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January 29, 2003

Via Electronic Filing

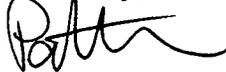
Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Ex Parte
WC Docket Nos. 01-338, 03-16

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this will provide notice that on January 28, 2003, Jerry Finefrock, Vice President-Regulatory Affairs, LDMI Telecommunications, and the undersigned met with Jordan Goldstein, Office of Commissioner Michael J. Copps; and on January 29, 2003 the same persons met with Commissioner Kevin J. Martin and Dan Gonzalez. Concerning the SBC Michigan 271 proceeding, LDMI presented the views set forth in the attached document which was provided at the meetings. Concerning the *Triennial Review*, we reiterated views presented in LDMI's previous presentations in that proceeding.

Sincerely,



Patrick J. Donovan
Counsel for
LDMI Telecommunications, Inc.

Telling SBC It Is Premature to Grant Them Long Distance Authority for Michigan:



Why This Should Be An Easy Decision For The FCC

January 28, 2003

Jerry Finefrock, LDMI
Telecommunications

248-840-2896 'jfinefrock@ldmi.com'

Michigan 271 Issues Summary

1. The MPSC Michigan 271 decision was a political one – based on politics only, and not based on the facts.
2. SBC Michigan flunked Checklist Item 13, Reciprocal Compensation. MPSC ignored the evidence.
3. SBC Michigan score on BearingPoint (KPMG) of 61% is a flunking score.
4. Bringing in SBC’s own “tester” – Ernst & Young – was an outrageous act.
5. Collective failure by MPSC to address CLEC OSS concerns, last 2 ½ years, shows a Commission who gave lip service only to problems.
6. FCC data shows Michigan consumers and businesses are getting the shaft from SBC Michigan. 271 is last available tool to force SBC to keep pricing and service in Michigan within bounds.
7. In period leading up to MPSC 271 recommendation, SBC lied to the press, lied to the public, and lied to the MPSC, about its financial situation and its quality of service, yet the MPSC never brought SBC to task for this. SBC has flunked the “public interest” test of 271.
8. SBC takes four times as long to fix a CLEC problem than for its own retail customers, yet MPSC ignored this evidence in its recommendation.
9. MPSC gave positive recommendation based on “20% CLEC market share”, yet testimony shows MPSC knew FCC may well eliminate UNE-P, which would take CLEC market share down to 6%, not 20%.
10. Major new OSS problems are happening in Michigan, which MPSC failed to take into account.

Michigan

Editorial (Jan. 21):



- “SBC long-distance bid: Why is it on fast track?”
- “The [PSC] supported SBC’s request to offer long distance service... **This may be bad news for telephone customers.**
- “Since SBC only met about **60 percent** of the conditions the PSC had set in order for it to get long-distance service, we wonder what gives. **Was this a political decision?”**

KPMG OSS Testing: The facts, vs. SBC claims



KPMG Consulting

- KPMG (Bearing Point) was brought in by MPSC and SBC to conduct the tests.
- At Nov. 25 hearing, SBC claimed KPMG data showed it had passed 93% of the tests... but KPMG at the same hearing said SBC had passed less than 61% of tests!
- In an outrageous end-around of the regulatory process, SBC brought in its own auditors, Ernst & Young, so it could have its own “teacher” grade its own test paper!

BearingPoint/KPMG's "High-Level Test Results" Table

Which "Spans All Test Families And Domains"

SBC Michigan OSS Testing

Last Report – October 30, 2002

Test Family	Number of Evaluation Criteria				
	Satisfied	Not Satisfied	Indeterminate	Not Applicable	Total
Performance Metrics Reporting (5 tests)	30	136	108	29	303
Processes and Procedures Review (16 tests)	299	1	3	10	313
Transaction Verification and Validation (9 tests)	166	24	5	2	197
TOTAL	<u>495</u>	161	116	41	<u>813</u>

495 out of 813 = 60.9% Score

Known OSS Testing Scores of States Voting “Yes” on 271

- **Michigan 60.8%**
- Kansas 80%
- Qwest States 94%
- Virginia 99%
- New York 99.4%
- Massachusetts 99.5%
- New Jersey 100%

In whose classroom
Would a score of 60.8%
Be considered a
Passing Score ???

MPSC and FCC



- Even though SBC flunked all the tests to get into long distance in Michigan, the MPSC passed them anyway
- MPSC said they did so because competitors now have 20% of the local market
- But MPSC testimony made clear the FCC is about to eliminate the service (UNE-P) that represents great majority of competitive lines – testimony showed when that happens, competitors will have only six percent of the market!
- Jackson Citizen Patriot, Jan. 21: *“Just as competition is becoming a reality, the FCC may be on the verge of ending it.”*

A Strange Story...

- On January 8, 2003, FCC staffers said SBC would file its Michigan long distance application the week of January 13. When asked how they could do that, when MPSC hadn't yet given its recommendation, SBC told FCC staff that the MPSC would vote on it early the week of Jan. 13, and would give a positive recommendation.
- On January 9, MPSC Commissioner Dave Svanda said MPSC had not voted, and had not picked a date when it would vote.
- On January 10, MPSC for first time set a meeting for a vote: January 13.
- On Monday January 13, the MPSC met, voted 3-0 to recommend in favor of SBC, and issued a 144-page decision recommending in favor of SBC.

About LDMI...



Headquarters:
Hamtramck

Other Michigan Offices:
Grand Rapids
Royal Oak
Southfield

- Started in MI 10 years ago
- Founder & mother re-mortgaged their houses to raise starting capital
- Now largest telecom company headquartered in Michigan
- Profitable; \$100 million of annual revenue
- Serves 10% of Michigan businesses; and many Michigan consumers, too

Michigan's Monopoly Local Phone Companies:

- SBC (Ameritech): 82% of population
- Verizon (GTE): 10% of population
- Other Independents: 8% of population

The Underlying Reality In Michigan:



After 25 Years
of Competition,
The Bell
Monopoly
In Michigan
Continues

In Michigan, SBC continues to wield impressive
Power and influence.

Congress: The Telecom Act of 1996

– Section “271”



- Congress recognized the continuing power of SBC and the other Bell monopolies
- Said getting long distance authority was a privilege, not a right
- Said getting long distance authority was the reward for demonstrating that it treated its competitors exactly the same as it treated itself

Michigan: The Last 10 Years

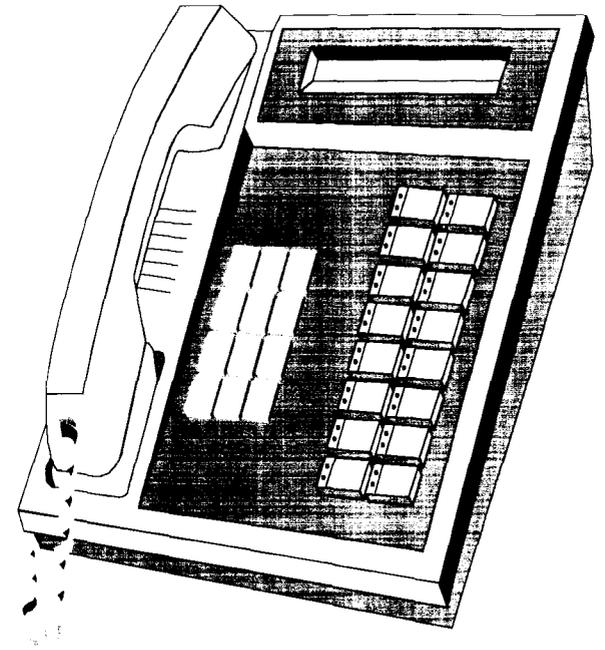


- Long Distance prices down 65%
- SBC local phone prices up 42%
- SBC intraLATA toll prices also up

**The True Michigan Situation
Can Be Seen In
The FCC's Published
Statistics...**

Long distance competition

- There are 50+ LD companies competing in Michigan
- As a result of *competition*, LD prices in Michigan have dropped by **65%** in last ten years



The lack of local phone competition:

SBC's Local Phone Rate Hikes In Michigan Lead The Nation

Place Name	State	Oct. 1991	Oct. 2001	Increase
Saginaw	MI	\$16.31	\$27.30	67.4%
Grand Rapids	MI	\$17.06	\$24.35	42.7%
Detroit	MI	\$19.04	\$26.68	40.1%
Chicago	IL	\$18.17	\$21.61	18.9%
Cleveland	OH	\$21.29	\$19.95	-6.3%
Indianapolis	IN	\$22.47	\$19.87	-11.6%

Michigan's phone bills are among the highest in the nation, and have increased dramatically in last decade

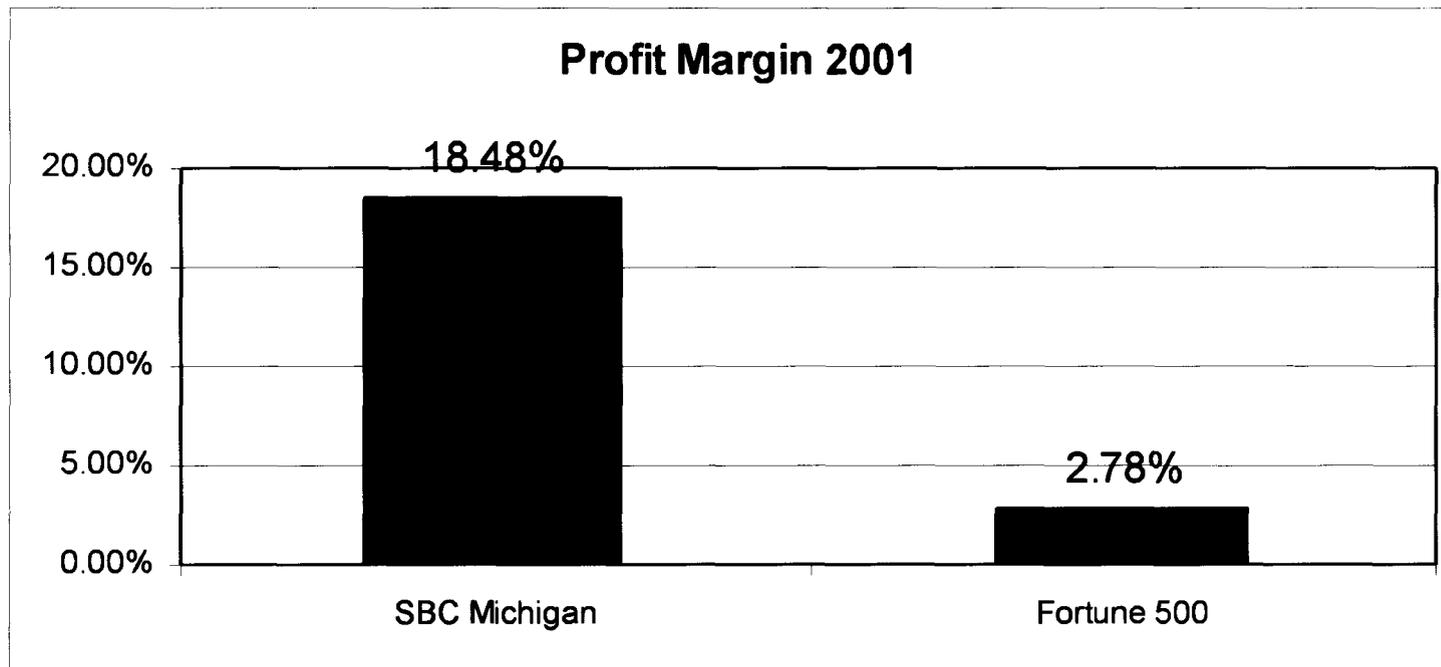
Source: FCC – sample cities database.

SBC Michigan: Profit Margin Six Times That of Fortune 500

Profit Margin

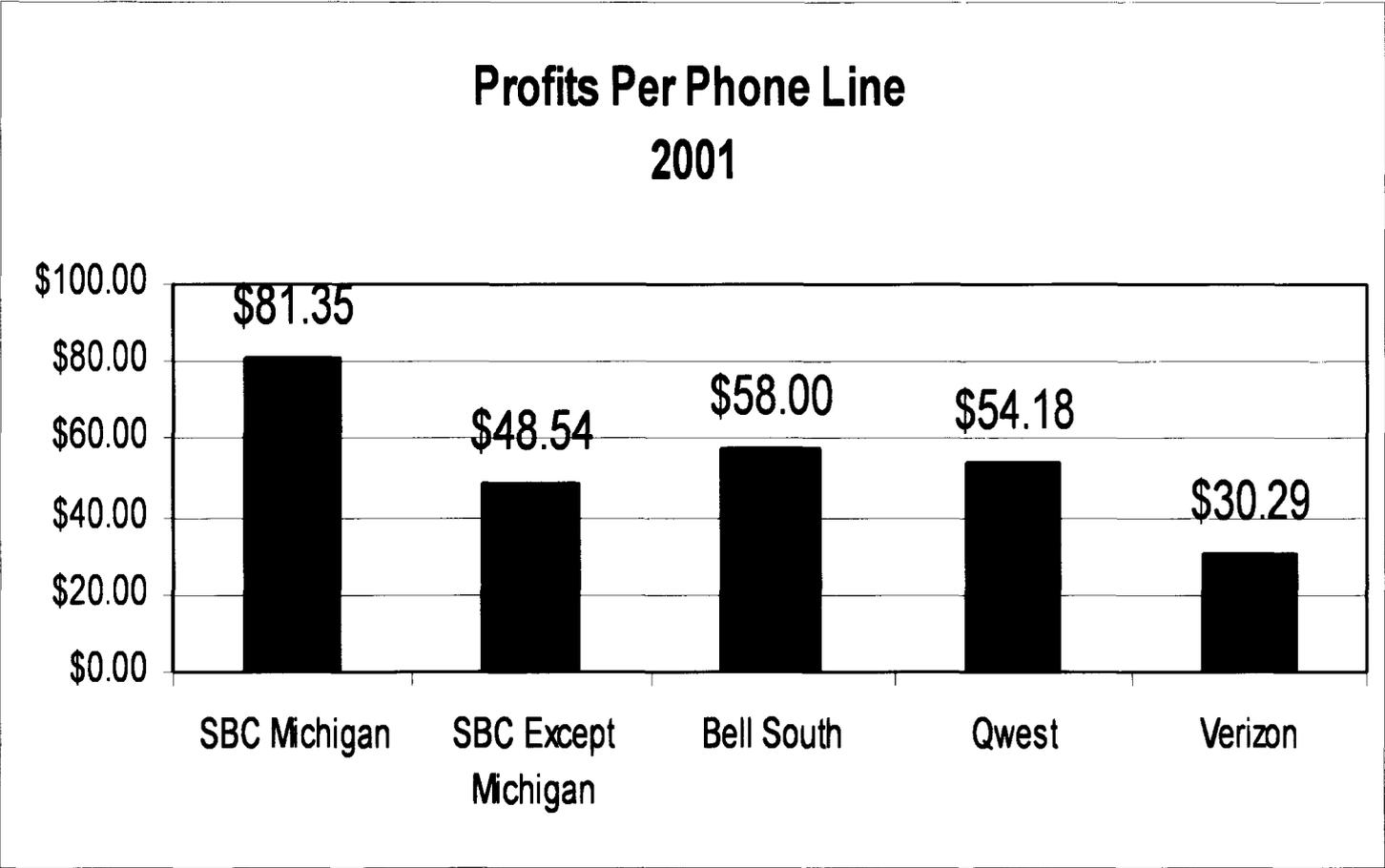
Company	2001
SBC Michigan	18.48%
Fortune 500	2.78%

Ameritech Data Sources: FCC ARMIS 4302, Accounts 178 (Net Income), 48 (Total Operating Revenue)



After-tax net income as a percentage of revenues, calendar year 2001, for SBC (Ameritech) Michigan as compared to the overall results of the Fortune 500. 15

SBC Michigan Profits Also Dramatically Higher Than The Other Bell Companies In U.S.

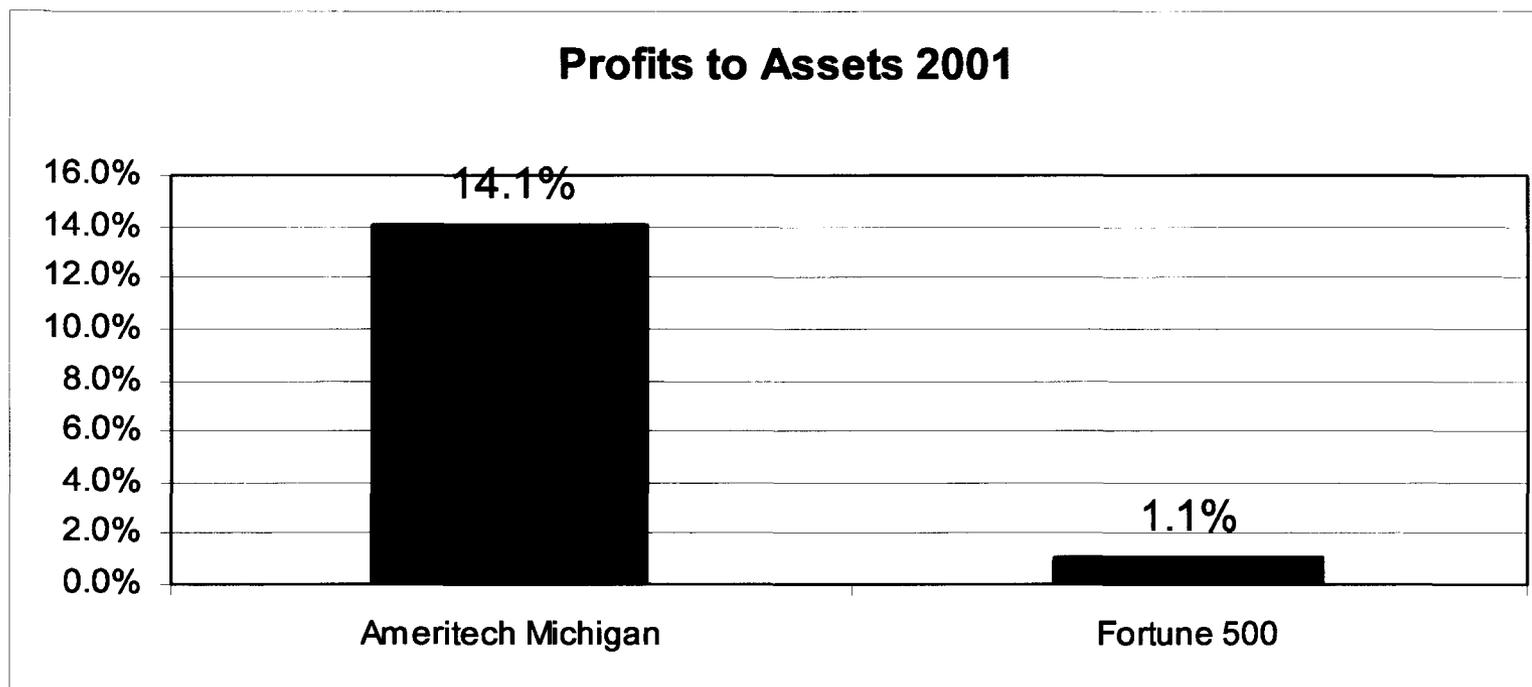


After-tax net income per telephone (per “access line”), calendar year 2001, for SBC (Ameritech) Michigan as compared to the rest of SBC and the Baby Bells. SBC Michigan’s profits are dramatically higher than the rest of SBC, and the rest of the RBOCs.

Profits to Assets

Company	2001
Ameritech Michigan	14.1%
Fortune 500	1.1%

Ameritech Data Sources: FCC ARM IS 4302, Accounts 178 (Net Income), 511(Total Assets)

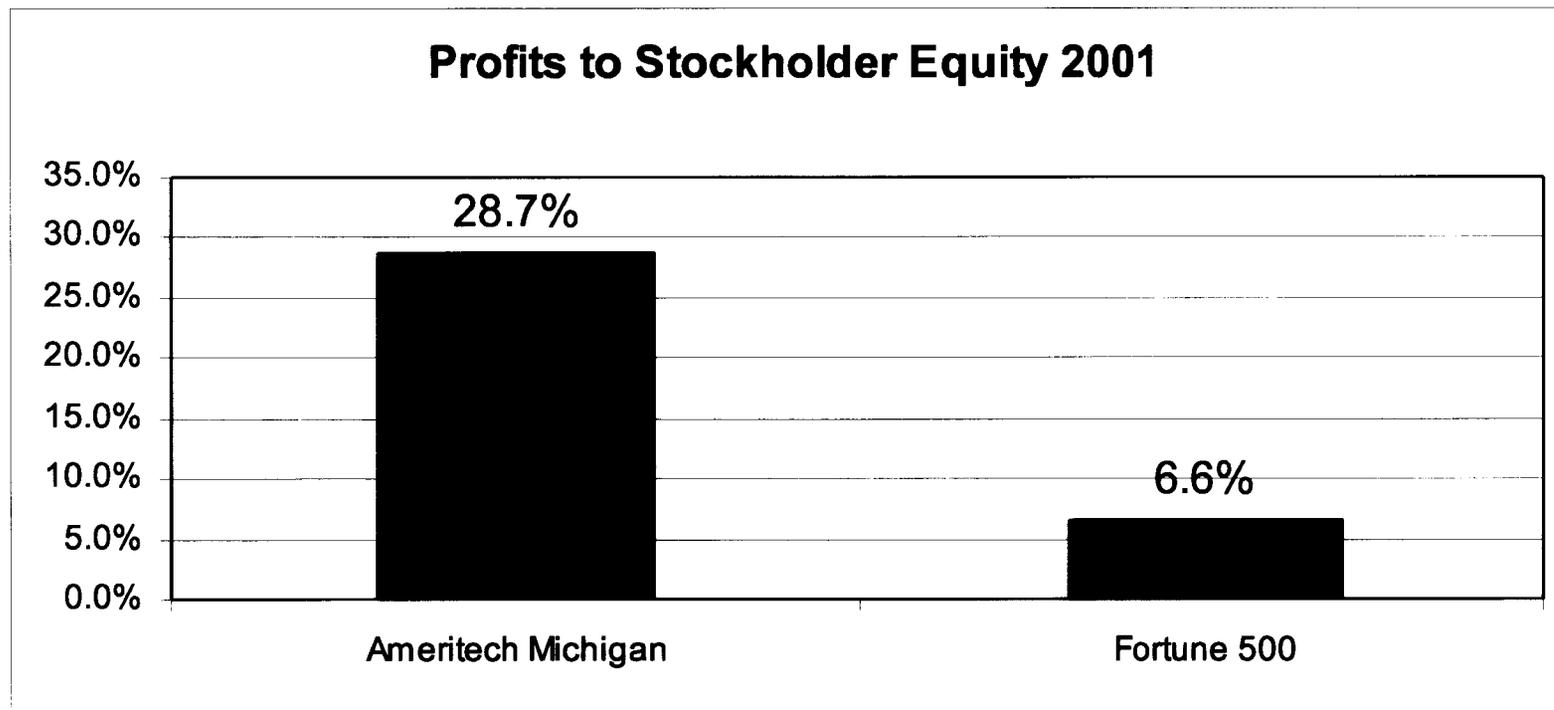


After-tax net income as a percentage of assets, calendar year 2001, for Ameritech Michigan as compared to the overall results of the Fortune 500.

Profits to Stockholder Equity

Company	2001
Ameritech Michigan	28.7%
Fortune 500	6.6%

Ameritech Data Sources: FCC ARMIS 4302, Accounts 178 (Net Income), 548(Total Equity)



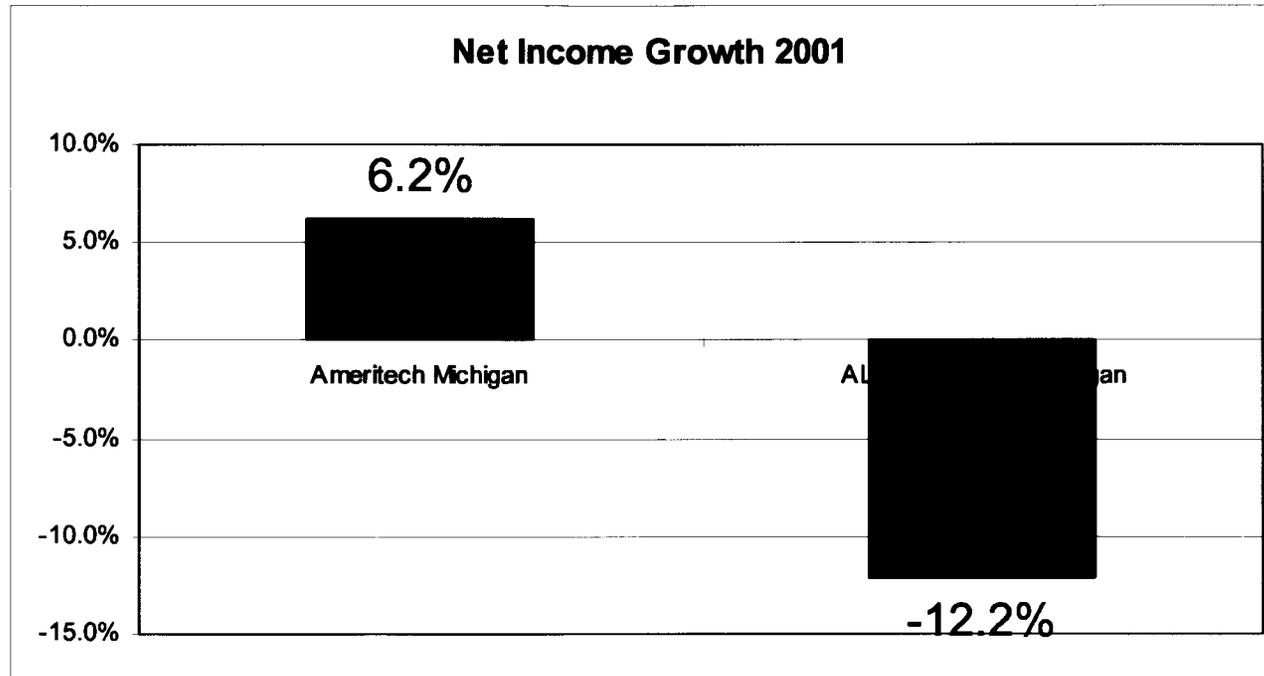
After-tax net income as a percentage of stockholders' equity, calendar year 2001, for Ameritech Michigan as compared to the overall results of the Fortune 500.

Net Income Growth (Year over Year)

Company	2001
Ameritech Michigan	6.2%
ALL BOCs Less Michigan	-12.2%

Source: FCC ARMIS 4302 (2000 - 2001), Account 178, Income Statement Table

Calculation: $(Y2001 - Y2000) / Y2000$



“All BOCs Less Michigan” means all Bell Operating Companies (Verizon, SBC, Ameritech, Bell South, and Qwest) except for Ameritech Michigan. In 2001, Ameritech Michigan enjoyed strong growth in after-tax net income as compared to the prior year. The other BOCs did not.

(Source: FCC - ARMIS)

2001 Results:	After-Tax Profit Margin
Ameritech Michigan	18.5% *
Ameritech Ohio	17.3%
Ameritech Indiana	16.8%
Ameritech Wisconsin	16.8%
Ameritech Illinois	15.7%
SNET	10.0%
Southwestern Bell	9.1%
Pacific Bell	8.3%
Nevada Bell	-1.0%
Total - SBC	11.5%

While SBC Claimed To The Detroit News It is Losing Money In Michigan, The **FACTS** Show Ameritech Michigan Profits Are **TWICE** As High As In Whitacre's "Home" Base, Southwestern Bell!

* "SBC executives reserve special scorn for Michigan..."
(Wall Street Journal, 12/12/02)

Poor service: Hours to Fix Repair Problems

<u>Company Name</u>	<u>Initial repair</u>	<u>Repeat repair</u>
SBC - Michigan	36.1	37.1
BellSouth-Mississippi	29	29.3
BellSouth-Alabama	27.7	29.1
SBC - Texas	27.9	27.9
SBC - California	24.3	26.7
SBC - Indiana	20.8	21.6
SBC - Ohio	17.7	19.1
SBC - Wisconsin	17.6	18.5
SBC - Illinois	16.3	18.3

Source: FCC July 2002

SBC's residential repair times, in hours, in Michigan were the highest in the nation in 2001,

How SBC Has Treated Michigan

- SBC's Michigan profits are up by 120 percent over the last decade, while it is last in investment per line of Bell companies, U.S.
- Per FCC, in 2001, SBC Michigan had intraLATA toll revenues of \$460 million:
 - Larger than toll revenues of BellSouth, *for all nine of its states, combined.*
 - Larger than toll revenues of SBC's Southwestern Bell, *for all five of its states, combined.*
 - Almost *twice* the toll revenues of Qwest, *for all 14 of its states, combined.*

Ameritech Billing Error on UNE-P (Flunking Checklist # 13, Reciprocal Compensation)

- The MPSC never established a test for Checklist Item 13, Reciprocal Compensation.
- In a letter to LDMI dated August 16, 2002, SBC said it had discovered it had a major reciprocal compensation billing error on UNE-P in Michigan, that apparently extends back at least a year. The letter was sent regular mail.
- Other CLECs in Michigan received similar letters.
- On August 22, Bearing Point (KPMG) and the MPSC said they had not been made aware of the problem by SBC.
- SBC said the billing would be fixed in a month or two – but it has never been fixed. Ditto other CLECs.
- LDMI has never received reciprocal compensation from SBC Ameritech Michigan, as required by the Telecom Act of 1996.
- In its 1/13/03 recommendation to the FCC, the MPSC never mentions LDMI's evidence that SBC Ameritech Michigan flunked Checklist Item 13.

After Getting “271” Approval In Other States, SBC Then Hiked Rates

- Texas, 2001: 11% long distance rate hike; 25% hike on DSL. 2002: hiked local residence and business phone rates in 32 cities. Dallas Morning News: “...the increases prove that... Southwestern Bell has no credible competitive threat to its consumer business...” Deutsche Banc Alex.Brown: “SBC feels they are in control and can set the price.”
- Missouri, 2002: increased some business long distance rates by 40%; increased call waiting and 120 other services by 8%.
- Oklahoma, 2002: hiked rates by rearranging local calling plans. Said Oklahoma Commission: “They are coming in by e-mail, phone call, card and letter. Hundreds of complaints from... Oklahomans afraid of [SBC price hikes]; the deluge..continues... Chairman Denise Bode’s office indicates it has received more complaints on this issue than any other...”

OSS Problems Faced By Business CLECs with Ameritech Michigan

Why It Is Premature to Grant “271” Approval
To SBC Michigan, For Long Distance Entry

Business CLEC Carriers

- LDMI provides both residential and business Ameritech UNE-P services.
- Ameritech OSS problems on residential UNE-P are significant.
- But Ameritech OSS problems on business UNE-P services are dramatically more serious and prevalent.

Business CLECs, (cont.)

- Business services are much more complex than residence.
- There are many more variations of business services.
- There are huge problems involving PBX, Centrex, ISDN-PRI, hunting, and DSL.
- We first reported many of these problems to Ameritech a year ago, but they still have not been fixed by Ameritech.

Business CLECs, (cont.)

- An analysis system that looked at “percentage of Ameritech CLEC orders with errors” would significantly understate the real problem.
- As many as 90% of the orders in Ameritech region are Residence orders, whereas half, or more than half, of the local phone lines in the Ameritech region are Business lines. Evaluations of OSS performance should look at the number of lines installed without problems, not the number of orders.
- LDMI is one of the few CLECs who have concentrated heavily on providing UNE-P to business customers, and have extensive business UNE-P experience.

Trouble Tickets Issued to Ameritech on OSS Problems

- LDMI has encountered thousands of “Invalid Rejects” on UNE-P orders, in a problem going back more than a year, where Ameritech is unable to explain the reason for the Invalid Reject, or what should be done to avoid it in the future.
- LDMI issues trouble tickets to Ameritech, to insure these unexplainable Rejects are being investigated.
- But no one at Ameritech is tracking these trouble tickets, to insure they are being resolved.
- Some of those recent tickets are now more than three weeks old. When we check on them, the response is, “trouble ticket not worked”.

Errors on Post-Migration CSRs

- LDMI has experienced well over 2,000 instances where, post the migration of a customer from Ameritech retail to LDMI UNE-P, the Ameritech post-completion CSR is incorrect.
- LDMI first reported the problem 1 year ago.
- There has been no Ameritech progress on problem – why?
- These errors result in erroneous billing, mis-identification of the carrier, and subsequent customer-out-of service conditions.

Ameritech Takes DSL Out of Service

- Where an Ameritech retail customer has a DSL line (from an Ameritech affiliate) associated with their local service, and migrates local lines to LDMI UNE-P, Ameritech consistently disconnects the DSL during the conversion process. Problem began a year ago.
- In late June, MPSC ordered Ameritech to cease disconnecting DSL lines during this process. But the disconnects continue. (Our Ameritech team says no one told them about the MPSC order.)
- The problem continues unabated. On every single order LDMI has placed in last several months involving an Ameritech-affiliate DSL line, the DSL line has been taken out of service by Ameritech during the conversion.
- Customers are irate – they blame LDMI, when the DSL interruption is Ameritech's fault.

Pre-Conversion CSR Errors

- LDMI has encountered many hundreds of instances where the pre-conversion CSR (Ameritech's CSR that existed, before LDMI attempts to migrate the user to UNE-P) contains serious errors.
- When LDMI attempts to do an “assume as-is” on such a customer, the order is rejected for reasons that are unclear. Example of a cause: one of the phone lines listed on the CSR no longer belongs to that customer – line was reassigned to another customer, and the Ameritech CSR is wrong.
- In recent examples, LDMI has been trying to assume some customers for over two months, without success, due to pre-conversion Ameritech CSR errors.
- Ameritech acknowledged to LDMI it is a huge problem, but says it would be too expensive for Ameritech to fix.

Problems on PBX Orders

- A recent arbitrary Ameritech “Method & Procedure” says CLECs must issue two orders to migrate a PBX customer to UNE-P: one for the PBX lines, and one for the 1MB business lines. And the two orders must be related together.
- Under UNE-P, the customer must now have two BTNs, whereas under Ameritech retail service, they only had one.
- Under this policy, LDMI has had repeated instances where the customer was taken out of service, or otherwise disadvantaged, by Ameritech’s failure to relate the two orders together.

Inability to Relate Orders Together

- Often regarding orders for business customers, there is a need to relate two or more orders together, to insure they are completed on same date.
- Under Issue 7, this was done with the “secondary class of service” field. But in LSOG4, that field was eliminated by Ameritech!
- LDMI has discussed this problem extensively with Ameritech, without success.
- Result has been numerous customer out-of-service problems, and other difficulties.
- Ameritech’s CLEC competitors suffer this problem, but Ameritech itself does not.

Ameritech Downsizing of CLEC-Interface Personnel

- On August 20, the Ameritech Customer Care supervisor who services LDMI indicated their staff had just been significantly downsized.
- The level of services provided to LDMI by this center was being reduced, it was revealed. How other issues formerly handled by this office would now be dealt with, was not clear.

ISDN PRI

- In recent months, LDMI has been processing orders for UNE-P-based ISDN PRI service from Ameritech.
- To date, no such ISDN PRI order for an LDMI customer has ever been completed correctly or on time by Ameritech.
- Is there KPMG testing of ISDN PRI performance measures? What about by Ernst & Young?
- ISDN PRI is now a major method by which many businesses receive their local dial tone and data services. ISDN PRI order processing performance must be evaluated, if true “271” readiness is to be determined.

Directory Listing Problems

- During last 4 months, LDMI has experienced over 100 problems involving adds, moves and changes in directory listings on accounts converted to Ameritech UNE-P service.
- As LDMI makes changes, they come back as Invalid Rejects. Discussions with Ameritech on problem have not been fruitful.
- Serious customer listing problems in telephone directories have been the result.
- The volume of these problems escalated dramatically after LDMI converted from Issue 7 to LSOG4. LDMI believes Ameritech has a problem in LSOG4 it has not resolved.

Problems With Non-Native Numbers

- When LDMI attempts to migrate over to UNE-P an order involving both native and non-native numbers, the “hunting” by Ameritech of the non-native numbers stops working.
- Similarly, where the customer has Ameritech voice mail, the voice mail system suddenly is unavailable from the non-native numbers.
- Discussions of these problems with Ameritech, over many months now, have gone nowhere.

Erroneous Trouble Clearance Times

- When an LDMI UNE-P customer encounters a trouble, LDMI may need to open a trouble ticket with Ameritech.
- In many instances, Ameritech will close out such tickets as “no trouble found” or some other incorrect answer. LDMI then has to open a second trouble ticket with Ameritech on the same problem. And sometimes a third, or fourth...
- Premature closings of trouble tickets allows Ameritech to claim average trouble clearance times that are significantly shorter than the true figures.
- Every week, LDMI issues a report to Ameritech, showing the number of instances of multiple trouble tickets on the same customer problem.
- This issue has been outstanding for over a year, with no action or resolution by Ameritech.

Chronic Delayed UNE-P Billing

- For well over a year now, LDMI and other CLECs have experienced a problem with Ameritech UNE-P, where a completion notice is issued by Ameritech following the migration to UNE-P, but it turns out that Ameritech has not yet migrated the billing for the customer.
- In some instances, the delay of start of UNE-P billing for LDMI customers has been as great as 8 months (KPMG on Aug. 22 said they themselves have observed delays as long as 6 months).
- The result: Ameritech continues to bill the customer for local calls, etc., long after the customer has been supposedly migrated to LDMI.
- Customers believe LDMI lacks billing credibility and reliability: “I never had this problem when I was with Ameritech”.
- Problem has gone on for over a year: Ameritech hasn’t fixed it, and can’t say when or if it will be fixed. Do they care?

OSS Problems Summary:

- A few years ago, Ameritech IIS President Neil Cox told LDMI that it would be over his dead body that UNE-P would ever be implemented by Ameritech.
- Over the past year, Ameritech has treated UNE-P with “benign neglect” – or worse.
- Ameritech is, of course, now ruled by SBC.
- In July, SBC Chairman Ed Whitacre -- in a speech to ALTS -- said UNE-P was “economically irrational”, “not healthy”, and, (according to Phone+ magazine), one of SBC’s “common enemies”. That same month, Whitacre told SBC stockholders that UNE-P “is nuts”.
- A 271 should not be granted until Ameritech has demonstrated a sincere commitment to working with UNE-P, solving UNE-P problems, and dealing fairly with competitors who utilize UNE-P.

OSS Conclusion:

- Two years ago, the SBC Ameritech OSS systems were the worst in the country; today, they still are.
- SBC has failed to devote sufficient resources to resolve OSS problems, but instead has used political end-arounds to achieve its ends.
- Of LDMI's OSS problems of last 2 years (previous slides), the majority are still unresolved.