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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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DOCKETING DIVISION
Public Utilities Commission of Ohio

In the Matter of Ameritech Ohio's)
Application for Approval of an)
Interconnection Agreement Between)
Ameritech Ohio and Communications)
Buying Group, Inc. Pursuant to Section)
252 of the Telecommunications Act)
of 1996)
)
)
)

Case No. 96-604-TP-UNC

AMERITECH OHIO'S REPLY COMMENTS

Ameritech Ohio submits these Reply Comments to the comments filed concerning the agreement ("agreement") between Ameritech Ohio and Communications Buying Group, Inc. ("CBG"). This agreement was submitted by the parties to the Commission for approval in accordance with Section 252(e) of the Telecommunications Act of 1996 ("Act"). Only the Office of the Consumers' Counsel ("OCC") has sought rejection of the agreement based on its belief that CBG should be required to serve all residence customers in its proposed service area. No reasonable basis for rejecting or modifying the agreement has been presented and the Commission should move forward with approval of the agreement pursuant to Section 252 of the Telecommunications Act of 1996 ("Act").

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Agreements negotiated under the Act must be submitted to the State commission for approval. Section 252(e). Under the Act, the Commission may only reject such an agreement if it finds that:

"(i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

(ii) the implementation of such agreement or portion is not consistent with the public interest, convenience and necessity." Section 252(e). By Entry dated June 27, 1996 the Commission permitted parties to file comments on these two specific issues.

The agreement fully complies with the criteria of Section 252 since it does not discriminate against a telecommunications carrier not a party to the agreement, nor is it inconsistent with the public interest, convenience and necessity. Section 252(e). As noted by several of the commentors, the agreement does not foreclose other carriers from negotiating an interconnection agreement that is better suited to their business needs. Carriers can also elect to obtain resale services with Ameritech Ohio pursuant to the same terms and conditions as those provided in the agreement. Moreover, the agreement is in the public interest since it will further local exchange service competition and the options available to customers.

OCC seeks rejection of the agreement based on the generic position that all providers should be required to offer service to all residence customers in their service area.¹ OCC does not provide any comments directed to the specific terms and conditions of the agreement. Ameritech Ohio cannot address CBG's business plans to serve residence customers. However, the terms of the resale agreement clearly permit CBG to offer service to residence customers. As such, the agreement which is the subject of this proceeding is clearly in the public interest.

OCC's basic theory that CBG and all other new entrants should be required to offer service to all residence customers is not an appropriate basis for rejecting the agreement. If OCC wishes to have such a requirement adopted by the Commission, then the local competition docket is the appropriate place to seek approval of such a requirement. In fact, the OCC currently has pending before the Commission an application for rehearing of the local competition guidelines on this very same issue. The issues raised by OCC are irrelevant to the approval of the agreement and the Commission should approve the interconnection agreement as soon as possible.

¹ OCC, p. 2.

Section 271 Issues Should Be Addressed In Other Proceedings.

The Commission also provided interested parties with the opportunity to express their views as to whether the interconnection agreement fulfills the criteria of Sections 271(c)(1)(a) and/or 271(c)(2)(B) of the Act.² The Section 271 questions posed by the Commission are not part of the approval process for the agreement. Rather the questions were presented as an opportunity for the Commission to obtain information that may be useful in meeting the Commission's consultive role under the Act when Ameritech files with the Federal Communications Commission ("FCC") for authority to offer interLATA service in Ohio.³ The Entry permitting the comments to be filed noted that receiving comments at this time would be "practical and efficient".⁴

The Commission's first area of inquiry involves Section 271(c)(1)(A) which requires the presence of a competing facilities based provider. As an initial matter, the agreement specifies terms and condition under which the resale of Ameritech Ohio services will be provided to CBG. CBG has not sought, at

² June 27 Entry, p. 4.

³ Before the FCC makes a determination regarding Ameritech's Section 271 application for Ohio it must consult with this Commission "to verify the compliance of the Bell operating company with the requirements of subsection (c)." Section 271(d)(2)(B).

⁴ June 27, 1996 Entry at p. 4.

this time, certification as a facilities-based provider. Ameritech Ohio is not presently providing access and interconnection to CBG and has yet to reach an interconnection agreement (other than for resale) with CBG. Since the agreement provides for the resale of services and Ameritech Ohio is not aware of CBG providing telephone exchange service or an application by CBG to become a facilities based provider, any discussion of the criteria of Section 271(c)(1)(A) in the context of this agreement is premature.

The Commission has also sought views on whether the agreement fulfills the criteria of Section 271(c)(2)(B) of the Act. That Section contains the fourteen point competitive checklist and requires that such access and interconnection be "provided or generally offered" by Ameritech Ohio. The information sought in this case appears to be a small subset of the information which will be requested in the recently opened proceeding on the competitive checklist and Section 271.⁵

Ameritech Ohio believes that the checklist items that CBG has requested (resale) meet the criteria of Section 271(c)(2)(B). Ameritech Ohio is prepared to explain its position on checklist compliance in detail in the Section 271 proceeding

⁵ Case No. 96-702-TP-COI.

and to conclusively demonstrate compliance as part of its application for interLATA authority.⁶

Ameritech Ohio agrees with AT&T and MCI that competitive checklist issues should not be addressed in this case.⁷ The scope of examination for checklist compliance may encompass more than an examination of one agreement. Other relevant information can be expected in proceedings filed to comply with the Act, other negotiated or arbitrated agreements approved by the Commission pursuant to Section 252(e), Ameritech Ohio tariff filings, a Section 252(f) statement of generally available terms approved by the Commission and Ameritech's Section 271 application for long distance authority filed with the FCC. The new Section 271 case will also provide an opportunity to address checklist compliance.

⁶ Ameritech Ohio does not agree with many of the arguments filed in this case concerning various commentators' interpretations of Section 271 and will address those arguments as they are raised in the Section 271 proceeding. For example, Sprint has argued that the checklist can only be met if all the checklist items are contained in one agreement. Sprint, p.4. Sprint does not cite any support or explain its novel theory. In fact, the Act contains no such requirement. The adoption of this theory would permit competitors to frustrate the purpose of the Act by insisting that one checklist item should not be part of the agreement. Moreover, TCG's claim that Section 271(c)(1)B ("Track B") is not available to Ameritech is incorrect. Ameritech Ohio has demonstrated in response to an inquiry by the PUCO Legal Director that "Track B" is an option that has been made available to Ameritech Ohio by the Act. See Ameritech Ohio's May 23, 1996 response to Paul Duffy, PUCO Legal Director.

⁷ AT&T, p. 5; MCI, p. 4.

As the Commission's new Section 271 proceeding reflects, administrative efficiency will not be served by having Ameritech Ohio and other interested companies provide limited responses on Section 271 issues in the context of approval of an individual agreement, only to have them repeat and expand their responses in the Commission's Section 271 proceeding. Ameritech Ohio intends on fully participating in the Commission's Section 271 proceeding and will provide information as that case moves forward concerning its compliance with Section 271. Since the questions posed in this case are for information gathering only, Ameritech Ohio will provide such information in the Section 271 proceeding.

Ameritech Ohio requests that the Commission issue a ruling approving the agreement between Ameritech Ohio and CBG pursuant to the Act.

Respectfully submitted,

AMERITECH OHIO

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Ameritech Ohio's Reply Comments has been served upon counsel for all parties as shown on the attached service list by regular U.S. mail, postage prepaid, this 29th day of July, 1996.

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