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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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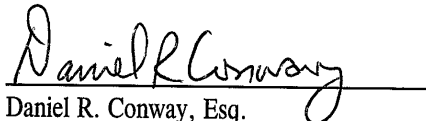
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In the Matter of AT&T Communications )  
of Ohio, Inc. Petition for Arbitration of )  
Interconnection Rates, Terms and ) Case No. 96-752-TP-ARB  
Conditions and Related Arrangements )  
with the Ohio Bell Telephone Company )  
d/b/a Ameritech Ohio )

**AMERITECH OHIO'S RENEWED MOTION FOR PROTECTIVE ORDER**

Ameritech Ohio, pursuant to O.A.C. 4901-1-24(D) and (F), respectfully moves for an Order extending the Commission's previous grant of confidential treatment to cost and other confidential and proprietary information submitted in connection with this arbitration proceeding. The reasons supporting this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,



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**MEMORANDUM IN SUPPORT**

**I. INTRODUCTION**

In the course of this proceeding, the parties requested the Commission to keep portions of the record (including pleadings, prefiled testimony, exhibits, and transcript) confidential. The portions of the record for which the parties requested confidential treatment included documents containing cost, negotiation strategy, market planning, and other proprietary information.

Through a series of orders, the Commission granted, or confirmed its Attorney Examiners' decisions to grant, confidential treatment to those documents pursuant to Rule 4901-1-24(D), O.A.C. Arbitration Award, at 2, 5, 36 and 37 (December 5, 1996); Opinion and Order, at 19 (January 16, 1997); and Order on Rehearing, at 3, 4, 13 and 14 (June 19, 1997).

Those documents have been segregated from the public record without interruption to date. Ameritech Ohio has begun, but has not completed, the process of evaluating the extent to which the documents previously accorded protection from disclosure continue to require confidential treatment. Ameritech Ohio requests that all of the confidential submissions in this proceeding remain redacted from the public record and protected from disclosure until it has completed its review and has submitted a supplemental memorandum detailing the need for continued protection from disclosure of specific portions of those submissions, and the Commission has ruled upon this motion, as supplemented. Ameritech Ohio proposes to submit its supplemental memorandum in support of this motion within thirty (30) days.

**II. DISCUSSION**

Rule 4901:1-24(D), O.A.C. provides that the Commission or designated employees may issue an Order which is necessary to protect the confidentiality of information contained in

documents filed with the Commission to the extent that state or federal law prohibits the release of the information, such as a trade secret, and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.

A "trade secret," as referenced in Rule 4901:1-24(D), is defined in R.C. 1333.61(D) to include "any business information or plan, financial information, . . . that satisfies both the following:"

- (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

R.C. 1333.61(D).

With respect to the initial requirement of Rule 4901-1-24(D), information contained in the documents currently under seal in the arbitration record continue to satisfy both criteria for a trade secret under Ohio law. First, information in those documents continues to derive independent economic value from not being generally known, and not being readily ascertainable by proper means, by others who could gain economic value from it. Ameritech Ohio is in the process of reviewing all of the documents in the sealed record for which it sought and received protection from disclosure, in order to determine the extent to which the passage of time has rendered continued protection unnecessary. This process is complicated somewhat by the large volume of confidential information submitted by the parties in their various filings. However, an initial review by Ameritech Ohio's counsel indicates that interspersed among the various portions of the sealed record are cost data that remain proprietary and continue to derive commercial

value as a result of their confidential nature. For example, much, if not all, of the cost data included among the various submissions in the arbitration proceeding are the same as or are related to data submitted in, and subject to subsequently issued and currently effective protective orders in, Case No. 96-888-TP-ARB (the Ameritech/MCI Arbitration) and Case No. 96-922-TP-UNC (the Ameritech TELRIC proceeding). That cost data is just one obvious example of information within the sealed record of the arbitration that requires continued protection. Second, Ameritech Ohio also has continued to maintain the confidentiality of all of the information kept under seal. Thus, it is clear that information in the documents currently under seal continues to meet both aspects of the first requirement of Rule 4901-1-24(D).

With respect to the second requirement in Rule 4901-1-24(D), a decision by the Commission to continue to protect the confidentiality of this information would not be inconsistent with the purposes of R.C. Title 49. R.C. 4901.12 and 4905.07 provide for disclosure of public records in accordance with R.C. 149.43. However, subsection (A)(1) of R.C. 149.43 specifically exempts trade secrets protected from disclosure by state or federal law from classification as public records information.

Continued protection from disclosure of the documents being kept under seal is necessary in the short term to enable an orderly review and determination of the extent to which those documents merit continued protection. Ameritech Ohio proposes to complete its review and supplement this motion with the detailed support required by Rule 4901-1-24(F) for continued protection within thirty days. Based on its preliminary review, Ameritech Ohio believes that, ultimately, it will be determined that significant amounts, if not all, of the documentation currently under seal will merit continued protection.

Ameritech Ohio recognizes that the eighteen-month period of the protective orders keyed to the December 5, 1996 issuance date of the Arbitration Award has expired. However, Ameritech Ohio respectfully submits that maintaining the protected status of the documents currently under seal pending a decision on this motion, as supplemented, will not adversely impact the public interest. In addition, expiration of those protective orders has not yet had any practical adverse impact on the confidential status of any of the documents, because the documents have remained under seal. Moreover, unsealing those documents now would result in significant commercial injury to Ameritech Ohio. It also would have the consequence of prematurely extinguishing, at least in part, other protective orders that have not expired.

### **III. CONCLUSION**

For the reasons stated above, Ameritech Ohio requests the Commission to keep the confidential portion of the record in this proceeding under seal while this motion is pending. Ameritech requests that, after it has filed its supplemental memorandum in support of its motion, the Commission grant this renewed motion for protective order.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

This is to certify that a true and accurate copy of Ameritech Ohio's Motion was served upon the counsel listed below this 22nd day of May, 1998, by overnight mail.

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