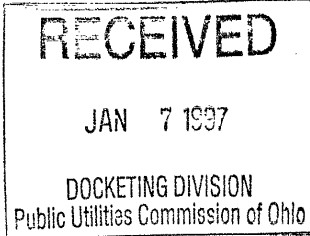


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1 BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO
2
3
4 IN THE MATTER OF THE COMPLAINT)
5 OF THE OHIO CABLE TELECOMMUNI-)
6 CATIONS ASSOCIATION, COAXIAL)
7 COMMUNICATIONS, INC., V CABLE, INC.)
8 AND TIME WARNER CABLE,)
9)
10 Complainants,)
11 v.) CASE NO. 96-1027-TP-CSS
12)
13 AMERITECH OHIO,)
14)
15 Respondent.)
16)
17 RELATIVE TO ALLEGED VIOLATIONS OF)
18 SECTION 4905.71, REVISED CODE AND)
19 47 U.S.C. § 224(F)(1) REGARDING)
20 DISCRIMINATORY TREATMENT OF)
21 POLE ATTACHMENTS BY CABLE)
22 TELEVISION OPERATORS.)
23
24
25
26
27



28 DIRECT TESTIMONY OF JOEL S. RUDICH

29 Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.
30
31 ANSWER: My name is Joel S. Rudich, and I am the President and CEO of Coaxial
32 Communications located at 3770 East Livingston Avenue, Columbus, Ohio 43227.
33
34 Q2. WOULD YOU SUMMARIZE YOUR EDUCATIONAL TRAINING AND WORK
35 EXPERIENCE?
36
37 ANSWER: I have a BS Degree from New York University and an MS Degree from Stevens
38 Institute of Technology. In addition, I have a Certificate from the Ohio University's Executive
39 Development Program.

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.
Technician SW Date Processed 1-8-97

1 I joined Coaxial Communications in 1984 as its President and Chief Operating
2 Officer. In 1991, I assumed the position of President and CEO, the position I hold today.

3 During this period I also held the position of President and CEO of Flori-Gas and
4 Flori-Vision. These were 2 Florida partnerships with which Coaxial was involved in Florida to
5 provide cable and propane service.

6 Prior to joining Coaxial, I was employed for 3 years by Warner-Amex Cable
7 Communications, first as Regional Vice President and then as Vice President, Administration.

8 Prior to Warner-Amex, I spent two and a half years as Senior Vice President,
9 Operations for the Lillian Vernon Corporation, a major catalog mail order company.

10 From 1972 to 1980, I was employed by the Xerox Corporation. The positions I
11 held were Regional Logistics and Distribution Manager, National Manager Field Distribution
12 Operations, and Field Distribution Operations Manager.

13 Prior to my employment at Xerox, I held positions as an Industrial Engineer and
14 Systems Analyst and Manager.

15 Q3. WHO AUTHORIZED YOU TO FILE TESTIMONY IN THIS PROCEEDING?

16 ANSWER: Each of the complainants has authorized me to provide information regarding the
17 preferential treatment given by Ameritech Ohio to Ameritech New Media, Inc. ("New Media")
18 relating to pole attachments, and the effect of that preferential treatment on the complainants and
19 the public interest.

20 Q4. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

21 ANSWER: The purpose of my testimony is to address several issues pertinent to this
22 proceeding. First, I will provide a review of the unfair financial advantage that New Media has

1 been given by Ameritech Ohio by being permitted to build its cable television system on telephone
2 poles under standards significantly different from those applied to non-affiliated cable operators
3 by Ameritech Ohio. Next, I will explain to the Commission how this preferential advantage given
4 to New Media by Ameritech Ohio is really a cross-subsidization. I will also address the need for
5 the Commission to establish uniform standards throughout Ohio with respect to pole attachments,
6 which would apply to all electric and telephone companies. Finally, I will state and explain the
7 relief requested by the complainants and provide some alternatives to the Commission in its
8 administrative oversight of pole attachments.

9

10 **I. Financial Impact of Ameritech Ohio's Discriminatory Treatment**

11 Q5. WHAT ARE THE STANDARDS APPLIED TO NEW MEDIA AND HOW ARE THEY
12 DIFFERENT FROM THOSE APPLIED TO NON-AFFILIATED CABLE COMPANIES?

13 ANSWER: As testified by other witnesses in this proceeding, Ameritech Ohio has required
14 non-affiliated cable operators to go through a "permitting process" and to participate in a "joint
15 ride-out" before such cable operators are permitted to construct their systems. Non-affiliated
16 cable operators, such as Coaxial Communications, have been required by Ameritech Ohio to
17 attach to poles above the telephone attachments on poles and at a point which would achieve the
18 required clearances. Our company has not been permitted to use stand-off brackets or extension
19 brackets in order to avoid having to purchase longer poles in situations where adequate clearances
20 could not be achieved vertically. Finally, non-affiliated cable operators have been required to
21 maintain mid-span clearances with respect to other cables on the poles.

1 New Media has been permitted by Ameritech Ohio to build its cable system on
2 Ameritech Ohio's poles and to use its joint use agreement with AEP in such a manner that clearly
3 discriminates against non-affiliated cable operators. For example, New Media is permitted to
4 build its plant without first going through a permitting process for the use of such poles. Second,
5 New Media has been permitted to build its plant without participating in a joint ride-out where all
6 attachees on a pole meet and evaluate the need for clearances and make ready work for each pole.
7 Third, New Media is being permitted by Ameritech Ohio to attach to poles at positions that have
8 been denied to existing cable operators. Specifically, New Media has been allowed to attach
9 below the telephone attachment. New Media has also been allowed to use stand-off brackets or
10 extension brackets to achieve clearances and to avoid having to purchase longer poles. Finally,
11 Ameritech Ohio has permitted New Media to deviate from maintaining mid-span clearances or
12 "following the sag" of other attachees.

13 Q6. ARE YOU ABLE TO QUANTIFY WITH PRECISION THE FINANCIAL
14 MAGNITUDE OF THE ADVANTAGE THAT NEW MEDIA HAS RECEIVED BY VIRTUE
15 OF AMERITECH OHIO ALLOWING NEW MEDIA TO BUILD ITS SYSTEM UNDER
16 DIFFERENT STANDARDS FROM THOSE APPLIED TO YOUR COMPANY?

17 ANSWER: No. I do not have access to New Media's costs. But I have made a reasonable
18 estimate of make-ready costs which are the type of costs that New Media is not incurring.

19 Depending on whether it is an urban area or a rural area, the number of poles per
20 mile can vary for a cable system from 20 to 60 poles per mile. Given the fact that New Media is
21 constructing its system in the City of Columbus, it is reasonable to estimate that the number of
22 poles per mile in the area that New Media is building is approximately 50 per mile. Of the 50

1 poles per mile, it is reasonable to estimate that two of those poles would need to be "changed
2 out" or replaced at a cost of \$1,500 per pole. The average level of make-ready costs on the other
3 48 poles in that mile would be approximately \$125.00 per pole. Thus, the cost per mile for make-
4 ready costs which New Media is avoiding is \$9,000 per mile or approximately \$180 per pole.
5 Thus, for every 100 miles of construction, the make-ready costs would be \$900,000.

6 New Media's capital costs for construction and maintenance costs also are less
7 than the non-affiliated cable operators' costs because it doesn't take as much time to build a
8 system below the telephone attachment compared with building it above someone else's
9 attachments, the use of brackets avoids the costs of buying a longer pole, and occupying the
10 lower portion of the pole will reduce, if not eliminate future make-ready and maintenance costs.

11 Therefore, New Media's costs are lower and it can offer service for lower rates
12 and still achieve the same or better return on its investment than the existing cable operator.

13 Q7. WOULD YOU PLEASE DEFINE THE TERM "MAKE-READY" COSTS?

14 ANSWER: "Make-ready" is the process of preparing or making a pole ready to accept a new
15 attachment. Given the fact that many poles have more than one attachment and that specific
16 clearances must be adhered to, the make-ready process involves rearranging the existing
17 attachments on a pole to make it ready for a new attachment as per the policy applied to non-
18 affiliated cable operators. In cases where the height of the pole is insufficient to accept a new
19 attachment, a new pole must be purchased and installed. The costs of rearranging the attachments
20 on existing poles and purchasing and installing a longer new pole, known as make-ready costs, are
21 borne by the company that proposes a new attachment to the pole. In addition to the costs

1 associated with the physical activity on each pole, significant manpower is spent to permit and
2 conduct the actual ride-out of each pole with all the companies that are attached to the pole.

3 Q8. ONE OF THE ASPECTS OF DISCRIMINATION YOU IDENTIFY IS THAT NEW
4 MEDIA IS PERMITTED TO ATTACH ITS CABLE BELOW THE TELEPHONE
5 ATTACHMENTS. IS IT MORE EXPENSIVE TO BUILD A CABLE TELEVISION SYSTEM
6 ON UTILITY POLES BELOW THE TELEPHONE ATTACHMENT OR ABOVE THE
7 TELEPHONE ATTACHMENT ON A POLE?

8 ANSWER: It is clearly less expensive for a cable operator to construct its system below the
9 telephone attachments on a pole. Since attachments are made at the lowest position on the pole,
10 installation/attachments can be made at a lower cost since there isn't any interference from any
11 other attachments on the pole, and thus little or no make-ready cost. Construction also can be
12 done more rapidly below the lowest attachment on a pole, thereby saving labor costs and other
13 construction costs. So there is a cost advantage of being allowed to attach below telephone
14 attachment at the lowest position.

15 Q9. IS THERE A DIFFERENCE BETWEEN THE AVERAGE AMOUNT OF MAKE-
16 READY COSTS PER POLE FOR ATTACHMENTS THAT MUST BE REARRANGED
17 ABOVE THE TELEPHONE ATTACHMENT COMPARED TO THE AMOUNT OF MAKE-
18 READY COSTS INCURRED BELOW THE TELEPHONE ATTACHMENT?

19 ANSWER: Yes.

20 Q10. HAVE YOU ESTIMATED THE DIFFERENCE BETWEEN WHAT THE AVERAGE
21 AMOUNT OF MAKE-READY COSTS ARE FOR A CABLE OPERATOR WHO ATTACHES
22 ABOVE THE TELEPHONE ATTACHMENT AND THE AVERAGE MAKE-READY COSTS

1 LEVEL FOR A CABLE OPERATOR WHO ATTACHES BELOW THE TELEPHONE
2 ATTACHMENT?

3 ANSWER: As I have stated, there should not be any make-ready costs if attachments are
4 made below the telephone attachment or an offset bracket is used.. This, of course, assumes that
5 the telephone lines are installed at least at the proper clearances. Make-ready costs can vary from
6 zero to several thousand dollars per pole. In "older" areas of a city, the costs are usually at the
7 higher end of the scale. In newer suburban areas where there are poles, the poles are usually less
8 congested and so the cost is usually at the lower end of the scale. If all the current attachees have
9 their wires above the telephone attachment, and New Media can now install one foot below
10 telephone, there aren't any make-ready costs for New Media.

11 Q11. IS THERE ALSO A TIME SAVINGS BENEFIT TO NEW MEDIA IN BUILDING A
12 CABLE SYSTEM BELOW THE TELEPHONE ATTACHMENT ON POLES COMPARED
13 TO BUILDING A SYSTEM ABOVE A TELEPHONE ATTACHMENT?

14 ANSWER: Yes. It is faster to build if there aren't any obstructions to face. The lowest
15 position on the pole affords New Media this advantage.

16 Q12. WHEN COAXIAL WAS BUILDING ITS SYSTEM, WAS IT EVER CONFRONTED
17 WITH THE SITUATION WHEN IT WANTED TO ATTACH A CABLE TO AN
18 AMERITECH POLE BUT THERE WAS NOT ENOUGH SPACE ON A POLE ABOVE THE
19 TELEPHONE ATTACHMENT TO ACCOMMODATE SUCH AN ATTACHMENT?

20 ANSWER: Yes. In those situations Coaxial was required to purchase a new, longer pole and
21 pay for removal of the old pole, as well as reinstallation and rearrangement costs. We did not
22 have the opportunity to use brackets or extension arms to avoid purchasing a new pole. The

1 sample pole attachment agreement between Ohio Bell and Coaxial attached to Dan McKay's
2 testimony (Attachment DM-I) expressly provides: "Cable arms shall not be used in lieu of any
3 additional pole height that may be required." See Appendix 2, Section 21, page 4 of DM-I
4 attached to Dan McKay's testimony. While we have a contractual restriction on the use of arms
5 or brackets in lieu of any additional pole height, New Media apparently does not have this
6 restriction. To my knowledge, Ameritech Ohio never proposed amending our agreement to
7 delete this restriction to create an equitable position.

8 Q13. HAVE YOU COMPARED THE COSTS OF PURCHASING A LONGER
9 REPLACEMENT POLE WITH THE COSTS OF MERELY INSTALLING BRACKETS OR
10 EXTENSION ARMS ON THE EXISTING UTILITY POLE IN ORDER TO GAIN
11 REQUIRED CLEARANCES HORIZONTALLY?

12 ANSWER: No. We haven't conducted any studies for our own construction planning because
13 we were never afforded the opportunity to use these brackets or arms to maintain clearances.
14 However, a bracket typically costs less than a hundred dollars and a new pole costs about \$1,000-
15 \$1,500. Unlike New Media, Coaxial never had the opportunity to choose the bracket/extension
16 arm option.

17 Q14. IS THERE ALSO A TIME SAVING BENEFIT TO NEW MEDIA IN BUILDING A
18 CABLE SYSTEM USING BRACKETS OR EXTENSION ARMS TO GAIN CLEARANCE IN
19 LIEU OF HAVING TO REINSTALL A LARGER POLE?

20 ANSWER: Absolutely. It is far less time consuming to install a bracket or arm on an existing
21 pole than it is to remove all attachments from an existing pole, remove the existing pole, reinstall a
22 longer pole, and reinstall all the attachments on the newer, longer pole.

1 Q15. CAN YOU ESTIMATE APPROXIMATELY HOW MANY POLES NEW MEDIA HAS
2 ATTACHED TO IN OHIO IN AREAS SERVICED BY YOUR COMPANY?

3 ANSWER: I can only estimate because New Media hasn't had to go through the permitting
4 process. But, I would estimate that they have built approximately 1,000 miles in Coaxial's service
5 territory alone and assuming 50 poles per mile, that would be 50,000 poles.

6 Q16. ASSUME YOUR COMPANY WERE PERMITTED TO BEGIN CONSTRUCTION OF
7 A CABLE SYSTEM PLANT FOR THE FIRST TIME BY BUILDING UNDER TELEPHONE
8 ATTACHMENTS ON UTILITY POLES AND BY USING BRACKETS OR EXTENSION
9 ARMS TO GAIN CLEARANCE INSTEAD OF PURCHASING A LONGER POLE. ASSUME
10 FURTHER THAT YOUR COMPETITOR HAD ALREADY BUILT ITS PLANT AND HAD
11 BEEN REQUIRED TO BUILD ITS PLANT ABOVE THE TELEPHONE ATTACHMENTS
12 AND WAS NOT PERMITTED TO USE BRACKETS TO GAIN CLEARANCE IN LIEU OF
13 PURCHASING A LARGER POLE. WOULD YOU CONSIDER THAT YOU WOULD HAVE
14 AN UNDUE ADVANTAGE OVER YOUR COMPETITOR?

15 ANSWER: Absolutely.

16 Q17. IN WHAT WAY COULD THIS UNDUE ADVANTAGE BE EXPLOITED?

17 ANSWER: If we could gain an undue preferential advantage by reducing our capital
18 investment, our maintenance costs, our labor costs, and by getting an undue preference on the
19 early timing of our market entry, we could drive out competition in effect by forcing it to lower
20 prices below its costs. We could also use that preferential advantage to impede new market
21 entrants. This could become a war of attrition. Keep in mind, these cost differentials do not
22 reflect advantages due to newer, more efficient technologies that could be argued to be legitimate

1 differences between providers. These cost differentials reflect nothing more nor less than the
2 decision of the telephone company to provide more favorable conditions to one of the cable
3 providers.

4 Q18. WOULD YOU PLEASE EXPLAIN HOW THESE FINANCIAL ADVANTAGES AND
5 THE TIME SAVINGS BENEFITS TO NEW MEDIA HAVE AFFECTED YOUR COMPANY
6 AND OTHER EXISTING CABLE OPERATORS WHO ARE NOT AFFILIATED WITH
7 AMERITECH OHIO?

8 ANSWER: A cable television system is a capital intensive business. If New Media can obtain
9 an undue preferential advantage by reducing its capital investment in pole attachments, its costs,
10 and saving time, it can price its service well below Coaxial and other cable operators and drive
11 them out of business before they have a chance to respond. It also creates a substantial
12 impediment to new entrants who are not given the preferential treatment afforded New Media and
13 thus will incur substantially higher pole attachment construction and make-ready costs than New
14 Media.

15

16 **II. Cross-Subsidization**

17

18 Q19. DOES THE PREFERENTIAL TREATMENT GIVEN TO NEW MEDIA BY
19 AMERITECH OHIO IN POLE ATTACHMENTS CONSTITUTE CROSS-SUBSIDIZATION?

20 ANSWER: Yes. Cross-subsidization can come in many forms, some direct and some indirect.
21 The cable television industry has developed over the last four decades in this county based upon
22 building a system or network attached to public utility poles, conduits and trenches. Cable

1 television operators have been required to build and attach to public utility property under a
2 certain set of standards resulting in the incurrence of a certain level of costs. Cable operators
3 have not been permitted to attach just anywhere; public utilities have reserved space and positions
4 on their property, including poles, for themselves and their public utility customers.

5 Suddenly, in 1995, Ameritech Ohio unilaterally changed its pole attachment policy,
6 not because the NESC changed in 1990, but because it wanted to favor its own cable affiliate,
7 New Media. The only possible beneficiary of these changes is New Media. Ameritech Ohio has
8 in effect given away what was once its reserved position on poles and given that to New Media.
9 This is a classic example of Ameritech Ohio leveraging its ownership position with respect to its
10 property in order to cross-subsidize its affiliate, New Media. This preferential advantage was not
11 earned or paid for by New Media; it was given to it by Ameritech Ohio. This is cross-
12 subsidization.

13 Q20. ARE OTHER TELEPHONE COMPANIES (OTHER THAN AMERITECH) GIVING A
14 PREFERENTIAL ADVANTAGE TO NEW MEDIA?

15 ANSWER: No. I understand that this problem is unique to Ameritech although similar
16 preferential advantages may be given to New Media by the Ameritech telephone company in other
17 states.

18 Q21. HOW CAN THIS PROBLEM BE AVOIDED?

19 ANSWER: Much damage already has been done, which obviously cannot be avoided. What
20 the Commission must do is to prevent it from continuing and it must also require Ameritech to
21 direct that New Media take corrective action to place New Media onto a level playing field with
22 non-affiliated cable operators, as respects pole attachments.

1

2 **III. Need for Uniform Statewide Standards**

3 Q22. WHY ARE UNIFORM STANDARDS FOR UTILITY POLE ATTACHMENTS
4 NECESSARY?

5 ANSWER: Obviously, there are hundreds of thousands of utility poles throughout Ohio. My
6 company does business in many different areas of the state, and the OCTA has members all over
7 the state who attach to these poles. While New Media has only begun its construction activities in
8 certain areas in Franklin and Cuyahoga Counties, these issues involving discrimination are bound
9 to arise elsewhere. If the Commission can set forth clear guidelines in this case, we may be able
10 to avoid expensive litigation concerning New Media's attachments in other areas in the future.

11

12 **IV. Relief Requested by Complainants**

13 Q23. WHAT IS THE RELIEF THE COMPLAINANTS ARE SEEKING IN THIS CASE?

14 ANSWER: The complainants are asking that the Commission find that Ameritech Ohio has
15 discriminated in favor of its cable television affiliate, New Media, with respect to the attachment
16 to utility poles and that such discriminatory treatment is unjust, unreasonable, and unlawful. The
17 complainants ask that Ameritech be directed to cease such discriminatory treatment and be
18 directed to treat all pole attachees on a non-discriminatory basis. Ameritech Ohio should treat its
19 cable television affiliate, New Media, in the same manner and in the same way it has treated the
20 non-affiliated cable operator complainants with respect to attachments to utility poles and
21 attachment fees. This would include requiring all public utilities to conduct a standardized ride-
22 out procedure in which all parties with attachments on poles would be invited to participate.

1 Further, the complainants ask that Ameritech Ohio require New Media to remove, vacate,
2 rearrange, or dismantle all discriminatory attachments or favored positions. To the extent
3 Ameritech Ohio engages in the provision of telecommunications or cable services, the
4 complainants ask the Commission to direct Ameritech Ohio to impute to its cost of providing
5 such service (and charge any affiliate such as New Media) an equal amount to the pole attachment
6 rate for which such company would be liable pursuant to Section 703(g) of the
7 Telecommunications Act of 1996. The complainants also ask for any other relief necessary to
8 achieve a non-discriminatory environment in Ohio with respect to the attachment of facilities to
9 utility poles.

10 Q24. WHY ARE THE COMPLAINANTS SEEKING THAT RELIEF?

11 ANSWER: If the cable television market is to have competition, Ameritech Ohio cannot be
12 allowed to give New Media an undue preferential advantage. This Commission can and must
13 require Ameritech Ohio to cease giving New Media significant undue preferences with respect to
14 pole attachments.

15 Q25. WOULD IT BE SATISFACTORY RELIEF FOR THE COMMISSION TO ORDER
16 AMERITECH OHIO TO REOPEN ITS POLE APPLICATION PROCESS EQUALLY TO ALL
17 THOSE NON-AFFILIATED CABLE OPERATORS WHO MIGHT WANT TO ATTACH
18 WHERE NEW MEDIA HAS ON THE POLES?

19 ANSWER: No. The non-affiliated cable operators have already sunk their investment into
20 their own systems. Such relief will only benefit New Media.

1 Q26. WHAT DO YOU ASK THE COMMISSION TO ORDER WITH RESPECT TO NEW
2 MEDIA'S EXISTING CABLE PLANT, AND WHY DO YOU BELIEVE THAT RELIEF IS
3 NECESSARY AND APPROPRIATE?

4 ANSWER: We ask that the Commission direct Ameritech Ohio to require New Media to cure
5 all existing pole violations before it allows New Media to continue building. Specifically,
6 Ameritech Ohio should be directed to require New Media to (1) relocate the existing plant above
7 the phone attachment; (2) eliminate the use of brackets except in extenuating circumstances where
8 use of a bracket is required (e.g., to avoid a tree or other obstacle); and (3) correct any instances
9 where New Media's cable fails to maintain an 18' road clearance or required vertical or mid-span
10 clearance. We think that this is appropriate relief given the fact that New Media knew of the risk
11 it took by building under a different standard, and since this relief is necessary to put New Media
12 in the same position as the non-affiliated cable operators in Ohio, as a non-discriminatory standard
13 would require.

14 Q27. HOW WILL THE RELIEF YOU REQUEST AFFECT NEW MEDIA?

15 ANSWER: It should not. While I have not seen New Media's business plan for entering the
16 cable business, it should have included the costs to build a system without preferential treatment.
17 So, if New Media now has to build a system according to the rules that all the other cable
18 operators have had to abide by, this should not hurt New Media. On the other hand, if New
19 Media knew in advance that it was going to build according to a new standard of construction, it
20 had to know the risks in 1995.

21 Q28. HOW WILL THE RELIEF YOU REQUEST AFFECT OTHER COMPANIES THAT
22 MIGHT WANT TO ENTER THE CABLE TELEVISION BUSINESS IN OHIO?

1 ANSWER: It should not affect the decision to enter the market one way or the other, although
2 new entrants would now know that they can do business in a fairer competitive environment as
3 opposed to the existing environment where one competitor enjoys substantial unfair advantages.

4 Q29. IN THE EVENT THE COMMISSION DOES NOT AWARD ALL OF THE RELIEF
5 YOU DESCRIBED ABOVE, DO YOU HAVE ANY ALTERNATIVE REMEDIES?

6 ANSWER: Yes. If the Commission does not choose to direct Ameritech Ohio to require the
7 dismantling of previously installed plant, then it should at least require Ameritech Ohio to direct
8 New Media to (a) correct all safety related concerns (use of brackets, mid-span clearance
9 violations, and low clearances) on existing plant and (b) build all new prospective plant at the
10 same standards that were applied to non-affiliated cable operators. (18' road clearances, build
11 above the telephone attachments, no brackets or extension arms will be used to avoid having to
12 purchase a longer pole). In addition, the Commission should require that complainants be given
13 financial compensation for the competitive advantage given New Media by Ameritech. This
14 would put New Media in the same position as non-affiliated cable operators with respect to the
15 prospective plant.

16 Q30. WOULD YOU EXPLAIN WHAT YOU MEAN BY THE FINANCIAL
17 COMPENSATION YOU REFERENCED ABOVE?

18 ANSWER: Yes. If Ameritech Ohio is going to be permitted to allow its affiliate New Media
19 to keep the benefits of the preferential treatment it has been given, complainants should at a
20 minimum be given financial compensation for the competitive advantage given New Media.
21 Currently, Coaxial and non-affiliated cable operators pay to Ameritech Ohio pole attachment fees,
22 at a set rate per pole provided in Ameritech's existing tariff, and similar fees for cables installed in

1 trenches and conduit. The non-affiliated cable operators should be given a monetary credit of
2 those fees to compensate them for the financial benefits New Media receives from Ameritech
3 Ohio's preferential treatment.

4 Q.31. DO YOU HAVE ANY OTHER ALTERNATIVES?

5 ANSWER: Yes. If the Commission chooses not to require Ameritech Ohio to direct New
6 Media to dismantle all of its existing attachments and not to build new plant at the same standards
7 applied to non-affiliated cable operators, then as an alternative, the Commission should at a
8 minimum order that certain corrective action be taken for safety reasons and to ensure equal
9 treatment under what Ameritech Ohio now claims are the applicable "standards."

10 First the Commission should direct Ameritech Ohio to order New Media to
11 immediately: a) fix all previously installed attachments that do not meet the National Electrical
12 Safety Code and that depart from safe practices; and b) change its construction practices so that
13 all future installation of attachments comply with the NESC and safe practices. This will include
14 that all attachments cross roadways at 15' 6" under fully loaded conditions. This would mean
15 that Ameritech Ohio should require New Media to demonstrate to it that it is in compliance with
16 such and NESC road crossing clearance requirements.

17 Second, Ameritech Ohio must require New Media to maintain adequate vertical
18 and mid-span clearance on all of its attachments and to immediately correct all instances where
19 vertical and mid-span clearance has not been met. The photographs submitted in this case by the
20 Complainants demonstrate that New Media is not always maintaining vertical and mid-span
21 clearance. Relatedly, Ameritech Ohio must require New Media to correct those instances where

1 its cable was installed in such a way as to cause Coaxial's cable or the cable of other attached
2 parties to be out of compliance with these clearance requirements.

3 Third, Ameritech Ohio should require New Media to relocate its brackets or
4 extension arms. When brackets or extension arms are placed on the lower portion of the pole, as
5 New Media has done, all people who must climb that pole must climb around that bracket or
6 extension arm; this creates a substantial risk of injury. If brackets or extension arms are to be
7 used, they should be used on the upper portion of the pole, above other existing attachments, to
8 avoid numerous persons or parties from having to climb over such arms or brackets. While it may
9 be true that "bucket trucks" can be used to avoid climbing on poles, not all poles are accessible
10 via a bucket truck. At a minimum, in those instances where the pole is not accessible via bucket
11 truck (e.g., in back yard easements), I recommend that the Commission direct Ameritech Ohio to
12 require New Media to reinstall such brackets or arms at the upper portion of the pole and to
13 require New Media to pay for all resulting make-ready charges incurred by any attachee.

14 Q32. DOES THIS CONCLUDE YOUR TESTIMONY?

15 ANSWER: Yes, it does.