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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Complaint of ICG
TELECOM GROUP, INC.,)
)
)

Complainant,)
)
)

v.)

Case No. 97-1557-TP-CSS

AMERITECH OHIO,)
)
)

Respondent.)

In the Matter of the Complaint of
MCImetro ACCESS TRANSMISSION
SERVICES, INC., to compel payment of
reciprocal compensation,)
)
)

Complainant,)
)
)

v.)

Case No. 97-1723-TP-CSS

AMERITECH OHIO,)
)
)

Respondent.)

In the Matter of the Complaint of
TIME WARNER COMMUNICATIONS
OF OHIO, L.P.,)
)
)

Complainant,)
)
)

v.)

Case No. 98-308-TP-CSS

AMERITECH OHIO,)
)
)

Respondent.)

AMERITECH OHIO'S MEMORANDUM IN OPPOSITION TO MOTION TO
CONSOLIDATE OF TIME WARNER COMMUNICATIONS OF OHIO, L.P.

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Time Warner Communications of Ohio, L.P. ("Time Warner"), in its Motion to Consolidate filed on or about July 21, 1998,¹ asks the Commission to consolidate its complaint for reciprocal compensation for calls to the Internet in Case No. 98-308-TP-CSS with ICG Telecom Group's complaint case in No. 97-1557-TP-CSS and MCI's complaint case in No. 97-1723-TP-CSS. Ameritech Ohio ("Ameritech"), through its attorneys, opposes Time Warner's Motion for the reasons set forth below.

First, the Commission has previously considered and overruled similar requests for consolidation and intervention filed by both MCI and Time Warner in ICG Telecom Group's Case No. 97-1557-TP-CSS. See, Motion to Intervene Or To Consolidate of MCImetro Access Transmission Services, Inc. filed on December 30, 1997 and Time Warner's Motion to Intervene, Institute Carrier-To-Carrier Complaint or In The Alternative Grant Leave to Participate As An Amicus Curiae filed on December 22, 1997. As the Commission observed when denying both the intervention and consolidation requests, MCI, Time Warner and the other movants

"are not identically situated. After all, they all do not have current billing disputes with Ameritech and the interconnection agreements do vary."

Commission Entry dated January 22, 1998, pp. 9-10, Case No. 97-1557-TP-CSS.

On this basis, the Commission overruled MCI's motion to consolidate, denied Time Warner's motion to intervene and granted only amicus curiae status to the movants. Id. Time Warner's instant motion advances nothing new. Time Warner's distinctly different interconnection agreement with

¹ Ameritech Ohio's counsel received service of Time Warner's motion by regular mail, not by facsimile service as indicated in the Certificate of Service to the Motion. Therefore, the deadline for filing this response is July 31, 1998.

Ameritech and non-ripe billing dispute remain grounds for rejecting the consolidation now sought by Time Warner.

Second, at their pre-hearing scheduling conference in Case No. 98-308-TP-CSS, Time Warner and Ameritech Ohio had extensive discussions on what the briefing schedule should be in their proceeding. In the end, the Attorney Examiner set a schedule for reply briefs to follow eight calendar days after the Commission's decision in ICG's Case No. 97-1557-TP-CSS to allow the parties to reply to both initial briefs and the Commission's decision in the ICG case. Although Time Warner has now evidently reconsidered its desire to file a reply brief and is willing to waive such a reply, Ameritech Ohio is not. Time Warner should not be permitted to alter the briefing schedule at this late date through its motion to consolidate or to prejudice Ameritech's right to file a reply after the Commission decides Case No. 97-1557-TP-CSS.²

Finally, Time Warner makes no claim that it will be prejudiced by not having its case consolidated with ICG's proceeding. As previously observed by the Commission in its January 22, 1998, Entry in Case No. 97-1557-TP-CSS and further discussed by Ameritech Ohio in its Motion to Dismiss filed in Case No. 98-308-TP-CSS on March 26, 1998,³ unlike the interconnection agreements Ameritech Ohio has with ICG and MCI, Time Warner's interconnection agreement does

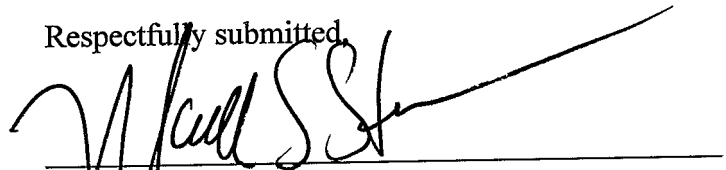
² ICG's decision not to object to Time Warner's Motion to Consolidate, according to ICG's correspondence docketed with the Commission on or about July 24, 1998, indicates that ICG's "no objection" is contingent on there being "no additional delay" resulting from consolidation. Ameritech Ohio's right to file a reply to Time Warner's initial brief and comment on the ICG decision in that brief appears to invalidate ICG's consent to consolidation.

³ The Commission has not yet ruled on Ameritech's motion to dismiss. The motion sets forth why Time Warner's complaint is not ripe for resolution at this time. An Order granting dismissal without prejudice obviously would moot Time Warner's motion to consolidate.

not authorize any calculation (much less billing or collection) of reciprocal compensation before July of 1999, regardless of whether calls to the Internet should or should not be included in the calculation. Until July, 1999, no actual dispute over reciprocal compensation, calculation or payment can arise and, pursuant to the terms of the interconnection agreement, such a dispute may never occur depending on the amount of the traffic exchanged and/or the legal developments which may influence the parties between now and next year. See, Ameritech Ohio's Motion to Dismiss, p. 2. The non-immediacy of its dispute with Ameritech Ohio may explain Time Warner's decision to file its complaint months after those filed by ICG and MCI. Consequently, Time Warner reasonably cannot allege -- and properly has not alleged -- that any harm will result from the Commission deciding its complaint case after the Commission's decision in Case No. 97-1557-TP-CSS, and after Ameritech Ohio has had an opportunity to file its reply pursuant to the schedule set for Case No. 98-308-TP-CSS.

For all the foregoing reasons, Ameritech Ohio respectfully requests that the Commission deny Time Warner's Motion to Consolidate forthwith.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum in Opposition to the Motion to Consolidate of Time Warner Communications of Ohio, L.P. was served upon the following parties, or their counsel of record to these actions, via U.S. mail, this 30th day of July, 1998:

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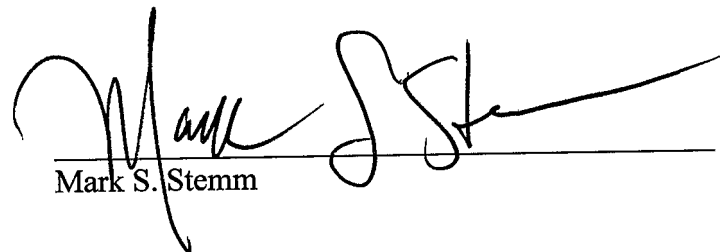
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