

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)
to consider **AMERITECH MICHIGAN'S** compliance) MPSC Case No. U-12320
with the competitive checklist in Section 271 of)
the federal Telecommunications Act of 1996)
_____)

**TDS METROCOM INC.'S COMMENTS WITH RESPECT TO THE ERNST &
YOUNG REPORT AND SBC AMERITECH MICHIGAN'S PERFORMANCE
MEASUREMENT DATA**

I. INTRODUCTION

On September 16, 2002, the Michigan Public Service Commission ("Commission") issued an Opinion and Order, which recognized that SBC Ameritech Michigan ("Ameritech") had not successfully completed the KPMG OSS test as required by the test plan approved by the Commission. (Id., at p.2.) At the request of Ameritech, the Commission, nevertheless, agreed to "begin the review process anyway and to use additional information that was not envisioned when the Commission set the review schedule on December 20, 2001." (Id.) In commencing the review, the Commission did not express "any view about the likely outcome of that review or the weight that will be accorded to the Ernst & Young report or even that the Ernst & Young report will be given any weight." (Id. at p.3.) The Commission also required Ameritech to file three (3) months of performance measurement data and the Ernst & Young final report on October 21, 2002. Parties, such as TDS

Metrocom, Inc. (“TDS”), were given this opportunity to submit comments regarding the Ernst & Young report and the performance measurement data.

II. OVERVIEW

Ernst and Young LLP (“E & Y”) was engaged by Ameritech to provide two opinions relating to Ameritech’s performance measurements. These opinions were: (1) whether Ameritech has effective controls over the accuracy and completeness of reported data in accordance with the Business Rules; and (2) whether Ameritech is reporting the performance measurements in compliance with the Business Rules.

In performing its examination, E & Y did not apply the methodology that was initially contemplated by the master test plan. Instead, E & Y applied a less rigorous “sampling/audit” approach. Notwithstanding the inherent shortcomings and limitations with respect to the E & Y review, its report does not show successful operation of Ameritech’s OSS and does not show the performance measurements are being made in compliance with the Business Rules.

On its face, the E & Y report states that “our examination disclosed that certain processes used to generate performance measurements, primarily related to the manual collection and processing of data and computer program coding and modifications, **did not include certain controls to ensure the accuracy of the reported performance measurements.**” (Emphasis added.) Similarly, the E & Y reports state that “our examination also disclosed **certain instances of material noncompliance with the Business Rules.**” (Emphasis added.) Despite the less rigorous approach applied by E & Y than initially contemplated by the master test plan, the E & Y report demonstrates that Ameritech’s OSS and efforts to report its

performance measurements in compliance with the Business Rules are seriously flawed.

III. ANALYSIS OF THE E & Y REPORT

A. ATTACHMENT A: RESTATEMENTS AND EXCEPTIONS

In a strained effort to show it is successfully operating its OSS, Ameritech presents an E & Y report which provides two heavily “qualified” opinions relating to Ameritech’s collection of data and compliance with the Business Rules. In order to provide these heavily “qualified” opinions, E & Y excludes a laundry list of exceptions (i.e. errors or known instances of noncompliance with the Business Rules) and admits it is basically adopting Ameritech’s “interpretations” of the Business Rules without any independent test or examination of the propriety of the interpretations. E & Y’s exceptions are myriad and speak volumes with respect to Ameritech’s inability to provide nondiscriminatory access to OSS and Ameritech’s inability to report its performance measures in compliance with the Business Rules.

These facts are clearly demonstrated by a review of Attachment A of the E & Y report. Beginning on page 11 and under the heading “Other Identified Issues,” E & Y states that “the following performance measurements were reported in **error** during the Evaluation Period.” (Id., emphasis added) This portion of the E & Y report describes thirty-two (32) separate errors impacting over seventy (70) different performance measures! The E & Y report then states that the results for all these performance measurements “**have not been restated and have not been corrected** by the Company as of the date of this report.” (Id., emphasis added.) This portion of the E & Y report alone demonstrates that Ameritech is not properly complying with

the Business Rules and that it is not even possible to restate the impact of Ameritech's noncompliance on the accuracy of its performance measurement data. As a result, Ameritech cannot show successful operation of its OSS because it lacks control over the accuracy and completeness of its reported data and it is not in compliance with the Business Rules. Until these issues are properly addressed, any performance measurement data filed by Ameritech will be unreliable and meaningless.

As of today, one does not even know how many additional restatements, if made, would satisfy the materiality definition presented by E & Y. On page 1 of Attachment A, E & Y lists the number of known material restatements "through the date of this report " (Id., p.8). Yet, these statistics are virtually meaningless because Ameritech has not issued restatements to correct the voluminous errors identified by E & Y's audit. Thus, the eight pages of restatements do not even capture the impact of other errors which have not yet resulted in restatements. The number of material restatements yet to be made may very well be immense.

It is also critical to note that in many instances where the E & Y report states a restatement has occurred, E & Y also states that it has not tested the accuracy of the restatement. For an example on page 3 and 4 of Attachment A (items 2(c), (d), and (h)), the E & Y report states that "E & Y has not tested the accuracy of the restatements as of the date of this report." Yet, the alleged restatements impact scores of performance measures. Thus, with respect to many of the restatements that have been made one cannot be certain that the restatements were properly performed.

Also, E & Y lists a host of errors which have not resulted in restatements, but which the report claims have been corrected on a prospective basis. Again, in numerous instances, E & Y states that it “has not tested the accuracy of the restatement as of the date of this report.” (p.9, Item 4) Similarly, this portion of the report also states that the “correction of these issues has not been verified by E & Y as of the date of this report.” (p.9, Item 5), or that E & Y “did not verify this change was implemented.” (Page 9, Item 8)

The exceptions listed in Attachment A are so great that they provide few answers and raise far more many unanswered questions regarding Ameritech’s compliance with the Business Rules. The E & Y report offers no reasonable support for a claim by Ameritech that it either has effective controls over the accuracy and completeness of its reported data or its reported performance measures are in compliance with the Business Rules. In fact, the E & Y report demonstrates that a more rigorous and detailed level of testing is both appropriate and necessary.

B. ATTACHMENT B: INTERPRETATIONS

Attachment B of the E & Y report lists eight (8) pages of interpretations used by E & Y in evaluating whether Ameritech was reporting its performance measures in compliance with the Business Rules. These interpretations of the Business Rules were obtained directly from Ameritech. In its draft report, E & Y stated that many of the interpretations had been preliminarily agreed to by the CLECs. During the questioning, TDS asked E & Y the following question and received the following answer:

Q: On Attachment B, page 1, E & Y states that the Company has indicated that many of the interpretations

indicated below have been preliminary agreed to with the CLECs as part of the most recent six month review process. Did E & Y investigate which interpretations the Company did not claim had been preliminarily agreed to with the CLECs as part of the most recent six month review process? If so, identify those interpretations.

A: According to Ameritech, the following interpretations in Attachment B have not been submitted to or approved by the CLECs at the six month review process: 1-7,10-12,16,17,19,20, 22, 23, 26-29, 32-36, 38-44.

According to Ameritech, the following interpretations in Attachment B have been preliminarily agreed to with the CLECs as part of the most recent six month review process: 25, 29, 30, 31.

According to Ameritech, the following interpretations in Attachment B have been submitted to the six month review process but may not yet be approved: 8, 9, 13, 15, 18, 21, 24, 37.

Thus, based on E & Y's own answer, only 4 of the over 40 interpretations had been preliminarily agreed to by the CLECs.

When E & Y was asked whether it did any analysis as to how these interpretations may have impacted its audit, E & Y replied as follows:

Q: With respect to any of the interpretations, did E & Y do any analysis as to how these interpretations impacted the results of its audit? If so, please describe that analysis and its results.

A: No, a separate analysis was not performed.

Thus, the E & Y report also shows that significant issues remain with respect to Ameritech's interpretations of the performance measures. The utilization of eight (8) pages of Ameritech's own interpretations of the Business Rules demonstrates that

the E & Y sample/audit is of no utility in determining whether Ameritech is in compliance with the Business Rules.

C. E & Y WORKPAPERS RAISE EVEN MORE QUESTIONS

Another difficulty with the E & Y report is that the very limited review which was permitted of E & Y's workpapers has revealed significant issues that must be more thoroughly explored, if the Commission is to consider the E & Y report. TDS participated in the one-day review allowed of certain important workpapers of E & Y. These documents included E & Y Processed Flow Charts, E & Y Activity Dictionaries, E & Y Issues Lists, E & Y Analytical Review, E & Y Engagement Letter, and E & Y Representation Letter, E & Y Response to AT & T Question 95-Attachment 1.

While the opportunity to review these documents was limited, the review raised significant concerns. These concerns included significant exceptions that were noted by E & Y, but were for some reason not included in its report, and clear failures of the OSS that were not included in the final report after "explanations" by Ameritech. These explanations were not even included in Attachment B as being interpretations; they were simply left unreported.

There were also clearly noted exceptions not included in the report because the exceptions were outside of the 3-month time period of the examination. For E & Y not to even mention these known exceptions shows the limited utility of the "sampling/audit" performed by E & Y for the evaluation period. For example, known and material exceptions to compliance with the Business Rules may be ongoing and within the knowledge of E & Y, but not disclosed merely because they did not occur

within the “Evaluation Period.” This demonstrates the need for the much more rigorous testing.

In addition, it appears that data from other states establishing yet other exceptions may have been excluded. In fairness, if Ameritech wishes other state data to be included for the purpose of demonstrating compliance, it should also be included when it shows or establishes noncompliance. Ameritech should not be allowed to have it both ways and that is what is suggested by the E & Y workpapers.

It should also be noted that the confidentiality concern raised by Ameritech and E & Y which have hampered fuller examination of the workpapers is nothing but a red herring. For example, the Issues List and Analytical Review relate to questions or issues raised by the E & Y and responses, if any, from Ameritech. It is somewhat odd to believe that E & Y asking questions of Ameritech is somehow proprietary to E & Y. Furthermore, the subject matter of the questions being asked and the answers being given are exactly the same subject matter included in the public portion of the report. While the information set forth in the workpapers may be embarrassing and/or damaging to Ameritech, it is not proprietary. Under the guise of these baseless confidentiality concerns, a further and fuller examination of the workpapers has been frustrated. The parties and the Commission should be given a full opportunity to have complete access to the E & Y workpapers and to be allowed to supplement the record on these important issues.

IV. AMERITECH’S THREE (3) MONTHS OF PERFORMANCE DATA IS NOT UNRELIABLE

Given the lack of adequate controls for collecting and reporting data and the noncompliance with the Business Rules, Ameritech’s three months of performance

data filed in this case is unreliable. Yet, the data does show instances where Ameritech is provisioning UNEs in a discriminatory manner. Ameritech's own faulty record keeping acknowledges that it has missed benchmarks for installations of UNEs (PMs 55, 55.1 and 56). Further, it has missed the benchmark for the number of trouble reports within 30 days of installations (PM 59). Ameritech has also missed key performance measures relating to the provisioning of trunks (PMs 73, 745, 75 and 78). Thus, even under its flawed approach to collecting and reporting performance measures, Ameritech fails to provide key services necessary for facilities-based providers to successfully compete with Ameritech.

V. CONCLUSION

On September 16, 2002, the Commission issued an order allowing Ameritech to depart from the previously approved procedures in this case. In doing so, the Commission left open the "weight that will be accorded to the E & Y report or even that the E & Y report will be given any weight." (Id. p.3). The E & Y report does not show successful operation by Ameritech of its OSS or that its performance measurement data is in compliance with the Business Rules. Instead, the E & Y report raises substantial questions and concerns with respect to Ameritech's ability to provide nondiscriminatory OSS. Furthermore, the E & Y report establishes that Ameritech's "processes used to generate performance measurements, primarily related to the manual collection and processing of data and computer program coding and modifications, did not include certain controls to ensure the accuracy of the reported performance measurements." Further, the E & Y report "disclosed certain instances of material noncompliance with the Business Rules." As a result,

this Commission should refuse to place any reliance upon the E & Y report and instead require more rigorous and detailed testing of Ameritech's OSS.

Further, this Commission should put a stop to the continued campaign of attrition being waged by SBC. As each piece of evidence comes to light, as each new test is failed, it only becomes more and more clear that SBC has not made a sincere effort to comply with its obligations under the Act, and unless unequivocally forced to do so, has not the slightest intention of ever embracing wholesale service as a willing participant. SBC/Ameritech's OSS system does not comply with the Act, it does not work, and it has become clear that it cannot be made to work. The "test until pass" system is based on the unspoken, and now demonstrably false, premise that it is *possible* for this system to pass. As we have seen over the last five years, this just isn't so. There is no amount of tweaking, no quick fix (that can make the Ameritech OSS system an adequate system to support true wholesale service.

The Ameritech OSS system is a house of cards built on a quicksand of inoperable, incompatible, manually intensive and downright unreasonable processes that make placing and provisioning a simple loop order an adventure in frustration. For example, a totally unreliable loop inventory database is linked to a poorly operating loop qualification system. A simple comparison between the two most recent loop qualification tools shows that different information is returned for what should be the same loop, depending on which tool is used. One system did not even have the correct address for existing Ameritech customers. As if that were not enough, often times neither set of information is correct, when compared to physical tests in the field. Even then, the loop that is actually provisioned is not always the

same one that is shown on the loop qualification test.. Ordering, conditioning and provisioning a simple DSL capable loop is rendered a roll of the dice. A reasonable amount of information about your inventory is a bare minimum requirement for any business trying to effectively serve its customers.

Ameritech stripped its operations of its best and most experienced technical people to prepare for its sale to SBC. SBC has not restocked the company with the necessary resources to perform as a true wholesale operation. Ameritech is not concerned with customer service for its “wholesale” customers. It is only concerned with doing the absolute minimum necessary to obtain 271 approval. It hopes that it can delay and deny long enough that this Commission and others will simply tire of the fight and give up.

Instead, this Commission should declare that “test until pass” is dead with respect to the current Ameritech OSS system, and that Ameritech has failed the tests. Ameritech should not come back with a new 271 application until it has, from the ground up, constructed a truly functional OSS system; one that is based on an accurate census of the available network elements, state of the art mechanized and electronic processes for gathering, storing and retrieving data, and a workforce organized and properly incented to provide true customer service to its wholesale customers; all of which should be demonstrated by a new, and no less rigorous round of testing. Ameritech has attempted to avoid its duty to provide access to its network elements on terms and conditions that are just reasonable and non-discriminatory. Ameritech must be told, in no uncertain terms, that its utter failure to comply with the law, as inexorably established by the BearingPoint and EY reports, will not be

tolerated; that Ameritech will not win by attrition; and that this Commission, and the people of the state of Michigan, will settle for nothing less than the benefits that true competition in local phone service can provide.

Respectfully submitted,

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