

Confidential Release

Case Number:

93-487-TP-ALT

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Today's Date:

July 31, 2009

**Motion to suspend alternative regulation
authority, obtain additional relief and, in thw
alternative , complaint against Ameritech Ohio.**

CONFIDENTIAL

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
The Ohio Bell Telephone Company) Case No. 93-487-TP-ALT
for Approval of an Alternative)
Form of Regulation.)

In the Matter of the Complaint of the)
Office of the Consumers' Counsel,)
Complainant,)
v.) Case No. 93-576-TP-CSS
The Ohio Bell Telephone Company,)
Respondent,)
Relative to the Alleged Unjust and)
Unreasonable Rates and Charges.)

**MOTION TO SUSPEND
ALTERNATIVE REGULATION AUTHORITY,
OBTAIN ADDITIONAL RELIEF AND, IN THE ALTERNATIVE,
COMPLAINT AGAINST AMERITECH OHIO**

Pursuant to R.C. 4905.04, 4905.26, 4905.37, 4905.38, 4905.381, 4905.50, 4905.51, 4905.54, 4927.03(D) and 4927.04, Time Warner AxS of Ohio, L.P. and Time Warner Communications of Ohio, L. P. ("Time Warner," "Movant," or "Complainant") hereby moves the Public Utilities Commission of Ohio ("Commission" or "PUCO") for an order suspending the alternative regulation authority granted by the Commission to Ameritech Ohio ("Ameritech") on November 22, 1994 in Case No. 93-487-TP-ALT [hereinafter cited as 93-487]. Time Warner also seeks an order from the Public Utilities Commission to affirmatively enforce Ameritech's obligation (arising by statute and Commission order) to make switched service interconnection available promptly at reasonable rates and on fair terms. In addition or in the alternative, Time

Warner requests that the Commission treat this motion as a complaint under R.C. 4905.26. For reasons explained below, Time Warner asks the Commission to move with the maximum speed permitted by law.

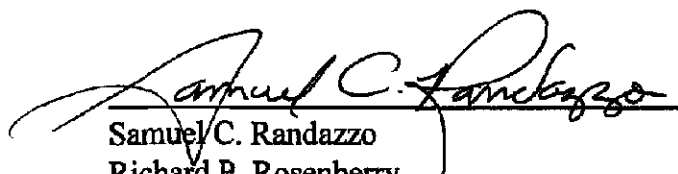
Nothing herein should be understood as requesting the Commission to disturb the rate reductions implemented in conjunction with the contested Stipulation and Recommendation accepted by the Commission for the purpose of resolving issues in 93-487 and PUCO Case No. 93-576-TP-CSS.

The bases for Time Warner's Motion are set forth in the Memorandum in Support attached to this Motion. Some of the information relied upon by Time Warner has been obtained during or as a result of discussions which took place only after the execution of confidentiality agreements. All such information has been communicated to the Commission's Staff by Ameritech as a result of Staff's participation in the discussions. To avoid questions regarding the meaning of these confidentiality agreements, Time Warner's supporting memorandum and its exhibits have been redacted to avoid disclosure of any information supplied under the confidentiality agreements or obtained during the interconnection discussions. An unredacted version of Time Warner's supporting memorandum will be provided under seal under whatever conditions the Commission deems appropriate. Time Warner hereby requests that the unredacted version of its supporting memorandum and exhibits be protected from public disclosure.

As indicated above, Time Warner does not want to initiate yet another regulatory proceeding as a result of the action it is asking the Commission to take in this pleading. Time Warner is asking the Commission to enforce existing statutory requirements and existing

Commission orders to bring an end to Ameritech's "foot dragging". The relief which Time Warner seeks in Ohio is substantially similar to the relief provided by the Michigan Public Service Commission against Ameritech, Michigan when Ameritech's sister company was found to be "foot dragging" in Michigan and impeding competition in the basic local exchange service market. *In Re Application of City Signal, Inc.*, Case No. U-10647 (Michigan PSC, October 3, 1995 at 11).

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Samuel C. Randazzo", is written over a horizontal line.

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Time Warner Communications of Ohio, L. P. ("TWC-Ohio") is a Delaware limited partnership, licensed to do business in Ohio. On August 24, 1995, TWC-Ohio received from the Public Utilities Commission of Ohio ("Commission") a certificate to provide switched local exchange service in certain Ohio counties to be exercised upon the satisfaction of certain conditions. *In Re Application of Time Warner Communications of Ohio, et al.*, Case No. 94-1495-TP-ACE, Opinion and Order (August 24, 1995).

Time Warner AxS of Western Ohio, Northeast Ohio and Cincinnati, Ohio are Delaware Limited Partnerships, licensed to do business in the state of Ohio. Each of these entities also have received a certificate to provide dedicated services in Case Nos. 93-1289-TP-ACE, 93-

1370-TP-ACE, and 93-2069-TP-ACE, respectively. For purposes of this motion or complaint, TWC-Ohio and the various TWAxS entities shall be referred to collectively as Time Warner.

Ameritech Ohio is a telephone company within the meaning of R.C. 4905.03 and a public utility within the meaning of R.C. 4905.02. Ameritech operates in much of Ohio, and, as relevant here, is subject to the Commission's jurisdiction pursuant to R.C. 4905.04, 4905.26, 4905.37, 4905.38, 4905.381, 4905.50, 4905.51¹, 4905.54, 4927.03(D) and 4927.04.

In 1993, Ameritech filed an Application seeking approval of an alternative regulation plan pursuant to R.C. 4927.03 and 4927.04. In its Application, Ameritech noted that:

The Ohio General Assembly and Governor recognized the potential benefits which a new form of regulation could achieve by enacting Revised Code Chapter 4927.

Ohio Bell² Application at 3.

When it enacted R.C. Chapter 4927, the Ohio General Assembly made very clear Ohio's policy on telecommunications. The General Assembly found that "It is the policy of this state to: ... (4) Promote diversity and options in the supply of public telecommunications services and equipment throughout the state" and "(5) Recognize the continuing emergence of a competitive telecommunications environment through flexible regulatory treatment of public telecommunications services where appropriate." The state cannot obtain "diversity and options

¹ R.C. 4905.50 and 4905.51 are similar to Illinois' Code Sections 8-502 and 8-506. The Illinois Commerce Commission has used these sections and others to enforce inter-carrier arrangements. *MFS Intelenet of Illinois v. Illinois Bell Telephone Company*, Case No. 94-0422 (Ill. Commerce Commission, February 8, 1995 at 9). In this proceeding, the Illinois Commerce Commission found it necessary to order Illinois Bell Telephone Company ("IBT") to "... immediately enter into an inter-carrier arrangements with MFS which provides for: 1) reciprocal compensation for the exchange of local traffic on terms similar to those offered to I-Co's and 2) interconnection arrangements which are similar to those offered to I-Co's contiguous to IBT." *Id.* at 10.

² Ohio Bell changed its name to Ameritech Ohio during the pendency of the alternative regulation proceeding.

in the supply of telecommunications services and equipment throughout the state" unless there is a diversity of suppliers of such services and equipment. That diversity of suppliers cannot be achieved unless the incumbent local exchange companies agree to interconnect their systems with those of new entrants to the local exchange markets, new entrants like Time Warner. The development of those interconnection agreements requires good faith in negotiating and implementing such agreements.

On November 25, 1994, the Commission issued its Opinion and Order granting Ameritech alternative regulation pursuant to Ameritech's application filed in Case No. 93-487-TP-ALT. *Ohio Bell Telephone Company*, Case No. 93-487-TP-ALT, Opinion and Order (November 25, 1994). In granting Ameritech's Application for Alternative Regulation, the Commission made clear its expectations with respect to Ameritech's behavior once alternative regulation authority was granted:

The Commission would be remiss, however, if it did not clearly state its expectations and conditions as to the implementation of the stipulation. A key aspect of success of an alternative regulation plan is a good trusting relationship among the parties. The Commission in this case is approving a plan which allows the company to place many new services into effect immediately upon filing subject to later review. By approving this stipulation, the Commission is giving Ameritech the benefit of the doubt in terms of its claims of cooperation in making this process work.

We see the implementation of the plan as potentially going down one of two tracks. The first is either a cooperative one where Ameritech and the Commission staff work together to resolve issues ahead of time and where legitimate concerns raised by staff in response to competitor or consumer raised issues are dealt with in a proactive and responsive manner. The other potential path is one where confrontation increases, where the company challenges the staff and attempts to challenge or go around the Commission at every step of the process, and where

obfuscation substitutes for cooperation and accommodation. Should we find the company going down the latter path, the Commission puts the company on notice that it will not hesitate to use its suspension authority and suspend or revoke services despite the negative consequences to customers that may result. It is up to the company to work through those issues so those unfortunate results to its customers do not occur.

Unfortunately, the level of cooperation and working relationship between Ameritech and the Commission staff has not been as good as it should be for many years. In fact, it is in significant contrast to those relationships the staff and the Commission have with other telephone companies in this state Despite repeated admonitions, senior management in Cleveland and Chicago have failed to take the necessary steps to correct these problems. The Commission reiterates that the successful implementation of this alternative regulation plan will require such cooperation. *Senior management in Cleveland and Chicago are directed to make the necessary attitudinal and structural changes in the company's relationships with the Commission and its staff so as to ensure that this plan works smoothly for all concerned.*

Id. at 77-78 (emphasis added).

Time Warner, among others, warned that the trust which the Commission placed in Ameritech as the Commission accepted the Stipulation and Recommendation in 93-487 was unwarranted and would reduce the ability of the marketplace to effectively discipline the incumbent monopoly. Wisconsin Chairman Cheryl L. Parrino recently addressed the unacceptable service quality provided by Ameritech (at the same time Ameritech was making record profits) since it received alternative regulation authority in her state:

In the long run a fully competitive market should minimize the dangers of degraded service quality because customers will respond to poor service by switching to other providers. But we are nowhere near a fully competitive market today.

The Wisconsin Commission³ has gone to court to seek acceptable remedies as a result of Ameritech's transgressions.⁴ Ohio's experience is similar to that of Wisconsin.

Time Warner does not want to rehash Ameritech's hotly contested alternative regulation proceeding or point fingers at those parties who explained their support, in part, by claiming the Stipulation and Recommendation approved by the Commission in 93-487 would bring consumers the benefits of local exchange competition. It simply does not matter at this juncture whether trust was well placed in Ameritech. But for today and the future, customers and new entrants must be on their guard: Ameritech is an economically deregulated monopoly.

The alternative regulation plan approved by the Commission specifically gives the Commission authority to revoke the plan:

If the Commission believes that the Company has failed to materially comply⁵ with the terms of the Plan, the Commission shall give the Company notice, including a basis, of such belief and a reasonable period of time to come into compliance. The Commission shall not modify or revoke any order approving the Plan, unless it determines, after further notice to the Company and hearing, that the Company in fact has failed to materially comply with the terms of the Plan and in fact has failed to come into compliance within such reasonable period of time. Prior to any such ruling to modify or revoke any order approving the Plan, the Commission shall take into consideration consequences of such action on the Company as well as the impact on its customers.

Alternative Regulation Plan at 89-90.

³ On the same day as this pleading is being submitted to the Ohio Commission, Time Warner is submitting to the Wisconsin Commission an application to obtain authority to provide switched local service. Time Warner believes that the proactive efforts of Wisconsin will facilitate prompt market entry by new local service providers.

⁴ National Association of Regulatory Utility Commissioners "bulletin", January 8, 1996 at 4; Public Service Commission of Wisconsin News Release, December 14, 1995.

⁵ Ameritech's application for alternative regulatory relief was founded on the need to grant Ameritech an alternative form of regulation because of the advent of actual competition, minimally regulated firms, and the pro-competitive policies of both state and federal regulators. Ohio Bell Application at 2. Given the Commission's approval of the alternative regulation application conditioned on its direction to the Company to mend its ways, the Company's patent failure to do so can only be regarded as a material failure to comply with the terms of the agreement.

In addition to the modification, alteration and abrogation authority conveyed to the Commission as an alternative regulation plan commitment in 93-487, R. C. 4927.03(D) grants the Commission the power to abrogate or modify any alternative regulation order "... if it determines the findings upon which the order was based are no longer valid and that the abrogation is in the public interest."

The Stipulation and the Alternative Regulation Plan approved in 93-487 specifically envisioned the advent of competition in the local exchange market. For example, Ameritech has the ability to deaverage residence core service rates when "a competitor is actively soliciting residence customers to purchase and is representing that it is currently providing, or will be able to provide in the foreseeable future, basic local exchange service on a switched basis in the access area for which a deaveraged rate decrease is to be effectuated." Alternative Regulation Plan at 34. In addition, the Stipulation authorizes Ameritech to enter into contracts with individual customers "[w]here a customer, or group of customers in an identifiable geographic area, have a reasonably available competitive alternative to a service or services offered by the Company." Stipulation at 47; *see also* Alternative Regulation Plan at 64.

In addition to recognizing the commencement of local exchange competition, Ameritech agreed in the Stipulation to commencement of a generic proceeding in which local exchange issues would be resolved.⁶ Stipulation at 68. Ameritech agreed that it "endorses this competitive generic docket involving the entire telecommunications industry in this state and will cooperate fully in its expeditious resolution." *Id.* at 69. Moreover, the Commission agreed to support

⁶ The Stipulation mandated initiation of the generic proceeding "anytime within 3 months after the effective date of the Plan." Stipulation at 68. Notwithstanding this limitation, the Commission's Local Competition docket was not opened (September 1995) until nearly a year after the Opinion and Order (November 1994) approving the Stipulation.

elimination of the restrictions currently applicable to Ameritech's provision of interLATA services under conditions that ensure "the Company's network is made available for purposes of both dedicated and switched services on an unbundled, non-discriminatory, and just and reasonable basis to local exchange service competitors pursuant to tariffs approved by the Commission ..." *Id.* at 70-71.

While Ameritech has advertised⁷ its support for the principles underlying approval of its alternative regulation plan, it has utterly refused to live up to either the letter or spirit of its agreement.⁸ Not only has Ameritech taken positions in the generic local competition docket which are inconsistent with its 93-487 Stipulation,⁹ it has ultimately refused to bargain and when it would meet with Time Warner, Ameritech has ultimately refused to bargain in good faith.

⁷ For example, Ameritech's image building advertising campaign has produced, among other things, a booklet distributed along with a logo emblazoned coffee cup during the summer of 1995 on street corners of Columbus, Ohio. The first page of the booklet leads with the statement "*Soon you'll have a variety of choices*" and goes on to state:

Ameritech has opened the door for other companies to offer local phone service. That means you will have a wide array of new choices, options and phone packages to choose from. See Exhibit 1 attached.

As this pleading demonstrates, Ameritech's door is only open in Ameritech's advertising. From Time Warner's perspective, Ameritech's "door" looks like a wall. Time Warner's experience is not unique. As the Commission knows, both the Illinois Commission and the Michigan Commission found it necessary to repeatedly compel acceptable interconnection behavior from Ameritech--the company that claims it opened the door for other companies to offer local phone service. See, e.g., *In Re Application of City Signal Inc.*, Case No. U-10647 (Michigan PUC, February 27, 1995 and October 3, 1995); *MFS Intelenet of Illinois, Inc. v. Illinois Bell Telephone Company*, Case No. 94-0422 (Illinois PUC, February 8, 1995). As part of its advertising campaign, Ameritech has also claimed responsibility for asking for competition in the local phone market:

Just for the record, we'd like to point out who asked for competition on the local phone market. We did. It was Ameritech who asked the government to allow other communication companies to compete for your local phone service business. See Exhibit 2 attached.

⁸ Time Warner, it appears, is not the only party which has expressed concerns about Ameritech's adherence to the agreement approved by the Commission in the 93-487-TP-ALT case. See, e.g., the Report of the Universal Service Assistance Advisory Committee, docketed with the Commission on December 11, 1995. In that Report, the Advisory Committee documents Ameritech's failures to implement the USA program in an appropriate fashion.

⁹ For example, Ameritech argues in the generic proceeding that the Commission is without authority to order unbundling, notwithstanding Ameritech's success in getting the Commission to support relief from interLATA restrictions in exchange for unbundling its local network.

The relationship between effective competition in the switched local service market and reasonable interconnection rates, terms and conditions for new entrants is well documented and well understood within the industry and by regulatory authorities at the state and federal level. As a recent example of this recognition, the Federal Communications Commission ("FCC") has initiated a Notice of Proposed Rulemaking to address interconnection between LECs and providers of commercial wireless services. In its notice, the FCC said that it recognized that interconnection on reasonable terms is critical to enabling carriers and other new providers of local telephone service to compete with incumbent LECs in the local telecommunications marketplace.¹⁰

II. INTERCONNECTION NEGOTIATIONS BEFORE DECEMBER 1995

Time Warner and Ameritech began their interconnection negotiations in December 1994, after the filing by Time Warner of its application for a switched services certificate. Meetings took place between December 1994 and May 1995. Time Warner timely advised Ameritech that negotiations needed to be completed by the end of 1995. As demonstrated by the Public Service

¹⁰ National Association of Regulatory Commissioners "bulletin", January 8, 1996, at 1; Notice of Proposed Rulemaking, CC Docket No. 95-185 (FCC, December 15, 1995). As the Commission's Staff has proposed as part of the generic local service rules, the FCC's Notice of Proposed Rulemaking includes the FCC's proposal to price such interconnection on a "bill and keep" basis because of the FCC's concern that more complicated pricing mechanisms might equip LECs with additional tools to deter entry. The FCC has also asked for comments on how it should address interconnection related to intrastate traffic termination. As the Commission knows from prior experience, the failure of a state to act proactively to give customers the benefits of competition has resulted in federal action preempting state powers. As the Commission also knows, the ability to interconnect with the public switched network is a protected federal right. See, e.g., *In Re Self Complaint of Cincinnati Bell*, Case No. 90-1544-TP-SLF (PUCO, March 16, 1994). It is ironic and telling to note that Ameritech has taken the position that the Commission has no jurisdiction to affect its service to customers located outside its service area because federal law grants the right to interconnect with the public switched network for intra and interstate communication services. See, *GTE North, Inc. v. Ohio Bell*, Case No. 88-1739-TP-CSS (PUCO, March 10, 1994).

Commission of Wisconsin hearing transcript¹¹ (attached as Exhibit 3; at page 478), Ameritech clearly understood that Time Warner's interconnection agreement for Ohio service had to be completed by no later than the end of 1995. Despite numerous meetings of interconnection teams, Time Warner can only conclude that Ameritech did not intend to complete a reasonable interconnection agreement with Time Warner or that Ameritech would only do so to satisfy its other extraneous business interests on unjustifiable terms.

While the December 1994 to May 1995 sessions produced progress on technical issues, the interconnection discussions were unilaterally terminated by Ameritech in late May 1995. It appears that Ameritech's unilateral termination occurred because it concluded that the time was not right for local exchange competition in Ameritech's serving area. Time Warner attempted repeatedly to reconvene the discussions without success. The discussions resumed in late summer 1995. At a December 1, 1994 meeting, Time Warner suggested that its arrangement with Rochester Telephone provided a good starting point for resolving the interconnection issues. Ameritech responded that it would only continue negotiations :

1. On the basis of pure resale of Ameritech services;
2. On the basis that Time Warner would pay full intrastate access rates, including the Carrier Common Line element, to have Time Warner's customer calls delivered to Ameritech's customers,
3. On the basis that Ameritech would treat Time Warner just as it treats cellular carriers; that is Ameritech would be paid for completing Time Warner customers' calls, but Ameritech would not pay Time Warner to have its customers' calls completed.

¹¹ The hearing transcript is from Public Service Commission of Wisconsin, Docket No. 05-TI-138, *In the Matter of the Investigation of the Appropriate Standards to Promote Effective Competition in the Local Exchange Telecommunications Market in Wisconsin*.

At a December 14, 1995 meeting at the Justice Department, a meeting which included Time Warner and Ameritech representatives, Ameritech advised the Justice Department that it was willing to use the "bill and keep" method and provide interim and complete number portability as part of interconnection arrangements in conjunction with its efforts to obtain freedom to enter interLATA markets. By letter dated January 4, 1995, Time Warner formally asked Ameritech to engage in negotiations based upon the approach described by Ameritech in the Justice Department meeting on December 14, 1994¹².

In its Opinion and Order in Time Warner's switched services certification case, the Commission imposed on Time Warner the obligation to "initiate negotiations"¹³ with other LECs for the purposes of developing interconnection agreements." Opinion and Order at 27. In addition, the Commission specifically found that "A LEC with whom such negotiations are initiated is *directed to negotiate in good faith with Time Warner.*" *Id.* The Commission also ordered Time Warner and affected LECs to file written reports on the status of such negotiations, and to coordinate the negotiations with the Commission's staff to ensure compatibility with the local competition docket. *Id.*

Pursuant to this direction, Time Warner filed two reports, the first on October 24, 1995, and the second on December 26, 1995. In the second report, Time Warner stated that it had encountered difficulties with Ameritech and asked the Commission to do what it could to bring the negotiations to a successful end. Events which occurred since the date of the December 26, 1995 report led Time Warner to conclude that Ameritech has not and will not in the future

¹² Time Warner's letter dated January 4, 1995 is attached hereto as Exhibit 4.

¹³ As noted above, Time Warner's efforts to reach a reasonable interconnection agreement with Ameritech actually commenced many months before issuance of the Commission's Opinion and Order.

negotiate interconnection agreements in good faith or otherwise. For this and other reasons, Ameritech has violated its alternative regulation plan, the Commission's order directing it to negotiate in good faith with Time Warner and Ohio statutory requirements imposed upon telephone companies.

III. SUBSEQUENT EVENTS

After the filing of the December 26, 1995, report, Time Warner met with Ameritech on January 5, 1996. At that meeting, Time Warner requested that Ameritech provide information to support its claims that certain charges were cost-based. In order to obtain that information, Ameritech required that Time Warner execute a second protective agreement, notwithstanding the fact that the parties had already negotiated a confidentiality agreement under which they would conduct their interconnection discussions.

Time Warner agreed to the additional protective agreement (executed on January 8, 1996), and, in response, at a January 9, 1996 meeting Ameritech provided a three-page, hand-written document containing summary cost data. Upon review by Time Warner's experts, it became apparent that the information provided absolutely no basis upon which it could be determined whether Ameritech's proposed charges were reasonable and cost-based as Ameritech claimed. As a result, Time Warner requested that Ameritech provide further support for its proposed charges. This time, Ameritech provided a somewhat longer summary document (7 pages). Once again, upon review by Time Warner's team it was clear that Ameritech still failed to provide sufficient meaningful detail which would permit Time Warner to evaluate the

reasonableness of Ameritech's proposal and claims. As a result of Time Warner's unwillingness to acquiesce to Ameritech's demands on an unrelated issue (mutual compensation), Ameritech has advised Time Warner that the additional cost information required and requested by Time Warner will not be provided.

On another key issue, compensation for network use, unresolved between the parties, a subteam was set to attempt a creative compromise on January 9, 1996. Despite five (5) hours of discussions, the impasse continued. At the end of the January 9, 1996 meeting, Time Warner suggested possible ways to reach agreement with Ameritech on various elements of that issue. The parties agreed to meet on the morning of January 10 to continue their discussions with focused attention on points of possible compromise. At the beginning of the meeting on the morning of January 10, it became clear that Ameritech was not interested in further such efforts. Time Warner put forth several different proposals, by which both parties to the negotiations would move toward an agreement and away from positions which neither could agree to without movement on the part of the other party. In each instance, Ameritech finally refused to negotiate, and made clear through its refusal that it would not continue to negotiate.

Ameritech's refusal to consider alternatives to resolve the compensation issue was combined with its refusal to even discuss any other issues such as number portability. Since Time Warner would not accept Ameritech's compensation terms and conditions, Ameritech refused to consider other issues yet unresolved. Thus, Time Warner has been unable to structure a "package" in which the end result was sufficiently acceptable to move forward irrespective of the "rightness" or "wrongness" of a specific issue outcome.

On the afternoon of January 10, 1996, the Staff rejoined the interconnection discussions. Once again, despite Time Warner's repeated attempts to discuss various options Ameritech made clear its unwillingness to negotiate in good faith. Ameritech then attempted to threaten Time Warner. Ameritech advised Time Warner and the Commission's Staff that it would proceed to enter into an interconnection agreement with other service providers friendly to Ameritech's positions and tariff the Ameritech friendly deal thereby "sticking" Time Warner with rates, terms and conditions that were even less friendly than Ameritech placed on the table for Time Warner's consideration.¹⁴ Time Warner offered to submit the issues in contention¹⁵ between the parties to binding arbitration before a neutral arbitrator.¹⁶ Once again, Ameritech refused even this reasonable suggestion, and advised Time Warner and Staff that it would negotiate no longer with Time Warner.

The Time Warner/Ameritech negotiations have proceeded in fits and starts (mostly fits). At one point in May of 1995, Ameritech broke off the negotiations for several months. Even in those discussions which have occurred, Ameritech has pursued a course intended to delay and hinder agreement. For example, on a regional basis Ameritech employs a negotiating team from its business unit, Ameritech Information Industry Services ("AIIS"). Over time it has become clear to Time Warner that AIIS possesses both the expertise and willingness to negotiate

¹⁴ As the Commission learns, Ameritech has previously attempted to use its incumbent position to select its "competitors". When the monopoly can pick its "competitors", the monopoly remains in control.

¹⁵ Some technical and economic issues were already resolved through the negotiations. However, these were issues which apparently had far less importance to Ameritech than the issues remaining on the table.

¹⁶ Agreement to binding arbitration is not something that Ameritech is unfamiliar with. In its September 21, 1995 letter agreement with US Signal in Michigan, Ameritech agreed that "In the event that the parties are unable to agree upon applicable costs prior to interconnection, the parties agree to submit the issue in dispute to binding arbitration, with resolution in two weeks from submission to a neutral arbitrator." See Exhibit 5 attached to this Memorandum. On November 20, 1995, City Signal requested binding arbitration to resolve a disputed issue. Ameritech proceeded to Oakland County Circuit Court seeking declaratory and other relief that it is not bound by the binding arbitration agreement. See pleadings filed in *Ameritech, Michigan v. City Signal*, Circuit Court for the County of Oakland, Michigan, Case No. 95-51038-CZ.

interconnection agreements with new entrants like Time Warner. In the discussions between Movant and Ameritech's AIIS personnel, not only have the technical issues been able to be resolved, but some economic issues have been addressed. Nevertheless, the behavior of Ameritech through AIIS demonstrates that AIIS is hindered by a lack of authority to revise and modify proposals. This has led to numerous instances in which proposals given to Ameritech must be "taken back to management" for discussion and approval, which discussions have for the most part resulted in refusal of Ameritech to agree to terms which AIIS may have found acceptable. Furthermore, over the last year's negotiations, it has become clear that Ameritech's senior management in Chicago and Cleveland has interrupted the negotiations and injected issues unrelated to interconnection.

In addition, Ameritech has conditioned any resolution of interconnection issues on Time Warner's agreement with and support of Ameritech's positions regarding unrelated issues. For example, at the January 5, 1996 meeting, one of Ameritech's representatives provided Time Warner with Ameritech's other issues list and stated that Ameritech would not sign an interconnection deal without Time Warner and Staff agreeing to the positions set forth on the other list. Ameritech's other list includes the following:

1. All providers be subject to the same regulatory process and time frames with respect to PUCO approval of new service offerings, tariff amendments, detariffing proposals and contracts;
2. All providers would be subject to the same minimum telephone standards;
3. All providers would have the same pricing flexibility, cost study obligations and be subject to the same imputation tests;
4. Ameritech or any affiliate can pursue certification in areas outside its current service area on the same terms as any other service provider; and

5. No local service provider can establish a local calling area that includes interLATA routes until Ameritech has the freedom to provide interLATA service¹⁷.

Throughout Time Warner's extraordinary Ohio quest to become a viable facilities-based provider of local switched services, it has been attacked by incumbent LECs (most notably and most often Cincinnati Bell Telephone Company) because it is "too big", because Time Warner is not a "niche player" and because Time Warner's existing capabilities provide customers with the most prompt and certain opportunity to experience the lower prices, new products and better services that arrive when effective competition is unleashed upon monopolies. The Ameritech interconnection negotiations and the attached exhibits demonstrate that no would-be provider of switched local service, whether big, medium or small, is capable of withstanding the incumbent monopoly power of Ameritech.

Ameritech's pattern of behavior over the past year makes clear that Ameritech never heard the message sent by the Commission in the Ameritech alternative regulation Opinion and Order. Moreover, Ameritech's behavior is in direct violation of the spirit and the letter of the Commission's order that Ameritech negotiate an interconnect agreement in good faith. If the Commission permits Ameritech to blithely ignore the state's policy, the dictates of its alternative regulation order, and the Commission's order in Time Warner's certification case, no LEC in Ohio will find reason to follow Ohio's policy and law on telecommunications and enter into reasonable interconnection agreements with NECs. It has been seven years since the General Assembly enacted R.C. Chapter 4927, and announced Ohio's telecommunications policy. To

¹⁷ In other words, Ameritech has asked Time Warner to agree to support market entry barriers until limitations agreed to by Ameritech to remedy its anticompetitive behavior and protect the public interest are removed. This may be the first time in history that a business has tried to leverage a penalty imposed upon the business for its anticompetitive behavior into further restraints on competition. Ameritech's other list is attached as Exhibit 6.

date, not one single NEC is able to offer switched local service pursuant to the implementation of the policy announced by the General Assembly in 1988. Unless Ameritech is compelled to honor its obligations, switched service customers will **never** see those benefits. It is time for the Commission to act, and that action must be firm, unequivocal, and subject to specific deadlines.

IV. RELIEF REQUESTED

For the reasons set forth above, Time Warner requests that the Commission promptly issue an order directing that:

1. Ameritech's alternative regulation authority with regard to exemptions from traditional regulation, pricing flexibility, accounting adjustments, process and time frames for the establishment of prices or services and any contract approvals are suspended¹⁸ forthwith as they may apply prospectively for new customers and services and, as of February 1, 1996, for existing customers and services;
2. Ameritech publish notice (in a form the Commission deems suitable) in newspapers of general circulation advising the public that the suspension of its alternative regulation authority and any resulting inconvenience that Ameritech's customers may experience are the direct result of Ameritech's violation of the Commission's order, and Ameritech's alternative regulation plan;
3. The Attorney General for the State of Ohio seek injunctive relief on behalf of the Commission pursuant to R.C. 4905.60, 4905.37, 4905.38, 4905.381, 4905.50, 4905.51, 4903.25 and 4905.54 compelling Ameritech to enter into that interim interconnection arrangement with Time Warner on terms judged reasonable by the Commission pending the finalization of the Commission's local exchange competition rules.

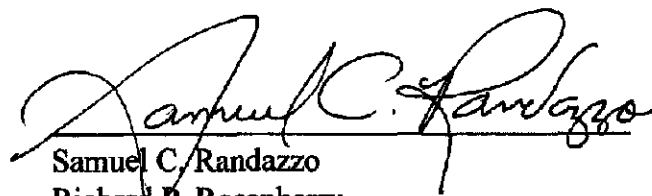
¹⁸ Time Warner will consider withdrawing its appeal of the Commission's order approving Ameritech's alternative regulation plan if the above mentioned authority is suspended as part of the relief granted by the Commission..

In addition or as an alternative to the relief requested above and for the reasons set forth herein, Time Warner requests that the Commission:

1. Treat this pleading as a complaint under R. C. 4905.26;
2. Find that Ameritech's actions relative to Time Warner's interconnection request are *per se* a violation of Ohio law;
3. Order Ameritech to show cause why it is not in violation of its alternative regulation plan and the Commission's orders;
4. Through the use of an alternative dispute resolution method, implement forthwith a process by which an interim¹⁹ switched local service interconnection arrangement between Ameritech and Time Warner shall be completed and approved by the Commission (to the extent required) by no later than January 31, 1996; and
5. Order such other relief as may be appropriate under the circumstances, including reimbursement of Time Warner's and the Commission's expenses (consulting, administrative, legal, and other expenses) incurred in enforcing the Commission's orders in the Ameritech alternative regulation case and Time Warner's certification case.

Time Warner respectfully requests that the Commission issue an order forthwith in this matter granting Time Warner's Motion and the relief requested.

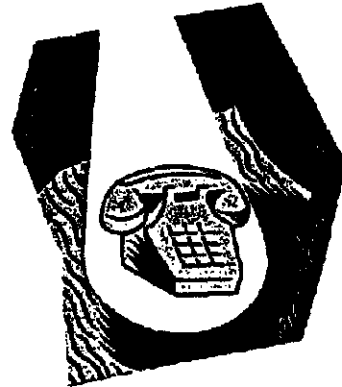
Respectfully submitted,



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**Counsel for Time Warner Communications of
Ohio, L.P. and Time Warner AxS**

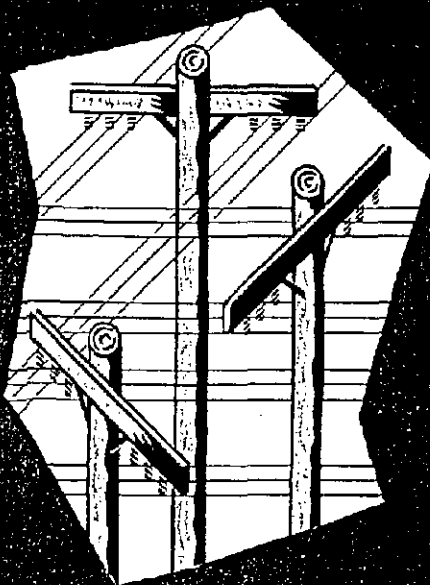
¹⁹ An interim arrangement is proposed in recognition of the pending generic rules.



Important
news
about your
phone service

Ameritech

Soon, you'll have a variety of
choices.



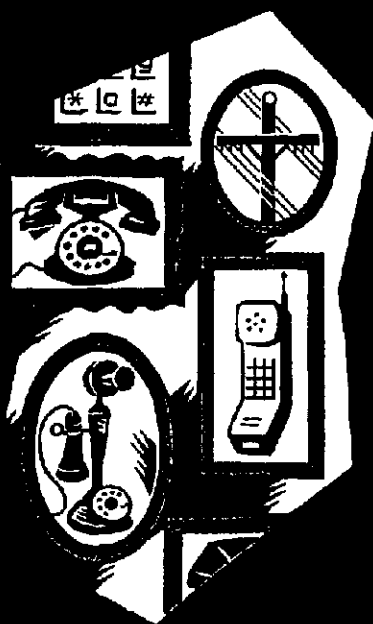
Ameritech has opened the door for other companies to offer you local phone service. That means you'll have a wide array of new choices, options and phone packages to choose from.

However, before you can select the products, services and companies best suited to serve your telecommunication needs, you'll need some information.

That's where we can help.

We hope this simple, straightforward booklet provides you with the kinds of facts and figures essential to making good, solid, informed decisions.

**We've been
your phone company
for more than
100 years.**



Ameritech has been your local phone company ever since there was a phone company—100 years and counting.

Sure, we've gone through a name change or two. We've been your Bell Company, and yes, for a time, we were even related to AT&T. But the truth is, Ameritech has been a separate communications company since 1984. At that time, AT&T split off to concentrate on long-distance, while Ameritech continued to provide you with a wide array of local services under our Bell Company name.

And we're not just talking local telephone service. Now we bring you cellular service, 911 connections, paging services, even the phone book.

The reality is, we've always been your phone company. We're Ameritech. Your link to better communication. And that's exactly what we intend to be for you, for years to come.

IMPORTANT DATES IN OUR HISTORY

- 1877 *Bell Telephone Company founded on July 9th.*
- 1927 *First overseas telephone call made.*
- 1973 *Direct-distance dialing available.*
- 1983 *First commercial cellular service in U.S. starts in Chicago.*
- 1984 *On January 1st, AT&T splits off to concentrate on long-distance, while Ameritech continues to provide local service through Bell companies.*
- 1993 *Bell companies of Illinois, Indiana, Wisconsin, Ohio and Michigan come together under the Ameritech name.*

A FULL-SERVICE
COMMUNICATIONS
COMPANY

Caller ID
Voice Mail
Call Waiting
Call Forwarding
Automatic Callback
Yellow Pages
Pay Phones
Cellular
Paging
911 Connections
Security Monitoring
Directory Assistance
Home Shopping (Peapod)
Ameritech Calling Card
The Complete™ Credit Card
Distance Learning
Regional Health Information
Networks
Library Automation Services

Some services are not
available in all areas.
Limitations may apply.

**We offer more than just
local phone service.**

Much more.

We're extremely proud to serve as the link that connects you to your community. And while we want you to think of us as your "local" phone company, we also want you to know about our other products and services designed around your daily communication needs at home and at work.

Calling services including Call Waiting, Call Forwarding and Automatic Callback. Features like Voice Mail and Caller ID. Plus cellular service, paging, home security monitoring and Directory Assistance. In fact, we're the only company around that offers you this type of full communications package.

In the near future, you can also count on Ameritech to bring interactive entertainment services straight to your living room, as well as offer you a host of other new and exciting products and services.

At Ameritech, we can take care of your telecommunication needs. Today. And tomorrow.

There's a lot more to providing quality phone service than meets the ear. That's why we have operators standing by, not to mention engineers, service representatives, line technicians, installation experts and the like—all ready to serve you.

Our people are our most important asset. They are highly trained, dedicated employees, committed to serving your needs through specialized divisions, including our small business unit, cellular division, work-at-home unit and our bilingual Servicio Amigo center.

And better still, we're right here in your neighborhood. We know when thunderstorms threaten your service, or when lines are down. So if, by chance, you need us to stop by your house and check on something, we can be there quickly.

And we're more than just responsive. We're reliable—99.98% reliable. What that means is, 9,998 out of every 10,000 calls placed through our network travel quickly and efficiently to their final destinations.

In fact, when other phone companies need dependable communications, they use our network to get their calls through.

**We have thousands
of employees
right here
to help.**



Technicians
7400



Residential Customer Service
5000



Operators
4500



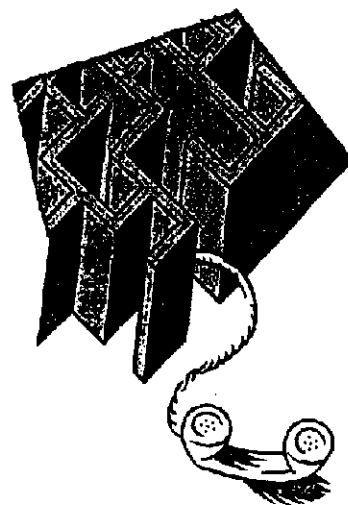
Small Business Customer Service
1200

The telecommunication industry is changing rapidly. And with change comes choice.

Yet while the onset of competition for local phone service will open up all sorts of wonderful new opportunities for everyone, it will also create some questions. Questions that we'd be happy to help you answer.

At Ameritech, we've spent more than 100 years providing you with the kinds of services, information and insight essential to better communication. And we look forward to the opportunity to continue helping you choose simple solutions for all your telecommunication needs. We're not only capable. We're committed.

We can
guide
you
into the
21st
century.



Answers

are just a phone call away.

*Here's a list of resources we hope
you'll find helpful.*

Customer Care Center - Residential Service

1-800-660-1000

Small Business Service Center

1-800-660-3000

Cellular Service

1-800-MOBILE-1

(1-800-662-4531)

Work-At-Home Specialists

1-800-WORK-LIFE

(1-800-967-5543)

Servicio Amigo - Bilingual Service Center

1-800-621-4533

Ameritech

**YOUR LINK TO BETTER
COMMUNICATION**

405-CH8AND

THE PLAIN DEALER / MONDAY, MAY 1, 1990

We did. It was Ameritech who asked the government to allow other communication companies into this area to compete for your local phone service business. And we're the first of the regional Bell companies to take this step.

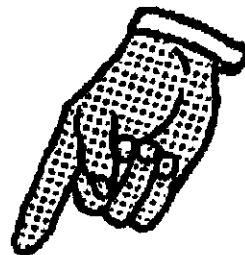
If you're scratching your head wondering why a company would solicit competition where there once was none, we have some good reasons.

We know customers want one source for all their telecommunications needs, as well as a

number of companies to choose from; they've told us so. And it's by inviting this competition that we're making it possible to eliminate the regulations preventing us from being a full service provider—long distance, cellular, interactive video and local phone service. One day we hope to offer them all.

For now, what it means is wide-open competition and all that goes with it: better service, better products and lower prices. We welcome it. And feel sure you will too.

**Just for the record,
we'd like to point out who
asked for competition in the
local phone market.**



Ameritech
Your Link to Better
Communication

1 provides a manual test access.

2 MR. TRABARIS: I have no further
3 questions. Thank you.

4 EXAMINER PFEIFER: There was somebody
5 else, Mr. Varda, was it you who had questions for
6 this witness.

7 MS. SHERMER: Your Honor, so did I.

8 EXAMINER PFEIFER: You have some?

9 MS. SHERMER: Yes.

10 EXAMINER PFEIFER: Okay.

11 Cross-Examination

12 By Ms. Shermer:

13 Q. Good morning, Mr. Kocher.

14 A. Good morning.

15 Q. I'm Marsha Shermer from Time Warner
16 Communications. I have a few questions on two
17 areas with respect to your testimony. First of
18 all, can you tell me how Ameritech staffs for
19 interconnection negotiations with new entrants?
20 What business unit is responsible for that?

21 A. Ameritech's information industry services business
22 unit is responsible for the negotiations with
23 AECs.

24 Q. And is that the business unit in which you are
25 employed in Ameritech?

1 A. No, I'm associated with corporate.

2 Q. Have you been involved in the interconnection
3 negotiations with new entrants in the region?

4 A. Yes, I have.

5 Q. Can you tell me how many interconnection
6 agreements are complete with Ameritech?

7 A. There are essentially two ways for interconnection
8 to take place. One under tariff which are
9 available in Michigan and Indiana -- Michigan and
10 Illinois, I'm sorry. And the other is a
11 contractual agreement of which there is one in
12 Illinois, one currently in Wisconsin that I'm
13 aware of. All the rest of the carriers in
14 Michigan and Illinois are interconnecting under
15 tariff.

16 Q. Can you tell me which of the contractual
17 arrangements which the -- what the name of the new
18 entrant, is?

19 A. In Illinois the contractual arrangement predated
20 the tariffs, and that was with MFS. In Wisconsin
21 I'm hesitating a little because I'm trying to
22 think if there is any proprietary information
23 there. I don't believe so. So the
24 interconnection was with MCI.

25 Q. Can you tell me the vintage on the MCI agreement?

1 A. Relatively recent. I don't remember the date.

2 EXAMINER PFEIFER: Is your microphone
3 on, Mr. Kocher? Pull that button toward you.

4 BY MS. SHERMER:

5 Q. There has been some publicity in at least trade
6 publications as well as financial publications
7 with respect to an agreement between Ameritech and
8 US Network. Does that agreement include an
9 interconnection agreement?

10 A. That's a resale agreement so it was retail only.

11 Q. So it provides the terms and conditions for resale
12 but not for interconnection?

13 A. In particular it provides the rates and terms for
14 volume and duration discounts associated with the
15 Ameritech Illinois resale tariff. There is also
16 an agreement with MFS that was recently announced
17 for the same type of arrangement.

18 Q. Would US Network also have to obtain an
19 interconnection agreement in order to provide
20 service under the currently established resale
21 arrangement?

22 A. Excuse me? Could you repeat the question?

23 Q. Would US Network in addition to the terms and
24 conditions of resale in the agreement that you
25 referenced also have to determine an

- 1 interconnection arrangement with Ameritech?
- 2 A. No. As a reseller, they are going to resell
- 3 Ameritech's bundled services. And so
- 4 interconnection is not required.
- 5 Q. So they are what we would call a pure reseller?
- 6 A. Yes.
- 7 Q. And they would have no facilities whatsoever?
- 8 A. Well, at least at this point in time there was
- 9 none in that part of the agreement. If they were
- 10 to seek certification in Illinois and do it, they
- 11 would probably interconnect under tariff.
- 12 Q. When a new entrant is discussing interconnection
- 13 with Ameritech, who participates in the decision
- 14 as to whether the terms and conditions that are
- 15 being discussed are acceptable?
- 16 A. I guess that depends on what the terms and
- 17 conditions involve. I'm there and as other
- 18 technical people are to talk about physically what
- 19 the network is capable of and how a particular
- 20 interconnection arrangement may or may not work
- 21 with our operating procedures. The business unit
- 22 is the organization that decides whether to go
- 23 ahead with the arrangement or not. They are the
- 24 deciding organization.
- 25 Q. Are there any other Ameritech business units or

1 personnel who would accept or reject a proposed
2 interconnection agreement from Ameritech's
3 perspective?

4 A. There are a lot of people involved, lawyers,
5 people in regulatory, other business units per se
6 that do not have a say.

7 Q. Do you know, do you recall how long ago Time
8 Warner began interconnection discussions with
9 Ameritech?

10 A. In Ohio? I don't think we have any
11 interconnection discussions going in Wisconsin
12 that I'm aware of.

13 Q. Well, let's talk about Ohio then.

14 A. Well, I think it was about last March or April
15 that we started discussions.

16 Q. Would you accept subject to check December of
17 1994?

18 A. I'd have to check that out. I just don't recall.

19 Q. Do you know during the one year period, and assume
20 that I am correct about December of 1994, between
21 the beginning of the discussions and today's date,
22 if those discussions were terminated at any point?

23 A. They were suspended for a period of time, yes.

24 Q. And was it the business unit that suspended the
25 discussions?

1 A. That's how I found out about it anyway.

2 Q. It was not a technical problem or an impediment to
3 the technical interconnection?

4 A. It was not a technical problem.

5 Q. Do you know why the business unit would suspend
6 negotiations?

7 A. Directly, no.

8 Q. Who would know?

9 A. Mr. DeFrance.

10 Q. Is there a witness in this case who could answer
11 questions?

12 MR. PAULSON: Probably not since any
13 particular discussions are issues related to the
14 interconnection in other states, and agreements
15 are matters for another jurisdiction. They're not
16 a matter for this commission. But as a practical
17 matter, none of the witnesses that we've presented
18 in this case were -- would be able to speak to
19 those direct discussions as far as I know.

20 MS. SHERMER: Your Honor, I believe in
21 the staff proposed issues list some of the most
22 significant issues have to do with the process of
23 negotiating interconnection and also what
24 procedures should be in place with respect to this
25 commission's jurisdiction.

1 We do have some direct experience that I
2 think bears upon making recommendations to the
3 commission about the procedures that may be
4 necessary. If you would like, I can go through
5 some more foundation with this witness.

6 BY MS. SHERMER:

7 Q. Mr. Kocher, is it your understanding that Time
8 Warner has approached the interconnection
9 negotiations with Ameritech seeking what you would
10 consider to be a regional agreement?

11 A. Some of the discussions have dealt with regional
12 issues, some have discussed Ohio only.

13 Q. So with respect to the whole process of discussing
14 interconnection negotiations, whether the original
15 locus was Ohio or Wisconsin really doesn't bear
16 upon that line of inquiry, does it?

17 A. I believe that the discussions in Ohio, about Ohio
18 and the suspension dealt with only the Ohio
19 negotiations. I don't think that any other
20 discussions or any other states were involved in
21 that suspension.

22 Q. What type of tariff proposal would and did
23 Ameritech put on the table? I'm not asking for
24 the specific terms, but were there tariff
25 proposals offered which reflected Michigan tariffs

1. in the interconnection discussions with Time
2 Warner?

3 A. I think in the discussions we've had so far, we've
4 talked about both the models in Michigan and in
5 Illinois in terms of areas for possible agreement
6 to be applicable to the discussions in Ohio.

7 Q. So the business unit would negotiate regionally
8 drawing upon tariffs in other Ameritech states.
9 But it is the case that the Ohio regulatory staff
10 could terminate the negotiations; is that correct?

11 A. I said before, I wasn't sure why or who terminated
12 the negotiations.

13 Q. I believe in cross-examination yesterday by
14 Attorney Urbanski of AT&T you were asked the
15 question whether an interconnection tariff has
16 been filed in the State of Wisconsin. And you
17 indicated I believe that you did not think it had
18 and also that you did not participate in that
19 decision; is that correct?

20 A. That's correct.

21 Q. Do you know if such a tariff has already been
22 filed in Indiana?

23 A. Not to my knowledge.

24 Q. In Ohio?

25 A. Not to my knowledge.

1 Q. So Indiana, Ohio and Wisconsin do not have tariff
2 proposals from Ameritech for interconnection?

3 A. Not at this time.

4 Q. Do you know whether such tariffs will be filed in
5 those states in, for example, the next three
6 months?

7 A. I don't know when tariffs will be filed. I know
8 that as a discussion point we've generally assumed
9 that interconnection would be available under
10 tariff, available to all carriers under the same
11 terms and conditions.

12 MS. SHERMER: Could I have the answer
13 read back, please?

14 (Record read.)

15 BY MS. SHERMER:

16 Q. Which witness in this case would be able to answer
17 the question regarding when interconnection
18 tariffs would be filed in Wisconsin?

19 A. I don't know if anyone can answer that question.

20 Q. Can you identify what personnel or level of
21 personnel in Ameritech would make that decision?

22 A. I think it depends on the commission's action in
23 this proceeding.

24 Q. And how would it depend on that?

25 A. What the commission orders and when it is ordered

1 to be done.

2 Q. Were the tariffs in Illinois and Michigan filed
3 because of a commission order to file tariffs?

4 A. The tariffs in Illinois were filed as part of the
5 customer first proceeding in February of '94. The
6 tariffs in Michigan were filed following the
7 commission's order in the Signal case.

8 Q. So in some instances Ameritech files an
9 interconnection tariff pursuant to a commission
10 order, and sometimes it files it upon its own
11 initiative, correct?

12 A. The tariff filing in Illinois was part of the
13 customer first initiative, that is correct. And
14 the tariff filing in Michigan was part of the
15 order for the Michigan PSC.

16 Q. And I'm sorry, my short-term memory isn't what I
17 would like it to be. Did you say who decided when
18 and whether a tariff would be filed on
19 interconnection in Wisconsin?

20 A. No, I did not.

21 Q. Do you know?

22 A. I do not know.

23 Q. Do you know how we could find out?

24 A. I don't know what the procedure for that is.

25 Q. Does Ameritech when it determines that it has,

1 excuse the phrase, a good interconnection
2 arrangement, that is one satisfactory to
3 Ameritech, whether it will take such an
4 arrangement and use it as a model for a tariff?

5 A. I'm sorry, could you restate the question?

6 Q. Yes. In the course of the discussions between a
7 new entrant and Ameritech, presumably there is a
8 point when Ameritech concludes that the proposal
9 on the table is acceptable, that's what I'm
10 calling a good interconnection agreement. And
11 does such a quote, good interconnection agreement,
12 become the basis for a tariff offering for other
13 interconnectors?

14 A. As a general rule, I think once you have agreement
15 which I presume is good to both parties that
16 because of reasons for nondiscrimination and other
17 processes, our attention is to tariff as I
18 understand it.

19 Q. So if you were to reach an interconnection
20 agreement with one new entrant and then tariff it,
21 other new entrants would be looking at a tariff as
22 their opportunity to do interconnection in that
23 state; is that correct?

24 A. I don't think it's exactly the way you
25 characterize it. Let's just take the MCI

1 agreement that we have in Wisconsin. I think that
2 that's an interim arrangement that probably will
3 not be tariffed. It's something that was entered
4 into while this proceeding is under way.

5 We have discussions going on with other
6 certified carriers of Wisconsin. We start out by
7 offering them the same agreement that MCI had, but
8 we also have the option of negotiating additional
9 capabilities. And in some cases the existing
10 agreement is available, sometimes they want
11 additional features or functions or different
12 arrangements. I don't think the fact that we've
13 tariffed one arrangement precludes anybody else
14 from getting something different.

15 Q. Have you had -- has Ameritech concluded any
16 interconnection agreement with what I would call a
17 cable-based telephony entrant?

18 A. One of the interconnectors in Illinois is using
19 cable-based telephony as part of its trial in the
20 Arlington Heights area. That was under tariff
21 rather than under contract.

22 Q. I believe you were here assuming you hadn't
23 stepped out of the room at this point when Doctor
24 MacAvoy yesterday indicated that he believed that
25 new entrants were delaying interconnection in

1 order to serve their own agendas. Do you recall
2 that testimony?

3 A. I recall.

4 Q. Is it your belief based on your experience that
5 this comment applies to Time Warner
6 Communications?

7 A. I wouldn't know.

8 Q. Do you agree with the comment?

9 A. I agree with some elements of it in terms of that
10 my experience is that there is often times
11 multiple agendas for people in a regulatory
12 proceeding. And in some cases protracting a
13 regulatory proceeding may serve other strategies
14 as they keep you out of another market.

15 Q. Does Time Warner have a reason to your knowledge
16 or your understanding as to Time Warner's working
17 toward interconnection using a delay in
18 interconnection discussions in order to keep
19 Ameritech out of another market?

20 A. I don't know if you do or you do not. I know, for
21 instance, that our company's cable applications
22 are being opposed by cable. TV associations, I
23 don't know. If Time Warner is or is not involved
24 in that, I have no direct knowledge.

25 Q. Could Time Warner keep Ameritech out of the cable

1 business if it wanted to do so?

2 A. I don't think Time Warner probably would prevail
3 in the long run nor would Ameritech prevail in
4 trying to keep you out of the telephone business.

5 Q. Is interconnection necessary for Ameritech to --
6 interconnection with current cable providers a
7 necessary physical condition for Ameritech to get
8 into the cable business?

9 A. I don't know a lot about the cable business, but
10 what I do know, there is nothing that says that's
11 mandatory. But it might be helpful.

12 Q. Is there another witness in this case that could
13 answer that question?

14 MR. PAULSON: Probably not since we're
15 not dealing with cable regulation in this case nor
16 cable entry.

17 MS. SHERMER: Is that an objection?

18 EXAMINER PFEIFER: I don't think it's an
19 objection. I think he was answering your
20 question.

21 MS. SHERMER: I was asking the witness.

22 MR. PAULSON: Sorry.

23 THE WITNESS: I don't know.

24 MR. PAULSON: Thought you were looking
25 at me.

1 BY MS. SHERMER:

2 Q. Is there anything in your engineering experience
3 indicate to you that interconnection is an
4 essential precondition for providing video
5 services such as Ameritech intends to do through
6 it's quote, stand-alone cable network?

7 A. Nothing that I'm aware of.

8 Q. From your engineering viewpoint, have you ever, is
9 interconnection with a current telephone provider
10 a necessary condition for providing telephone
11 service?

12 A. I would agree with that, yes.

13 Q. Yesterday also you were asked some questions by
14 AT&T's attorney with respect to identifying an
15 alternative underlying facilities-based carrier
16 which carrier would be an alternative to
17 Ameritech's facilities-based offering. Do you
18 recall that discussion?

19 A. I believe so, yes.

20 Q. And the AT&T attorney wanted to know which other
21 underlying facilities-based carrier a reseller
22 could go to besides Ameritech. Do you recall that
23 question?

24 A. Um-hum.

25 Q. Do you know of any underlying facilities-based

1 carrier in the State of Wisconsin other than
2 Ameritech to whom a reseller could seek -- from
3 whom a reseller could seek the services which are
4 currently provided by Ameritech?

5 A. In terms of MCI and Teleport certification and
6 have facilities-based distribution plant?

7 Q. And AT&T could seek services from MCI and Teleport
8 in order to begin a resell -- resale business in
9 the State of Wisconsin?

10 A. I would think they both -- MCI and Teleport would
11 welcome AT&T's inquiry into that area.

12 Q. Would a second major facilities-based carrier with
13 some level of ubiquity require interconnection
14 with Ameritech prior to that facilities-based
15 carrier getting into business?

16 A. I think that there would be interconnection
17 required by both, both parties.

18 Q. Do you have any understanding of the length of
19 time between the ordering of a switch and the
20 decision to begin offering switch services, the
21 length of time between those decisions and the
22 actual offering of services for a new entrant,
23 facilities-based carrier?

24 A. I believe it's on the order of a few months.

25 Q. Do you know from discussions that you have been

1 involved with with Time Warner the timelines which
2 Time Warner is indicating are necessary in order
3 to have its facilities-based switch service
4 offering available?

5 A. I am aware of the timelines. I'm not sure I'm at
6 liberty to discuss them. I think they may be
7 subject to a nondisclosure agreement.

8 Q. I believe in Mr. Jones' testimony we indicated
9 that it takes approximately a year from the
10 decision point to the offering of the switch
11 services in order to complete a sufficient level
12 of network upgrade. Does that make you a little
13 bit more comfortable to answer the question given
14 that it's available in the record from another
15 source?

16 A. Using Mr. Jones' estimate of a year, we could talk
17 about it in that time frame, yes.

18 Q. Do you know approximately how much a switch costs?

19 A. Depending on size, between \$1 and \$3 million
20 dollars.

21 Q. Do you know what other expenditures are necessary
22 in order to provide facilities-based -- a
23 facilities-based alternative to a current LEC,
24 what other level of expenditures are -- and you
25 can just indicate general order of magnitude if

1 you have any idea?

2 A. Assuming that you're talking about total
3 facilities-based, you need some local distribution
4 plant, and you would need interoffice facilities.
5 Those perhaps could be provided by a third
6 provider.

7 Q. Would you look at a sentence on page 5 of 19 of
8 your rebuttal testimony at the top. It's the full
9 sentence beginning on line 1. You indicate that
10 as a practical matter or at least initially the
11 ABCs are deploying only a single switch each so
12 there is no equivalent to an interoffice network
13 or tandem switches available?

14 A. Yes.

15 Q. It appears that the following sentence suggests
16 that some conclusion should be derived from that
17 observation, namely, that the two networks cannot
18 be just, at this -- to equate the two networks
19 cannot be justified technically. Do you see that?

20 A. Um-hum.

21 Q. Are you suggesting that a facilities-based new
22 entrant should deploy multiple switches in a new
23 service area where it has no customers?

24 A. No.

25 Q. So what is the inference that is to be drawn from

1 the observation that AECs typically begin with one
2 switch?

3 A. I think if you refer to my exhibits, Exhibit 4,
4 schedule 24, the concept that seems to be embedded
5 in some of the testimony offered by others in this
6 case is that the AEC has a network that has a
7 single switch serving and providing dial tone, and
8 Ameritech has a network and that they are
9 equivalent.

10 And what I was trying to point out is
11 just in the Madison area alone we have several
12 exchanges, several wire centers, several
13 switches. And to say that the two networks are
14 technically equivalent at that point in time would
15 -- is not justified.

16 Q. Certainly the ubiquity would be different, level
17 of deployment would be different?

18 A. Well, with the availability of unbundled loops and
19 colocation, it's probably possible to provide dial
20 tone to the same amount of customers or the same
21 customers. But the process and the network design
22 are not the same.

23 Q. I guess I'm struggling with something on the same
24 line of inquiry on this point that AT&T engaged in
25 yesterday. From that observation what should the

1. commission conclude? The networks are different,
2 is that correct?

3 A. Well, this area of my testimony was attempting to
4 discuss the interconnection proposals and
5 particularly the bill and keep proposals which at
6 least in the way from an engineering perspective I
7 look at bill and keep, it's sort of like saying I
8 have a network, you have a network, let's
9 interconnect them because they're just two
10 networks and it's real simple, we just connect
11 them.

12 And the point of my testimony is that
13 interconnection is not just simple. It is
14 complex, it's manageable but complex. And what
15 I'm trying to say is that just because you have a
16 switch and that's associated with your network and
17 mine doesn't mean that the two networks are
18 identical.

19 Q. I think we could agree with that. Let's turn to
20 your discussion of bill and keep with respect to
21 the impact of that on engineering decisions. You
22 indicate that the interconnector has no incentive
23 to employ network designs that make efficient use
24 of the other providers' networks while they have
25 great incentives to optimize the use of their own

1 switched network at the expense of the other's
2 network. That's on page 2 of 19 of your rebuttal
3 testimony, lines 18 through 22. Do you recall
4 that part of your testimony?

5 A. I'm sorry, what page is that?

6 Q. Page 2 of 19 in your rebuttal testimony. This
7 seems to be the heart of your concern about the
8 engineering impact of the bill and keep proposal.

9 A. Yeah. The concern derives directly from the bill
10 and keep approach which there is no cost of using
11 of other carriers' facilities. And the incentive
12 then is to use as much or even over-engineer what
13 you require because it doesn't cost you to ask for
14 anymore capacity. It won't cost you anymore to
15 ask for anymore capacity regardless of whether you
16 need that capacity or not.

17 It was our experience with even the
18 access arrangements with equal charge traffic that
19 took place with a substantial over-engineering on
20 the tandem routes because it was paid for only on
21 the basis of the actual traffic delivered to the
22 tandem regardless of whether that was an efficient
23 use of the tandem or not.

24 Q. Has it been your experience in the interconnection
25 negotiations with Time Warner that the technical

standards of our networking facilities would satisfy Ameritech standards, what you know of our equipment?

A. The discussions we've talked, had so far indicate that you're using roughly the same grades of service that we are. Use our own design in terms of your objectives. We only recently exchanged in the Ohio case exchanged trunking estimates. And that those trunking estimates were exchanged at least the most recent meeting that I attended.

Q. Do you have any basis of concluding that Time Warner is engaging in interconnection proposals offering interconnection proposals and would employ bill and keep in a manner that would drive inefficiencies into Ameritech's network?

A. I have no idea of how Time Warner would use bill and keep.

Q. So this concern does not apply to Time Warner?

A. This concern would apply to any situation where there isn't a check and balance on the network cost.

Q. Could Ameritech drive inefficiencies and greater costs into the network of the interconnector?

A. Without checks and balances, I think it could happen with either part, could cause it to happen,

1 either inadvertently or intentionally.

2 Q. Is a mutual compensation arrangement capable of
3 incenting undesirable behavior between
4 interconnectors?

5 A. Probably again, Mr. Panfil probably speaks more
6 eloquently to mutual compensation, but probably
7 there are distortions caused by any arrangement.

8 Q. Would you consider as an example of this kind of
9 unfortunate development to be a mutual
10 compensation scenario in which one party marketed
11 its services to a customer that draws a lot of
12 inbound traffic. Would that be an example of the
13 kind of distortion that occurs, could occur under
14 mutual comp?

15 A. That would not necessarily be a distortion. That
16 would be just a rational competitive behavior.

17 Q. So, for example, if there were a mutual
18 compensation arrangement between Time Warner and
19 Ameritech, Time Warner could go out and market
20 specifically to potential customers like Pizza Hut
21 and various other customers who would have
22 primarily inbound traffic in order to derive the
23 revenues from the termination?

24 A. We've looked at scenarios like that. We've also
25 looked at scenarios where a new competitor may

1 primarily seek business customers with PBXs who
2 are making a lot of outbound calls. And it seems
3 to me that both scenarios are likely.

4 In the Pizza Hut example if you have
5 local measured service and you are getting revenue
6 for every call a Pizza Hut customer places to
7 Pizza Hut, then mutual compensation would fall as
8 Mr. Panfil has proposed, would fall right in line
9 with that. That would be some of that revenue
10 would be placed with the carrier that terminated
11 the call, and some of the revenue would remain
12 with the carrier that originated the call.

13 On the same basis if somebody had a PBX
14 arrangement where there was a lot of originating
15 calls and maybe the terminated calls were left
16 with the LEC, that originating usage would be --
17 some would be on the AEC's network and some would
18 be using the networks of other carriers. Those
19 other carriers should be compensated for that
20 usage.

21 Q. Is Ameritech in a position with respect to its
22 current flexibility in the State of Wisconsin on
23 pricing and rates and so on to shed customers
24 selectively?

25 A. I have no idea. That's outside my area of

- 0
- 1 testimony.
- 2 Q. But it is your testimony that mutual compensation
- 3 or any other arrangement between interconnectors
- 4 could be used in such a way that without checks
- 5 and balances one of the interconnectors could
- 6 either dump a lot of traffic on the other's
- 7 network or could draw a lot of revenues whatever
- 8 the scenario was?
- 9 A. Any scenario would result in traffic being
- 10 exchanged between a network. That's the area I'm
- 11 focusing on. Whether or not that would generate
- 12 or not generate revenues probably depends on the
- 13 mutual compensation arrangement which Mr. Panfil
- 14 talks about.
- 15 Q. Do you have any knowledge as to when an
- 16 interconnection agreement with Time Warner and
- 17 Ameritech will occur?
- 18 A. In Ohio?
- 19 Q. Whether Ohio or regionally.
- 20 A. I believe the timetable we've talked about in Ohio
- 21 is before the end of the year.
- 22 Q. Are you optimistic?
- 23 A. I sure hope so. Personally, I would very much
- 24 like to see it conclude.
- 25 Q. So would we. I only had one other area of

1 questions for you, and they should not take too
2 long. You expressed some concerns about interim
3 number portability testimony, in particular the
4 testimony which we have filed by Mr. Engelman.
5 And this appears in your rebuttal testimony, pages
6 13 and 14 in particular.

7 Are you aware that Time Warner
8 Communications' personnel are actively involved in
9 the industry efforts to find a permanent solution
10 to number portability?

11 A. Yes, I am. Mr. Engelman particularly.

12 Q. Of Mr. Engelman's numerous concerns about the
13 difficulties which are presented to new entrants
14 using remote call forwarding as the interim number
15 portability solution, you focus on one in
16 particular and that is the call set up delay; is
17 that correct?

18 A. That's the one example I picked, yes.

19 Q. Do you know of any research on the customer's
20 tolerance for call set up delay?

21 A. Not directly, no.

22 Q. So you don't have any basis for saying that it's
23 unlikely that most end-users would be sensitive to
24 the delay?

25 A. I tried to point out in my example that typically

1 a ringing signal varies anywhere from zero to six
2 seconds in terms of the cycle. And the type of
3 delay that Mr. Engelman talked was a fraction of
4 that, about a sixth to a third of that or a third
5 to a half of that, I'm sorry.

6 And it just struck me as not likely in
7 the areas that I'm familiar with. We used to have
8 call set ups of 45 seconds for long distance calls
9 before we went to SS7. And at those type of time
10 frames you start to get call abandonment. But a
11 two to three second delay is something that just
12 didn't strike me as unreasonable. That's a
13 personal opinion.

14 Q. That's a personal opinion. Not based on any
15 research, right?

16 A. No.

17 Q. You indicate, and I'm going to characterize a line
18 of argument in your testimony, and I'm sure you
19 can correct me if I'm wrong. But you indicate
20 that it is disingenuous for new entrants to
21 criticize remote call forwarding as the interim
22 number portability solution since that is
23 typically the kind of number portability that they
24 themselves would use. Is that a correct
25 description of your position?

1 A. That struck me as unfair about the argument, yes.

2 Q. Do they have any -- do new entrants have available

3 to them any other solutions?

4 A. Neither Ameritech nor the new entrants have

5 available to them any other solutions at this

6 time.

7 Q. So it doesn't make any difference to anyone what

8 they offer because they don't have any choice?

9 A. That's the bottom line.

10 Q. Nevertheless, the deficiencies can still be

11 observed about this particular solution?

12 A. Which is the reason we're trying to go to a

13 long-term solution.

14 Q. Is it your testimony that all of the technical

15 deficiencies of interim number portability are

16 experienced by the Ameritech customers and not

17 customers of the new entrant?

18 A. No.

19 Q. And is it your testimony that the call set up

20 delay is only experienced by the Ameritech

21 customers?

22 A. No.

23 Q. What is your testimony on which customers

24 experience the call set up delay, for remote call

25 forwarding?

1 A. When the AEC is providing the remote call
2 forwarding as part of its number portability. So
3 one of its numbers is being ported over to
4 Ameritech, it would be the AEC's customers that
5 would experience the delay when they called
6 another number that appeared to be on the AEC
7 switch when in fact it was being ported to a
8 different distant location.

9 Q. So put that in another way then you're saying that
10 whatever deficiencies there are that are of the
11 call set up delay nature, if a customer has
12 switched from a new entrant to Ameritech, then the
13 RCF methodology would create for the new entrant's
14 customers the same call set up delay that
15 Ameritech's customers would when calling a new
16 entrant's customers?

17 A. I believe so, yes.

18 Q. Under what scenario would a customer be using a
19 remote call forwarding number portability solution
20 and the remote call forwarding would be provided
21 by the new entrant? When would that happen?

22 A. That's generally I think called a win back or a
23 competitive win when customers had originally
24 ordered your service and you lost them to another
25 provider, whether it's Ameritech or to a different

1 AEC.

2 Q. So the reciprocity of the call set up delay would
3 occur, and the burden of that would fall upon the
4 new entrant's customers after they had initially
5 gotten customers, after they had gotten -- first
6 of all, after they had gotten certified, after
7 they had their facilities in place, after they
8 marketed, after they obtained customers and then
9 after they lost a customer back to Ameritech?

10 A. Or to another AEC.

11 Q. That's the scenario that we're talking about where
12 we would have reciprocity?

13 A. Yes.

14 Q. Now, I'm not an engineer, so if you could tolerate
15 my inquiring along this line, when a call goes out
16 from, and it is a remote called forwarded number
17 portability situation where Ameritech is providing
18 the RCF, and it is, for example, a Time Warner
19 customer, the delay experience that you talk about
20 in your example is when an Ameritech customer
21 calls a Time Warner customer, right?

22 A. The delay.

23 Q. Is experienced by the Ameritech customer?

24 A. Is experienced by the Ameritech customer whether
25 dialing an Ameritech number that is then ported to

1 a Time Warner customer.

2 Q. Now, when in the same scenario, same conditions,
3 the Time Warner customer calls an Ameritech
4 customer, does that call go through the switch, is
5 it in any way routed through the reverse of RCF?

6 A. Again, if -- in the opposite situation when a Time
7 Warner number is provided, called?

8 Q. No, it's the same situation, it's our customer,
9 it's your customer calling our customer, and it's
10 RCF number portability. Our customer -- and the
11 first example was the inbound call to our customer
12 from an Ameritech customer. And that was the
13 situation in which the Ameritech customer
14 experienced the call set up delay?

15 A. Okay.

16 Q. Now, everything is the same except the call is
17 going out from the Time Warner customer to the
18 Ameritech customer. Is there any call set up
19 delay in that situation?

20 A. You've lost me somewhere in your description of
21 the situation. Could we try it one more time?

22 Q. Yes. And I apologize because I as I say, I'm not
23 an engineer. Let's go at this a little bit
24 differently. If a Time Warner customer calls an
25 Ameritech customer and the Ameritech customer has

1 Caller ID, what shows up on the Caller ID screen
2 to the Ameritech customer, what number?

3 A. The calling party number populated and the message
4 is sent by Time Warner, the number that shows up
5 is the number that Time Warner places in that
6 block in the SS7 message. So whatever number Time
7 Warner places in that block.

8 Q. What I'm trying to get at is whether the
9 engineering of the outgoing call in any way
10 replicates the engineering of the incoming call
11 such that the call set up delay would be
12 experienced in both directions?

13 A. Not to my knowledge.

14 Q. When Ameritech provides remote call forwarding and
15 there is an inbound call which is a toll call,
16 does the IXC provide an access payment to the
17 Ameritech number? Is it tagged to the Ameritech
18 number?

19 A. The carrier that receives the call or feature
20 group D trunk from the IXC bills the IXC for the
21 call. So if they send it directly to our switch,
22 you would bill them. If they sent it to our
23 switch, we would bill them.

24 Q. We're talking about a ported number?

25 A. We're talking about a call, calls to a ported

- 8
- 1 number are sent to our switch.
- 2 Q. So on ported numbers all the access payments would
- 3 be to Ameritech?
- 4 A. Not necessarily. Depends on the IC.
- 5 Q. The IC?
- 6 A. Yes, the interexchange carrier, the long distance
- 7 line.
- 8 Q. But your typical arrangement is to bill the
- 9 interexchange carrier for the access charges
- 10 related to the numbers that you have in your
- 11 switch that are the receiving side of incoming
- 12 long distance calls?
- 13 A. Our practice is to record and bill for calls sent
- 14 to our switch. The IXC has a capability in their
- 15 switch called 10 digit screening which if they
- 16 chose to activate recorded numbers, they could
- 17 route the call to your switch.
- 18 Q. Is it a common practice for IXCs to engage in that
- 19 kind of routing?
- 20 A. They don't appear to have chosen it.
- 21 Q. Does Ameritech have the ability to identify,
- 22 account for and divide access payments with new
- 23 providers based on the ported number issue that
- 24 we've just been discussing?
- 25 A. No.

1 Q. Does it intend to develop such billing and
2 accounting systems?

3 A. In terms of the interim nature of number
4 portability and the fact that there is probably
5 not going to be that many calls involved, it's
6 probably not justified.

7 Q. Why do you assume there aren't going to be that --
8 quote, that many calls involved?

9 A. The majority of calls to the telephone numbers are
10 local or intralATA in nature.

11 Q. So it's on a relative local to toll basis that
12 you're drawing that conclusion, it's not on the
13 total call volume, correct?

14 A. The assumption is only a fraction of the calls to
15 any given number of toll calls, that's correct.

16 MS. SHERMER: If I could have a minute,
17 I want to make sure I've covered everything.

18 EXAMINER PFEIFER: Sure.

19 MS. SHERMER: Did you want to take a
20 break?

21 EXAMINER PFEIFER: We can do that.

22 Let's take 15 minutes.

23 (Recess taken.)

24 EXAMINER PFEIFER: Back on the record.

25 MS. SHERMER: Thank you, Your Honor. We

1 have no further questions.

2 MR. TOWNSLEY: MCI has a couple of
3 questions, and I don't know whether Mr. Varda
4 would like to go first.

5 EXAMINER PFEIFER: He'd probably rather
6 wait.

7 MR. VARDA: Doesn't make any difference
8 to me. If I ask questions, then he has further
9 questions in light of what I've said, then we'll
10 be back again. Whatever the examiner wishes.

11 Cross-Examination

12 By Mr. Townsley:

13 Q. Just a couple of questions. Good morning. I'm
14 Darrell Townsley with MCI. In looking at your
15 direct testimony at page 28 where you discuss
16 virtual colocation arrangements, I just want to
17 make sure I'm clear on this point. Is it your
18 testimony that all new local exchange carriers
19 would be required to purchase service from
20 Ameritech's virtual colocation tariff in order to
21 interconnect and terminate local calls?

22 A. No. Virtual colocation is not required for end
23 office integration, the ability to exchange
24 traffic. Virtual colocation is required to gain
25 access to unbundled local loops if the carrier

1 wishes to avail themselves of that capability.
2 But end office integration either using virtual
3 colocation if the carrier chooses, Ameritech will
4 provide the facilities if the carrier chooses or
5 they can get a third provider, say a cap to
6 provide the facilities for them although the
7 options are available at end office integration.

8 Q. So are the interconnection arrangements that you
9 believe should be available to all new local
10 exchange carriers equivalent -- available for the
11 completion of local calls equivalent to the
12 arrangements that are available to independent
13 local exchange carriers?

14 A. The independent local exchange carriers I believe
15 have the same options available to them.

16 Q. So it's your testimony that for the purposes of
17 completing a local call, new local exchange
18 carriers and existing incumbent independent local
19 exchange carriers should be treated the same?

20 A. The testimony is that the end office integration
21 capabilities that I described in my testimony
22 should be available to both existing and newly
23 authorized carriers, local exchange carriers.

24 Q. I'm not sure if that was responsive to my
25 question.



January 4, 1995

Mr. William DeFrance
Director - Information Industry Services
AMERITECH
23500 Northwestern Highway, Room A106
Southfield, Michigan 48075

Tom Staebell, who leads our interconnect negotiating team, reported to me on his December 1 meeting with you and the Ameritech team to initiate the dialogue on interconnection in Ohio. Tom suggested that our agreement with Rochester Tel, although not perfect, represents a good starting point for Ohio interconnection. As I understand it, you said that Ameritech is willing to proceed with negotiations on interconnection only under one of these three scenarios:

1. On the basis of pure resale of Ameritech services;
2. On the basis that Time Warner would pay full intrastate access rates, including the Carrier Common Line element, to have Time Warner's customers' calls delivered to Ameritech customers;
3. On the basis that Ameritech would treat Time Warner just as it treats cellular carriers today; that is, Ameritech would be paid for completing TW customers' calls, but Ameritech would not pay to have its customers' calls completed.

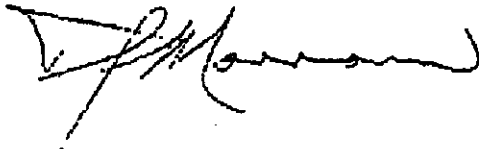
Independent of your meeting, I met with Tom Hester and a group of Ameritech officials at the Department of Justice on December 14. In that meeting Ameritech sought to gain freedom to enter interLATA markets, on a trial basis, once, among other things, its local exchange markets are competitive. Ameritech said that it was specifically willing to enter into negotiations for bill-and-keep or mutual equal compensation interconnection, and for interim and complete number portability.

Since Ameritech designated you to engage in the Ohio negotiations, and taking you and Ameritech at your word that Ameritech believes in and wants to advance local exchange competition, please consult with appropriate Ameritech officials and tell us when you are ready to pursue this line of discussion.

Time Warner isn't a "cream skimmer" or arbitrageur. But neither are we merely a customer. We are a local co-carrier with a stand-alone network on which we will offer complete telephone service to all residents of our Ohio service areas, which include all or part of 37 counties. We have requested authority from the Public Utilities Commission of Ohio to provide residential dial tone in Ohio, but even if the PUCO acts expeditiously, Ameritech and the other Local Exchange Companies can keep us out of the business by withholding network interconnection on equitable terms, number portability, and the dozens of smaller but nevertheless important interfaces that insure seamless service for customers of all networks.

Ameritech has stated a position in favor of local competition. Will you work with us to create the foundation on which actual competition can arrive in the marketplace at the earliest possible time? I'll ask Tom Staebell to call you to arrange a meeting.

Sincerely,



CC: Anne Bingaman, Assistant Attorney General, United States Department of Justice
Craig Glazer, Chairman, Public Utilities Commission of Ohio
Thomas Hester, Executive Vice President and General Counsel, Ameritech
John Vaughan, President - Ameritech Information Industry Services

WDC 01/04/93 10:28 AM

TOTAL P.003

Mr. Martin Clift
 Director - Regulatory Affairs
 US Signal Corporation
 2855 Oak Industrial Drive
 Grand Rapids, MI 49506

September 21, 1995

Dear Mr. Clift,

This is to document our meeting of September 15th. I understand that US Signal and Ameritech are willing to engage interconnection arrangements other than virtual collocation for connecting to Ameritech loops. The parties are also willing to resolve other interconnection matters as discussed below.

1. Ameritech agrees to provide interconnection to unbundled loops at Ameritech's central offices within US Signal's licensed serving areas on a trial basis under the following terms and conditions. US Signal will have the choice to interconnect under the following options:

- a. Virtual collocation - as currently defined in Ameritech's MPSC Tariff No. 25, Section 18.
- b. DS1 multiplexing and transport - as defined in Ameritech's FCC Tariff No. 2.
- c. Tie cable access (as technically defined in T. Meyers testimony submitted in Case U-10860) with various construction and ownership options:
 1. Interconnection of USS tie-cable on Ameritech premises, other than within the Ameritech central office.
 2. Interconnection of USS and Ameritech tie-cables at manhole or other agreed meet point.
 3. Interconnection of Ameritech tie-cable on USS premise.

Cross connection charges, at \$2.21 per two-wire connection, as identified in Ameritech tariffs will apply for interconnection within the Ameritech central offices. During the trial unbundled loops will continue to be provided for business and residence users at \$8.00 and \$11.00 respectively, regardless of the interconnection option chosen. US Signal will incur all construction costs to bring its facility to the Ameritech premise, including reimbursement to Ameritech for its costs as may be applicable under options c.2. and c.3. Otherwise applicable tariff rates will apply. In the event that the parties are unable to agree upon applicable costs prior to interconnection, the parties agree to submit the issue in dispute to binding arbitration, with resolution in two weeks from submission to a neutral arbitrator. The parties will initiate negotiations to define the terms and conditions for arbitration immediately, and these terms must be agreed to by both parties by October 13, 1995.

US Signal and Ameritech will work cooperatively to share data necessary to define the interconnection arrangement in each central office. US Signal will notify Ameritech in writing for each office of its intent to go forward with a particular interconnection plan.

Construction will be completed within 30 days after application, unless mutually agreed to otherwise. The parties also agree to develop consistent facilities numbering and order nomenclatures in order for record compatibility.

The parties agree that these options will only be available for end offices that were interconnected during the trial period.

For all end offices interconnected with the cable access as identified in option c., US Signal will be permitted to continue the interconnection arrangement and order new unbundled loops for an indefinite period, subject to termination by US Signal. Ameritech agrees to grandfather to US Signal the line end office unbundled loop access for expansion under the construction cost terms and conditions contained herein, or until superseded by revised tariffs. US Signal will also have the option of reimbursing Ameritech for its costs subject to the arrangements under a five-year term payment plan at twelve percent (12%) interest.

The parties agree that they will jointly ask that the MPSC staff withdraw its pending request for clarification, and permit the filing of Ameritech's Michigan tariff with the revised sheet 17 as attached to this letter. This agreement will not prejudice or preclude either party from asserting their respective positions on this issue in Case U-10860.

The trial will commence as of the date of this letter and will terminate in six months. At the end of the six month period Ameritech may file tariffs for these arrangements, or continue these arrangements under contract at the terms and conditions outlined above.

2. US Signal agrees with Ameritech to conduct a 557 number portability trial for DID interconnection over DS1 facilities. The trial will be available to US Signal between any Ameritech end offices in the US Signal local service area. US Signal will compensate Ameritech for this service in accordance with the final rates and charges for number portability determined at the conclusion of Case U-10860.

If this letter accurately reflects your understanding of our agreement, would you please countersign where indicated below.

COUNTERSIGNED:
US Signal Corporation

Ameritech

By: Martin W. Cliff, Jr.
Martin W. Cliff, Jr.

By: William L. DeFrance
William L. DeFrance

Date: September 21, 1995

Date: September 21, 1995

1/5/96

It is essential that regulatory "parity" conditions be established in conjunction with the offering of expanded interconnection arrangements for new entrants in Ohio. These conditions are necessary for the development of full and fair competition that will benefit all customers in Ohio, and include:

1. All providers are required to be common carriers within all exchange areas they choose to serve.
2. All providers are subject to the same Minimum Telephone Service Standards as set by the PUCO.
3. All providers are subject to the same processes and timeframes with respect to PUCO approval of i) new service offerings, ii) tariff amendments including promotions, iii) proposals to detariff services, and iv) customer contracts.
4. All providers have the same flexibility to reduce prices to meet market conditions, including the ability to deaverage rates, offer promotions and package various services, features and functions, and are subject to the same processes and timeframes for implementing such changes. All providers are subject to the same minimum pricing rules and the same requirements for developing and submitting cost studies and imputation tests.
5. Ameritech or any affiliate of Ameritech can pursue certification as a local exchange provider in any territory not currently served under the same processes and subject to the same criteria, conditions and burden of proof as any other provider. Once granted certification, Ameritech would be subject to the same rules as any other new entrant.
6. Upon certification of any new provider in an Ameritech exchange, Ameritech is permitted to establish new, optional local calling plans for that exchange and such plans are effective upon filing with the PUCO.
7. Until Ameritech can generally provide interLATA services, no local exchange provider is permitted to jointly market or sell with its local exchange services the interLATA services of any interexchange carrier serving more than 2% of the interstate toll market.
8. Until Ameritech can generally provide interLATA services, no local exchange provider is permitted to establish local calling areas that include interLATA routes for which Ameritech does not have an MFJ interLATA waiver to provide local service.
9. All providers are subject to the same requirements with respect to equal access, unbundling, interconnection including collocation, and resale of basic services. No provider is required to offer non-basic local exchange services for resale.

AFFIDAVIT

STATE OF OHIO) SS
COUNTY OF FRANKLIN)

Marsha Rockey Schermer, Vice President - Regulatory Affairs, Midwest Region, Time Warner Communications, after being duly cautioned and sworn, hereby verifies that the information contained in the foregoing Motion to Suspend Alternative Regulation Authority, Obtain Additional Relief and, in the Alternative, Complaint Against Ameritech and exhibits is true and correct to the best of her knowledge and belief.

Further affiant sayeth naught.

Marsha Rockey Schermer

Marsha Rockey Schermer, Esq.
Vice President - Regulatory Affairs
Midwest Region
Time Warner Communications

Sworn and subscribed in my presence this 16th day of January, 1996.

Debbie S. Ryan

Notary Public

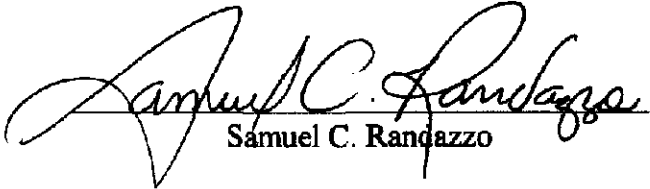
MY COMMISSION EXPIRES:



DEBBIE S. RYAN
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES OCT. 1, 2000

CERTIFICATE OF SERVICE

I, Samuel C. Randazzo, hereby certify that a copy of the foregoing Motion to Suspend Alternative Regulation Authority, Obtain Additional Relief and, in the Alternative, Complaint Against Ameritech was served upon the following parties of record this 16th day of January, 1996, via electronic transmission, hand-delivery or ordinary U.S. mail, postage prepaid.



Samuel C. Randazzo

Michael Mulcahy, Esq.
William H. Hunt
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Jon F. Kelly, Esq.
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