67

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Response to TCG's petition for arbitration filed on behalf of Ameritech Ohio by D. Conway. (66 pgs.) (FILED UNDER SEAL)

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Petition of TCG Cleveland for Arbitration of Open Issues Pursuant to §252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Ameritech Ohio	))))))	Case No. 96-694-TP-ARB

AMERITECH OHIO'S RESPONSE TO TCG'S PETITION FOR ARBITRATION

Ohio Bell Telephone Company d/b/a/ Ameritech Ohio ("Ameritech Ohio"), by its undersigned attorneys, respectfully submits this response to the Petition of Teleport Communications Group Inc. ("TCG") for Arbitration Pursuant to § 252(b) of the Telecommunications Act of 1996 (the "Act") to Establish an Interconnection Agreement with Ameritech Ohio (the "Petition").

INTRODUCTION

Although TCG's Petition formally presents many issues, the parties have agreed in principle on all but three:[1/]

(1) TCG advocates a "meet-point billing" arrangement that would revamp Ameritech Ohio's existing — and FCC- and state-approved — switched access charges. Should TCG's proposed revision of the switched access charge regime be approved in the face of the Act's — and the FCC's — declaration that that regime shall remain unchanged until the FCC reforms it? (Pet. ¶ 12.B.)

[1/] TCG has acknowledged this through the verified witness statements it has filed with the Illinois Commerce Commission. In those statements TCG addresses only three unresolved issues — the ones identified in this Response.

(2) TCG advocates bill-and-keep in place of the cost-based reciprocal compensation for local transport and termination that the Act requires. Should the Commission approve TCG's bill-and-keep proposal, or Ameritech Ohio's cost-based proposal for reciprocal compensation? (Pet. ¶ 12.A.)

(3) What performance standards and consequences for non-conformance best fulfill the "just, reasonable and non-discriminatory" requirement of the Act? (Pet. ¶ 12.D.)

The first two issues are readily resolved as a matter of law based upon the Act and the rules of the Federal Communications Commission ("FCC") implementing the Act: TCG's proposed "meet-point billing"[2/] arrangement must be rejected because the Act, and the FCC's rules as well, proscribe changes to switched access charges at this time. And TCG's proposed imposition of bill-and-keep must be rejected because the Act mandates that reciprocal compensation for the transport and termination of traffic be cost-based.

With respect to the third issue, Ameritech Ohio and TCG agree that their interconnection agreement should incorporate appropriate performance standards, as well as consequences for non-conformance, and each party has proposed performance standards and consequences for non-conformance. Thus, the issue for the Commission is which proposal best fulfills the requirements of the Act.

We next summarize the pertinent history of the parties' negotiations, and then address the three issues to be arbitrated.

[2/] Ameritech Ohio does not object to entering into a true "meet-point billing" arrangement with TCG. Indeed, Ameritech Ohio has entered into such an arrangement with other providers. However, the TCG proposal is not a legitimate "meet-point billing" proposal. Rather, as discussed in more detail below, it is an attempt to revise Ameritech Ohio's existing access charge structure.

THE NEGOTIATIONS

By letter dated February 8, 1996, TCG requested that Ameritech Corporation enter into negotiations pursuant to Sections 251 and 252 of the Act for an "agreement that would apply to the interconnection and interoperability of TCG's and Ameritech's networks in each state in which both companies operate" — namely, Illinois, Indiana, Michigan, Ohio and Wisconsin. In its letter, TCG proposed that the parties negotiate "a generic agreement," which would then be customized as necessary for the five states.

During the months that followed, the parties negotiated in person, by telephone and by mail. As TCG had proposed, the negotiations were generic, with state-specific tailoring left for later. Ameritech Ohio and the four other Ameritech operating subsidiaries were represented by Ameritech Industry Information Services, a division of Ameritech Services Inc., with full authority to act on behalf of the Ameritech operating subsidiaries.

By mid-June, Ameritech[3/] and TCG had agreed in principle on all matters that were the subject of their negotiations except the issues presented here. It appeared clear that once those issues were resolved, the parties would execute agreements substantially identical to the June 4 discussion drafts that were on the table, namely, an Interconnection Agreement Under Sections 251 and 252 of the Telecommunications Act of 1996 and a Local Exchange Telecommunications Services Resale Agreement (TCG Exhibit 9).

3/ In this document, "Ameritech" refers, variously and depending on the context, to Ameritech Corporation, Ameritech Industry Information Services and/or the Ameritech operating subsidiaries, including Ameritech Ohio, individually and/or collectively.

The principal issue on which the parties disagreed during this phase of the negotiations arose out of discussions concerning reciprocal compensation for the transport and termination of traffic originating on each other's network. Ameritech proposed a reciprocal compensation arrangement that addressed only local traffic and used cost-based rates consistent with those to which other carriers that had recently negotiated interconnection agreements with Ameritech under the Act had agreed. TCG, however, took the position — notwithstanding the contrary language of the Act — that any reciprocal compensation arrangement must encompass not only local traffic originating on TCG's or Ameritech's network, but also interLATA and intraLATA toll traffic. TCG demanded a substantial discount from Ameritech's existing switched access charges — notwithstanding that the Act expressly provides that existing access charges will be retained.

Specifically, on June 2, 1996, TCG sent Ameritech a proposal for reciprocal compensation that TCG called a "Feature Group Interconnection" arrangement ("FGI"). (See TCG Exhibit 7.) TCG's proposed FGI arrangement gave TCG a substantial discount from existing switched access charges for interLATA and intraLATA toll traffic, which TCG maintained should be subject to the parties' reciprocal compensation arrangements.

At a negotiation session on June 5, 1996, Ameritech pointed out to TCG that its FGI proposal was untenable, because the discount from existing switched access charges that it gave TCG was contrary to the Act's express mandate that existing switched access charges be retained. Ameritech also pointed out that the FGI proposal was contrary to the Act's reciprocal compensation provisions, which apply only to local traffic.

On June 12, TCG, evidently recognizing that its FGI proposal would not pass muster for the reason cited by Ameritech on June 5, offered an alternative (Exhibit A, June 12, 1996 correspondence from Mr. Mercier to Mr. Cox with attachment), which drives one of the three issues that the parties have not resolved in principle. That alternative is the "meet-point billing" arrangement that TCG advocates in this arbitration. (Pet. ¶ 12.B.) TCG's "meet-point billing" arrangement does, to be sure, differ in form from the FGI proposal for which it was substituted. But it is the functional equivalent of that untenable proposal. TCG itself acknowledged the point in its letter transmitting the "meet-point billing" proposal (Exhibit A, June 12, 1996 correspondence). As TCG put it:

> Attached is language we have agreed to with another ILEC in connection with our request for a "Feature Group Interconnection" arrangement.
>
> This language provides the same economic result TCG is seeking, but it defines the arrangement as a meet-point settlement vs. a feature group interconnection. I think this concept sidesteps any "access" implications. (Emphases added.)

TCG did not, however, manage to "sidestep" the fundamental flaw in its FGI proposal. Notwithstanding the relabeling, TCG's "meet-point billing" proposal does, as TCG concedes, yield "the same economic result" as the FGI proposal whose fatal defect TCG itself recognized, and it must be rejected for the same reason.

A second issue upon which the parties were unable to agree -- whether the Act allows the imposition of bill-and-keep as a form of reciprocal compensation (Pet. ¶ 12.A.) -- was closely tied to the switched access charge issue during the parties' negotiations: TCG attempted to hold any reciprocal compensation arrangement hostage to its demand for switched

access charge reductions by taking the position that, unless Ameritech agreed to the reductions that TCG demanded, bill-and-keep should be imposed for the transport and termination of local traffic originating on the other party's network. Indeed, TCG stated during the negotiations that it would abandon its position on bill-and-keep if Ameritech would acquiesce in TCG's access charge proposal.

With respect to the third issue presented here, performance standards and consequences for non-conformance, there were no meaningful negotiations between the parties. (Pet. ¶ 12.D.) Each party submitted its proposal regarding that matter, and it was understood that performance standards would be discussed after the access charge and bill-and-keep issues were resolved; having reached impasse on the access charge issue, however, the parties did not discuss performance standards.

TCG filed its Petition for Arbitration on July 17, 1996. On July 25, Ameritech provided to TCG, along with certain other materials, its own meet-point billing proposal (Exhibit B, Ameritech's meet-point billing discussion draft dated July 24, 1996 for Illinois and intended as the model for Ohio and the other Ameritech states), which, in contrast to TCG's "meet-point billing" proposal, preserves Ameritech's recovery of switched access charges, while addressing the situation where both Ameritech and TCG provide switched access service to an IXC for traffic to and from TCG's customers.

As explained above, Ameritech's understanding, reinforced by TCG's Petition filed with this Commission as well as witness statements TCG recently filed with the Illinois Commerce Commission, is that there are three unresolved issues: TCG's "meet-point billing" proposal for overriding the existing switched access charges regime; TCG's proposal to use

bill and keep in place of the cost-based reciprocal compensation for local transport and termination that the Act requires; and TCG's proposal of onerous performance standards and consequences for non-performance. The following sections of this Response address these issues in detail. Ameritech's understanding is that, except for these three issues, the parties had achieved agreement in principle on all other issues when TCG filed its Petition. The June 4 discussion drafts, TCG Exhibit 9, reflect both Ameritech's understanding of the agreement in principle reached on the other issues and Ameritech position on those issues at the point arbitration commenced.

DISCUSSION OF THE ISSUES

I. TCG'S PROPOSED "MEET-POINT BILLING" ARRANGEMENT IS AN IMPROPER ATTEMPT TO REVAMP THE EXISTING STATE AND FEDERAL SWITCHED ACCESS CHARGE REGIME APPLICABLE TO INTERLATA AND INTRALATA TOLL TRAFFIC TERMINATING ON AMERITECH OHIO'S NETWORK; TCG'S PROPOSAL IS THEREFORE OUTSIDE THE SCOPE OF THE ACT AND IS NOT SUBJECT TO ARBITRATION; EVEN IF IT WERE WITHIN THE SCOPE OF THE ACT AND SUBJECT TO ARBITRATION, TCG'S PROPOSAL WOULD BE UNACCEPTABLE. (Pet. ¶12.B.)

A. TCG's Proposed "Meet-Point Billing" Arrangement Is An Improper Attempt To Revamp Ameritech Ohio's Current Switched Access Charges.

TCG's proposed "meet-point billing" arrangement indisputably would restructure Ameritech Ohio's existing method of calculating and recovering its switched access charges, as set forth in Ameritech Ohio's FCC- and state-approved tariffs. Given TCG's repeated admission that its proposal would redistribute switched access revenues that would otherwise be collected and retained by Ameritech Ohio (see, e.g., Pet. at p.9), TCG's proposal is plainly outside the scope of the Act and not even subject to arbitration.

TCG concedes that its "meet-point billing" proposal is intended to establish a "set of assumptions for the billing of switched access charges to interexchange carriers" (Pet. at p. 8). Indeed, as noted above, TCG acknowledged during negotiations that its "meet-point billing" proposal was a substitute for, and produced the "same economic result" as, its FGI proposal, which would have given TCG a direct discount off of Ameritech Ohio's existing switched access charges by means of a "blended" reciprocal compensation rate applicable to transport and termination of all traffic exchanged between Ameritech Ohio's and TCG's networks — including interLATA and intraLATA toll ("IXC") traffic as well as local traffic. (See Exhibit A, June 12, 1996 correspondence; TCG Exhibit 7.)

As Ameritech Ohio understands it,[4/] TCG's "meet-point billing" proposal is a "multiple tariff/single bill" arrangement, under which TCG would be the sole biller of switched access charges to an IXC in instances where TCG provides the tandem switching function (and transport to Ameritech Ohio's end office) for that IXC's traffic to and from Ameritech Ohio's customers. TCG would then remit to Ameritech Ohio only the local switching and carrier common line portions of the billed charges, keeping the lion's share of the switched access revenues received — including all residual interconnection charge ("RIC") revenues — for itself.

4/ TCG does not describe its proposed "meet-point billing" arrangement in its Petition. TCG Exhibit 7, which the Petition mistakenly identifies as a June 12, 1996, letter regarding TCG's request for "tandem switched access interconnection" (Pet. at p. 4), is actually a June 2, 1996 letter relating to TCG's FGI proposal. The June 12 letter transmitting TCG's "meet-point billing" proposal (attached to this Response as Exhibit A) was not attached to the Petition at all.

Because it would reduce Ameritech Ohio's existing access charge rates for IXC traffic, TCG's "meet-point billing" proposal (as well as its predecessor, TCG's FGI proposal) is, as we show below, clearly outside the scope of the Act, which addresses the transport and termination of local traffic, not IXC traffic.

TCG tries to shoehorn its "meet-point billing" proposal into the confines of the Act by pretending that the proposal involves something other than compensation for the transport and termination of IXC traffic.[5/] According to TCG, its "meet-point billing" proposal purportedly constitutes "Switched Access Interconnection," and therefore is sanctioned by Sections 251(a)(1) and 251(c)(2) of the Act. (Pet. at p.8.) Notwithstanding TCG's verbal sleight-of-hand, TCG's position is untenable for at least three reasons:

First, there is no such thing as "switched access interconnection." Switched access is a service, not a physical facility. Services do not "interconnect"; networks do.

Second, as a matter of law, Sections 251(a)(1) and 251(c)(2) do not address the "interconnection" of services; they address the interconnection of networks. Specifically, Section 251(c)(2) does not establish an obligation to provide, nor does it even refer to a concept of, "switched access interconnection" or any other "interconnection" of services. Rather, that Section identifies — and circumscribes — the ILEC's obligation as a duty "to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network . . . ." (Emphasis added.) Indeed,

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[5/] TCG fails even to mention its FGI proposal in its Petition, or the fact that its proposed substitute "meet-point billing arrangement" provides the same economic result" (see Exhibit A) as that proposal.

if TCG's proffered interpretation — that Sections 251(a)(1) and 251(c)(2) establish an obligation to provide "switched access interconnection" — were correct, then the reciprocal compensation provisions of the Act (Sections 251(b)(5) and 252(d)(2)) would be superfluous, because local traffic transport and termination also would be an "interconnection" service subject to Sections 251(a)(1) and 251(c)(2), just like switched access.

The FCC has reached precisely the same conclusion. In its recently-issued rules, the FCC stated:

> We conclude that the term "interconnection" under Section 251(c)(2) refers only to the physical linking of two networks for the mutual exchange of traffic. Including the transport and termination of traffic within the meaning of section 251(c)(2) would result in reading out of the statute the duty of all LECs to establish "reciprocal compensation arrangements for the transport and termination of telecommunications," under Section 251(b)(5) . . . . We note that because interconnection refers to the physical linking of two networks, and not the transport and termination of traffic, access charges are not affected by our rules implementing section 251(c)(2).

FCC Report and Order No. 96-325, ¶ 176 (emphasis added); see also, id., ¶ 191, n. 398.

Third, regardless of how TCG attempts to characterize its "meet-point billing" proposal, the unavoidable fact of the matter is that the proposal would operate to reduce the level of switched access charges currently received by Ameritech Ohio under applicable state and FCC switched access rules. Accordingly, as explained below, TCG's proposal not only is outside the confines of, but also is contrary to, the Act.

B. TCG's Switched Access Proposal Is Outside The Scope Of, And Contrary To, The Act, And Therefore Not Subject To Arbitration.

In its recently promulgated rules, the FCC made it perfectly clear that Sections 251 and 252 do not alter the prevailing access charge rules and that it will address the subject of access

charge reform in a separate proceeding. As noted above, the FCC has concluded that the interconnection provisions of Section 251(c) do not involve access charges. The FCC further noted that access charges are a separate part of a "trilogy" of activities that it is currently pursuing:

> 6. The rules that we adopt to implement the local competition provisions of the 1996 Act represent only one part of a trilogy. In this Report and Order, we adopt initial rules designed to accomplish the first of the goals outlined above — opening the local exchange and exchange access markets to competition . . . .
>
> 8. The third part of the trilogy is access charge reform. It is widely recognized that, because a competitive market drives prices to cost, a system of charges which includes non-cost based components is inherently unstable and unsustainable. It is also well-recognized that access charge reform is intensely interrelated with the local competition rules of Section 251 and the reform of universal service. We will complete access charge reform before or concurrently with a final order on universal service.

FCC Report and Order No. 96-325, ¶¶ 6, 8.[6/7/]

The FCC re-emphasized these points in its rules addressing the situation where an IXC seeks to "rebundle" an ILEC's unbundled network elements in order to provide an end-user with local telecommunications service, in addition to interexchange service. In that situation, the FCC's rules require the IXC to pay the portion of the ILEC's current switched access

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6/ TCG's "meet-point billing" approach to overriding the existing switched access charge regime also is in conflict with this Commission's June 12, 1996 decision in Case No. 95-845-TP-COI. See Finding and Order, at page 36; and Local Service Guidelines, attached as Appendix A to the Finding and Order, at Section IV.D.2.a.

7/ TCG's "meet-point billing" proposal is also inconsistent with the Commission's treatment of an analogous situation involving remote call forwarding (RCF) as an interim number portability mechanism. Section IV. of the Commission's Local Service Guidelines requires that the two local service carriers involved in providing RCF based number portability will share total access charges, which, of course, includes the RIC.

charges not already recovered through the ILEC's unbundled network element prices. The FCC imposed this requirement in order to "preserv[e] the status quo with respect to subsidy payments" until the FCC's access charge reform efforts are completed. Id., at ¶ 30-31; see also 47 C.F.R. § 51.515.

The FCC's decision in this regard is consistent with, and in fact mandated by, the Act, in which Congress expressly retained the FCC's Part 69 access charge rules. Section 251(g), for example, provides that:

> each local exchange carrier . . . shall provide exchange access . . . and exchange services for such access to interexchange carriers . . . in accordance with the same equal access and nondiscriminatory interconnection restrictions and obligations (including receipt of compensation) that apply to such carrier on the date immediately preceding the date of enactment of [the Act] under any court order, consent decree, or regulation, order or policy of the Commission, until such restrictions and obligations are explicitly superseded by regulations prescribed by the Commission after such date of enactment. (Emphasis added.)

In other words, until the FCC promulgates new regulations and establishes new rates for switched access, Congress directed that local exchange carriers not only can, but shall "provide exchange access . . . and exchange services for such access" on the terms that applied before the Act. No matter what label TCG may give it, TCG's demand for a reduction in Ameritech Ohio switched access charges under the rubric of interconnection — and, specifically, its position that Ameritech Ohio should be prohibited from collecting the RIC (and from directly billing the IXC for any switched access charges) in instances where TCG provides tandem switching (and transport to an end office) for IXC traffic to and from

Ameritech Ohio customers — is a transparent attempt to evade the switched access regime of Part 69. That attempt cannot be reconciled with Section 251(g).[8/]

The legislative history of the Act confirms that Section 251(g) means what it says. According to the Conference Report, the purpose of Section 251(g) was to retain the existing switched access regime until the FCC takes up access charge reform and promulgates new regulations. (See Conference Report on the Telecommunications Act of 1996, H.R. Rep. No. 458, 104th Cong., 2d Sess. 123 (1996) ("In the interim, between the date of enactment and the date the Commission promulgate[s] new regulations under this section, the substance of th[e] new statutory duty [imposed by Section 251(g)] shall be the equal access and nondiscrimination restrictions and obligations, including receipt of compensation, that applied to the local exchange carrier immediately prior to the date of enactment, regardless of the source").) The Senate Report reflects the same view: "The obligations and procedures prescribed in this section [Section 251] do not apply to interconnection arrangements between local exchange carriers and telecommunications carriers under section 201 of the 1934 Act for

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8/ In addition, Section 251(i) of the Act provides that, "Nothing in this section shall be construed to limit or otherwise affect the Commission's authority under section 201." The FCC's authority over switched access, including its power to set Part 69 switched access rates, derives from Section 201. (See 47 C.F.R. § 69.1.) TCG would not merely "limit" or "affect" the FCC's authority over switched access under Part 69, but would completely nullify it. If TCG and other competitive access providers were allowed to use the Act to reduce an ILEC's existing switched access revenues, and correspondingly, its switched access rates, then prices for switched access plainly would not be the prices set forth in the Part 69 rules. At the same time, primary jurisdiction and control over exchange access for IXC traffic would, in effect, be transferred to the state regulatory bodies, in their capacity as Commissions and reviewers of interconnection agreements under Section 252 of the Act. This, of course, would divest the FCC of authority over the origination and termination of interstate calls.

the purpose of providing interexchange service, and nothing in this section is intended to affect the FCC's access charge rules." S. Rep. No. 23, 104th Cong., 1st Sess. 19 (1995).[9/]

In light of the foregoing, TCG has no basis to contend that the Act supports, or even permits, its "meet-point billing" proposal. Because TCG's proposed access charge reductions are not only clearly outside the scope of, but are squarely contrary to, the Act, TCG's proposal is not a proper subject of this arbitration.[10/]

9/ Several members of Congress, including Speaker Newt Gingrich, Minority Whip David Bonior, and House Judiciary Committee Chairman Henry Hyde, recently reconfirmed that the Act was intended to keep access charges intact. Chairman Hyde, who offered Section 251(g) as an amendment at conference, explained in a letter to the FCC that "the conferees adopted [Section 251(g)] because we wanted to keep in place the equal access, nondiscrimination, and access charge regimes as they existed under the AT&T Consent Decree and the Commission's rules until the Commission specifically addressed these topics in a rulemaking." (Letter from Henry J. Hyde to Reed Hundt, 1-2 (July 15, 1996) (Exhibit C) (emphasis added). Chairman Hyde added that "the broader language" of Section 251(g) was intended to encompass Section 251(k) of the Senate bill, which "explicitly kept the current access charge regime in place." Id. at 2. Accord, Letter from Newt Gingrich, David Bonior, et al. to Reed E. Hundt (July 12, 1996) ("In Section 251(g) of the Act we indicated that we did not intend for the access charge system to be undermined through the completion of the interconnection docket") (Exhibit D) (emphasis added). (See also NPRM ¶164 ("[A]s with section 251(c)(2), allowing interexchange carriers to circumvent Part 69 access charges by subscribing under section 251(c)(3) to network elements solely for the purpose of obtaining exchange access may be viewed as inconsistent with other provisions in section 251, such as sections 251(i) and 251(g)").)

10/ Nor may TCG plausibly assert that its switched access proposal is mandated by Section 251(b)(5), which imposes on all LECs the duty "to establish reciprocal compensation" arrangements for the transport and termination of telecommunications." Any such argument would ignore Section 252(d)(2)(A), which governs the terms and conditions of reciprocal compensation in the event of arbitration. Section 252(d)(2)(A) makes clear that an incumbent ILEC's obligation to provide reciprocal compensation under Section 251(b)(5) applies only to "calls that originate on the network facilities of the other carrier." (Emphasis added.)

(continued...)

C. Even If TCG's "Meet-Point Billing" Proposal Were Within The Scope Of The Act And Properly Subject To Arbitration, It Should Be Rejected.

TCG's "meet-point billing" proposal flies in the face of sound policy, and would therefore be unacceptable even if it were properly subject to arbitration under the Act.

First, as the relevant policymakers at the FCC and Congress, and virtually all commentators, have recognized, any reform of the existing state and federal switched access regimes — including any revision regarding the level of an ILEC's RIC or regarding which party is permitted in joint billing situations to bill that RIC to the applicable IXC — will have significant repercussions on a wide variety of telecommunications programs and policy objectives, including existing programs and policies designed to promote universal service. Given the historical role that switched access revenues have played in covering the total cost of providing universal service and keeping local exchange rates affordable, especially in high-cost areas, any reform of switched access charges should be addressed not on an ad hoc, carrier-by-carrier basis, but in a comprehensive manner that permits all interested parties and competing interests and objectives to be heard and considered. This is precisely what the FCC has said it will do.

[10/](...continued)

In the context of this arbitration, then, the reciprocal compensation requirements of the Act apply only to local traffic originating either on TCG's or on Ameritech's network facilities. These requirements do not apply to interLATA and intraLATA toll traffic subject to existing switched access charges. The FCC's implementing rules confirm this. (See 47 C.F.R., §§51.701-51.717 (Reciprocal Compensation for Transport and Termination of Local Telecommunications Traffic") (emphasis added).)

Second, as a practical matter, given the FCC's announced plans to address switched access reform separately on a comprehensive basis, it would make little sense for the Commission to attempt to predict, in a carrier-specific proceeding, how the FCC will resolve the myriad issues raised by switched access charge reform. And, of course, to the extent that the Commissioner's prediction was wrong, that would only complicate, and in fact could harm, the FCC's objective of accomplishing rational, comprehensive access charge reform.

Third, if TCG's proposed "meet-point billing" arrangement were adopted, then any requesting carrier, including IXCs such as AT&T, MCI and Sprint, could evade the existing FCC and state access charge regime by providing its own tandem functionality for IXC traffic and then asserting that it was entitled to the same "meet-point billing" arrangement as TCG. As demonstrated above, this is not what Congress provided, and would lead to the de facto nullification of the existing switched access charge regime before the FCC has had a meaningful opportunity to address that regime.

* * * * *

In sum, TCG's "meet-point billing" proposal is not only outside the scope of, but squarely contrary to, the Act, and should be rejected. Even if that were not so, the Commission should still, for the reasons last stated, reject that proposal and adopt Ameritech Ohio's proposed "meet-point billing" arrangement (Exhibit B, Ameritech's meet-point discussion draft). This arrangement reflects terms and conditions consistent with those negotiated and agreed to by other requesting carriers, including, in Ohio, MFS and Time

Warner,[11/] and properly preserves the existing federal/state switched access regime associated with the transport (and termination) of IXC traffic to and from Ameritech Ohio's customers.

11/ In Re Ameritech Ohio's Application for Approval of an Interconnection Agreement between Ameritech Ohio and MFS Intelenet of Ohio, Inc., PUCO Case No. 96-565-TP-UNC (Application filed June 4, 1996); In Re Complaint of Time Warner, PUCO Case No. 96-66-TP-CSS (agreement submitted for review July 12, 1996 and approved by Supplemental Opinion and Order issued August 1, 1996).

II. MANDATED BILL-AND-KEEP WOULD VIOLATE THE ACT, THE FCC'S REGULATIONS, AND FUNDAMENTAL PRINCIPLES OF FAIRNESS AND ECONOMIC EFFICIENCY. (Pet. ¶12.A.)

TCG's demand for bill-and-keep as a surrogate for reciprocal compensation for local transport and termination (Pet. ¶ 12.A.) directly conflicts with the Act.[12/] Pursuant to Section 252(d)(2)(A),

> a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless —
>
> (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network's facilities of the other carrier; and
>
> (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls. (Emphasis added.)

That is, the Act requires that each carrier recover the costs it incurs in providing local transport and termination, with the limited exceptions discussed below. Bill-and-keep will not base reciprocal compensation on costs. As a result, bill-and-keep will not compensate Ameritech Ohio for its transport and termination costs associated with TCG's local traffic. Rather, it forgoes cost-based reciprocal compensation for the sake of administrative convenience. Bill-and-keep therefore conflicts with the Act's requirement that reciprocal compensation be cost-based.

[12/] It is unclear from TCG's Petition whether TCG proposes bill-and-keep for only end office termination or for both end office and tandem office termination. See Pet. at pp. 7-8. In either event, as discussed below, there is no statutory or policy basis for bill-and-keep with regard to end office or tandem termination. It should also be recalled that TCG was prepared to accept reciprocal compensation during the negotiations (if it received other concessions).

TCG at Pet. ¶12.A appears to advance an interpretation of the phrase "additional costs" in Section 252(d)(2)(A)(ii) that precludes cost-based reciprocal compensation of local transport and termination. This makes no sense, and is contradicted by the text of the statute itself. The pertinent provision of the Act (quoted above) requires cost-based reciprocal compensation. Equally untenable is TCG's related contention that "cost" in Section 252(d)(2) means something different than it does in Section 252(d)(1) (which applies to the pricing of network elements and interconnection).

It is no surprise, then, that the FCC has expressly rejected these two interpretations of the Act. Specifically, the FCC has concluded that "the pricing standards established by Section 252(d)(1) for interconnection and unbundled elements, and by Section 252(d)(2) for transport and termination of traffic, are sufficiently similar to permit the use of the same methodologies . . . ." FCC Report and Order No. 96-325, ¶ 1054. Accordingly, the FCC has ordered that reciprocal compensation rates must recover both the forward-looking incremental costs ("TELRIC") of transport and termination, as well as "a reasonable allocation of common costs." Id., ¶¶ 1054, 1058.

In keeping with this, the FCC's regulations go on to expressly provide that the "additional costs" in Section 252(d)(2)(A)(ii) shall be the sum of TELRIC and a reasonable allocation of common costs[13/], based on "a cost study [in conformity with 47 C.F.R.] §§ 51.505 and 51.511." As discussed below, Ameritech Ohio has conducted such studies for the transport and termination of local traffic for each state in its region, and has endeavored to

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13/ The FCC defined common costs to include both joint and common costs for purposes of its Report and Order. FCC Report and Order No. 96-325, ¶676.

base its proposed rates to TCG (and others) on their results, in conformity with the Act and the implementing rules.

The FCC has concluded that the Act permits bill-and-keep in only two circumstances. The first is where the carriers voluntarily agree to it. That is, the Act does not "preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements)." § 252(d)(2)(B) (emphases added). An "arrangement" is "an agreement or settlement" (Merriam-Webster's Collegiate Dictionary 64 (10th ed. 1994)), and to "waive" means to "give up a right or claim voluntarily" (Black's Law Dictionary 1580 (6th ed. 1990)). By using those terms, Congress clearly expressed that use of bill-and-keep is to be voluntary. Ameritech Ohio has neither agreed to an "arrangement" nor "waived" its statutory right to recover the costs it incurs in transporting and terminating calls originating on another carrier's network.

The second circumstance where the Act permits bill-and-keep is this: A state commission may impose bill-and-keep where, but only where, (i) traffic is in balance and is expected to remain so (47 C.F.R. § 51.713(b)), and (ii) the state commission also "impose[s] compensation obligations [in the event] traffic becomes significantly out of balance." FCC Report and Order No. 96-325, ¶ 1113. Ameritech Illinois' experience is that traffic between TCG and Ameritech Illinois was significantly out of balance at the outset and remained so. Moreover, the TCG proposal makes no provision for compensation of any sort, no matter how great the imbalance.

Thus, the Act and the FCC's implementing rules leave no room for debate: The TCG proposal must be rejected. In addition, sound public policy and considerations of basic fairness compel the same conclusion:

First, as the FCC recognized, "carriers [such as Ameritech Ohio] incur costs in terminating traffic that are not de minimis, and consequently, bill-and-keep arrangements that lack any provisions for compensation [such as the TCG proposal] do not provide for the recovery of costs." FCC Report and Order No. 96-325, ¶ 1112. Ameritech Ohio will incur substantial additional costs in transporting and terminating local traffic from TCG and other CLECs, for which Ameritech Ohio would not be compensated under TCG's proposal.

Second, as the FCC also recognized, "as long as the cost of terminating traffic is positive, bill-and-keep arrangements are not economically efficient because they distort carriers' incentives, encouraging them to overuse competing carriers' termination facilities by seeking customers that primarily originate traffic." FCC Report and Order No. 96-325, ¶ 1112. For example, under TCG's proposal, TCG could target customers with primarily outgoing calls, such as telemarketers (and avoid customers with primarily incoming calls, such as ticket agencies and certain government agencies). In addition to running up Ameritech Ohio's costs, such cherry-picking would enable TCG to derive revenues from those calls without having to pay the costs of terminating them on Ameritech Ohio's network. In effect, under TCG's bill-and-keep proposal, Ameritech Ohio and its low volume-originating customers would be subsidizing TCG and its high volume-originating users, thereby encouraging the former to underuse the network and the latter to overuse it, thus diverting

telecommunications resources from their most fair and efficient uses.[14/]

TCG's proposal also would give TCG an incentive to configure its network so that calls terminate at Ameritech Ohio's tandem switches, rather than at its end offices. Because, as TCG acknowledges, the costs of tandem termination are greater than the costs of end office termination, TCG's bill-and-keep proposal would encourage TCG not to build its own facilities to Ameritech Ohio's end offices but instead to take a free ride on Ameritech Ohio's tandems. This may not be the most socially beneficial outcome; the most efficient allocation of resources might call for TCG to build to the end offices — which is precisely what it would do if required to bear the true costs of its decisions. It is no accident, then, that no other network industry uses bill-and-keep to settle cross-network accounts. In sum, as Congress well understood, rates that are not based on costs would result in uneconomic entry and a disincentive to efficient investment, thereby impeding competition and harming consumers.

TCG's contention that bill-and-keep would benefit consumers by promoting flat-rate calling ignores these economic consequences, as well as the will of Congress as expressed in Section 252(d)(2). In any event, cost-based reciprocal compensation between carriers does not preclude flat-rate local calling. How carriers compensate each other for the costs they incur in

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[14/] It would not be credible for TCG to assert that it would not take advantage of bill-and-keep to run up Ameritech's costs because it would not want to forego other customers. First, such a contention would ignore the windfall that TCG would enjoy by not having to pay the costs of terminating calls on Ameritech's network. Second, there is no reason to believe that targeting telemarketers and other customers that would similarly impose higher costs on Ameritech would foreclose TCG from any opportunities to serve other customers.

transporting and terminating calling traffic is a completely separate issue from how carriers charge their customers for local calls.

The rates that Ameritech Ohio proposes for local transport and termination on its network of local calls originating on TCG's network — .75 cents per minute for end office termination and .9 cents per minute for tandem termination — are based, pursuant to Section 252(d)(2)(A) of the Act, on Ameritech Ohio's costs of providing those services. These rates permit Ameritech Ohio to recover the long-run incremental, joint, and common costs that it necessarily incurs in transporting and terminating local calls originating on facilities of other carriers, including TCG. Accordingly, Ameritech Ohio believes that its rates comply with the pricing standards set forth in the Act and elaborated in the FCC's implementing rules. Ameritech Ohio nonetheless is reviewing carefully the August 1 rules and regulations; should it conclude that its proposed rates are not in strict conformity with those rules and regulations, Ameritech Ohio will revise its rates accordingly.

Ameritech Ohio's local transport and termination costs were determined by reviewing its earlier long-run incremental cost studies and altering certain assumptions used in those studies as necessary to reflect the emerging competitive environment and the wholesale provision of unbundled network elements. In particular, depreciation rates were changed to reflect "economic depreciation rates" (as required by 47 C.F.R. § 51.505(b)(3)), and cost of capital was altered to make it truly forward looking (as required by 47 C.F.R. § 51.505(b)(2)), by incorporating risk rates appropriate for competitive markets. Shared and common costs were then identified, with shared costs allotted in proportion to the TELRIC costs of network

causation (for example, square footage for real estate costs) or, if these were not available, on a general allocator reflecting total expenses.[15/] Ameritech Ohio believes that these studies were conducted in conformity with the August 1 rules and regulations. If, however, after further study of the rules and regulations, Ameritech Ohio concludes otherwise, it will promptly revise the studies to bring them into strict conformity with those rules and regulations.[16/]

Finally, there is no administrative impediment to monitoring and measuring the transport and termination usage of particular carriers. Ameritech Ohio has efficient measurement and billing procedures in place — and is prepared to implement them immediately — in order to make usage sensitive reciprocal compensation immediately workable.[17/] There is, then, no basis — other than its desire for a windfall — for TCG's opposition to cost-based reciprocal compensation. The Commission should reject TCG's position and implement the Act's requirement of cost-based rates.

15/ In Ohio, the sum of Ameritech's TELRIC, shared, and common costs of terminating local calls is .5410 cents per minute for end office termination (excluding local transport facilities ("LTF")) and .7006 cents per minute for tandem office-based termination. To arrive at the tandem costs sum, it is necessary to multiply the LTF figure by a mileage factor, the average length of the transport between tandem switch and end office, which, in Ohio, is 12.

16/ Ameritech Ohio's cost studies also belie TCG's speculation that local transport and termination costs are trivial. In addition, they undermine any contention that a true determination of termination costs must await the full development of competition in the local exchange market.

17/ Contrary to TCG's assertion, there is no sound economic rationale for excluding the billing expenses that Ameritech Ohio incurs in providing usage sensitive billing for reciprocal compensation. No business, including TCG, could long survive if it did not recover the costs of billing its customers.

III. AMERITECH OHIO'S PROPOSAL FOR PERFORMANCE STANDARDS AND CONSEQUENCES FOR NON-CONFORMANCE IS FAR MORE JUST, REASONABLE AND NONDISCRIMINATORY THAN TCG'S PROPOSAL. (Pet. ¶12.D.)

"TCG's position . . . is that Ameritech Ohio must commit to acceptable levels of performance . . . ." (Pet. at p. 10, ¶12.D.) Ameritech Ohio agrees.

"TCG further believes that these performance standards and penalties should be subject to compulsory arbitration." (Pet. at p. 10) Ameritech Ohio has no objection to the Commission deciding what performance standards and consequences for non-conformance should be included in the parties' contract.[18/]

Thus, the parties agree on broad general principles concerning performance standards and consequences for non-conformance. The question for the Commission is the mechanism by which those principles will be implemented. Ameritech Ohio has offered TCG meaningful and appropriate performance standards and consequences for non-conformance with those standards. TCG has offered Ameritech Ohio its own set of performance standards and penalties that TCG advocates in this arbitration. In the remainder of this section, we demonstrate that TCG's proposal should be rejected and that Ameritech Ohio's should be accepted.

[18/] Ameritech Ohio refers to "consequences for non-conformance" rather than to "penalties" because Ameritech Ohio's proposal treats those consequences as liquidated damages, which, as a matter of law, cannot be "penalties."

A. TCG's Proposed Performance Standards And Penalties Should Be Rejected.

TCG's proposed performance standards and penalties have the superficial appeal that any ordered system has. If one actually considers how TCG's proposed system would work, however, it quickly becomes apparent that the proposal is fundamentally absurd: TCG's system would virtually ensure that Ameritech Ohio would be subject to penalties, even if its performance is superb; it absolutely guarantees discrimination against TCG's competitors; and it imposes draconian penalties that bear no relationship to the type or magnitude of any deficiencies in Ameritech Ohio's performance that might appear. We first describe TCG's proposal, and then discuss its defects.

1. TCG's proposed system of performance standards and penalties:[19/] TCG's system would rate four aspects of Ameritech Ohio's performance with respect to each of six of what TCG calls network components. The six network components are DS0 facilities, DS1 facilities, DS3 facilities, multiplexing, trunking and unbundled loops. The four aspects of performance are installation intervals; failure frequency; percentage of availability; and mean

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19/ Our description of TCG's proposal is based on Exhibit 8 to TCG's Petition ("Abridged Version of TCG's Part III, 'Performance Standards and Penalties'") and on a witness statement that TCG filed in support of its Petition in Illinois. Exhibit 6 to TCG's Petition (Part III of TCG's Proposed Interconnection Agreement, 'Performance Standards and Penalties'") does not actually address the method by which Ameritech Ohio's performance would be measured and penalties determined. (In fact, Ameritech Ohio is not certain exactly what Exhibit 6 is because, though TCG did give the document to Ameritech during the negotiations, there was little or no discussion of it. TCG apparently does not advocate in this arbitration the imposition of Exhibit 6 as part of the parties' contract; if it did, Ameritech Ohio would vigorously object.)

time to repair ("MTTR"). Thus, 24 performance measurements would be taken altogether, as shown on the matrix on the following page.

Ameritech Ohio's performance on each of the 24 items would be compared to two benchmark standards: (i) Ameritech Ohio's performance on that same item for any geographically adjacent carrier, and (ii) Ameritech Ohio's performance on that same item for the top 10% (based on billing volumes) of its customers. For any item on which Ameritech Ohio's performance for TCG equaled or exceeded both benchmark standards, Ameritech Ohio would receive a grade of +1.[20/] For any item on which Ameritech Ohio's performance did not equal or exceed the benchmark standards, Ameritech Ohio would receive a grade of -1.

Ameritech Ohio would thus have 24 grades, all of them either +1 or -1, as depicted on the matrix. Those 24 grades would be averaged. The grading and averaging would be done quarterly. An average grade of less than 1 ("sub-standard") would subject Ameritech Ohio to penalties according to the following schedule:

For a second consecutive sub-standard quarter, Ameritech Ohio would be penalized 10% of its total billing to TCG for the following quarter.

For a third consecutive sub-standard quarter, Ameritech Ohio would be penalized 25% of its total billing to TCG for the following quarter.

[20/] TCG's proposal requires Ameritech Ohio to equal or exceed both benchmark standards in order to receive a grade of +1 when it speaks of "service standards, performance and penalties that are equal to or exceed the best performance measures for the following options: (a) service performance provided to adjacent LECs, (b) service performance provided to the top 10% of ILEC's customers." (TCG Exhibit 8) (emphasis added).)

Install Intervals	% Availability	Failure Frequency	MTTR	
+1	+1	+1	+1	DS
+1	-1	+1	+1	DS1
+1	+1	+1	+1	DS3
+1	+1	+1	+1	Multiplexing
+1	+1	+1	+1	Trunking
-1	+1	+1	+1	Unbundled

For a fourth consecutive sub-standard quarter, Ameritech Ohio would be penalized 45% of its total billing to TCG for the following quarter.

For a fifth consecutive sub-standard quarter, Ameritech Ohio would be penalized 70% of its total billing to TCG for the following quarter.

For a sixth (and any subsequent) consecutive sub-standard quarter, Ameritech Ohio would be penalized 100% of its total billing to TCG for the following quarter.

Finally, if Ameritech Ohio provided materially incorrect data for the benchmark performance measures, it would be required to pay TCG $1,000,000 as liquidated damages.[21/]

2. TCG's proposed performance standards and penalties must be rejected: TCG's proposed system of benchmarks, grades and penalties is demonstrably preposterous.[22/] Before we identify its principal failings, it is important to note that TCG does not say one word in its Petition that even purports to rationalize or to justify the system it advocates. TCG's Petition makes only the uncontroversial assertions that Ameritech Ohio should commit to acceptable levels of performance; that there should be measurable performance standards and penalties for non-conformance; and that the subject is appropriate for the Commission. (Pet. at p. 10.) It

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[21/] Ameritech Ohio would also be required to pay $1,000,000 as liquidated damages if it blocked calls from its competitors' customers while its own customers could send and receive traffic to each other. (Pet. Exhibit 8).

[22/] We briefly note later the flaws in the six "network components" on which TCG wants to measure Ameritech Ohio's performance (e.g., DS1 facilities, multiplexing) and the four aspects of performance to be measured (e.g., installation intervals, failure frequency). Those flaws are overwhelmed by the outlandishness of TCG's penalty system itself.

says nothing whatsoever in support of the particular system of benchmarks, grades and penalty discounts that TCG advances.

TCG's failure to present any credible support for its system is understandable, because it is hard to imagine anyone who has taken a serious look at the system supporting it. Among other things:

The averaging of grades proposed by TCG would virtually ensure that Ameritech Ohio would be subject to penalties:

- Even if Ameritech Ohio provides better service to TCG than to anyone else on 23 out of the 24 items on TCG's matrix, Ameritech Ohio still has a sub-standard quarter, and is thus subject to penalty, if it falls short on the 24th item. In that scenario, the matrix would show twenty-three "+1's" and one "-1," and Ameritech Ohio's average would be less than 1. That puts Ameritech Ohio into penalty mode. Thus, the system virtually guarantees forfeitures for Ameritech Ohio, and windfalls for TCG.

- Continuing with the same scenario: If Ameritech Ohio improved its performance on the one sub-standard item during the following quarter, but slipped to below-benchmark on another item, it would still be in penalty mode, and would therefore be required to give TCG an across-the-board discount for the following quarter — even if it remedied the new problem immediately.

- Nothing in TCG's proposal would prevent TCG from substituting or adding to the list of network components. Thus, TCG could increase beyond 24 (and apparently without limit) the number of items on which Ameritech Ohio would have to

achieve a perfect score. In addition, TCG does not say when it would be allowed to add to the list of network components to be graded. This important omission (obviously, it would be unacceptable for TCG to add any item to the list without sufficient advance notice) underscores the flimsiness of TCG's proposal.

TCG's benchmarks guarantee discrimination, and are unworkable:

- One benchmark that TCG demands that Ameritech Ohio meet is that the service it provides TCG must equal or exceed the service it provides to adjacent LECs. Given the quantitative detail of TCG's approach, it is extraordinarily unlikely that service to TCG would exactly equal service to an adjacent LEC. To cite just one example, one of the items in TCG's matrix is percentage availability for unbundled loops. The chances are minuscule that the percentage availability of TCG's unbundled loops would exactly equal the percentage availability of a neighboring LEC's unbundled loops (not because Ameritech Ohio will discriminate against TCG — which it will not — but because of such things as inevitable differences in localized conditions, and differences between network configurations that affect availability — and TCG's proposal does not include any margin for error.) As a result, TCG is in effect demanding that Ameritech Ohio provide it better service than its neighboring LECs. This is discriminatory.[23/]

[23/] Ameritech Ohio recognizes that there are circumstances where a promise of "equal or better" service could be non-discriminatory. Given TCG's rigorous quantitative approach, this is not one of those circumstances.

- Moreover, if Ameritech Ohio were subject to a penalty system like TCG's in all of its contracts with "adjacent LECs" (which it surely would be if TCG's proposal were approved here), Ameritech Ohio would inevitably fall short of its performance obligations to all but one of the LECs.

- TCG's other benchmark standard, that Ameritech Ohio must serve TCG at least as well on 24 (or more) measures as Ameritech Ohio serves the top 10% of its customers likewise demands much more than parity. Again, this follows from the indisputable fact that if Ameritech Ohio's agreements with all of its customers included the TCG penalty system, Ameritech Ohio would inevitably be in breach of its obligations to 90% of its customers.

TCG's proposed penalty discounts are draconian, and bear no relationship to the magnitude or the nature of any defects in performance that they seek to penalize:

- Under TCG's proposed system, TCG would receive a percentage discount on all of its purchases from Ameritech Ohio for an entire quarter if Ameritech Ohio's performance was "sub-standard" on just one measure (and not necessarily the same measure) for the two or more preceding quarters.[24/] An across-the-board discount in consequence of a "failing" that relates to only one aspect of one product is patently disproportionate — so disproportionate, indeed, that TCG would presumably have a

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[24/] Recall that "sub-standard" does not mean "poor" or even "average." With TCG's benchmark standards, it means only that Ameritech Ohio either served one adjacent LEC better (perhaps only slightly better) on one measure than it served TCG, or that Ameritech Ohio did not manage to serve TCG on one measure as well as it served the top 10% of its customers (even though Ameritech may have served TCG as well as it served the top, say, 15% of its customers).

very strong preference for Ameritech Ohio to provide it slightly sub-standard service so that it could reap the resultant windfall.

- As the percentage discount increases — to 45%, then 70%, and, potentially, to 100% — TCG's preference for sub-benchmark service from Ameritech Ohio would become a downright craving. If the discount level were ever to reach 70% or 100%, TCG would presumably buy everything that Ameritech Ohio has to sell in the next quarter.[25/]

In sum, TCG's proposed system would promote discrimination, guarantee failure, and, confer potentially enormous awards on TCG for immaterial disparities between discrete aspects of Ameritech Ohio's performance of services for TCG and for others. **Ameritech Ohio has no intention to discriminate against TCG, and would have no objection to an appropriate system for guarding against and remedying any material differences between Ameritech Ohio's performance for TCG and its performance for other similarly situated carriers.** As we have demonstrated however, TCG's proposal is grotesquely inappropriate, and must therefore be rejected.[26/]

[25/] Ameritech Ohio has every intention of providing excellent, non-discriminatory service to TCG, and, under any rational system, would be very confident that it would never even approach the 70% or 100% discount penalties that come into play after five or more consecutive quarters of sub-standard performance under TCG's system. With TCG's absurdly rigorous averaging method, however, no carrier could have that confidence.

[26/] As noted above, there are also flaws in TCG's proposed network components and measures of performance. For example, installation intervals for multiplexing simply makes no sense.

B. Ameritech Ohio's Proposed Liquidated Damages For Breaches Of Performance Criteria Should Be Approved.

Ameritech Ohio's proposal concerning performance standards appears at pages 40-42 of TCG Exhibit 9. Under that proposal, Ameritech Ohio undertakes to install unbundled loops, provide interim number portability and repair out of service problems for TCG within specified time periods (for example, less than 24 hours for repairs). Ameritech Ohio must meet the agreed time interval for each of those three activities in at least 80% of the covered instances each month. If Ameritech Ohio falls short of that requirement for three consecutive months for any activity (e.g., repair of out of service problems), Ameritech Ohio pays TCG $75,000 as liquidated damages for that breach, except in the case of force majeure and similar excused delays.

Little discussion is required to demonstrate the merits of Ameritech Ohio's proposal. For no analysis could better show that the proposal meets the legitimate needs of a carrier with which Ameritech Ohio is contracting than the fact that telecommunications carriers with which Ameritech has entered into interconnection agreements under Sections 251 and 252 of the Act, including, in Ohio, MFS and ICG have agreed to provisions concerning performance standards identical or substantially identical to those that Ameritech Ohio proposes here.

Moreover, Ameritech Ohio's proposed performance standards and consequences for non-conformance have already been upheld by the Illinois Commerce Commission. By Order of August 7, 1996, the Illinois Commission approved in its entirety the interconnection agreement between Ameritech Illinois and MFS, including the same performance standards

and consequences for non-performance Ameritech has proposed herein, finding that that agreement does not discriminate against any telecommunications carrier.[27/]

ADDITIONAL INFORMATION REQUESTS

Pursuant to Section IX of the Commission's Guidelines for Mediation and Arbitration, established in Case No. 96-463-TP-UNC, Entry (July 18, 1996), Ameritech Ohio identifies in Exhibit E the additional information which it requires. Ameritech Ohio requests that the arbitration panel direct TCG to provide promptly the information identified in Exhibit E and in any event by no later than Monday, August 19, 1996.

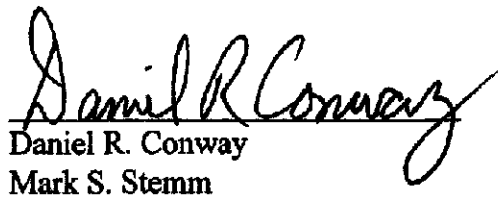
27/ Finally, any concern that TCG may claim to have concerning remedies for sub-standard performance by Ameritech Ohio must be taken with a grain of salt in the light of the availability of complaint proceedings, in this Commission and in the FCC, to correct any such deficiencies.

CONCLUSION

For the reasons set forth above, Ameritech Ohio respectfully urges the Commission to enter an Award consistent with Ameritech Ohio's positions as set forth herein.

Dated: August 12, 1996

Respectfully submitted,



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CERTIFICATE OF SERVICE

This shall certify that a true copy of the foregoing "AMERITECH OHIO'S RESPONSE TO TCG'S PETITION FOR ARBITRATION" was duly served via hand delivery upon Bruce J. Weston, Law Office, 169 West Hubbard Avenue, Columbus, Ohio 43215-1439, and by regular U.S. mail, postage prepaid upon J. Manning Lee, Vice President, Regulatory Affairs, Douglas W. Trabaris, Senior Regulatory Counsel, Teleport Communications Group Inc., 233 South Wacker Drive, Suite 2100, Chicago, Illinois 60606on the 12th day of August, 1996.

Daniel R Conway

Daniel R. Conway

COLUMBUS/263741.01

TCG

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Vice President
Carrier Relations

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Two Teleport Drive, Suite 300
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June 12, 1996

Mr. Gregg Dunny
VIA FAX 312-335-2925

Dear Gregg:

Attached is language we have agreed to with another ILEC in connection with our request for a "Feature Group Interconnection" arrangement.

This language provides the same economic result TCG is seeking, but it defines the arrangement as a meet point settlement vs. a feature group interconnection. I think this concept sidesteps any "access" implications.

Lets discuss this approach next week.

Sincerely,

Bob

cc: Madelon Kuchera - TCG

XIII. MEET POINT BILLING ARRANGEMENTS

A. For the purposes of this section, the Parties agree that tandem and end office subtending arrangements shall be according to LERG with respect to interconnection between the Parties for jointly-provided Switched Access arrangements, except as mutually amended by the Parties as shown in Attachment A. The Parties agree that where they jointly provide Switched Access services, they will share revenues received for such services in the following manner:

1. The tandem Party will bill the Switched Access customer on behalf of both Parties, based on the respective Switched Access rates of the Parties (single bill, multiple tariff). The Parties will cooperate in establishing the methodology for use of the single bill, multiple tariff option.

2. The rate elements from the end office Party's tariffs that are included in the single bill will be:

   a. Local Switching;
   b. Carrier Common Line (if applicable);
   c. RIC/NIC (if applicable);
   d. Tandem Switched Transport (per mile) as appropriate, in proportion to the amount of transport provided;
   e. Tandem Switched Transport (fixed), 0 or 50%, as appropriate;
   f. And any other approved local switching rate elements from its tariffs;

3. The rate elements from the tandem Party's tariffs included in the single bill will be:

   a. Tandem Switching (per minute);
   b. Tandem Switched Transport (per mile) as appropriate, in proportion to the amount of transport provided;
   c. Tandem Switched Transport (fixed), 50% or 100%, as appropriate;
   d. And any other approved tandem rate elements from its tariffs;

   Billing of the Entrance Facility rate element, if applicable, will be included on the Switched Access customer's normal facility bill.

4. Where the tandem Party switches directly to the end office Party's end office, the tandem Party will remit to the end office Party [redacted]% of the revenues for intrastate calls and [redacted]% of the revenues for interstate calls the end office Party would have received for end office functions had the end office Party provided the Switched Access service entirely over its own network, based on its approved access tariffs. Where the tandem Party switches to the end office Party's tandem, the tandem Party will remit to the end office Party 100% of the revenues the end office Party would have received for all tandem and end office functions had the end office Party provided the Switched Access service entirely over its own network, based on its approved access tariffs.

   In the event that the Commission or the FCC modifies the current Switched Access rate structures, or redirects the allocation of cost recovery between rate elements under the current structure, the Parties will renegotiate the percentage of the revenues to be received by the end office Party.

J. The tandem Party agrees to bill and collect all amounts due from the IXCs under this section in accordance with the tandem Party's existing billing, collection, treatment and denial of service procedures.

K. The tandem Party shall send one monthly check to the end office Party remitting the revenue received from the IXCs the prior month.

L. The Parties will mutually agree on revenue reports that the tandem Party will provide to the end office Party on a monthly basis. These reports reflect the data used to calculate billing.

3. When TCG and [redacted] bill for meet point Switched Access Service, the Parties will mutually agree to the format, time frame, and settlement terms that will be utilized. The Parties agree to work cooperatively in the industry fora to establish an industry format to be used by all carriers.

4. The end office Party shall provide to the tandem Party the Switched Access Detail Usage Data (category 1101XX records) for originating access usage on magnetic tape or via NDM, on a monthly basis, within fourteen (14) days of the last day of the billing period.

5. Upon request, when the tandem Party records terminating access usage or IXC Toll Free Service usage on behalf of the end office Party, the tandem Party will send the end office Party Switched Access Summary Usage Data (category 1150XX records) for usage validation.

F. Usage Data.

1. Pacific shall provide the Switched Access Detail Usage Data (category 1101XX records) on magnetic tape or via electronic file transfer using EMR format, no later than 10 days after the end of the billing period.

2. Each Party shall provide the other with the Switched Access Summary Usage Data (category 1150XX records) on magnetic tape or via electronic file transfer using the EMR format, no later than 45 days after day of receipt of the Switched Access Detailed Usage Data.

G. Errors may be discovered by TCG, the IXC or [redacted]. Each Party agrees to provide the other Party with notification of any discovered errors within two (2) business days of the discovery.

H. In the event of a loss of data, both Parties shall cooperate to reconstruct the lost data and if such reconstruction is not possible, shall accept a reasonable estimate of the lost data based upon three (3) to twelve (12) months of prior usage data.

I. All data associated with the processing and settlement of messages under this Agreement shall be maintained by the Parties for the period currently used by each Party for such information in compliance with legal and/or regulatory rulings. Different data retention periods require the agreement of the Parties.

5. If the end office Party is collocated in the serving Wire Center to which the IXC is connected, the end office party bills 100% of the local transport. This assumes the serving Wire Center is also the access tandem or end office in which the Party acting as the end office is collocated. Otherwise, the Parties will agree on a proportionate split of the local transport, to be reviewed in an annual audit. The Parties agree to file billing percentages in the National Exchange Carrier Association (NECA) Tariff FCC No. 4. TCG will file the initial data, and [redacted] will concur in the percentages within 30 days.

B. The Parties will bill Switched Access customers in accordance with the MECAB and MECOD guidelines, except that the Parties will divide revenues received with respect to meet point billing in the manner described above. The Parties agree to work cooperatively to support the work of the OBF and to implement OBF changes to MECAB and MECOD in accordance with the OBF guidelines.

C. The IXC receiving the single bill will send a single check to the tandem Party as the Party rendering the bill. The tandem Party will remit to the end office Party its portion of the access revenue as described above.

D. The Parties will use reasonable efforts to create the ability to provide to each other, when requested, the Switched Access Detail Usage Data and/or the Switched Access Summary Usage Data required for the billing and/or validation of the jointly provided switched access such as Switched Access FGB and FGD. The Parties agree to provide this data to each other at no charge.

E. Data Format and Data Transfer:

1. The tandem Party shall provide to the end office Party, where requested, the billing name and billing address of all IXCs originating or terminating traffic at the end office Party's end office.

2. Based on the individual call flows that can occur, certain types of records will have to be exchanged for billing purposes or the verification of billing. The Parties agree that the exchange of billing records will utilize the Bellcore standard EMR 01, 11, 50, and 20 formats. These records will be exchanged on magnetic tape or via electronic data transfer (when available).

Discussion Draft Dated July 24, 1996
Subject to Change Based on
Further Input and Review

AGREEMENT FOR SWITCHED ACCESS MEET POINT BILLING BETWEEN AMERITECH ILLINOIS AND TELEPORT COMMUNICATIONS GROUP INC.

This Agreement for Switched Access Meet Point Billing ("Agreement") is entered into this ____ day of June, 1996 between Ameritech Information Industry Services, a division of Ameritech Services, Inc., a Delaware corporation with offices at 350 North Orleans, Third Floor, Chicago, Illinois, 60654, as agent for Ameritech Illinois ("Ameritech") and Teleport Communications Group Inc., a _____ corporation with offices at 1 Teleport Drive, Staten Island, New York 10311, as agent for _____ ("TCG"). Ameritech and TCG shall be collectively referred to as "Companies."

WHEREAS, Ameritech and TCG are providers of local exchange services, and

WHEREAS, Ameritech and TCG desire to submit separate bills, pursuant to their separate tariffs, to interexchange carriers for their own portion of jointly provided switched access service (Multiple Bill/Single Tariff Option);

NOW THEREFORE, in consideration of the terms and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound by this Agreement, the Companies hereby covenant and mutually agree as follows:

1.0 Definitions

1.1 "Commission" shall mean the governing federal or state or regulatory authorities with appropriate jurisdiction.

1.2 "Exchange Message Record" or "EMR" shall mean the format used for the exchange of telecommunications message information among LECs for billable, non-billable, sample, settlement and study data. EMR format is contained in BR-010-200-010 CRIS Exchange Message Record, a Bellcore document which defines industry standards for exchange message records.

[redacted]

1.3 "Interexchange Carrier" or "IXC" shall mean a telephone company, such as AT&T, Sprint or MCI, which provides interexchange telecommunications services.

1.4 Initial Billing Company ("IBC") shall mean the Local Exchange Carrier which provides the Feature Group B or D services in an end office. For purposes of this Agreement, TCG is the IBC.

1.5 "Local Exchange Carrier" or "LEC" shall mean a telephone company which provides local telecommunications services.

1.6 "MECAB" refers to the Multiple Exchange Carrier Access Billing (MECAB) document prepared by the Billing Committee of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document published by Bellcore as Special Report SR-BDS-000983 contains the recommended guidelines for the billing of an access service provided by two or more LECs, or by one LEC in two or more states within a single LATA.

1.7 "Meet Point Billing" shall mean the process whereby each Company bills the appropriate tariffed rate for its portion of jointly provided switched access service.

1.8 "Multiple Bill/Single Tariff" shall mean that each Company will prepare and render its own meet point bill in accordance with its own tariff for its portion of the switched access service.

1.9 Subsequent Billing Company ("SBC") shall mean the Local Exchange Carrier which provides a segment of transport or switching services in connection with Feature Group B or D switched access service. For purposes of this Agreement, Ameritech is initially the SBC.

1.10 "Switched Access Detail Usage Data" shall mean a category 1101XX record as defined in the EMR Bellcore Practice BR 010-200-010.

1.11 "Switched Access Summary Usage Data" shall mean a category 1150XX record as defined in the EMR Bellcore Practice BR 010-200-010.

2.0 Services

2.1 Pursuant to the procedures described in the Multiple Exchange Carrier Access Billing ("MECAB") document SR-BDS-000983, issue 5, June 1994, prepared by the Billing Committee of the Ordering and Billing Forum, the Companies shall provide to each other the Switched Access Detail Usage Data and the Switched Access Summary Usage Data to bill for jointly provided switched access service such as switched access Feature Groups B and D. The Companies agree to provide this data to each other at no charge. If the procedures in the MECAB document are amended or modified, the parties shall implement them within a reasonable period of time.

2.2 TCG shall designate access tandems or any other reasonable facilities or points of interconnection for the purpose of originating or terminating IXC traffic. For each such access tandem designated, the Companies shall mutually agree upon thereto a billing percentages as which shall be set forth in Exhibit A and shall further agree upon billing percentages for additional routes, which billing percentages shall be set forth in Exhibit A as amendments hereto. Either Company may make this billing percentage information available to IXCs. The billing percentages shall be calculated according to one of the methodologies specified for such purposes in the MECAB document.

2.3 The Companies shall undertake all reasonable measures to ensure that the billing percentage and associated information are maintained in their respective federal and state access tariffs, as required, until such time as such information can be included in the National Exchange Association ("NECA") FCC Tariff No. 4, or any subsequent successor to such tariff. TCG shall use its best efforts to include in such tariff the billing percentage and associated information as a non-member of NECA.

2.4 Each Company shall implement the "Multiple Bill/Single Tariff" option in order to bill the IXC for each Company's own portion of jointly provided telecommunications service.

2.5 The parties shall begin to provide the services hereunder on June __, 1996.

3.0 Data Format and Data Transfer

3.1 Necessary billing information will be exchanged on magnetic tape or via electronic data transfer (when available) using the EMR format. The Companies shall agree to a fixed billing period.

3.2 TCG shall provide to Ameritech, on a monthly basis, the Switched Access Summary Usage Data (category 1150XX records) on magnetic tape or via electronic data transfer (when available) using the EMR format.

3.3 Ameritech shall provide to TCG, on a daily basis, the Switched Access Detail Usage Data (category 1101XX records) on magnetic tape no later than fourteen (14) days from the usage recording date. Ameritech shall provide the information on magnetic tape or, when available, via electronic data transfer, e.g., network data mover, using EMR formator via electronic data transfer (when available) using EMR format. Ameritech and TCG shall use best efforts to utilize electronic data transfer.

3.4 Each Company shall coordinate and exchange the billing account reference ("BAR") and billing account cross reference ("BACR") numbers for the Meet Point Billing service. Each Company shall notify the other if the level of billing or other BAR/BACR elements change, resulting in a new BAR/BACR number.

3.5 When Ameritech records on behalf of TCG and Access Detail Usage Data is not submitted to TCG by Ameritech in a timely fashion or if it is not in proper format as previously defined, and if as a result TCG is delayed in billing IXC, late payment charges will be payable by Ameritech to

TCG. Late payment charges will be calculated on the total amount of late access usage at the rate of .000493 per day (annual percentage rate of 18.0%) compounded daily for the number of days late.

3.6 If Summary Access Usage Data is not submitted to Ameritech in a timely fashion or if it is not in proper format as previously defined, and if as a result Ameritech is delayed in billing IXC, late payment charges will be payable by TCG to Ameritech. Late payment charges will be calculated on the total amount of late access usage charges at the rate of .000493 per day (annual percentage rate of 18.0%) compounded daily for the number of days late. Excluded from this provision will be any detailed usage records not provided by Ameritech the SBC in a timely fashion.

4.0 Errors or Loss of Access Usage Data

4.1 Errors may be discovered by TCG, the IXC or Ameritech. Both Ameritech and TCG agree to provide the other Company with notification of any discovered errors within two (2) business days of the discovery.

4.2 In the event of a loss of data, both Companies shall cooperate to reconstruct the lost data and if such reconstruction is not possible, shall accept a reasonable estimate of the lost data, based upon no more than three (3) to twelve (12) months of prior usage data, if available.

5.0 Audits and Reviews

Either Company may request an audit of the various components of access recording. Such audit shall be conducted at reasonable times during normal business hours, subject to confidentiality protection and limited to documents directly related to this Agreement. The fees for any independent auditor used to conduct the audit shall be paid for by the requesting Company. An audit may be requested no more than three (3) times in each calendar year. Either party may request two (2) audits in a calendar year and for those two audits each party shall bear its own expenses. For the third audit requested by a party in a calendar year, the requesting party shall reimburse the other party for the direct costs

incurred by the other party as a result of the audit, including a reasonable hourly rate for personnel and facilities.

6.0 Term

The initial term of this Agreement is one (1) year, beginning on the date when services are first provided under this Agreement, and shall be renewed for additional terms of one (1) year each. Either Company may terminate this Agreement effective at the end of the initial or any subsequent term by giving written notice of its intention to terminate to the other Company not less than forty-five (45) days before the effective date of such termination.

7.0 Payment

The Companies shall not charge one another for the services rendered pursuant to this Agreement.

8.0 Legal and Regulatory Requirements

8.1 Performance under this Agreement shall be in accordance with all applicable legal and regulatory requirements, including without limitation the requirements of the Telecommunications Act of 1996 (47 U.S.C. § 151 et seq.), as subsequently amended. No provision in this Agreement shall cause or be construed to cause either Company to violate any legal or state/federal regulatory requirement or cause or be construed to cause Ameritech to violate any of its obligations under the MFJ.

8.2 Ameritech and TCG shall comply, as applicable, with any legal and/or regulatory requirement necessary to effectuate this Agreement, including, but not limited to, the filing thereof with any applicable regulatory commission.

9.0 Limitation of Liability

9.1 Each Company's liability to the other (as distinct from a Company's obligation to pay for services provided pursuant to this Agreement) for any loss, cost, claim, injury, liability, or expense, including reasonable attorneys' fees, relating to or arising out of any act or omission in its performance of this Agreement shall be limited to the amount of direct damages actually incurred; and there shall be no liability under this Agreement for acts or omissions which do not occur in connection with performance hereunder. Neither Company shall be liable to the other for any indirect, special, or consequential damage(s) of any kind whatsoever.

9.2 In the event of errors, omissions, or inaccuracies in data received from either Company, the liability of the providing Company shall be limited only to the provision of corrected data. If data is lost, the providing Company will develop a substitute based on past usage, as set forth in Section 4.0.

9.3 In no event shall Company's liability to the other for any loss, cost, claim, injury, liability, or expense, including reasonable attorneys' fees, relating to or arising out of any act(s) or omission(s) in its performance of this Agreement exceed $10,000 in any one (1) month period.

10.0 Indemnification

TCG shall defend, indemnify and hold harmless Ameritech, its corporate affiliates, and their officers, employees and agents from and against all losses, damages, claims, liabilities, and expenses of third Companies (including attorneys' fees and costs), whether based in contract or tort (including strict liability), to the extent arising out of or resulting from TCG's acts or omissions, or TCG's failure to fully comply with the terms and conditions of this Agreement

Ameritech shall defend, indemnify and hold harmless TCG, its corporate affiliates, and their officers, employees and agents from and against all losses, damages, claims, liabilities, and expenses of third Companies (including

attorneys' fees and costs), whether based in contract or tort (including strict liability), to the extent arising out of or resulting from Ameritech's acts or omissions, or Ameritech's failure to fully comply with the terms and conditions of this Agreement.

The indemnified Company shall promptly notify the indemnifying Company of any written claim, loss or demand for which the indemnifying Company may be responsible under this provision and shall cooperate with the indemnifying Company to facilitate the defense or settlement of the claim. The indemnifying Company shall keep the indemnified Company reasonably apprised of the continuing status of the claim, including any lawsuit resulting therefrom, and shall permit the indemnified Company, at its expense, to participate in the defense or settlement of such claim. The indemnifying Company shall have final authority regarding defense and settlement.

11.0 Force Majeure

Neither Ameritech nor TCG shall be liable to the other for any delay or failure in performance hereunder due to fires, strikes, other labor disputes, embargoes, requirements imposed by governmental regulations, civil or military authorities, acts of God, the public enemy or other causes which are beyond the control of the Company unable to perform (hereinafter "force majeure"). If a force majeure occurs, the Company delayed or unable to perform shall give immediate notice to the other Company. In the event Ameritech is the Company delayed or unable to perform, TCG may elect: (a) to terminate this Agreement relating to Services not already performed, or (b) to suspend performance for the duration of the force majeure during which period TCG may buy elsewhere substitute services and, if applicable, allow Ameritech to resume performance once the force majeure ceases, with an option to extend performance date(s) up to the length of time the force majeure endured, but not to exceed the length of this Agreement. In the event the Companies established a commitment, purchase level, or discount program, the quantity bought or for which commitments have been made elsewhere shall be deducted from such commitment, purchase level, or discount program. TCG shall not be obligated to pay for services to the extent and for the duration that performance therefore is delayed or prevented pursuant hereto. TCG's exercise of its rights under option (b) shall not prevent TCG from

subsequently terminating. Unless written notice of termination is given by TCG option (b) shall be deemed selected.

12.0 Advertising and Publicity

Neither Party nor its subcontractors or agents shall use the other Party's trademarks, service marks, logos, or other proprietary trade dress in any advertising, press releases, publicity matters other promotional materials or otherwise without such Party's prior written consent. Neither Party will publicize the existence of this Agreement or the relationship between the Parties hereto without the other Party's prior written consent.

13.0 Amendments; Waivers

Failure of either Company to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.

14.0 Termination

14.1 If either Company violates any material provision of this Agreement , and if the violation continues for thirty (30) days after written notice thereof, the non-defaulting Company may immediately terminate this Agreement by written notice. Notwithstanding the foregoing, this Agreement may be terminated (i) at any time if so ordered by a regulatory commission or court of competent jurisdiction, or (ii) by execution of another mutually acceptable agreement.

14.2. Insolvency

Either Company may terminate this Agreement immediately without liability for said termination upon written notice in the event the other Company:

(1) files a voluntary petition in bankruptcy;

(2) is adjudged in bankrupt;
(3) has its assets assumed by a court of jurisdiction under a federal reorganization act; or
(4) has a trustee or receiver appointed by a court for all or a substantial portion of its assets.

15.0 **Notices and Demands**

Notices given by one Company to the other under this Agreement shall be in writing and shall be delivered personally, sent by express delivery service, certified mail or first class U.S. mail postage prepaid and addressed to the respective Companies as follows:

To Ameritech:

Ameritech Information Industry Services
350 North Orleans Street, Third Floor
Chicago, Illinois 60654
Attn: TCG Account Manager

with a copy to:

Ameritech Information Industry Services
350 North Orleans Street, Third Floor
Chicago, Illinois 60654
Attn: Vice President and General Counsel

To TCG:

Teleport Communications Group Inc.
_____
_____
Attn: _____

or to such other address as either Company shall designate by proper notice. Notices will be deemed given as of the earlier of a) the date of actual receipt, b)

the next business day when notice is sent via express mail, personal delivery or c) three (3) days after mailing in the case of first class or certified U.S. mail.

16.0 Governing Law

This Agreement and any claims arising hereunder or related hereto, whether in contract or tort, shall be governed by the laws of Illinois, except provisions relating to conflict of laws.

17.0 Severability

If any provision of this Agreement is held invalid or unenforceable, such provision shall be deemed deleted from this Agreement and shall be replaced by a valid and enforceable provision which so far as possible achieves the same objectives as the severed provision was intended to achieve, and the remaining provisions of this Agreement shall continue in full force and effect.

18.0 Confidentiality

Unless by mutual agreement, or except to the extent directed by a court of competent jurisdiction, neither Company shall disclose this Agreement or the terms hereof to any person other than such Company's affiliates or such Company's officers, employees, and consultants, who are similarly bound hereby. This paragraph shall not prevent the filing of this Agreement with a Commission if required by rule or order of that Commission, however, the Companies shall jointly request that the Agreement be treated as confidential by the Commission to the extent permitted by the Commission's regulations and procedures. Each Company must maintain the confidentiality of all call records, traffic volumes and all other material information and data pertaining to the traffic carrier over the Meet Point Billing arrangement, and the carriers and end users associated with such traffic.

19.0 **Survivability**

The Companies' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

20.0 **Assignment**

Neither Company shall assign any right or obligation under this Agreement without the other Company's prior written consent, which consent shall not be unreasonably withheld or delayed. Provided such Company shall not be required to obtain the consent of the other Company for assignment or transfer of this Agreement to any affiliate of such Company, any purchaser of all or substantially all of the assets of such Company, or any business organization with which or into which such Company has merged or consolidated with. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Companies' respective successors and assigns. Any attempted assignment not in compliance with this Section shall be void ab initio.

21.0 **Entire Agreement**

The terms contained in this Agreement and any attachment(s) referred to herein, which are incorporated into the Agreement by this reference, constitute the entire agreement between the Companies with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written. Neither Company shall be bound by any terms additional to or different from those in this Agreement that may appear subsequently in the other Company's form documents, purchase orders, quotations, acknowledgments, invoices or other communications. This Agreement may not be modified except by a writing signed by both Companies.

IN WITNESS WHEREOF, the Companies have entered into this Agreement as of the date first written above.

Teleport Communications Group Inc., as agent for	Ameritech Information Industry Services a division of Ameritech Services, Inc., as agent for Ameritech Illinois
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

Exhibit A

Rate Structure

Interstate Access - Terminating to or originating from TCG Customers

Rate Element	Billing Company
CCL	TCG
Local Switching	TCG
Interconnection Charge	TCG
Local Transport Termination	50% of Ameritech's rate and 50% of TCG's rate
Local Transport Facility	Based on negotiated billing percentage (BIP)
Tandem Switching	Ameritech
Entrance Facility	Ameritech

Intrastate Access - Terminating to or originating from TCG Customers

Rate Element	Billing Company
CCL	TCG
Local Switching	TCG
Interconnection Charge	TCG
Local Transport Termination	50% of Ameritech's rate and 50% of TCG's rate
Local Transport Facility	Based on negotiated billing percentage (BIP)
Tandem Switching	Ameritech
Entrance Facility	Ameritech

Exhibit A

Tandem Identification

The billing percentage (BIP) for the local transport facility is 50% Ameritech and 50% TCG.

ONE HUNDRED FOURTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

July 15, 1996

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Reed:

I understand that the Commission will soon complete action on the local interconnection rulemaking required by 47 U.S.C. § 251(d), enacted as part of § 101 of the Telecommunications Act of 1996 ("the Act"). I further understand that a question has arisen during the course of this rulemaking as to the congressional intent underlying 47 U.S.C. § 251(g), also enacted as part of § 101 of the Act, and its relationship to the existing access charge regulations. Specifically, the Notice of Proposed Rulemaking states:

> [W]e tentatively conclude that the incumbent LEC may not assess Part 69 access charges in addition to the charges assessed for the network elements determined under sections 251 and 252. ... We seek comment on this conclusion. ... In light of the above discussion and its possible implications for our Part 69 access charge regime, we repeat here our intention of taking up access charge reform in the very near future.

61 Fed. Reg. 18311, 18337 at ¶ 165 (April 25, 1996).

Both the House and Senate bills contemplated that the Act would supersede certain parts of the AT&T Consent Decree and that other parts of the AT&T Consent Decree would remain in place. During the conference, I offered language that would completely supersede the AT&T Consent Decree. This language effectively provided that any conduct or activity that was subject to the AT&T Consent Decree before the date of enactment would, on and after the date of enactment, be governed by the Act. *See* § 601 of the Act. I thought this approach averted any constitutional problem with superseding the AT&T Consent Decree, and it generally simplified the transition to the new regime established in the Act.

I included the language that became 47 U.S.C. § 251(g) as part of the amendment that I offered to address this issue. The conferees adopted this language because we wanted to keep in place the equal access, nondiscrimination, and access charge regimes as they existed under the AT&T Consent Decree and the Commission's rules until the Commission specifically addressed these topics

[redacted]

in a rulemaking. Under the versions of the bill that passed both the House and the Senate, these parts of the AT&T Consent Decree would have remained in place. Having decided to supersede the AT&T Consent Decree completely, we needed a statutory bridge to keep these requirements operating until the Commission could address this area. That is why we adopted 47 U.S.C. § 251(g).

You should also know that the original draft of the language that became 47 U.S.C. § 251(g) did not include the words "(including receipt of compensation)." I intended from the outset that this provision would keep the current access charge rules in place, as well as the equal access and nondiscrimination provisions of the AT&T Consent Decree, until the Commission acted in this area, and I thought that intent was clear without this language. When I offered this language, representatives of Senators Stevens and Pressler, among others, suggested the inclusion of the "(including receipt of compensation)" language specifically to clarify further that this language encompassed the current access charge rules. Because that suggestion was completely consistent with my original intent, I accepted the suggestion.

This suggestion was made in part because the Senate bill had included a provision (§ 251(k)) that would have explicitly kept the current access charge regime in place. However, because the broader language that became 47 U.S.C. § 251(g) encompassed this as well as other goals, the Senate language on this point was no longer necessary. The Senate conferees were concerned that the deletion of this specific language in favor of the broader language that became 47 U.S.C. § 251(g) might somehow be read to mean that the intent of the narrower Senate language was not included within the broader 47 U.S.C. § 251(g). To prevent any possible misinterpretation, I included the "(including receipt of compensation)" language in the package that the conferees adopted to make it absolutely clear that the current access charge regime was to remain in place until the Commission addressed this area.

I hope that this letter will clarify the congressional intent as you go forward. Please understand that it is not my intent to dissuade you from addressing reform of the current equal access, nondiscrimination, and access charge regime. On the contrary, the language in 47 U.S.C. § 251(g) specifically contemplates that such reform will occur within the context of an appropriate rulemaking. However, I did want to clarify that it was our intent that the existing regime would stay in place until the Commission acted, and that the mere enactment of the statute should not be considered to have eliminated any part of the current regime, including access charge rules.

I appreciate your attention to my thoughts on this important issue.

Sincerely,

HENRY J. HYDE
Chairman

HJH:jg

Congress of the United States
Washington, DC 20515

July 12, 1996

7/15

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Chairman Hundt:

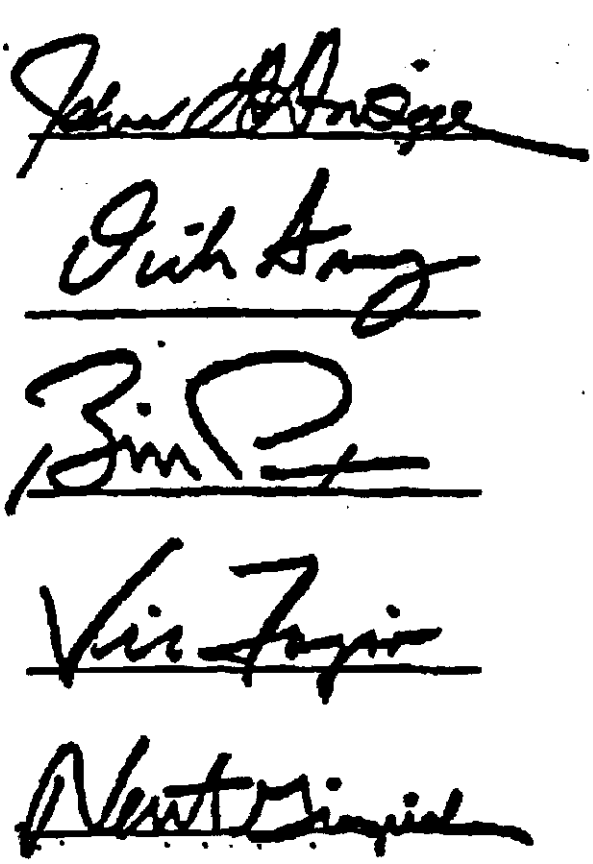
When we passed the Telecommunications Act of 1996 by an overwhelming majority, the main purpose that we had in mind was to benefit consumers. We intended that by bringing competition to the local, long distance and video marketplaces consumers would see greater choices, innovation and ultimately, lower prices. We are writing this letter to underscore that intent in passing this historic legislation.

Some have argued that the interconnection provisions of Section 251 of the Act allow long distance carriers to avoid paying access charges (either directly or indirectly). That would be correct if they built their own networks; however, allowing carriers to escape access charges by using unbundled elements is not what we intended. As you know, eliminating or significantly reducing access charges will have a devastating effect on the 1400 local exchange companies that currently charge for access, in part to maintain affordable residential rates. In Section 251 (g) of the Act we indicated that we did not intend for the access charge system to be undermined through the completion of the interconnection docket. To assure that state commissions are not forced to consider unintended dramatic local rate increases, access charge reform must be considered simultaneously with the Commission's restructuring of universal service as required by the Act.

In order to avoid unintended dramatic local rate increases, we urge you to simultaneously address the issues of access charge reform, pricing, and universal service. If it is not feasible to resolve these issues at the same time, you should preserve the current access charge system on an interim basis until you can address these issues. If the resolution of either of these issues occurs ahead of the others, there would be an adverse financial impact that could not be remedied by later action.

Sincerely,

[redacted]



cc: Commissioner Duello
Commissioner Ness
Commissioner Chong

EXHIBIT E

ADDITIONAL INFORMATION REQUESTED BY AMERITECH OHIO PURSUANT TO SECTION IX OF THE COMMISSION'S GUIDELINES FOR MEDIATION AND ARBITRATION

Ameritech Ohio requests that the Commission order TCG to promptly respond to the following information requests no later than August 19, 1996:

1. Please provide TCG's projections of the traffic volumes that will originate on its system and will terminate on Ameritech (a) end offices and (b) tandem offices.

2. Please admit that TCG has no basis on which to conclude that local traffic originating on TCG's network and terminating on Ameritech's network will be balanced, either in volume or cost, with local traffic originating on Ameritech's network and terminating on TCG's network. Please state any facts and provide documents setting forth and otherwise supporting any TCG projections of local traffic volumes originating on TCG's network and terminating on Ameritech's networks, and vice versa. Please state any facts and provide documents setting forth TCG's projections of the distribution of such local traffic interconnecting through end offices and through tandems.

3. Identify all costs that TCG contends it will incur in providing transport and termination of telecommunications originating on Ameritech's network , including all documents (a) upon which TCG relies to establish that it will incur such costs, or (b) that otherwise relate to the determination of those costs.

4. Is there any interconnection issue other than reciprocal compensation for the transport and termination of telecommunications on which TCG contends that it and Ameritech have not agreed in principle? If so, please identify each such issue and, for each such issue. (a) state the difference between the parties' positions as TCG understands it, and (b) state all facts and provide all documents upon which TCG bases its position or that support TCG's position.

5. Does TCG agree that Ameritech has informed all independent telephone companies with whom it executed interconnection agreements before February 8, 1996, that it intends to renegotiate those agreements? If not, please state the reason(s) that TCG does not so agree, and state all facts and provide all documents upon which TCG bases its disagreement.

6. Please identify each "additional cost" (Petition at page 7) for which Ameritech is entitled to receive compensation from TCG with regard to Ameritech's transport and termination of local traffic originating on TCG's network.

7. Does TCG have a position on the point at which additional costs incurred by Ameritech in providing transport and termination of local traffic originating on TCG's network "are sufficiently material to justify the difficulty and expense of establishing billing arrangements to collect and charge for them" (Petition at page 7)? If so, please state that position and state all facts and provide all documents upon which TCG relies to support that position.

8. Please state all facts and identify all documents upon which TCG relies to support its contention that "adoption of a per-minute-of-use transport and termination rate would likely, foreclose TCG from competing for many, if not most consumers, who favor (or currently use) flat rate calling" (Petition at page 7)?

9. Does TCG contend that the only instance where there may be higher costs associated with the transport and termination of calls processed by a tandem switch, as compared to calls processed by an end office switch, is where NECs have a higher utilization of the tandem switch than the ILEC (Petition at page 8)? If so, please state all facts and provide all documents upon which TCG relies to support that contention. Also, please provide TCG's definition of the phrase "higher utilization," as it applies to NECs' use of an ILEC's tandem switch.

10. Does TCG agree that, in order for reciprocal compensation rates to be economically efficient, they should be calculated based on a time frame over which all local transport and termination costs are considered variable, rather than fixed? If not, state TCG's position, and state all facts and provide all documents that support it.

11. Please identify each instance where TCG contends that it provides or will provide a "portion" of switched access service for Ameritech's network (Petition at page 8).

12. Please state all facts and provide all documents upon which TCG relies to support its assertion that, absent an agreement between TCG and Ameritech regarding switched access charges, there is a risk that both TCG and Ameritech might seek to bill an interexchange carrier for the same services or rate elements (Petition at page 8).

13. Please state all facts and provide all documents upon which TCG relies to support its contention that, if Ameritech were to bill an interexchange carrier for the Residual Interconnection Charge in instances where TCG provides the "tandem functionality," then Ameritech would be recovering for costs associated with services that TCG is providing to the customer (Petition at page 9).

14. Please state TCG's understanding of the difference, if any, between TCG's and Ameritech's positions with respect to switched access interconnection (item B on pages 8-9 of the Petition). To the extent that the parties' positions as TCG understands them differ, please state all facts and provide all documents upon which TCG bases its position.

15. Please state TCG's understanding of the difference, if any, between TCG's and Ameritech's positions with respect to interconnection (item C on pages 9-10 of the Petition). To

the extent that the parties' positions as TCG understands them differ, please state all facts and provide all documents upon which TCG bases its position.

16. In what respects, if any are the meet point arrangements offered by Ameritech to TCG during the parties' negotiations inconsistent with TCG's position concerning switched access interconnection (Petition at pages 7-8)?

17. Please state all facts and identify all documents upon which TCG relies to support its contention that TCG's proposed performance standards and penalties should be subject to arbitration under Section 252 of the Act.

18. Please state TCG's understanding of the difference, if any, between TCG's and Ameritech's positions with respect to access to poles, ducts, conduits and rights of way (item E on page 10 of the Petition). To the extent that the parties' positions as TCG understands them differ, please state all facts and provide all documents upon which TCG bases its position.

19. Please state TCG's understanding of the difference, if any, between TCG's and Ameritech's positions with respect to resale (item G on page 11 of the Petition). To the extent that the parties' positions as TCG understands them differ, please state all facts and identify all documents upon which TCG bases its position.

20. Please state TCG's understanding of the difference, if any, between TCG's and Ameritech's positions with respect to number portability (item H on page 11 of the Petition). To the extent that the parties' positions as TCG understands them differ, please state all facts and identify all documents upon which TCG bases its position.

21. Please state TCG's understanding of the difference, if any, between TCG's and Ameritech's positions with respect to unbundled access (item I on page 11 of the Petition). To the extent that the parties' positions as TCG understands them differ, please state all facts and identify all documents upon which TCG bases its position.

22. Please identify each witness that TCG intends to present at hearing in this arbitration, and for each such witness identify each fact and/or opinion to which that witness is expected to testify.

The following definitions and instructions apply to these requests:

1. "Petition" refers to the Petition Of TCG Cleveland For Arbitration Of Open Issues To Establish An Interconnection Agreement that TCG delivered to the Public Utilities Commission of Ohio (Commission) on July 17, 1996.

2. "Petitioner," "you," "your" and "TCG" refer to TCG Cleveland.

3. The "Act" means the Telecommunications Act of 1996.

4. "NEC" means a new entrant, i.e., competing, local exchange carrier.

5. "ILEC" means incumbent local exchange carrier.

6. "Relate to" and "refer to" mean, in addition to their customary and usual meaning reflect on, pertain to, support, evidence, constitute, or mention.

7. As necessary to make these requests inclusive rather than exclusive:

(a) "And" and "or" are to be construed either disjunctively;

(b) The singular is to be construed to include the plural, and the plural is to be the singular;

(c) Verbs are to be construed to include all tenses;

(d) "All" is to be construed to include "every," "any" and "each"; and

(e) Words, terms and phrases in these requests are to be given their plain and ordinary, meaning and/or their normal and customary meaning in the telecommunications industry, and/or the normal and customary meaning given to them by you.

8. The terms "document" and "documents" are intended to be comprehensive, and include. without limitation, any kind of written or graphic material, whether typed, handwritten, printed, computer-generated, and any matter of any kind from which information can be derived, however produced, reproduced, or stored on paper cards, machines. tapes, film, electronic facsimile, disks, computer tapes, print-ours, computer programs or computer storage devices or any other medium, of any nature whatsoever, including, all originals, copies and drafts.

9. To identify a person, state:

(a) The full name;

(b) The last position held with you, if any, and the dates it was held;

(c) The last known business address and telephone number; and, if the person is not currently employed by you,

(d) The last known home address and telephone number.

10. Each document that is withheld under any claim of privilege shall be identified on a schedule that states, for each document:

(a) The date of the document or, if the document is undated, the date on which it was prepared and/or received;

(b) The identity of all signers of the document;

(c) The identity of the author of the document;

(d) The identity of each and every recipient of the document; and

(e) A brief description of the contents of the document, including its title or re line.

11. The requests for information and documents are of an ongoing nature and TCG should be ordered to supplement its responses as new information becomes available.