCC-322(b): **In response to OUCC-9(a) the Company states that "Fiber optic facilities will be extended to interested schools, hospitals and major government centers. As with other products and services Indiana Bell offers, the customer will begin paying for the service once it is installed and working."**

b. What is meant by "interested" schools, hospitals and major government centers? Does interested mean that the party must be willing and able to pay the recurring and nonrecurring charges associated with the fiber optic facility?

Response: A school, hospital or major government center should indicate their interest through dialog with Indiana Bell. *Customers must be willing to pay for the use of services provided.* (Emphasis added.)

CAC2.18: **How will the company determine whether a school, medical facility or major government center is "interested" in broadband service? In particular, but without limitation, will it require a contract?**

Response: A school, hospital or major government center should indicate their interest through dialog with Indiana Bell. *Customers must be willing to pay for the use of services provided.* As with other products and services Indiana Bell offers, the customer will begin paying for the service once it is installed and working. Any decision associated with

> utilizing month-to-month rates or entering into a long term contract lies solely with the customer. (Emphasis added).

D. Rebuttal Testimony. In his rebuttal testimony in Cause No. 39705, Mr. Jochum explained that Ameritech Indiana's infrastructure investment was not a hard and fast number, but was a projection based upon anticipated need. He explained that Ameritech Indiana is:

> "committing to spend the money required to place a broadband infrastructure to every interested school, hospital and government center in its service territory. We have estimated this cost to be approximately $120 million over 6 years." Jochum Rebuttal, p. 7 (l. 19-23).

E. OUCC Testimony. The Office of Utility Consumer Counselor's ("OUCC") evidence in Cause No. 39705 shows that the OUCC understood Ameritech Indiana's infrastructure investment commitment was limited to "interested" customers. OUCC witness, Mr. Trevor Roycroft, stated that:

> "Indiana Bell has promised, upon approval of all aspects of the plan, to spend $20 million per year on investment to make fiber optic capability available to interested schools, hospitals, and government centers. The interested entity would be required to pay recurring and non-recurring charges associated with the provision of the service." Roycroft Direct, p. 152-53 (l. 23-4) (emphasis in original).

F. Presentations to the Commission. Following the approval of Opportunity Indiana, presentations to the Commission repeatedly construed the commitment in the Settlement of being "up to" $120 million depending upon customer "interest." In October 1994, a meeting was held with Sandy Ibaugh of the Commission Staff regarding Ameritech Indiana's infrastructure commitment. A handout from the meeting reiterates that infrastructure investment is "driven by customer demand" and that Ameritech Indiana "[w]ill not make investments absent interested customers." A copy of that handout is included as Attachment 5 to the Bailey Affidavit.

A March 1995 presentation by Mr. Bailey to a Commissioner and several Commission staff members included an overhead indicating that Ameritech Indiana would spend **up to** $120 million for advanced services infrastructure to every *interested* school, hospital and government center, thus explaining the clear possibility that less than $120 million might be spent. The same presentation was made to the OUCC on April 20, 1995, and to Citizens Action Coalition on May 8, 1995. A copy of the presentation materials is included as Attachment 6 to the Bailey Affidavit.

* * *

In sum, the Settlement can be construed properly by simply giving effect to the plain language of the agreement. Ameritech Indiana's obligation to invest extended only to interested recipients. Nevertheless, if interpretation is necessary, the intentions of the Settling Parties and contemporaneous construction of the commitment establish that the April 28th Order is incorrect in its conclusions about the infrastructure investment.

II. The April 28th Order Violates Principles Of Construction Applicable To Settlements.

In interpreting the Settlement, the Commission cannot simply ignore the word "interested," and the words "$20 million per year" cannot be construed as mere surplusage. Construction and interpretation of the Settlement is governed by principles of contract law. *Indiana State Highway Comm'n v. Curtis*, 704 N.E.2d 1015, 1018 (Ind. 1998) ("Construction of settlement agreements is governed by contract law.").

According to well established rules of contract construction, "unambiguous language is conclusive upon the parties and the courts," and "the language in a contract is given its plain and

ordinary meaning." *City of Evansville v. Braun*, 619 N.E.2d 956, 958 (Ind. Ct. App. 1993). All words in a contract must be considered in determining the meaning of a contract. *Modern Photo Offset Supply v. Woodfield Group,* 663 N.E.2d 547, 550 (Ind. Ct. App. 1996) (*reh'g denied*). And, "no part of a contract should be treated as surplusage if it can be given a meaning reasonably consistent with other parts of the contract." *Oard v. Rechter*, 163 Ind. App. 166, 171, 322 N.E.2d 392, 394-95 (1975). Accordingly, the plain language of the Settlement clearly limits the infrastructure commitment to "interested" customers and "$20 million per year" and the Commission must give effect to this language. Therefore, the April 28th Order, which fails to give effect to this language, is contrary to law.

The April 28th Order did not find the Settlement was ambiguous, if it had, the Commission would be required to interpret the ambiguous provision according to the parties' intent as evidenced by the contemporaneous actions of the Settling Parties. *See Real Estate Support Services v. Nauman*, 644 N.E.2d 907, 911 (Ind. Ct. App. 1994) (Intention of the parties should be determined in accordance with the circumstances which existed at the time of the contract execution.). As discussed above, evidence and other materials prepared contemporaneous with the Settlement establish that the infrastructure commitment is limited to customers whose interest is demonstrated by their willingness to pay for the service, and absent such interest there would be no investment. The limitations on the infrastructure commitment were identified to the Commission and the Commission approved the Settlement with the words "interested" and "$20 million per year." The Commission made no comment and took no action in response to post-settlement presentations construing the commitment as being limited to *interested* customers and *up to* $120 million of infrastructure. This

acquiescence precludes the Commission from penalizing Ameritech Indiana for complying with the clear language of the Settlement and from finding that Ameritech Indiana has in some way breached the Settlement. *Cf. Church v. Bobbs-Merrill Co.*, 272 F.2d 212, 215 (7th Cir. 1959) (plaintiff estopped from charging defendant with breach of contract when plaintiff chose to "remain silent" while defendant acted on plaintiff's proposal to end contractual relationship); *Unishops, Inc. v. May's Family Centers, Inc.*, 399 N.E.2d 760, 766 (Ind. Ct. App. 1980) (doctrine of "unclear hands" rejected in suit for injunctive relief in breach of contract when enjoined party acquiesced to other party's late payments).

III. The April 28th Order Ignores Evidence In The Interim Proceeding And Misconstrues The Information Provided By Ameritech Indiana.

The April 28th Order misconstrues the infrastructure investment data provided by Ameritech Indiana in its Infrastructure Report and supplemental information in April and July 1998, respectively. As shown by the Bailey Affidavit (pp. 31-34), this information included Direct Broadband Investment data in the form of a series of printouts from a mechanized engineering system that tracks the costs of individual construction projects, also known as undertakings ("UTs"). Within the mechanized system, the Company has the ability to associate individual UTs with a larger or more encompassing project, such as, Opportunity Indiana. The April 28th Order draws conclusions from this information which are erroneous. On rehearing, Ameritech Indiana will introduce evidence demonstrating why the findings in the April 28th Order are not correct. For example, this evidence will address the Commission's conclusion that Ameritech Indiana provided Settlement benefits to an "amusement park, a racetrack, discount and grocery stores, a hotel and an automotive plant"

instead of the agreed-upon recipients. As shown by the Bailey Affidavit, this noncumulative evidence will show the following:

- The "racetrack" is a K through 12 content provider working initially in collaboration with the Speedway Schools and subsequently with several others for the dissemination of courses related to the physics of speed and chemistry of polymers used in racing tires. Necessary video equipment was installed at the so-called "racetrack" and the Company's local central office for transmission of the physics, chemistry and other integrated curriculum to interested schools.

- The "grocery store" is also a K through 12 content provider. The "grocery store" has an educational staff that is developing a healthcare and nutrition curriculum for use by schools. Necessary video equipment was installed at the "grocery store" and the Company's local central office for transmission of the curriculum to interested schools.

- The "hotel" in question is a facility used by the State of Indiana's Department of Education for training school administrators about state technology grants. In order to qualify for state technology grants, a school must have a technology plan filed with the Department of Education. For the last three years, the Department of Education has held a conference each year at the "hotel" to train school administrators about the Department of Education's technology plan filing process. Distance Learning

technology and fiber was installed at the "hotel" to demonstrate the technology to the administrators and to develop the interests of the administrators in participating on the Vision Athena network. Additionally, the conferences are televised via the network to interested schools.

- The "amusement park" and "discount store" are examples of direct broadband investments where a construction project was triggered for a non-Opportunity Indiana construction project but the fiber route passed near a school, hospital, or major government center and incremental capacity was added to the project to accommodate possible "growth" needs of the school, hospital, or major government center. Approximately 10% of the "amusement park" investment was allocated to Opportunity Indiana due to possible future broadband needs of Heritage Hills High School. Approximately 5% of the direct broadband investment associated with the "discount store" was allocated to Opportunity Indiana due to the possible broadband needs for the hospital in Linton.

- On page 4 of the April 28th Order, the Commission posed the question "Is 'LGX, HDSLII, CLK' a school, hospital, a major government center, or is it an outlet mall, a car dealership or a barber shop? We cannot tell . . . ." The "LGX, HDSLII, CLK" references in Ameritech Indiana's data are individual abbreviations for the following equipment:

  LGX: Light guide cross-connect for fiber optics termination

HDSLII: High bit-rate digital subscriber line equipment version 2

CLK: Clock for high-speed digital synchronization

This equipment was installed in the Charlestown central office for use by the video system installed for the Charlestown schools and thus are properly attributable to Opportunity Indiana infrastructure investments.

- The Company was unable to definitively identify and associate the Commission's "automotive plant" reference with any of the Company's Direct Broadband Investment construction projects. Possibly, the Commission was referencing a listed construction project associated with New Castle's "Chrysler" High School. This equipment is properly attributable to Opportunity Indiana infrastructure investments.

The April 28th Order finds that the full cost of investments made under Opportunity Indiana "should not be counted toward the company's Opportunity Indiana commitments." Order, p. 5. As explained in the Bailey Affidavit, Ameritech Indiana will present evidence on rehearing demonstrating the Company's accounting of the cost of investments establishing that this methodology was disclosed to the Commission in October 1994 (*see* Bailey Affidavit, Attachment 5, p. 2) and, specifically, why it is appropriate to include the full cost of investments that would not have been made but for a project triggered by the Opportunity Indiana infrastructure program.

The April 28th Order also referred to 42 accounts as not appearing "to fall within any of the 10(b) categories," and 356 accounts referred to as "not identifiable." The order does not identify the

42 accounts or the 356 accounts and is unclear as to why the 356 accounts are not sufficiently identifiable. The discussion above may resolve the issues for the Commission. Nevertheless, if Ameritech Indiana is given the opportunity to be heard, it stands ready and willing to offer additional evidence or further explanation as to each and every construction project listed on the Direct Broadband Investment printouts, including any of the 42 accounts and the 356 accounts referred to in the April 28th Order.

IV. The April 28th Order Was Entered Without Notice And Hearing Of Any Charge Against Ameritech Indiana In Violation Of Both IC 8-1-2-59 And A Basic Right To Due Process.

The April 28th Order denies Ameritech Indiana its fundamental procedural due process rights to be notified of the charges against it and to have an opportunity to respond. As such, the April 28th Order violates Section 8-1-2-59, which provides:

> If, after making such investigation, the commission becomes satisfied that sufficient grounds exist to warrant a formal hearing being ordered as to the matter so investigated, it *shall furnish such public utility interested a statement notifying the public utility of the matters under investigation*. Ten (10) days after such notice has been given, the commission may proceed to set a time and place for a hearing and an investigation. (Emphasis added).

The April 28th Order was not the result of any hearing concerning Ameritech Indiana's alleged failure to comply with the Settlement. Further, contrary to IC 8-1-2-59, Ameritech Indiana did not receive notice alleging it violated its infrastructure commitment in Paragraph 10(b) of the Settlement.

While the Commission may investigate under IC 8-1-2-58 with or without notice, if after making such investigation, the Commission becomes satisfied that sufficient grounds exit to warrant

further action, the Commission must comply with IC 8-1-2-59. IC 8-1-2-59 requires a Commission order to initiate a formal hearing as to the matter so investigated. In addition, IC 8-1-2-59 requires the Commission shall furnish the public utility involved a statement notifying the public utility of the matters under investigation. Thereafter, the Commission investigation must comply with the statutory provisions governing hearing.

The Commission did not comply with IC 8-1-2-59 prior to entering the April 28th Order. The Commission's failure to comply with the notice and hearing provisions of IC 8-1-2-59 deprived Ameritech Indiana of its basic procedural due process rights. A Commission order that follows on the heels of a failure to give notice to the parties and to conduct a hearing is invalid. *Baltimore & Ohio R.R. Co. v. Public Serv. Comm'n*, 132 Ind. App. 493, 498-99, 177 N.E.2d 275, 278 (1961). The procedural due process requirements which must be observed by the Commission, include the right to a fair hearing. The Wisconsin Supreme Court noted that the essentials of a fair hearing are: "(1) the right to seasonably know the charges or claims preferred; (2) the right to meet such charges or claims preferred; and (3) the right to be heard by counsel upon the probative force of the evidence adduced by both sides and upon the law applicable thereto." *Wisconsin Telephone Co. v. Public Service Comm'n*, 287 N.W. 122, 133 (Wis. 1939),[3] (quoting *State ex rel. Arndd v. Common Council*, 147 N.W. 50 (Wis. 1914); *Ohio Bell Tel. Co. v. Public Util. Comm'n of Ohio*, 301 U.S. 292, 304

[3] Wisconsin precedent is persuasive authority in Indiana. As stated in a similar context: "The Public Utility Act of Indiana has never been construed in this particular by the Indiana Supreme Court. It is known, however, that such act is patterned generally after the Public Utility Act of Wisconsin, and many of its provisions are identical." *Wabash Valley Elec. Co. v. Singleton*, 1 F.Supp. 106, 109-10 (S.D. Ind. 1932), *aff'd* 287 U.S. 488 (1933); *see also Public Serv. Comm'n v. Lebanon*, 219 Ind. 62, 67, 34 N.E.2d 20, 22 (1941).

(1937) (because administrative proceedings receive deference from reviewing courts where constitutional restraints have been obeyed, "[a]ll the more insistent is the need, when power has been bestowed so freely, that the 'inexorable safeguard' [citation omitted] of a fair and open hearing be maintained in its integrity.").

Further, the Commission's findings in its April 28th Order are not supported by the record. The issuance of findings that are not substantiated by the evidence in the record is contrary to well established law. Commission findings must be based "upon evidence presented in the case, with an opportunity to cross-examine witnesses, to inspect documents or exhibits, and to offer evidence in explanation or rebuttal and nothing can be treated as evidence which has not been introduced as such." *Public Serv. Comm'n v. Indiana Bell Tel. Co.*, 235 Ind. 1, 27, 130 N.E.2d 467, 479 (1955) (citations omitted); *Baltimore & Ohio R.R. Co. v. Public Serv. Comm'n*, 132 Ind. App. 493, 498, 177 N.E.2d 275, 277 (1961) (quoting *Public Serv. Comm'n v. Indiana Bell Tel. Co*, 130 N.E.2d at 479). A Commission decision is subject to reversal if a "review of the whole record clearly indicates the agency's decision lacks a reasonably sound base of evidentiary support." *Gary-Hobart Water Corp. v. Indiana Utility Regulatory Comm'n*, 591 N.E.2d 649, 652 (Ind. Ct. App. 1992). Thus, the Commission's findings must be supported by substantial evidence (*id.*), and the "Commission cannot act on its own independent information." *Indiana Bell Tel. Co.*, 130 N.E.2d at 479.

V. Ameritech Indiana Will Meet With The Other Parties As The April 28th Order Encourages.

In the April 28th Order (p. 5), the Commission directed Ameritech Indiana to confer with the other Settling Parties and the Intelenet Commission to devise an expenditure plan, and the Commission "encouraged" Ameritech Indiana and the Settling Parties to consider whether any revisions in the types of infrastructure investment serving schools, hospitals and major government centers are merited. *Id.*[4] Ameritech Indiana will meet with the other parties as directed to determine what, if any, reasonable, additional action Ameritech Indiana can or should take to interest customers in fulfillment of the obligation to provide up to $20 million of specified infrastructure to eligible customers during the last year of the program. Furthermore, Ameritech Indiana, based on previous discussions with the Intelenet Commission is willing to continue an infrastructure program provided the other alternative regulatory relief requested as part of the main case in this Cause is approved by the Commission. Ameritech Indiana is not willing to expand or alter the Settlement without the accompanying alternative regulatory relief. The original commitment was made as a part of an alternative regulatory plan and any change in this program should be accompanied with alternative regulatory relief.

CONCLUSION

By the April 28th Order the Commission is telling Ameritech Indiana to spend close to $120 million *no matter what.* The April 28th Order essentially rewrites the parties' Settlement as it wholly ignores the words "interested" and "$20 million per year." Nevertheless, the existence of "interested" customers is an express condition on Ameritech Indiana's obligation to invest in infrastructure for

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[4] The Commission is without authority to compel an expansion of the Settlement to encompass customers, technology or terms other than those provided for in the Settlement.

schools, hospitals and government centers. Both the plain meaning of the words and the construction of this commitment at the time it was proposed and approved by the Commission establish that interested customers mean customers who are willing to purchase the service. If customers are not interested in purchasing service then infrastructure investments are not required. No one can credibly claim the limitation on the infrastructure investment commitment was a secret. It was discussed and established in discovery, testimony and cross-examination in Cause No. 39705, and in presentations to the Commission thereafter. The Commission approved the Settlement with this limitation. Furthermore, the Commission took no action after the approval of the Settlement when this interpretation of the commitment was presented to it. This acquiescence signaled to Ameritech Indiana that the Commission agreed with Ameritech Indiana's interpretation of the Settlement and estops the Commission from now finding Ameritech Indiana to have breached the agreement. Likewise, the "$20 million per year" annual limitation was plainly identified and cannot be ignored. Therefore, absent the existence of interested schools, hospitals and major government centers, Ameritech Indiana's obligation to spend $20 million per year was not, and is not triggered.

The April 28th Order was entered without notice and hearing in violation of IC 8-1-2-59 and Ameritech Indiana's right to due process. The April 28th Order reaches erroneous conclusions concerning data and information provided to the Commission by Ameritech Indiana.

Wherefore, Ameritech Indiana requests this Commission grant this Petition, reconsider and rehear the April 28th Order and ultimately enter an order finding Ameritech Indiana to be in compliance with the Settlement and vacating the April 28th Order.

Respectfully submitted,

Sue E. Stemen (1988-49)
A. David Stippler (1680-49)
AMERITECH INDIANA
240 North Meridian Street, Room 1826
Indianapolis, Indiana 46204
Telephone: (317) 265-3676

Teresa E. Morton (14044-49)
Mark D. Stuaan (16562-29)
BARNES & THORNBURG
11 South Meridian Street, Suite 1313
Indianapolis, Indiana 46204
Telephone: (317) 231-7716

Mark Cooper (4139-49)
1449 N. College
Indianapolis, Indiana 46202
Telephone: (317) 635-8312

Attorneys for Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana

VERIFICATION

I affirm under penalties of perjury that the foregoing representations are true to the best of my knowledge, information and belief.

Marvin E. Bailey
Vice President - Educational Initiatives

AMERITECH INDIANA
240 N. Meridian Street, Room 1489
Indianapolis, Indiana 46204
Telephone: (317) 265-2821

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

14th Subscribed and sworn to before me, a Notary Public, in and for said County and State, this day of May, 1999.

Witness my hand and Notarial Seal.

Signature - Notary Public

Alex David Stippler
Printed

My Commission Expires:

January 12, 2008

My County of Residence:

MARION

INDS01 MVS 316364

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served via First Class, United States Mail, postage prepaid, this 18th day of May, 1999:

Office of the Utility Consumer Counselor
100 N. Senate Avenue, Room N501
Indianapolis, Indiana 46204-2208

William B. Powers
111 Monument Circle, Suite 302
Indianapolis, Indiana 46204-5169

Robert B. Hebert
Garlan L. Adams
Johnson Smith Densborn Wright & Heath
One Indiana Square, Suite 1800
Indianapolis, Indiana 46204

Michael J. Huston
Duejean C. Garrett
Matthew R. Gutwein
Baker & Daniels
300 North Meridian Street, Suite 2700
Indianapolis, Indiana 46204

Richard E. Aikman, Jr.
Peter S. Kovacs
Stewart & Irwin
251 East Ohio Street, Suite 1100
Indianapolis, Indiana 46204

Robert K. Johnson
Jeffrey M. Reed
Bose McKinney & Evans
2700 First Indiana Plaza
135 N. Pennsylvania Street
Indianapolis, Indiana 46204

Charles R. Mercer, Jr.
Sprint/United Telephone
One N. Capital Avenue, Suite 540
Indianapolis, Indiana 46204

Michael A. Mullett
Mullett & Associates
309 W. Washington Street, Suite 233
Indianapolis, Indiana 46204

Pamela H. Sherwood
Sommer & Barnard, P.C.
4000 Bank One Tower
111 Monument Circle, Suite 4000
Indianapolis, IN 46204-5140

Clark M. Stalker
Douglas W. Trabaris
AT&T Corp.
227 West Adams Street, Suite 1500
Chicago, Illinois 60606

Jane Van Duzer
MCI Telecommunications Corporation
205 N. Michigan Avenue
Suite 3700
Chicago, Illinois 60601

Michael G. Smith
Sprint Communications Company L.P.
8140 Ward Parkway, 5E
Kansas City, Missouri 64114

Paul Severance
Executive Director
United Senior Action
1920 W. Morris Street, Suite 246
Indianapolis, Indiana 46221

Jerry Polk, Utilities Coordinator
Citizens Action Coalition
5420 N. College Avenue, First Floor
Indianapolis, Indiana 46220

Susan Weinstock
AARP
601 E Street, N.W.
Washington, DC 20049

Allan C. Hubbard
Shared Technologies Fairchild
Telecom, Inc.
300 West Service Road
P.O. Box 10804
Chantilly, Virginia 20153-0804

Marsha Schermer
Time Warner Communications
65 East State Street, Suite 1800
Columbus, Ohio 43215

Mark Stuaan

Mark D. Stuaan

INDS01 TEM 316598

Exhibit 4

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

FILED
MAR 9 1999
INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO ANY AND ALL MATTERS RELATING TO ACCESS CHARGE REFORM AND UNIVERSAL SERVICE REFORM, INCLUDING, BUT NOT LIMITED TO, HIGH COST OR UNIVERSAL SERVICE FUNDING MECHANISMS RELATIVE TO TELEPHONE AND TELECOMMUNICATIONS SERVICES WITHIN THE STATE OF INDIANA PURSUANT TO: I.C. 8-1-2-51, 58, 59, 69; 8-1-2.6 ET SEQ., AND OTHER RELATED STATUTES, AS WELL AS THE FEDERAL TELECOMMUNICATIONS ACT OF 1996 (47 U.S.C. SEC. 151, ET SEQ.)	)	CAUSE NO. 40785-S1
RESPONDENT: INDIANA BELL TELEPHONE COMPANY, INC. D/B/A AMERITECH INDIANA	)	

PETITION OF AMERITECH INDIANA FOR RECONSIDERATION, CLARIFICATION OR FOR FURTHER HEARING

Respondent, Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana ("Ameritech Indiana"), pursuant to IC 8-1-3-2 and 170 IAC 1-1-20, respectfully requests the Indiana Utility Regulatory Commission ("Commission") reconsider, clarify, and if necessary conduct further hearing concerning the matters addressed at the prehearing conference held February 19, 1999, the Docket Entries dated February 19, 1999, and the Prehearing Conference Order approved March 4, 1999. As part of this Petition, Ameritech Indiana also respectfully requests the Commission enlarge the time permitted for Ameritech Indiana's initial filing which was set for April 1, 1999, requiring the filing of a cost study to comply with TA96.

In support of this Petition, Ameritech Indiana further states as follows:

On February 19, 1999 a prehearing conference was convened at which time the presiding administrative law judge sitting with all five Commissioners, announced a procedural schedule and other related directives. In pertinent part, the procedural schedule established an April 1, 1999 filing date for Ameritech Indiana's submission in this Cause. Two docket entries were also signed by the full Commission on the bench and made available to the parties after the prehearing conference was concluded. One Docket Entry denied Ameritech Indiana's Verified Petition For Limited Rehearing/Reconsideration of the Commission's Order in this Cause dated January 20, 1999 and stated that the purpose of this proceeding is to ensure that Ameritech's rates comply with unspecified mandates of the federal Telecommunications Act of 1996 ("TA96") and unspecified directives the Commission set forth in the Orders issued by this Commission. The other Docket Entry required Ameritech Indiana to file a cost study also based upon unspecified mandates of TA96, unspecified previous Commission Orders in Cause No. 40785 and certain requirements attached to the Docket Entry. Despite the fact that the February 19, 1999 proceeding was noticed as a prehearing conference and preliminary hearing, no opportunity was provided at that time for an evidentiary or other presentation, or comments by counsel concerning the procedural schedule or the docket entries. Nor was Ameritech Indiana in a position to respond since the docket entries were not available until after the proceeding was concluded. Rather, the parties were directed to reduce to writing any motions, requests, objections or other matters and file them with the Commission subsequent to the prehearing conference and preliminary hearing.

At the prehearing conference, the presiding administrative law judge indicated that the April 1, 1999 filing date was based on a representation made by Ameritech Indiana in another proceeding last year, which representation was not of record in this Cause. The representation was that if the

Appeal to the Full Commission of the August 10, 1998 Docket Entry in Cause No. 40849 were granted and Ameritech Indiana were permitted to proceed with its main case after the issuance of the order on the local loop issue in Cause No. 40785, Ameritech Indiana would present evidence concerning the residential basic local service price cap within 60 days. *Appeal to Full Commission and Request for Expedited Ruling*, pp. 6, 11, Cause No. 40849 (IURC 8/21/98).[1] The representation referred to in Cause No. 40849 contemplated evidence which gave consideration only to the local loop issue. The schedule established in the instant Cause provides Ameritech Indiana with only forty-one (41) days to prepare its entire submission.[2] Clarification is necessary in order for Ameritech Indiana to determine whether, and the full extent to which, an enlargement of the procedural schedule is necessary.

Ameritech Indiana has not proposed rate rebalancing, and Ameritech Indiana has not identified any requirement in TA96, the Orders in Cause No. 40785 or other law requiring the preparation of a switched access cost study in the absence of a request from Ameritech Indiana for rate rebalancing.

If, however, even in the absence of a request for a change in current rates, the Commission intended requiring Ameritech Indiana to also prepare and prefile cost information concerning Ameritech Indiana's switched carrier access rates, an enlargement of the schedule fixed in this Cause is necessary. As shown in the affidavit of Dr. Kent Currie, included herewith as Exhibit A, an

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[1] The Commission vacated the prehearing established by the August 10, 1998 Docket Entry but did not grant the Appeal to the Full Commission.

[2] The Commission is asked to note that on March 5, 1999, in Cause No. 40785-S2, GTE was given until May 13, 1999, to "file a cost study based upon the mandates of the Telecommunications Act of 1996 and previous Commission Orders in Cause No. 40785." This represents a period of approximately 69 days after the Prehearing Conference in Cause No. 40785-S2 for compliance by GTE as contrasted with the approximately 40 days after the Prehearing Conference given Ameritech Indiana to comply with the same requirements attached to the February 19, 1999 Docket Entry in the Subdocket.

extension of time of approximately four (4) weeks beyond April 1, 1999, is necessary for the completion of Ameritech Indiana's submission, including a switched access cost study as an integral part of its submission.[3] In the absence of a request for a change in current rates, a specific identification of the basis for any such requirement is also necessary to ensure that the prepared information is appropriately responsive. Therefore, Ameritech Indiana respectfully requests the Commission enlarge the time permitted for Ameritech Indiana's initial filing by a period of approximately four (4) weeks such that Ameritech Indiana will have, at least, until and including May 1, 1999, within which to file its submission.

If the Commission is unwilling to accept Dr. Currie's Affidavit absent his being available for cross-examination, Ameritech Indiana requests, in the alternative, that the Commission conduct further hearing for the purpose of providing Ameritech Indiana an opportunity to present evidence demonstrating the need for additional time to prepare cost studies and related evidence to complete its submission. Since no evidentiary presentation was permitted at the prehearing conference in this proceeding, this evidence would not be merely cumulative. The nature of the evidence which Ameritech Indiana seeks to introduce at such hearing is set forth in the attached affidavit of Dr. Currie.

As to the remaining elements of the procedural schedule, Ameritech Indiana hereby expresses its concerns that the time periods established by the Commission between the other parties' filings, Ameritech Indiana's responsive filing and the hearing date of September 7, 1999, are insufficient for

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[3] The supporting affidavit of Dr. Currie demonstrates that it will take approximately ten (10) weeks from the February 19, 1999 Docket Entry, or until May 1, 1999, for Ameritech Indiana to provide its submission to the Commission, including a cost study of switched carrier access services. (Currie Affidavit, ¶ 4). Assuming the Commission grants the instant Petition of Ameritech Indiana in a timely fashion, such an extension would enlarge the time to approximately the end of the first week of May, 1999.

Ameritech Indiana to review the filings of the other parties, consult with its experts and other personnel, conduct discovery, prepare a responsive filing and prepare for hearing. While Ameritech Indiana recognizes that this Petition, if granted, may well result in corresponding changes in other dates established in the schedule, Ameritech Indiana is currently unable to determine whether, and the extent to which, an enlargement of time as to the hearing date may be necessary due to the lack of information concerning the nature of the other parties' filings. Accordingly, Ameritech Indiana does not acquiesce to the existing schedule and reserves the right to request an enlargement of time with regard to its responsive filing and those other elements of the procedural schedule at some future point in time.

Finally, while it is not Ameritech Indiana's intention to unduly delay this proceeding, postpone legitimate efforts to gather reasonable information concerning Section 254 of TA96 or to unnecessarily burden this proceeding with legal debates, Ameritech Indiana does not waive and hereby reserves all rights and objections as to the lawful conduct of this proceeding, in particular with regard to the lack of specificity as to the scope, requirements and purpose of this proceeding and with regard to the due process concerns raised by the procedural schedule issued at the prehearing conference. For example, the Docket Entry requires Ameritech Indiana to file "a cost study" based upon the mandates of the Telecommunications Act of 1996 and previous Commission Orders in Cause No. 40785 and that the "cost studies" should comply with the requirements set forth in the Exhibit A attached to the Docket Entry. The specific mandates referred to by the Commission are as yet unidentified. The Order initiating this Cause and the Docket Entry requiring cost studies also lack the specificity to which Ameritech Indiana is entitled. The proscription against vague legal requirements is a basic principle of due process and within that doctrine is the idea that regulated utilities should have a reasonable opportunity to know what is prohibited and what is required, and

that the standards applied to them are clear enough to curb the danger of arbitrary or discriminatory enforcement.

Furthermore, TA96, prior orders issued in Cause No. 40785, and statutory authority granted to the Commission, do not permit the Commission to (1) shift any burden of proof to Ameritech Indiana, or to even preliminarily shift to Ameritech Indiana the burden of going forward with the evidence until another party has first filed and presented a full *prima facie* case, at a properly noticed evidentiary hearing for the purpose of demonstrating that Ameritech Indiana's existing rates are somehow unreasonable, unlawful or unjust; (2) change rates solely on the basis of limited information; or (3) deny Ameritech Indiana a full and fair opportunity to be heard or solicit analysis concerning cases or controversies that do not now exist.

The law provides that, both statutorily and constitutionally, absent a utility's consent, no order affecting the utility's rates may be made without adequate notice concerning the charges against its rates and a full, fair hearing. IC 8-1-2-7, 54, 55, 56, 59, 72. *Ohio Bell Tel. Co. v. Public Util. Comm'n of Ohio*, 301 U.S. 292, 304-5 (1937); *Indiana General Serv. Co. v. McCardle*, 1 F. Supp. 113, 115-16 (S.D. Ind. 1932); *American Vitrified Prods. Co. v. Public Serv. Comm'n*, 176 N.E.2d 145, 150-51 (1961); *Baltimore & Ohio R.R. v. Public Serv. Comm'n*, 132 Ind. App. 493, 498-99, 177 N.E.2d 275, 278 (1961); *Hancock Rural Tel. Corp. v. Public Serv. Comm'n*, 137 Ind. App. 14, 24, 201 N.E.2d 573, 203 N.E.2d 204 (1964); *Public Serv. Comm'n v. Indianapolis Rys.*, 225 Ind. 30, 72 N.E.2d 434 (1947); *New York Central R.R. Co. v. Public Serv. Comm'n*, 133 Ind. App. 680, 688-91, 183 N.E.2d 609, 614-615 (1962). Such a hearing includes first an adequate presentation of all charges and claims against it, then a reasonable opportunity to allow the utility to conduct discovery and to adequately prepare to cross-examine the witnesses against it, then to meet the charges or claims against it by competent evidence in response and then to have the arguments of

counsel fairly heard upon the probative force of the evidence adduced by both sides and upon the law applicable thereto. *Wisconsin Tel. Co. v. Public Serv. Comm'n*, 287 N.W. 122, 133 (Wis. 1939); *Western Electric Co. v. Stern*, 544 F.2d 1196, 1199 (3rd Cir. 1976); *Public Serv. Comm'n v. Indiana Bell Tel. Co.*, 235 Ind. 1, 27, 130 N.E.2d 467, 479 (1955); *Standard Oil Co. v. FTC*, 475 F. Supp. 1261 (N.D. Ind. 1979); *Kaiser Aluminum v. Dickerhoff*, 199 N.E.2d 719, 721 (Ind. App. 1964).

The procedural schedule issued at the prehearing conference requires Ameritech Indiana to submit its filing first. The order initiating this proceeding established a formal investigation, not an informal information gathering process. In a formal investigation, the *entire* case-in-chief of the party, or parties, opposing Ameritech Indiana must and should precede Ameritech Indiana's response. Furthermore, any contemplation of changes in rates requires the Commission to comply with the law governing ratemaking. Due process, Indiana utility law and scores of court decisions require nothing less.

In sum, this proceeding is already fraught with serious ambiguity and questionable lawfulness. A prompt clarification of these concerns is necessary, as well as appropriate. Despite the questionable actions which have already occurred, Ameritech Indiana is confident that this Commission intends to abide by the legal mandates which have guided Commission action for many years. Although Section 254 of TA96 permits certain Commission inquiries, any such action must be exercised within the constraints of well established state utility law. While Ameritech Indiana believes it is imperative that Commission proceedings be conducted in accordance with the Commission's authority, Ameritech Indiana also does not desire to unnecessarily frustrate the Commission's legitimate information gathering process concerning Section 254 of TA96. Accordingly, Ameritech Indiana is willing to provide appropriate responses to the requirements set forth in Exhibit A to the Docket Entry issued in this Cause. Should the Commission clarify its desire that it be provided with the

switched carrier access cost studies, Ameritech Indiana further respectfully requests the Commission identify the basis for such a requirement and afford Ameritech Indiana with approximately an additional four (4) weeks from the date of the Commission's decision on the instant Petition, or at least until May 1, 1999, to submit its initial informational filing in this proceeding.

Representatives of Ameritech Indiana have contacted representatives of all other parties in this Cause concerning Ameritech Indiana's request for additional time to submit its initial filing. At the time of this filing, not all parties had communicated their position to Ameritech Indiana. To the extent a party's position was communicated to Ameritech Indiana, they are noted as follows:

Party	Position
Office of Utility Consumer Counselor	No opinion until it has reviewed the Petition.
Time Warner Communications of Indiana, L.P.	No position.
Sprint Communications Company L.P. United Telephone Company of Indiana, Inc. d/b/a Sprint	No objection.
WorldCom Technologies, Inc. Brooks Fiber, Inc. MCI Telecommunications Corporation MCImetro Access Transmission Services, Inc. (collectively "MCI WorldCom")	No response.
United Senior Action of Indiana, Inc.	No response.
Citizens Action Coalition of Indiana, Inc.	No response.
American Association of Retired Persons, Inc.	No response.
GTE North, Incorporated and Contel of the South	No objection.
AT&T Communications of Indiana, Inc.	Objection.
Indiana Exchange Carrier Affiliation	No response.

WHEREFORE, Ameritech Indiana prays that the Commission:

1. Grant reconsideration and clarification as requested herein;

2. Clarify the requirements for the switched carrier access cost studies in the absence of any request for rate rebalancing as requested herein and if such information is

required, provide the basis for such requirement and grant to Ameritech Indiana at least until May 1, 1999, or approximately four (4) additional weeks following notice of such decision to make its initial submission in this proceeding; and

3. Grant such other and further relief to Ameritech Indiana as may be appropriate in the premises.

Respectfully submitted,

Sue E. Stemen (1988-49)
A. David Stippler (1680-49)
AMERITECH INDIANA
240 North Meridian Street, Room 1826
Indianapolis, Indiana 46204
Telephone: (317) 265-3676

Teresa E. Morton (14044-49)
Mark D. Stuaan (16562-29)
BARNES & THORNBURG
11 South Meridian Street, Suite 1313
Indianapolis, Indiana 46204
Telephone: (317) 231-7716

Attorneys for Indiana Bell Telephone
Company, Incorporated d/b/a Ameritech Indiana

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following counsel of record via United States Mail, first class, postage prepaid, this 10th day of March, 1999:

Timothy M. Seat
Office of Utility Consumer Counselor
Indiana Government Center North
100 N. Senate Avenue, Room N501
Indianapolis, Indiana 46204-2208

Pamela H. Sherwood
Sommer & Barnard, PC
4000 Bank One Tower
111 Monument Circle
Indianapolis, Indiana 46204

Marsha Rockey Schermer
Time Warner Communications
65 East State Street, Suite 1800
Columbus, Ohio 43215

Joseph Stewart
Senior Attorney
Sprint
50 West Broad Street, #3000
Columbus, Ohio 43215

Lee Lauridsen
Senior Attorney
Sprint
8140 Ward Parkway
Kansas City, Missouri 64114

Charles R. Mercer, Jr.
Attorney at Law
One North Capitol Avenue, Suite 540
Indianapolis, Indiana 46204

Robert K. Johnson
Jeffrey M. Reed
Bose McKinney & Evans
2700 First Indiana Plaza
135 N. Pennsylvania Street
Indianapolis, Indiana 46204

Jane Van Duzer
MCI WorldCom
205 N. Michigan Avenue, Suite 3700
Chicago, Illinois 60601

Michael A. Mullett
Mullett & Associates
309 West Washington Street, Suite 233
Indianapolis, Indiana 46204

Paul Severance
Executive Director
United Senior Action
1920 W. Morris Street, Suite 246
Indianapolis, Indiana 46221

Jerry Polk
Utilities Director
Citizens Action Coalition of Indiana, Inc.
5420 N. College Avenue
Indianapolis, Indiana 46220

Susan Weinstock, Team Leader
State Legislation Department
AARP
601 E Street, N.W.
Washington, DC 20049

Dale Sporleder
One North Capital Avenue, Suite 515
Indianapolis, Indiana 46204

William B. Powers
Bank One Center/Circle
111 Monument Circle, Suite 302
Indianapolis, Indiana 46204

Don Johnson
Daviess-Martin County Rural Telephone Corp.
P.O. Box 8
Montgomery, Indiana 47558

Clark Stalker
AT&T Corporation
222 West Adams, Floor 15
Chicago, Illinois 60606

Michael J. Huston
Matthew Guttwein
Baker & Daniels
300 N. Meridian Street, Suite 2700
Indianapolis, Indiana 46204

Mark D. Stuaan

INDS01 TEM 305238

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO ANY AND ALL MATTERS RELATING TO ACCESS CHARGE REFORM AND UNIVERSAL SERVICE REFORM, INCLUDING, BUT NOT LIMITED TO, HIGH COST OR UNIVERSAL SERVICE FUNDING MECHANISMS RELATIVE TO TELEPHONE AND TELECOMMUNICATIONS SERVICES WITHIN THE STATE OF INDIANA PURSUANT TO: I.C. 8-1-2-51, 58, 59, 69; 8-1-2.6 ET SEQ., AND OTHER RELATED STATUTES, AS WELL AS THE FEDERAL TELECOMMUNICATIONS ACT OF 1996 (47 U.S.C. SEC. 151, ET SEQ.)	)	CAUSE NO. 40785-S1
RESPONDENT: INDIANA BELL TELEPHONE COMPANY, INC. D/B/A AMERITECH INDIANA	)	

SUPPORTING AFFIDAVIT
OF DR. KENT A. CURRIE

I, Kent A. Currie, being of lawful age and being duly sworn upon my oath, depose and state as follows:

1. I have personal knowledge of the facts set forth in this affidavit and state them to be true. I would and could completely testify thereto.

2. I am employed by Ameritech Corporation. I am currently Manager—Economic Analysis and Issues, responsible for developing and maintaining the methodological framework for the cost studies for Ameritech's telecommunication services and for the cost issues being addressed in this proceeding by the Indiana Utility Regulatory Commission ("IURC" or "Commission").

3. On February 19, 1999, I attended the Preliminary Hearing and Prehearing Conference previously noticed by the IURC in this subdocket. I was prepared to testify at such

EXHIBIT A

Preliminary Hearing on behalf of Ameritech Indiana as to the amount of time necessary for Ameritech Indiana to provide to the IURC information to ensure compliance with Section 254(k) of TA 96 and IURC directives based upon my preliminary assessment of the IURC's requirements/process which it announced in its Order of January 20, 1999 would be provided at the Preliminary Hearing and Prehearing Conference.

4. At the time of the Preliminary Hearing and Prehearing Conference, the presiding judge announced that the Commission would not entertain any testimony from Ameritech Indiana in this regard. Instead, the presiding judge announced a procedural schedule to apply to this proceeding, including a cost study to be provided by Ameritech Indiana by April 1, 1999. The presiding judge also advised that a docket entry was being issued setting forth the requirements for such a cost study. This docket entry was then apparently signed by all five IURC commissioners who were present at the Preliminary Hearing and Prehearing Conference, but the content of this docket entry was not disclosed to Ameritech Indiana or made available for Ameritech Indiana's or any other party's examination until after the Preliminary Hearing and Preliminary Conference were concluded.

5. Having reviewed the IURC's February 19, 1999 Docket Entry relating to such a cost study and the attached Exhibit A, I have determined that Ameritech Indiana will require additional time to complete its submission in this subdocket in response to the items set forth in that Docket Entry. Moreover, it appears from a review of several Commission Orders issued in Cause No. 40785 that there is some expectancy on the part of the IURC for Ameritech Indiana to present a cost study for switched carrier access services for purposes of addressing intrastate access charge reform in Indiana. If indeed it is the IURC's intention for Ameritech Indiana to provide such a cost study for switched carrier access services as an integral part of its submission, such fact enhances the need

of Ameritech Indiana for additional time within which to complete its submission as well as the submission of supporting documentation and testimony to the IURC.

6. I have determined that it will take approximately ten (10) weeks from the date of the IURC's February 19, 1999 Docket Entry, or until approximately May 1, 1999 for Ameritech Indiana to complete the process necessary to provide its submission in this subdocket, including a cost study for switched carrier access services.

7. My estimate is based upon an examination of the time required for the various activities necessary to develop and deliver such a submission; the determination of a timeline recognizing the order in which the activities need to be completed; and an assessment of the internal and external resources capable of being employed to complete such activities.

8. For example, with regard to the preparation of a cost study for switched carrier access services, I assembled a team whose members have either managed the production of such a cost study, have been involved in specific activities needed to produce such study, or have been involved in the development of supporting documentation and testimony for such a study. I requested that these managers identify the activities as well as major tasks needed to complete a cost study for switched access and the time required for each activity based on their experiences and training. I also asked these managers to exclude any time for tasks or activities associated with the study that have already been completed.

Since a similar cost study was recently completed for Ameritech Michigan, I asked the managers to use their experiences in completing the Michigan studies in order to provide efficient time estimates for Indiana without any unnecessary special analysis.

Many of the required activities are organized around specific cost models that are used to develop the more complex inputs included in such a cost study. Five managers and seven analysts

generally use these cost models. The activities needed to manage and run these models can often be done simultaneously, but in some instances certain models depend upon or await the results from other models. I specifically asked for the time required using these models.

9. Exhibit 1 to my affidavit is a diagram that identifies the cost models that provide inputs that would be used in a switched access cost study for Ameritech Indiana. While several of these cost models are ready to produce Indiana-specific results (e.g. the Interoffice Facilities Study (IOF) and Ameritech Regional PIP Switching Model (ARPSM)), other of the cost models employ outside resources and require numerous activities to be completed within each of them to produce results.

10. With regard to the major components that are required for the switched access recurring cost study, there are about 50 different recurring charges for local switching and switched transport as well as various optional features that comprise a switched access recurring cost study. The usage components of this study would primary be based on the Network Cost Analysis Tool ("NCAT") outputs, one of the models involved in this study. Monthly costs for optional features are mainly determined by the application of annual carrying charge factors to investments obtained from Switched Cost Information System/Intelligent Network ("SCIS/IN") model. Documentation, testimony, and the allocation of shared and common costs also need to be developed for the completion of this study.

The major activities in this cost study would be compiling information from various cost models, calculating monthly costs, and organizing them consistently with the switched access recurring rate structure. Monthly costs for most terminating facilities are developed using annual carrying charge factors applied against APRSM investments.

11. With regard to the major components that are required for the switched access non-recurring study, there are about 80 different non-recurring charges for local switching, switched transport, as well as various optional features. The major components needed to develop these costs are the relative times for various work activities and the labor rate that is applicable for that activity. The major activity required for this study is the collection of the time estimates for each activity that has a reasonable chance of occurring and an estimate to the probability of occurrence of each corresponding activity.

12. Exhibit 2 to my affidavit depicts a timeline for the completion of all the activities associated with each of the models required for the switched access recurring and non-recurring portions of the study. This timeline recognizes certain activities that have already begun and that should complete within a relatively short period of time. This exhibit also identifies the sequence of certain activities that need to be completed before others may be commenced.

13. There are additional activities included in the development of my time estimate pertaining to the completion of Ameritech Indiana's submission. I consulted with other regulatory personnel of Ameritech as well as with legal counsel for this purpose. After the completion of the various parts comprising its submission, it must be reviewed for accuracy and consistency by a review team. In addition, a filing package needs to be prepared that includes the documented submission and supporting prefiled testimony.

14. The Commission's February 19, 1999, Docket Entry provides for only forty-one days (less than six weeks) for the completion of all activity identified in such entry. Based upon my analysis, it will be wholly impossible for Ameritech Indiana to complete its work within such a short period of time.

FURTHER AFFIANT SAYETH NOT

Kent A. Currie

Dr. Kent A. Currie

Subscribed and sworn to before me,
a Notary Public, this 9th day of
March, 1999.

Ellen L. Gunlicks

Notary Public

ELLEN L. GUNLICKS

(Printed)

L. GUNLICKS
Ohio, Cuy. Co.
Exp. Feb. 14, 2002

My Commission Expires: _____

County of Residence: CUYAHOGA

Ameritech Indiana Cost Study Flow

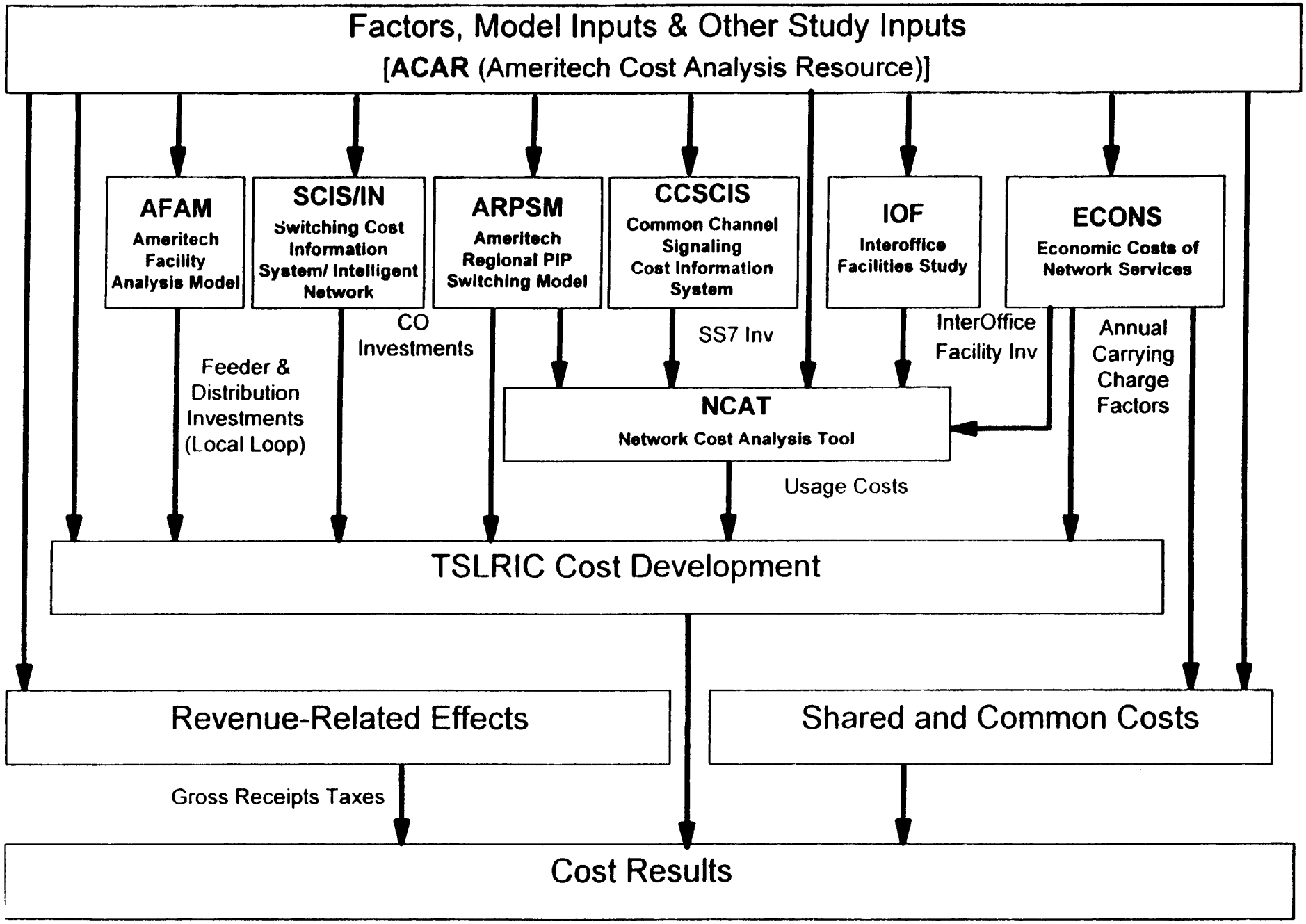

EXHIBIT 1

Ameritech Indiana Cost Study Timelines

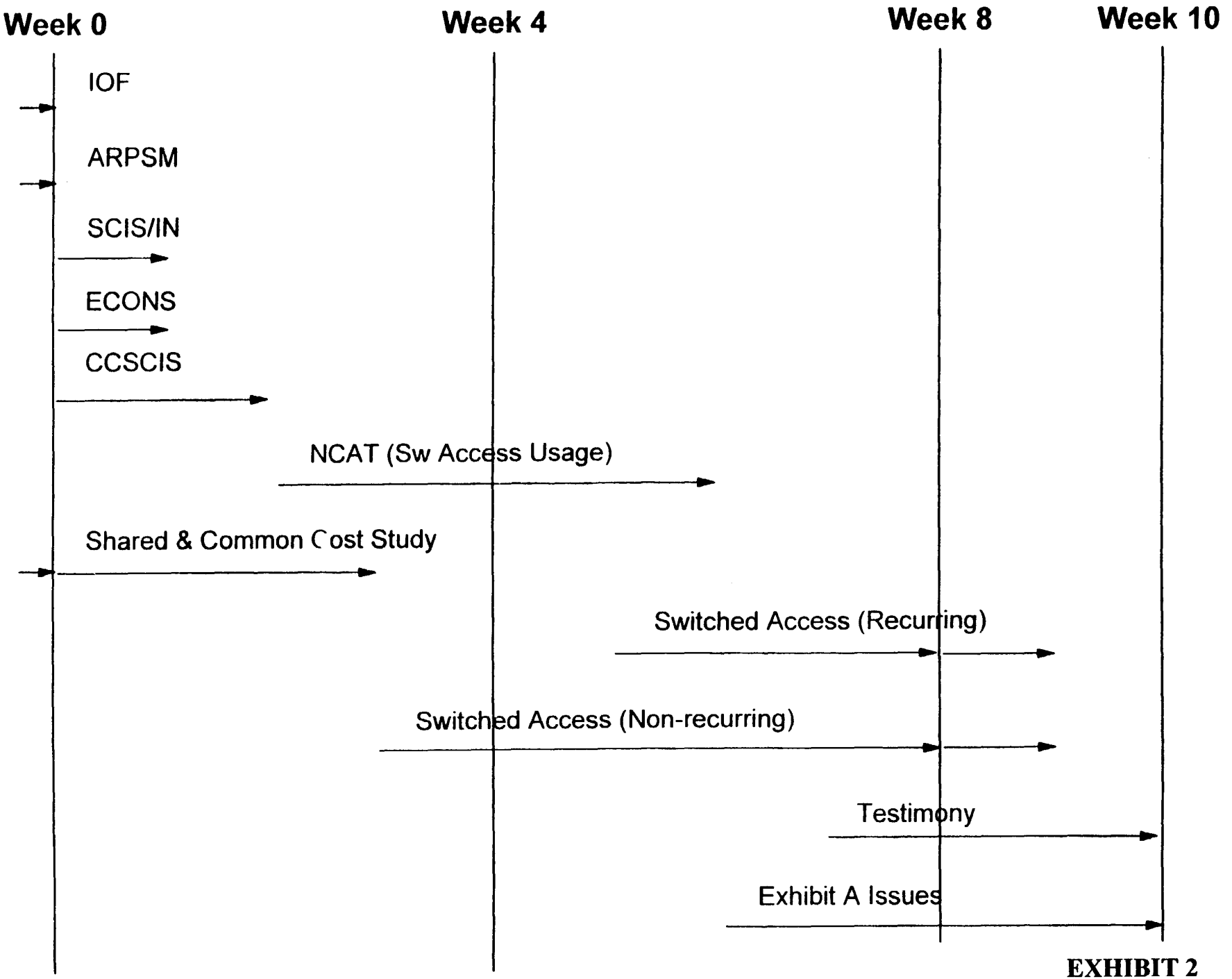

EXHIBIT 2