

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, )
to consider Ameritech Michigan's compliance )
with the competitive checklist in Section 271 of ) MPSC CASE NO. U-12320
the federal Telecommunications Act of 1996. )

AFFIDAVIT OF
KATHRYN MASSURA

STATE OF ILLINOIS )
) S.S.
COUNTY OF COOK )

The undersigned, being of lawful age and duly sworn on oath, hereby certifies,
deposes and states the following:

I have caused to be prepared the attached written testimony in support of AT&T
Communications of Michigan, Inc. in the above referenced docket. This
testimony is true and correct to the best of my knowledge, information, and belief.

Further Affiant sayeth not.

[Handwritten signature of Kathryn Massura]
Kathryn Massura, Affiant

Subscribed and Sworn to before me
this 27th day of June, 2001.

[Handwritten signature of Margaret M. Plucinsky]
Notary Public



**STATE OF MICHIGAN**

**BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

\* \* \* \* \*

**In the matter, on the Commission's own motion, )  
to consider AMERITECH MICHIGAN's compliance )  
with the competitive checklist in Section 271 of )  
the federal Telecommunications Act of 1996. )**  
\_\_\_\_\_)

**Case No. U-12320**

**PUBLIC VERSION**

**AFFIDAVIT OF KATHRYN MASSURA**

**ON BEHALF OF**

**AT&T COMMUNICATIONS OF MICHIGAN, INC. AND TCG DETROIT**

**JUNE 29, 2001**

**PUBLIC VERSION**

**INTRODUCTION**

1. My name is Kathryn Massura. My business address is 222 West Adams Street, 11<sup>th</sup> Floor, Chicago, Illinois, 60606. I am employed by AT&T as a District Manager in the Southwest/Pacific/Ameritech region of the Local Services and Access Management organization. My current responsibilities include negotiating with incumbent local exchange carriers to obtain the arrangements that AT&T needs to support its provision of local service in Illinois, Indiana, Michigan, Ohio and Wisconsin.
2. I have previously testified before the Michigan Public Service Commission in the AT&T/Ameritech arbitration proceeding, Case No. U-12465.

**PROFESSIONAL EXPERIENCE**

3. Beginning in 1996, I served as AT&T's regional issues manager for the negotiation and arbitration of the first generation interconnection agreements with Ameritech. In May 1998, I joined AT&T's Carrier Relations group where I handled negotiations and contract issues on behalf of AT&T's Local Services Organization. Beginning in December, 1999, I assumed responsibility for representing AT&T throughout its negotiation and arbitration of state interconnection agreements ("ICAs") with Ameritech. In my current position, I also address contract interpretation issues and work to resolve contract disputes when they arise. I have over twenty years experience in the telecommunications industry and have held various positions in sales, customer service, market planning and regulatory matters.

**PURPOSE OF AFFIDAVIT**

4. This affidavit responds to certain assertions made in the affidavit of Scott Alexander that Ameritech Michigan is meeting its 47 U.S.C. § 271 (c)(2)(b) checklist obligation for providing access to Network Elements as that obligation relates to combinations of unbundled Network Elements. As I will describe, Ameritech Michigan has refused to give AT&T access to Shared Transport and the unbundled network element platform (“UNEP” or “UNE Platform”), under the terms of AT&T’s existing Michigan interconnection agreement, even though that agreement entitles AT&T to unrestricted access to both shared transport and UNE Platform.

**AMERITECH MICHIGAN HAS REPEATEDLY AND CONSISTENTLY REFUSED TO ACKNOWLEDGE ITS OBLIGATION TO PROVIDE NONDISCRIMINATORY ACCESS TO ITS SHARED (COMMON) TRANSPORT PURSUANT TO THE TERMS OF THE INTERCONNECTION AGREEMENT.**

5. As the Commission knows well, Ameritech Michigan has zealously fought any regulatory requirement obligating it to provide competitive carriers with the UNE known as shared transport. This was not always the case. In the first set of arbitrations in Michigan (in 1996-97) between Ameritech and AT&T, Ameritech did not dispute its obligation to provide shared transport until after the Commission had approved the interconnection agreement between the two parties. In fact, one of Ameritech’s witnesses in that proceeding, Gregory J. Dunny, confirmed that Ameritech did not view the matter as being in dispute because Ameritech had proposed to offer dedicated transport and “common transport” as UNEs in compliance with the FCC’s Local Competition Rules: “As required by the Rules (47

C.F.R. Section 51.319(d)(2)), Ameritech's Proposed Agreement provides for dedicated transport, common transport, and tandem switching as unbundled network elements.... With the possible exception of pricing, I am not aware of any disputes with AT&T regarding these products." Direct Testimony of Gregory J. Dunny, Case No. U-11151, at 26 (filed Aug. 26, 1996). Another Ameritech witness in that arbitration made it clear that the "common transport" Mr. Dunny was referring to was the same thing as shared transport: "Ameritech Michigan's common transport, is, by definition, shared by all users of the network, *as well as by Ameritech Michigan itself.*" Direct Testimony of John B. Mayer, Case No. U-11151, at 39-40 (filed Aug. 26, 1996) (emphasis added). In part based on these representations, AT&T understood Ameritech to be offering unbundled common or shared transport. In several subsequent filings with the arbitrators in that case, Ameritech confirmed that it was voluntarily offering common or shared transport consistent with its witnesses' descriptions. *See, e.g.*, Ameritech Proposed Decision of the Arbitration Panel, Case U-11151, p. 25 (filed Sept. 17, 1996)(stating that Ameritech was offering seven distinct network elements, including "interoffice transmission facilities, including common transport and dedicated transport...."). No doubt because the parties were seemingly in agreement on the form of transport to be provided, the 1996 Michigan arbitration panel issued a decision that was silent on shared/common transport, and the Commission issued its order approving the interconnection agreement without discussion of the definition of the common/shared transport UNE. I should point out that the terms "common" and "shared" transport at this time were used essentially synonymously in this context. The FCC in its rules issued in the Local Competition

proceeding in August of 1996 adopted the term “shared” transport, however, and consequently AT&T agreed to use that conforming terminology in the first generation interconnection agreement with Ameritech Michigan.

6. Almost immediately after the Commission approved the first generation ICA, Ameritech Michigan claimed that the shared/common transport contained in the ICA was not shared transport but, instead, a form of dedicated transport – so-called “shared carrier” transport. Under this arrangement, Ameritech Michigan claimed, the “shared” transport was not the common transport network used to connect Ameritech’s switches. Under shared carrier transport, CLECs would use separate interoffice transport dedicated solely to their collective use and Ameritech would continue to use the interoffice network it had built during its history as a monopoly local exchange provider.
7. Ameritech Michigan subsequently has litigated this issue in every available venue. And it has lost in every instance. Ameritech Michigan’s stance on shared transport has been rejected by the FCC, the Eighth Circuit Court of Appeals and this Commission. *See, e.g., Implementation of the Local Competition Provision in the Telecommunications Act of 1996*, Third Order on Reconsideration and further Notice of Proposed Rulemaking, ¶ 22 (August 18, 1997) (“We find, however, that a fair reading of our order and rules does not support the claim advanced by Ameritech that a shared network element necessarily is shared only among competitive carriers and is separate from the facility used by the incumbent LEC for its own traffic.”).
8. In particular, Ameritech has shown a consistent pattern of ignoring this Commission’s orders on common/shared transport. For example, in conjunction with Ameritech

Michigan's prior application to the FCC for Section 271 relief, the Commission was forced to make the following statement to the FCC:

On April 25, 1997, AT&T filed a Motion for an Order Compelling Compliance with the Commission's February 28, 1997 Order on Shared Transmission Facilities. In spite of a MPSC order adopting the AT&T position on this matter, Ameritech has claimed that order was unclear. At this time, the matter remains unresolved.<sup>1</sup>

Unfortunately, as my affidavit shows, Ameritech Michigan has continued to resist its obligation to provide shared transport as this Commission and the FCC have ordered time and time again since 1997.

9. There can be no doubt that Ameritech Michigan knew the Commission's views on this issue and that Ameritech Michigan was not in compliance with those views. In an affidavit filed in the Michigan Court of Appeals (a copy of which is attached hereto as Exhibit KM-1), William J. Celio, then Director of the Communications Division of the Commission, detailed the numerous times that the Commission has addressed the issue of Ameritech Michigan's provision of shared transport and the Platform. See Affidavit of William J. Celio, pp. 4-5 (attached hereto as Exhibit KM-1). In the affidavit, Mr. Celio notes that, as of the date of his affidavit (March, 1998), "Ameritech Michigan has not complied with any of the Commission's orders relating to common (shared) transport also known as the platform issue." Id., p. 5.
10. Similarly, the Commission's TSLRIC orders have consistently required Ameritech to provide common transport as a UNE. In its order in Case No. U-11280, which was the first TSLRIC review, the Commission rejected Ameritech Michigan's interoffice

---

<sup>1</sup> Consultation Of The Michigan Public Service Commission, In the matter of Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan, CC Docket No. 97-137, p. 37 (filed June 9, 1997).

transport cost studies because they were predicated on requiring carriers to share dedicated transport. Instead, the Commission approved AT&T's, MCI's and Staff's recommendation that Ameritech set a usage-based rate for the use of Ameritech Michigan's common transport network. *See Opinion and Order*, Case No. U-11280, p. 27 (July 14, 1997). In Case No. U-11831, the second TSLRIC case, Ameritech again attempted to gain approval of cost studies that reflected its shared carrier transport system. Again, the Commission stated that it would not accept Ameritech Michigan's position. *Opinion and Order*, Case No. U-11831, p. 38 (Nov. 16, 1999).

11. Ameritech Michigan knew that carriers like AT&T would need the shared transport that the Commission had repeatedly ordered it to provide. Although AT&T initially entered the Michigan local exchange market using Total Service Resale ("TSR"), it became apparent to AT&T early on that TSR would not provide a sufficient margin to allow AT&T to sustain its entry. Thus, in early 1997, AT&T attempted to use UNE-P, and in so doing, use shared transport to allow a facilities-based entry into Ameritech Michigan's local exchange markets. On January 10, 1997, AT&T sought by letter to order from Ameritech the Unbundled Element Platform with Operator Services and Directory Assistance and requested common transport as part of that offering.<sup>2</sup> In a response dated January 14, 1997, Ameritech responded that, in its view, common transport was not a network element and that it would not provide common transport as requested by AT&T in the absence of an order from the FCC or

---

<sup>2</sup> Letter from E. Cardella, AT&T, to Bonnie Hemphill, Ameritech (Jan. 10, 1997), attached hereto as Exhibit KM-2.

Michigan Commission.<sup>3</sup> Ultimately, Ameritech refused to provision AT&T's orders for UNE-P with shared transport. Ameritech claimed that to the extent that its witness Mr. Dunny had stated that Ameritech had agreed to offer shared/common transport, his statement had been an "inadvertent error."<sup>4</sup> At the time, AT&T viewed this response as highly misleading (and still does consider this response as being part of Ameritech's plan to deter competitors from using combinations of network elements to provide service in Michigan).

**AMERITECH MICHIGAN CONTINUES TO ERECT BARRIERS TO AT&T'S USE OF SHARED TRANSPORT UNDER THE EXISTING INTERCONNECTION AGREEMENT**

12. With respect to local service, AT&T and Ameritech Michigan continue to operate under their 1997 interconnection agreement because that contract has not yet been replaced by an effective successor agreement.
13. AT&T's 1997 Michigan ICA had an initial term of three years. Prior to the agreement's expiration, AT&T and Ameritech began negotiation of a successor agreement.<sup>5</sup> On February 29, 2000, AT&T and SBC executed a Stipulation that extended the negotiations period so that Ameritech could have additional time to prepare its proposal for negotiations. Pursuant to this Stipulation, the parties agreed that the existing interconnection agreements would "remain in effect in accordance

---

<sup>3</sup> Letter from Bonnie Hemphill, Ameritech, to E. Cardella, AT&T, (Jan. 14, 1997), attached hereto as Exhibit KM-3.

<sup>4</sup> Letter from Bonnie Hemphill, Ameritech, to E. Cardella, AT&T (Jan. 31, 1997), attached hereto as Exhibit KM-4.

<sup>5</sup> Negotiation of the Michigan agreement was eventually combined with the re-negotiation of expiring contracts in Indiana, Ohio and Wisconsin.

with their terms until new interconnection agreements are approved under Section 252 of the Act, notwithstanding any expiration dates or notices of termination.”<sup>6</sup>

Until the parties’ successor agreement takes effect in Michigan, AT&T and Ameritech continue to be governed by the terms of their original ICA.

14. Recent improvements in TSLRIC pricing in Michigan have resulted in a renewed interest within AT&T in pursuing a facilities-based market entry using the UNE platform. In early March of this year, faced with the possibility that the successor ICAs might not be effective until mid-summer, AT&T approached Ameritech with a request to order the UNE platform using the existing Michigan ICA. AT&T had a business need to place UNEP orders in order to support a May market entry for small business customers and an end-to-end test of the platform ordering process for a mass market consumer entry later this year. This systems testing is a prerequisite to planned AT&T local market entries in Michigan.

15. Because the interconnection agreement includes a carefully negotiated and comprehensive set of terms and conditions governing the relationship between AT&T and Ameritech Michigan, AT&T’s preference is to order functions such as the UNE platform under the terms of that agreement. AT&T is clearly entitled to the protections afforded by its ICA when ordering essential network functionality included in the ICA. Moreover, AT&T’s existing ICA contains language obligating Ameritech to provide UNEP without the restrictions Ameritech Michigan currently imposes in its “271 Amendments,” (*i.e.*, the M2A) relating to “currently combined”

---

<sup>6</sup> *Stipulation executed by SBC Telecommunications, Inc and AT&T Corp on February 29, 2000* attached hereto as Exhibit KM -5. This Stipulation was subsequently amended to adjust certain dates.



XX  
XXXXXXXXXX.

XXXXXXXXXX

1. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.  
XXXXXXXXXXXXXXXXXX

XXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX  
XXXXX  
XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXX

XX

XX.

18. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

XX

XX

XX

XX

XX

XX

XX

XX

XXXXXXXXXXXX.











four months of effort, AT&T continues to seek the ability to order the UNE platform under its existing contract. This series of events demonstrates that, despite the passage of nearly four years since its first § 271 application in Michigan, Ameritech Michigan continues to refuse to meet its obligation, to provide unbundled local transport and UNE combinations.

**CONCLUSION**

29. When commenting on Ameritech Michigan's 271 application in 1997, this Commission found that Ameritech Michigan was failing to provide shared transport and access to unbundled local switching in compliance with the FCC's and this Commission's orders. By refusing to provide shared transport and UNE-combinations under the terms of its ICA obligation with AT&T, Ameritech Michigan continues this pattern of violating a succession of MPSC orders and continues to fail to meet checklist items (ii), (v) and (vi).
30. This concludes my affidavit.