

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Application by SBC Communications, Inc.,)	WC Docket No. 03-16
Michigan Bell Telephone Company, and)	
Southwestern Bell Communications Services,)	
Inc. for Provision of In-Region, InterLATA)	
Services in Michigan)	

**REPLY COMMENTS OF
Z-TEL COMMUNICATIONS, INC.**

Z-Tel Communications, Inc. (“Z-Tel”), by its attorneys, hereby submits its comments in response to the Public Notice (DA 03-156) issued by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceeding. The Public Notice invites interested parties to respond to the Application of SBC Communications, Inc., Michigan Bell Telephone Company and Southwestern Bell Communications Services, Inc. (collectively, “Ameritech”) to provide in-region, InterLATA services in the State of Michigan, pursuant to section 271 of the Communications Act of 1934, as amended.¹

I. INTRODUCTION AND SUMMARY

By these reply comments, Z-Tel supports the views of the Department of Justice (“DOJ”), AT&T Corp. (“AT&T”) and WorldCom, Inc. (“WorldCom”), all of whom oppose the Application of Ameritech for section 271 relief in Michigan. Ameritech has not demonstrated that barriers to competitive entry into the market for telecommunications service in Michigan have been fully eliminated, and that nondiscriminatory access by competitive local exchange carriers (“CLECs”) to Ameritech’s facilities and services will continue to support local telecommunications competition. The Opposition of Z-Tel filed in this proceeding clearly

¹ 47 U.S.C. § 271.

demonstrates that Ameritech does not provide to CLECs nondiscriminatory access to unbundled network elements (“UNEs”), including the operations support system (“OSS”) UNE.² Specifically, Ameritech fails to provide to CLECs accurate, timely and reliable line loss and billing information that is comparable to the information provided by Ameritech to its own retail operations.³ The Evaluation of Ameritech’s Application by the DOJ (the “DOJ Evaluation”) fully supports the concerns raised by Z-Tel’s Opposition, and further concludes that Ameritech’s Application fails to establish that the market for local telecommunications service within the State of Michigan has been “fully and irreversibly” opened to competition.⁴ Accordingly, as concluded by the DOJ and as explained more fully below, the Application of Ameritech for section 271 relief in Michigan must be rejected by the Commission.

II. THE DOJ HAS CONCLUDED THAT THE MARKET FOR LOCAL TELECOMMUNICATIONS SERVICE WITHIN THE STATE OF MICHIGAN HAS NOT BEEN FULLY AND IRREVERSIBLY OPENED TO COMPETITION

The DOJ has stated that “in-region, interLATA entry by a regional BOC should be permitted only when the local markets in a state have been *fully and irreversibly* opened to competition.”⁵ “This standard seeks to measure whether barriers to competition that Congress sought to eliminate with the 1996 Act have in fact been fully eliminated and whether there are objective criteria to ensure that competitive local exchange carriers will continue to have nondiscriminatory access to the facilities and services they will need from the BOC in order to enter and compete in the local exchange market.”⁶ The DOJ agrees with Z-Tel, AT&T, and WorldCom that Ameritech’s persistent failure to provide accurate, timely and reliable line loss

² See Opposition of Z-Tel at 2-7.

³ See *id.*

⁴ See DOJ Evaluation at 2, 16.

⁵ See *id.* at 2.

⁶ See *id.*

and billing information to CLECs operating within the State of Michigan has created, and continues to create, significant barriers to competitive entry into the market for telecommunications service within the State of Michigan.

A. The DOJ Evaluation Supports That Ameritech Fails To Provide Adequate Wholesale Bills to CLECs

The Opposition of Z-Tel clearly demonstrates that Ameritech's failure to provide accurate and timely wholesale bills to Z-Tel severely disrupts Z-Tel's internal auditing and business functions, and hence the ability of Z-Tel to provide local telecommunications service to customers within the State of Michigan.⁷ The failure of Ameritech to provide to Z-Tel accurate and timely wholesale bills complicates Z-Tel's task of identifying incorrect charges and, as may be necessary, initiating legitimate billing disputes.⁸

In many instances, Ameritech's wholesale bills do not contain sufficient information to audit. As one example, Ameritech's February 2003 electronic wholesale bill to Z-Tel for dispatch repair work did not contain any Purchase Order numbers and did not contain the end user's telephone number in 14 of the 17 instances that Ameritech billed Z-Tel for such charges. Attachment A hereto contains the billing fields provided to Z-Tel for dispatch repair items. Without a Purchase Order number, Z-Tel simply does not know whether it actually ordered the dispatch repair billed by Ameritech. Without an end user telephone number, Z-Tel similarly has no means to attribute these charges and therefore render a retail bill to its individual end users. Due to Ameritech's wholesale billing shortcomings, Z-Tel is forced to deal with myriad similar issues on a monthly recurring basis.

⁷ Opposition of Z-Tel at 6.

⁸ *Id.* at 5.

Moreover, Ameritech's grossly inefficient dispute resolution process denies Z-Tel the ability to accurately account for its own operating expenses, and thereby to establish business plans for the long term.⁹ Specifically, the process currently offered by Ameritech for the resolution of wholesale billing disputes is difficult to navigate.¹⁰ As can be seen by the attached examples, the wholesale billing disputes submitted by Z-Tel to Ameritech frequently are rejected without explanation or justification. Ameritech analysts often have insufficient knowledge or understanding of Ameritech's UNE-P product offering and the corresponding rate elements that apply for UNE-P providers, such as Z-Tel.¹¹ Consequently, Z-Tel has been forced to commit excessive amounts of time and resources to re-filing billing disputes that are ineffectively handled by Ameritech.¹²

The DOJ Evaluation fully supports that the failure of Ameritech to render accurate and timely wholesale bills to CLECs operating within the State of Michigan harms competition in the market for local telecommunications service.¹³ Indeed, both the DOJ and the Commission have recognized that proper billing is essential to competition:

The [DOJ] noted in its Pennsylvania Evaluation, for example, that 'accurate and auditable electronic bills are an important factor in making local telecommunications markets fully and irreversibly open to competition.' In the same proceeding, the FCC noted that undependable billing diverts CLEC resources to bill reconciliation and bill correction,

⁹ *Id.*

¹⁰ *See* Attachment B (Claim Resolution Form provided by Ameritech fails to identify the precise telephone number and accounts that were adjusted); Attachment C (Claim Resolution Form provided by Ameritech fails to specify the source of the rate charged); Attachment D (Claim Resolution Form provided by Ameritech fails to specify invoices for which credit was already received); Attachment E (Claim Resolution Form provided by Ameritech fails to identify the precise telephone number and accounts that were adjusted).

¹¹ *Id.* at 6-7.

¹² *Id.* at 6-7.

¹³ DOJ Evaluation at 11.

hampers CLEC ability to raise capital because improper overcharges are carried on the CLEC's financial reports, diminishes CLEC capacity to adjust prices and expenses in response to competition, and deprives CLECs of revenue because they are unable to backbill previously undercharged end users.”¹⁴

Furthermore, based on the comments filed in this proceeding, the DOJ observes that Ameritech has trouble generating accurate bills.¹⁵ Accordingly, as demonstrated by the experience of Z-Tel, the failure of Ameritech to provide adequate wholesale bills to CLECs operating within the State of Michigan significantly hampers the development of local telecommunications competition.

B. The DOJ Evaluation Supports That Ameritech Fails To Provide Nondiscriminatory Access To Line Loss Information

The Opposition of Z-Tel clearly demonstrates that Ameritech's persistent failure to provide accurate, timely, and reliable line loss information to CLECs threatens severe adverse effects on the development of local telecommunications competition within the State of Michigan. In particular, the provision of accurate, timely, and reliable line loss reports is critical to the billing functions of UNE-P providers, such as Z-Tel, that have no choice but to rely entirely upon line loss information provided by Ameritech to determine whether any of their customers have discontinued telephone service, or otherwise have accepted service from an alternative carrier.¹⁶ Consequently, the failure of Ameritech to provide accurate, timely, and reliable line loss reports frequently causes CLECs to “double bill” their former customers for telephone service that has been discontinued.¹⁷ Such billing errors by Ameritech inevitably

¹⁴ *Id.*

¹⁵ *Id.* at 10-11. *See also* Opposition of Z-Tel at 5-6; Comments of WorldCom at 12.

¹⁶ *See* Opposition of Z-Tel at 5; Comments of WorldCom at 10-11. Comments of AT&T at 18.

¹⁷ Opposition of Z-Tel at 5.

damages the business reputation of CLECs operating within the State of Michigan, and at the same time, diverts CLEC resources to the resolution of needless customer complaints.¹⁸

The DOJ Evaluation notes that operational deficiencies related to the provision of line loss notifications by Ameritech – including missing notifications, notifications lacking conversion dates, notifications omitting the disconnected telephone number and unreadable notifications – adversely impacts CLECs within the State of Michigan, and throughout Ameritech’s five-state footprint.¹⁹ The Michigan Public Service Commission also has concluded that “double-billing” by CLECs, as a result of Ameritech’s failure to provide accurate, timely and reliable line loss notifications, “may have serious negative effects on the reputations of...competitive providers.”²⁰ The DOJ Evaluation further notes that problems related to the deficient provision of line loss notifications to CLECs by Ameritech have persisted over several years, and have impacted several Ameritech states.²¹

In fact, as the DOJ recognized, the Illinois Commerce Commission has granted Z-Tel’s complaint regarding Ameritech’s failure to provide to Z-Tel adequate line loss information. Specifically, the Illinois Commerce Commission concluded that Ameritech “impaired the speed, quality, or efficiency of services used by Z-Tel through the provisioning of late and inaccurate” line loss notifications, and that these actions “have had an adverse effect on the ability of Z-Tel to provide service to its customers.”²² Accordingly, the limited progress heralded by Ameritech’s Application provides no assurance that a trouble free environment exists now, or

¹⁸ *Id.* at 5-6.

¹⁹ DOJ Evaluation at 9.

²⁰ DOJ Evaluation at 9 (quoting Opinion and Order of the Michigan Public Service Commission, Case No. U-12320 at 6 (Dec. 20, 2001)).

²¹ *See* DOJ Evaluation at 8-10.

²² DOJ Evaluation at 10 (quoting Order of the Illinois Commerce Commission, Docket No. 02-0160 at 16 (Feb. 27, 2002)).

will exist in the future. Ameritech must demonstrate a verifiable track record of timely, accurate, and nondiscriminatory line loss performance before this serious problem is declared “fixed.”

That track record simply does not exist today.

III. CONCLUSION

As demonstrated above, Ameritech’s Application for section 271 relief does not establish that the market for local telecommunications service within the State of Michigan is “fully and irreversibly” opened to competition. Moreover, because Ameritech fails to provide to CLECs nondiscriminatory access to the OSS UNE, the Application of Ameritech fails to satisfy competitive checklist item 2. Accordingly, the Commission, consistent with the recommendation of the United States Department of Justice and the evidence presented by Z-Tel in this proceeding should not approve the Application of Ameritech for Section 271 relief.

Respectfully submitted,



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(202) 955-9600

Counsel for Z-Tel Communications, Inc.

ATTACHMENT A

AREA	PO NUMBER	QUANTITY	BAN	USOC	DESCRIPTION	DEREGULATED	STATE	ANI	FROM DATE	BILL DATE	AMT LOCAL	INTRAINTRA D	INTRASTATE	INTERINTRA	INTERSTATE
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20020730	20030213	0	0	51	0	0
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20020730	20030213	0	0	51	0	0
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20020730	20030213	0	0	51	0	0
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20020730	20030213	0	0	51	0	0
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20020730	20030213	0	0	51	0	0
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20020830	20030213	0	0	51	0	0
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20020830	20030213	0	0	51	0	0
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20020930	20030213	0	0	51	0	0
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20021030	20030213	0	0	51	0	0
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20020930	20030213	0	0	51	0	0
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20020830	20030213	0	0	51	0	0
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20020830	20030213	0	0	51	0	0
313		0	313G781013013	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI		20020930	20030213	0	0	51	0	0
313		0	313G781016016	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI	989.362.5636	20021030	20030213	0	0	51	0	0
313		0	313G781017017	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI	517.787.2462	20020930	20030213	0	0	51	0	0
313		0	313G781017017	VRP	CHARGE VISIT ASSOC WITH REPAIR -	DEREGULATED	MI	517.787.2462	20020930	20030213	0	0	51	0	0

□

ATTACHMENT B

Freedson, Brett

From: SP1298@SBC.COM
Sent: Friday, September 27, 2002 10:59 AM
To: TAEICHENBERGER@Z-TEL.COM
Cc: SP1298@SBC.COM
Subject: Resolution of a Claim

SBC Industry Markets Dispute/Claim Resolution Form**Region - AIT****Business Group - LSC**

804 MILWAUKEE

FLOOR 3

MILWAUKEE , WI 53202

09/27/2002

Customer Information:**Customer Name:** Z-TEL COMMUNICATIONS INC**ACNA:** ELZ**AECN:****Customer Contact:** TONYA EICHENBERGER**Telephone No:** (813) 233 - 4584**Fax No:** (813) 233 - 4625**Email:** TAEICHENBERGER@Z-TEL.COM**Customer Address:** Z-TEL COMMUNICATIONS, INC
601 S HARBOUR ISLAND BLVD
TAMPA , FL 33602

Account Information:**Account Identifier:** 313G781013013**Circuit ID/WTN:****CLLI:****PON:****Bill Date:** 03/13/2002

Claim Information:**Customer Claim:** MI TE 0007**SBC Claim:** LWA000206033**Spreadsheet Identifier:****No of Line Items:****Order No:****Received Date:** 05/03/2002**Acknowledge Date:** 05/07/2002**Resolve Date:** 09/27/2002**Amount Claimed (\$):** 2,217.82**Reason for Claim:** CHARGES-OTHER NRC

Resolve:

Amount Adjusted (\$): 944.32

Correcting Order:

Resolution: Claim has been credited \$944.32 which should appear on your next billing cycle statement. Credit was issued for assume orders bill incorrectly for usoc NHCHD. All other tns on claim were new or move orders and were billed correctly.

Representative: SHERRY PROCHASKA

Telephone No: (414) 227 - 2816

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ATTACHMENT C

Freedson, Brett

From: gm2613@sbc.com
Sent: Friday, September 27, 2002 10:50 AM
To: TAEICHENBERGER@Z-TEL.COM
Cc: gm2613@sbc.com
Subject: Resolution of a Claim

SBC Industry Markets Dispute/Claim Resolution Form**Region - AIT****Business Group - LSC**

804 MILWAUKEE

FLOOR 3

MILWAUKEE , WI 53202

09/27/2002

Customer Information:**Customer Name:** Z-TEL COMMUNICATIONS INC**ACNA:** ELZ**AECN:****Customer Contact:** TONYA EICHENBERGER**Telephone No:** (813) 233 - 4584**Fax No:** (813) 233 - 4625**Email:** TAEICHENBERGER@Z-TEL.COM**Customer Address:** Z-TEL COMMUNICATIONS, INC
601 S HARBOUR ISLAND BLVD
TAMPA , FL 33602

Account Information:**Account Identifier:** 313G781017017**Circuit ID/WTN:****CLLI:****PON:** ZTL0000000004706**Bill Date:** 07/13/2002

Claim Information:**Customer Claim:** MI TE 0182**SBC Claim:** LWA000232967**Spreadsheet Identifier:** 4049**No of Line Items:** 41**Order No:** R2387410956**Received Date:** 08/07/2002**Acknowledge Date:** 08/20/2002**Resolve Date:** 09/27/2002**Amount Claimed (\$):** 5.74

Reason for Claim: Z-Tel Communications is disputing the charges billing under USOC, SEPUP due to their being incorrectly billed. The MPSC NO20R tariff, Part 19, Section 15, Page No. 8 states that

3/4/2003

For currently Combined installations, the non-recurring installation charges for the requested port type will apply pursuant to Part 19, Section 21, Unbundled Local Switching with Shared Transport. MPSC NO20R tariff Part 19, Section 15 Page No. 8 refers to the NRC rates in Part 19, Section 3 and according to Part 19, Section 3 Page No. 43, the non-recurring charge for port installation service orders is \$3.02 per occasion.

Resolve:**Amount Adjusted (\$):** 0.00**Correcting Order:****Resolution:** \$3.16 is a valid charge for SEPUP**Representative:** GLORIA MCCLENDON**Telephone No:** (414) 227 - 2852

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ATTACHMENT D

Freedson, Brett

From: jo8589@sbc.com
Sent: Wednesday, September 18, 2002 3:49 PM
To: TAEICHENBERGER@Z-TEL.COM
Cc: jo8589@sbc.com
Subject: Resolution of a Claim

SBC Industry Markets Dispute/Claim Resolution Form**Region - AIT****Business Group - LSC**

804 MILWAUKEE

FLOOR 3

MILWAUKEE , WI 53202

09/18/2002

Customer Information:**Customer Name:** Z-TEL COMMUNICATIONS INC**ACNA:** ELZ**AECN:****Customer Contact:** TONYA EICHENBERGER**Telephone No:** (813) 233 - 4584**Fax No:** (813) 233 - 4625**Email:** TAEICHENBERGER@Z-TEL.COM**Customer Address:** Z-TEL COMMUNICATIONS, INC
601 S HARBOUR ISLAND BLVD
TAMPA , FL 33602

Account Information:**Account Identifier:** 313G781016016**Circuit ID/WTN:****CLLI:****PON:****Bill Date:** 04/13/2002

Claim Information:**Customer Claim:** IL TE 0077**SBC Claim:** LWA000205959**Spreadsheet Identifier:****No of Line Items:****Order No:****Received Date:** 05/03/2002**Acknowledge Date:** 05/07/2002**Resolve Date:** 09/18/2002**Amount Claimed (\$):** 1,846.94**Reason for Claim:**

Resolve:

Amount Adjusted (\$): 1,665.28

Correcting Order:

Resolution: We issued \$1665.28 in credits that you should see on your 09-02 Invoice. All other detail on this claim has received their credits on previous invoices.

Representative: JOHN ORR

Telephone No: (414) 227 - 2825

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ATTACHMENT E

Freedson, Brett

From: SP1298@SBC.COM
Sent: Friday, September 27, 2002 10:59 AM
To: TAEICHENBERGER@Z-TEL.COM
Cc: SP1298@SBC.COM
Subject: Resolution of a Claim

SBC Industry Markets Dispute/Claim Resolution Form**Region - AIT****Business Group - LSC**

804 MILWAUKEE

FLOOR 3

MILWAUKEE , WI 53202

09/27/2002

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3/4/2003

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Amount Adjusted (\$): 944.32

Correcting Order:

Resolution: Claim has been credited \$944.32 which should appear on your next billing cycle statement. Credit was issued for assume orders bill incorrectly for usoc NHCHD. All other tns on claim were new or move orders and were billed correctly.

Representative: SHERRY PROCHASKA

Telephone No: (414) 227 - 2816

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