



# Shipman, Dixon & Livingston

A LEGAL PROFESSIONAL ASSOCIATION

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Gary E. Zuhl  
Daniel D. Ernst

August 28, 1997

L.H. Shipman (1874-1955)  
F.L. Shipman (1906-1973)

RECEIVED-DOCKETING DIV  
97 AUG 29 AM 11:48  
PUCO

Clerk of the Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43266

Re: Ameritech Ohio  
Case Nos. 96-37-TP-CSS, 96-38-TP-CSS, 96-39-TP-CSS  
96-40-TP-CSS, 96-427-TP-CSS, 96-460-TP-CSS

Dear Sir/Madam:

Enclosed please find the original and ten (10) copies of a package with regard to the above-captioned cases. Please file the same and return a file-stamped copy to my office in the envelope provided.

Thank you for your assistance in this matter.

Respectfully,

SHIPMAN, DIXON & LIVINGSTON CO., L.P.A.

Robert C. Johnston

RCJ/tb

Enclosure

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 *Anna M. Nixon* Date Processed *Sept 2, 1997*

RECEIVED DOCKETING DIV  
97 AUG 29 AM 11:48  
PUCO

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### DOCUMENT

### DOCUMENT NUMBER

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### **This instrument prepared by:**

Robert C. Johnston (0002782)  
SHIPMAN, DIXON & LIVINGSTON CO., L.P.A.  
215 West Water Street  
Troy, Ohio 45373  
(937) 339-1500

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE COMPLAINT       :     96-427-TP-CSS  
OF SPRINGFIELD CITY SCHOOLS**

<b>Complainant</b>	:	
v.	:	
<b>AMERITECH</b>	:	<b>Expert Witness Examination</b>
<b>Respondent</b>	:	

---

The following is the response of the examination by Robert C. Johnston, Esq. of Steven J. Longenecker, President of Eastland Telecommunications Consulting, Inc. on 8-18-97 at 21 Kenbrook Drive, Vandalia, OH 45377.

1. **Education Background:** Graduate of Milton-Union High School in 1969
  
2. **Work History**

1971 - 1984	Ohio Bell Telephone Company-Cable splicer, Installation and repair
1984 - 1992	Owner/Operator Area Wide Telephone Service. An interconnect company- Installing key systems and PBX systems
1992 - Present	Eastland Telecommunications Consulting, Inc. - Telephone bill auditing, rate Advisement, interconnection agreements, CLEC Certification, IXC Certification
  
3. **Professional Training and/or Seminars** - Society of Telecommunications Consultants

4. **Professional organizations:** Member in good standing  
Association of Telecommunications Professionals (ATP) Columbus OH  
Tri-State Telecommunications (TTA) Cincinnati OH.

Complete and updated tariff library of GTE, Cincinnati Bell, United Telephone,  
and Ameritech. Partial tariff library of AT&T.

5. **As regards the complaint of Springfield City Schools, what investigation did you perform regarding its telephone service?**

A: Complete audit of multiple accounts # 513-328-2000, 513-399-4656, 513-399-7989 and others were involved, with Ameritech's Customer Service Records received from Ameritech's Vendor Service Center, 150 E Gay Columbus OH 45315.

**A. Who did you meet with?**

A: Thomas D. Gay, Assistant Superintendent, Springfield City Schools 49 East College Ave., Springfield OH 45504.

**B. What billing records did you review?**

A: Telephone bills from Springfield City Schools for May 1995.

**C. What account history did you review?**

A: Ameritech's Customer Service Records obtained from the Vendor Service Center at 150 E. Gay St. Columbus OH dated May 1995.

**D. Would you please explain the details of this complaint.**

A: Attachment # 1 - Original Formal Complaint - Springfield City Schools multiple telephone Accounts # 513-328-2000, 513-399-4656, and others were involved. Ameritech has failed to follow its rules and regulations on file with the Public Utilities Commission of Ohio and has violated Section 4905.22 of the Ohio Revised Code service and facilities required; unreasonable charge prohibited. Which resulted in billing errors in favor of Ameritech. What we seek is restitution for interest on these acknowledged and already refunded billing errors of \$24,063.27. Refunds

received 7-10-95. We are requesting interest on their behalf of \$8, 499.97 as provided by applicable tariffs, as we feel this customer was billed unfairly and is entitled to interest. As stated in Ameritech's refund policy listed in their access Tariff FCC #2 page 45, and in accordance with a recent AT&T vs Cincinnati Bell case reference (see attached release # Fcc93-111) which cites the Internal Revenue Service statutes where AT&T was awarded interest against Cincinnati Bell.

**E. How do the managers of Springfield City Schools feel about this complaint?**

A: Attachment # 2 on original complaint. - Letter from Thomas D. Gay, Assistant Superintendent, of Springfield City Schools to Ameritech Vendor Service Center, dated 9-19-96. Dear Sir: I understand billing errors and/or overcharges have occurred on our telecommunication services being provided by your company.

I hereby authorize Steven J. Longenecker of Eastland Telecommunications Consulting, Inc. and Robert Johnston of Shipman, Dixon & Livingston, L.P.A. to pursue refunds and/or credits, plus interest on our behalf.

I authorize Eastland telecommunications Consulting, Inc. and Robert Johnston of Shipman, Dixon & Livingston L.P.A. to pursue this matter (if necessary) all the way to a formal complaint with the Public Utilities Commission of Ohio. Any legal fees resulting from a formal complaint, will be the responsibility of Eastland Telecommunications Consulting, Inc.

Please help us resolve this matter quickly and quietly and issue the credits requested.

We are 100% justified in making this request. Thank you for your prompt attention to this matter.

Sign: Thomas D. Gay, Asst. Superintendent Operations, Springfield City Schools

**6. Following your review of the telephone records and account history of Springfield City Schools, what Administrative regulations, rate regulations or PUCO rulings did you review?**

A: PUCO # 1, PUCO # 2, PUCO # 20, FCC # 2, Ohio Bell Access, Ohio Revised Code, and Ohio Administrative Code.

7. As a result of your investigation, did you form an opinion based upon a reasonable degree of professional certainty as regards to the accuracy of Springfield City Schools telephone billing history?

A: Yes

8. What is that opinion?

A: Ameritech had acknowledged and already refunded billing errors of \$24,063.27 to Springfield City Schools on 7-10-95. Multiple telephone accounts were involved over the years of overbilling.

I feel interest is applicable as per applicable tariffs of \$8,488.97.

9. In addition to these billing errors, do you have an opinion as regards additional sums of money which Springfield City Schools is entitled to recover?

A: Yes

10. Please state your opinion as regards these additional recoveries to which Springfield City Schools is entitled to receive.

A: Ameritech recently ask for and received approval from the Public Utilities Commission to charge business customers a 1.5% per month or 18% per year late fee. It would only seem fair that if Ameritech can charge its customers interest on late fees, that Ameritech would pay interest of 18% per year when they overcharge their customers. We ask the Public Utilities Commission to adjust these dollar amounts to reflect the additional time involved with the proceedings.

A. What laws, rules, statutes, or regulations do you believe are applicable pertaining to interest on this refund? Attachments # 5, # 6, # 7, # 8, & # 9, as filed with the original complaint.

Attachment # 5 - Justification for interest on refunds:

1. Ameritech PUCO #1 (original title sheet) clearly states that **all** regulated and tariffed services offered by Ameritech are subject to the terms and conditions of this tariff (including exchange services).

2. Ameritech PUCO #1 mirrors Ameritech FCC#2 interstate tariff. Ameritech Fcc

- #2 page 45 clearly states that disputes from billing errors are entitled to 18% interest.
3. FCC Rcd 1265; 1985 FCC LEXIS 2211 clarifies Ameritech tariff language pertaining to billing disputes.
  4. We contend that every telephone bill from Ameritech has charges from both the exchange tariff and the access tariff. Therefore, the same billing and refund standards must apply. To have two different billing and refund standards would be discriminatory.
  5. Ameritech PUCO #20 part 21 Section 1 page 1 references terms and conditions of Ameritech FCC #1 and FCC #2.
  6. Constitution of Ohio - Ohio Revised Code sections 1343.03 requires interest be paid on refunds of this type.
  7. The commission has the authority to order refund with interest in the event that the Commission determines that the rates are inappropriate after a hearing and references case numbers 85-1023-GA-CSS, 83-1279-EL-CSS, 86-2053-WS-CSS, and FCC-93-111-ATT vs: Cincinnati Bell.
  8. FCC Rcd 8405; 1995 LEXIS 2779 Since 1993 the Federal Communication Commission's policy has been to award daily compounded interest computed at the IRS rate for tax overpayment.
  9. The Public Utilities Commission of Ohio references three (3) different cases where interest was awarded: 83-45\*-EL-CSS, 86-2035-WS-UNC, and 85-1023-GA-CSS.
  10. Case number 95-932-TP-UNC, authorized Ameritech to charge a late fee. It would seem appropriate that they also pay a late fee for refunds and credits
  11. FCC -93-111 AT&T vs: Cincinnati Bell 4.1 million in interest was awarded to AT&T.

Attachment # 6 - Ameritech's tariff PUCO No. 20 part 21 section 1 sheet 1 - Stated Intrastate Billing and Collection Services as specified in the Ameritech Operating Companies Tariff, FCC #1, Billing and Collection Services.

Attachment # 7 - Ameritech's tariff FCC #2 - General Regulations 2.4.1 page 45 - If a customer has overpaid because of a billing error, a refund in the amount of the overpayment will be made to the customer. The interest rate will be 0.000493 per day (annual percentage rate of 18.0%, applied on a simple interest basis.

Attachment # 8 - Ameritech Operating Companies Tariff FCC #2, Transmittal # 39 and 48, 1 FCC Rcd 1265, 1986 FCC LEXIS 2211, release number: DA 86-331, Adopted 12-10-86. - States: Ameritech clarifies tariff language pertaining to billing disputes and provides for the payment of refunds and interest if a customer has been

overcharged because of a billing error. According to these revisions, interest will be paid from the date of overpayment until the time of the refund.

Attachment # 9 - 10FCC Rcd 8405; 1995 FCC LEXIS 2779, States: Since 1993, the Commission's policy has been to award daily compounded interest computed at the IRS rate for tax overpayments. We are persuaded that daily compounded interest fairly compensates aggrieved parties for the value of money owed.

**11. Prior to this hearing, has Ameritech made any payments to Springfield City Schools or have they corrected and/or changed the billing practices on this account?**

A: Yes, Ameritech has corrected the billing errors on the multiple accounts:

Data Circuits - Educational Discounts and Federal Taxes -

Attendance Office - Local Call Allowance and Ed Discounts -

Misc Accounts - Ed Discounts and Sales Tax -

Main Account - Office mileage for the same C O -

Total acknowledged and already refunded billing errors                      \$24,063.27

Requesting interest of \$8,488.97.

C:\office\wpwin\wpdocs\96-427-TP( revised 8-18-97)



Attachment 1

96-427-TP-CSS

PIC \_\_\_\_\_

### FORMAL COMPLAINT FORM

Steven J. Longenecker, Eastland Telecommunications Consulting Inc.

(YOUR NAME)

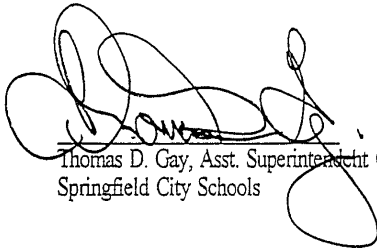
AGAINST

Ameritech 150 East Gay St. Columbus OH 43215

(THE COMPANY)

MY COMPLAINT IS: Ameritech has failed to follow its rules and regulations on file with the Public Utilities Commission of Ohio and has violated Section 4905.22 of the Ohio Revised Code service and facilities required: unreasonable charge prohibited. Which resulted in billing errors in favor of Ameritech. Springfield City Schools, Multiple Telephone Account #'s 513-328-2000, 513-399-4656, 513-399-4656 and others were involved. What we seek is restitution for interest on these acknowledged and already refunded billing errors of \$24,063.27. Refunds received 7-10-95. We are requesting interest on their behalf of \$8,488.97 as provided by applicable tariffs, as we feel this customer was billed unfairly and is entitled to interest.

(ADDITIONAL INFORMATION MAY BE ATTACHED)

  
Thomas D. Gay, Asst. Superintendent Operations  
Springfield City Schools

Steven J. Longenecker  
SIGNATURE

8801 N. High St.  
STREET ADDRESS

Dayton Ohio 45415  
CITY, STATE, & ZIP

513-890-4442  
TELEPHONE NUMBER

**EASTLAND TELECOMMUNICATIONS  
CONSULTING, INC.**

*attachment  
#2*

Email: 76171.3320@compuserve.com

Internet: <http://ourworld.compuserve.com/homepages/eastland>

8801 N. Main St. • Suite 201 • Dayton, Ohio 45415 • (513) 890-4442 • FAX (513) 890-0540

September 19, 1996

Ameritech Vendor Service Center  
150 E. Gay Room Lobby  
Columbus OH 43215

Reference: Springfield City Schools  
Thomas D. Gay, Asst. Superintendent Operations  
49 East College Avenue  
Springfield OH 45504-6886

Dear Sir:

I understand billing errors and/or overcharges have occurred on our telecommunication services being provided by your company.

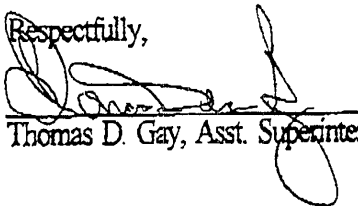
I hereby authorize Steven J. Longenecker of Eastland Telecommunications Consulting Inc. and Robert Johnston of Shipman, Dixon & Livingston L.P.A. to pursue refunds and/or credits, plus interest on our behalf.

I authorize Eastland Telecommunications Consulting Inc. and Robert Johnston of Shipman, Dixon, & Livingston L.P.A. to pursue this matter (if necessary) all the way to a formal complaint with the Public Utilities Commission of Ohio. Any legal fees resulting from a formal complaint, will be the responsibility of Eastland Telecommunications Consulting, Inc.

Please help us resolve this matter quickly and quietly and issue the credits requested.

We are 100% justified in making this request. Thank you for your prompt attention to this matter.

Respectfully,



Thomas D. Gay, Asst. Superintendent Operations

telnet4.a

*Attachment # 5*

### JUSTIFICATION FOR INTEREST ON REFUNDS

1. Ameritech PUCO #1 (original title sheet) clearly states that **ALL** regulated and tariffed services offered by Ameritech are subject to the terms and conditions of this tariff (including exchange services).
2. Ameritech PUCO #1 mirrors Ameritech FCC #2 interstate tariff. Ameritech FCC #2 page 45 clearly states that disputes from billing errors are entitled to 18% interest.
3. FCC Rcd 1265; 1986 FCC LEXIS 2211 clarifies Ameritech tariff language pertaining to billing disputes.
4. We contend that every telephone bill from Ameritech has charges from both the exchange tariff and the access tariff. Therefore, the same billing and refund standards must apply. To have two different billing and refund standards would be discriminatory.
5. Ameritech PUCO #20 part 21 Section 1 Page 1 references terms and conditions of Ameritech FCC #1 and FCC #2.
6. Constitution of Ohio - Ohio Revised Code sections 1343.03 requires interest be paid on refunds of this type.
7. The commission has the authority to order a refund with interest in the event that the Commission determines that the rates are inappropriate.
8. FCC Rcd 8405; 1995 LEXIS 2779 Since 1993 the Federal Communication Commission's policy has been to award daily compounded interest computed at the IRS rate for tax overpayment.
9. The Public Utilities Commission of Ohio references three (3) different cases where interest was awarded: 83-1279-EL-CSS, 86-2035-WS-UNC, and 85-1023-GA-CSS.
10. Case number 95-932-TP-UNC, authorizes Ameritech to charge a late fee. It would seem appropriate that they also pay a late fee for refunds and credits.
11. FCC - 93-111 AT&T vs: Cincinnati Bell 4.1 million in interest was awarded to AT&T.

reason1

THE OHIO BELL  
TELEPHONE COMPANY

Ameritech

Tariff

Attachment # 6

P.U.C.O. NO. 20

PART 21 SECTION 1

PART 21 - Intrastate Access Services  
SECTION 1 - General

Original Sheet No. 1

1. GENERAL

The rates, charges and conditions for the provision of intrastate Carrier Access Service are as specified in the Ameritech Operating Companies Tariff F.C.C. No. 2, Access Services, as it now exists, and as it may be revised, added to or supplemented. The effectiveness of Section 4, End User Access Service, as applied to Intrastate Customers, has been suspended by the Public Utilities Commission of Ohio.

The rates, charges and conditions for the provision of intrastate Billing and Collection Service are as specified in the AMERITECH OPERATING COMPANIES TARIFF, F.C.C. NO. 1, BILLING AND COLLECTION SERVICES, as it now exists, and as it may be revised, added to or supplemented.

The rate for Originating Transport Residual Connection is as specified in this tariff.

Material formerly appeared in Access Service Tariff, 6th Revised Sheet No. 1  
Issued: October 2, 1995 Effective: October 2, 1995

In accordance with Case No. 95-815-TP-ATA, issued September 1, 1995.

By J. F. Woods, President, Cleveland, Ohio

ACCESS SERVICE

2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowances (Cont'd)

2.4.1 Payment of Rates, Charges and Deposits (Cont'd)

(B) (Cont'd)

(3) (Cont'd)

- (d) If a customer has overpaid because of a billing error, a refund in the amount of the overpayment will be made to the customer. For service other than End User Access Service and Presubscription, if a claim for a refund pertaining to the overpayment was submitted by the customer within six months of the payment date, interest on the refund will be paid to the customer from the date of the overpayment to and including the date on which the refund is made to the customer. The interest rate will be 0.000493 per day (annual percentage rate of 18.0%), applied on a simple interest basis. Refunds will be made by crediting the customer's account.

C  
I  
C

Issued: May 10, 1988

Effective: June 14, 1988

Assistant Vice President  
10 S. Wacker Drive, Floor 22  
Chicago, Illinois 60606

In the Matter of Ameritech Operating Companies Tariff F.C.C.  
No. 2

*attachment #8*

Transmittal Nos. 39 and 48

FEDERAL COMMUNICATIONS COMMISSION

1 FCC Rcd 1265; 1986 FCC LEXIS 2211

RELEASE-NUMBER: DA 86-331

December 12, 1986 Released; Adopted December 10, 1986

ACTION: [\*1] ORDER

JUDGES:

By the Chief, Common Carrier Bureau

OPINIONBY: HALPRIN

OPINION:

1. The above-captioned tariff revisions were filed by the Ameritech Operating Companies (Ameritech) on November 14 and December 10, 1986, and are scheduled to become effective on December 13, 1986. By these revisions, Ameritech clarifies tariff language pertaining to billing disputes and provides for the payment of refunds and interest if a customer has been overcharged because of a billing error. According to these revisions, interest will be paid from the date of overpayment until the time of the refund, if the customer submits a claim for refund within six months of the "payment date" n1 and the claim is resolved in the customer's favor. Currently, according to Ameritech, interest on overpaid amounts is paid only from the tenth day after the day on which the customer files a claim of overbilling. The proposed six month limit applies only to the right to receive interest on an overpayment and not to the refund of the overpayment itself.

n1 The "payment date" is defined in Section 2.4.1 (2)(3)(a) of Ameritech Tariff F.C.C. No. 2 as the date on which payment is due.

2. MCI Telecommunications Corporation (MCI) filed [\*2] a petition to investigate Transmittal No. 39. MCI asserts that the term "payment date" should be clarified for these purposes to refer to the date of actual payment. MCI further argues that the tariff should provide for interest on overpayments even if the customer files a claim more than six months after the payment date. According to MCI, the failure to provide interest for funds held due to incorrect billing is unjust and unreasonable and in violation of Section 201(b) of the Communications Act n2 (the Act), regardless of when a claim was filed within the two-year limit of Section 415 of the Act. n3 Furthermore, MCI argues, the continued application of interest is essential to preserve the customer's right to receive interest on refunds if backbilling in future months has created a dispute for bills rendered more than six months earlier.

n2 47 U.S.C. @ 201(b).

n3 47 U.S.C. @ 415.

*attachment 9*

b. Discussion

25. Since 1993, the Commission's policy has been to award daily compounded interest computed at the IRS rate for tax overpayments. n49 We are persuaded that daily compounded interest fairly compensates aggrieved parties for the value of money owed. Therefore, we find that ~~interest~~ on the damages [\*23] awarded here should be computed at the ~~IRS rate for tax refunds~~, compounded daily, from January 1, 1993, the day after the relevant 1991-1992 rate-of-return monitoring period ended, until the date full payment is made to the complainant.  
n50

n49 See Competitive Telecommunications Ass'n v. The Chesapeake and Potomac Tel. Cos., 8 FCC Rcd 5550, 5553 (1993) and Section 208 Complaints Alleging Violations of the Commission's Rate of Return Prescription for the 1987-1988 Monitoring Period, 8 FCC Rcd 5485, 5495 (1993).

n50 The applicable IRS rates are set forth in Appendix A.

V. CONCLUSION

26. We have carefully reviewed the extensive record before us and have found, to the extent indicated here, that the complainant is entitled to an

*attachment #12*  
In the Matter of the Complaint of Robert and Ruth Leininger,  
Complainants, v. The Ohio Bell Telephone Company, Respondent

88-1387-TP-CSS

PUBLIC UTILITIES COMMISSION OF OHIO

1989 Ohio PUC LEXIS 100

January 31, 1989

PANEL:  
[\*1]

Thomas V. Chema, Chairman; Ashley C. Brown; Gloria L. Gaylord; Alan R.  
Schriber; Lenworth Smith, Jr.

OPINION:  
ENTRY

The Commission finds:

1) This complaint was filed with the Commission on September 19, 1988, by Mr. and Mrs. Robert Leininger against The Ohio Bell Telephone Company (Ohio Bell), alleging that the company had overcharged them for telephone service for the past twelve years. The complainants explained that they sold a building in 1976 and, at that time, called to cancel service in their names. The Leiningers claimed that in June, 1988, they inquired about the amount of their telephone bill and were informed by Ohio Bell that they were being charged for an underground line to the building they no longer owned. When they attempted to obtain a refund for overpayments made since 1976, the complainants stated they were offered only a two year refund. The Leiningers' complaint requested a refund for the past twelve years of overpayments or, at a minimum, a six year overpayment refund.

2) On October 12, 1988, Ohio Bell submitted a letter which indicated that, while it did not have records relating back twelve years, the records and information available suggested a substantial [\*2] probability that the complainants were correct. Ohio Bell explained that the line which the complainants were being charged for was associated with their residential service and was not disconnected when the Leiningers cancelled their business service. According to Ohio Bell's letter, the company was willing to satisfy this complaint by refunding to the Leiningers the full twelve years of overpayments.

3) On January 13, 1989, the Commission received a letter from the complainants stating that they were satisfied with Ohio Bell's settlement and requesting that the case be closed.

It is, therefore,

ORDERED, That this complaint be dismissed and the matter closed of record.  
It is, further,