

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
KAREN W. MOORE

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:

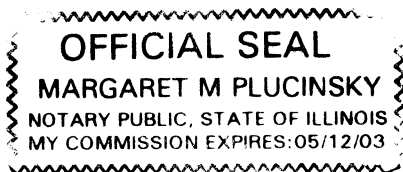
I have caused to be prepared the attached written testimony in support of AT&T
Communications of Michigan, Inc. in the above referenced docket. This
testimony is true and correct to the best of my knowledge, information, and belief.

Further Affiant sayeth not.

Karen W. Moore
Karen W. Moore, Affiant

Subscribed and Sworn to before me
this 22nd day of June, 2001.

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

AFFIDAVIT OF KAREN W. MOORE

ON BEHALF OF

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

JUNE 29, 2001

Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?

A. My name is Karen W. Moore. My business address is 222 W. Adams Street, Chicago, Illinois, 60606.

Q. WHAT IS YOUR BACKGROUND AND CURRENT RESPONSIBILITIES?

A. I am employed by AT&T Corp. as Manager, Performance Measures, in the Southwest/Pacific/Ameritech region of the Local Services and Access Management organization. Since June, 1999, I have represented AT&T and Teleport Communications Group Inc. ("TCG") in all performance measurements collaboratives in the Central Region. I negotiate performance metrics with SBC/Ameritech for inclusion in interconnection agreements. I also compare and analyze AT&T and TCG results with SBC/Ameritech's self reported results. I manage the day-to-day relationship between AT&T, TCG and the SBC/Ameritech Account team members who support performance issues.

Prior to assuming my present duties, I have held assignments in Consumer Services as a Strategic Pricing Manager, in Law and Government Affairs as a Docket Manager in Illinois, and a variety of business account management positions of increasing responsibility, including beginning in July of 1989 as Account Executive and ending as Sales Manager.

Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. I am a 1986 graduate of the College of Liberal Arts at Boston University, where I received B.A. in Psychology with a minor in Philosophy.

Q. PLEASE DESCRIBE YOUR PARTICIPATION IN THE PERFORMANCE METRICS COLLABORATIVES IN MI.

A. I attended, either in person or via conference bridge, every Performance Measures collaborative in Michigan – as well as in the other four SBC/Ameritech states. I provided AT&T/TCG’s perspective and input on every measure discussed.

Q. HAVE YOU EVER SUBMITTED TESTIMONY OR AN AFFIDAVIT IN MICHIGAN?

A. On October 16, 2000, I submitted an affidavit in Michigan Public Service Commission (“Commission”) Case No. U-11830 on the issue of performance remedy plans.

Q. WHAT ISSUES WILL YOU ADDRESS IN YOUR AFFIDAVIT?

A. *First*, I will respond to the assertion of Mr. Fioretti of Ameritech Michigan (“Ameritech”) that Ameritech has complied with the requirement established in Case No. U-11830 that it offer a performance remedy plan. *Second*, I will address whether existing performance measurements cover the entire Section 271 competitive checklist. *Third*, I will discuss whether Ameritech has complied with the Commission’s requirement that it provide three consecutive months of

compliance performance data. *Fourth*, I will critique Ameritech's implementation of our agreed performance measurements.

I. AMERITECH IS NOT OFFERING A PERFORMANCE REMEDY PLAN

Q. PLEASE BRIEFLY DESCRIBE THE PROCESS LEADING UP TO THE COMMISSION'S RECENT ADOPTION OF A PERFORMANCE REMEDY PLAN.

A. Last year, this Commission and public utility commissions in Illinois, Indiana, and Wisconsin conducted workshops addressing what performance remedy plan should be implemented by Ameritech to ensure that it has proper incentives to provide adequate wholesale services to competitive local exchange carriers ("CLECs"). After months of collaborative workshops, the parties were at an impasse.

Ameritech proposed that the Commission adopt the "Texas Remedy Plan" crafted by its affiliate Southwestern Bell Telephone Company and the former Chair of the Texas PUC, and subsequently accepted by the Texas PUC. The CLECs presented their own remedy plan proposal, incorporating input from a broad coalition of CLECs operating in the "Ameritech" states.¹

¹ The Association of Communications Enterprises ("ASCENT", f/k/a the Telecommunications Resellers Association); AT&T, CoreComm Michigan, Inc., McLeodUSA, Rhythms Links, Inc., WorldCom, and Z-Tel presented the Joint CLEC Remedy Plan in Michigan. CLECs not actively operating in Michigan, such as TDS Metrocom and Time Warner Telecom also assisted in crafting the Joint CLEC Plan.

The Commission subsequently conducted a proceeding to determine what performance remedy plan should be implemented by Ameritech. The Commission took comments from Ameritech and also from the Staff and the Michigan CLECs.

In an order dated April 17, 2001 in Case No. U-11830 (“Remedy Plan Order”), the Commission adopted the Texas Remedy Plan proposed by Ameritech, along with a number of modifications aimed at providing a better incentive to Ameritech (than the Texas Remedy Plan) to provide adequate wholesale services to CLECs. The Commission ruled that Ameritech is required to file conforming tariffs within ten days of the order, and also directed Ameritech and the CLECs to enter into conforming interconnection agreements “without delay”. (Remedy Plan Order, p. 20).

The Commission stated that the Federal Communications Commission has found that “an effective remedy plan can provide part of the basis” for evaluating the public interest in determining whether a Section 271 filing should be approved. (Remedy Plan Order, p. 3).

Q. DO AMERITECH’S DRAFT AFFIDAVITS DISCUSS THE MICHIGAN REMEDY PLAN ORDER?

A. Yes. Mr. Fioretti discusses the Remedy Plan Order establishing a performance remedy plan, and briefly mentions the differences between Ameritech’s proposal

and the one ordered by the Commission. He also states: "Ameritech is currently in the process of reviewing the impact of this order. Any petition for rehearing is due by May 17, 2001. Ameritech will comply with the order in U-11830 subject to its rights under law to petition for rehearing or judicial review." (Fioretti Affidavit, p. 105).

Q. DID CARRIERS SEEK REHEARING OF THE REMEDY PLAN ORDER?

A. Yes. Ameritech requested rehearing on May 17, 2001, arguing once again that the Commission should adopt, without modification, the Texas Remedy Plan. AT&T and a coalition of Michigan CLECs separately requested clarification and rehearing, attaching new evidence from Texas showing the minimal level of remedies paid for poor performance pursuant to the Texas Remedy Plan, and sought three changes to the order to further incent Ameritech to provide adequate wholesale services to CLECs. The rehearing requests are still pending.

Q. IS AMERITECH COMPLYING WITH THE REMEDY PLAN ORDER?

A. No. My attorney advised me that the April 17, 2001 order was effective immediately. I therefore contacted Ameritech shortly after the order was issued and requested an amendment to our interconnection agreement to obtain the remedies required under the Remedy Plan Order. On Saturday, June 2, 2001, one of our SBC/Ameritech account representatives stated in an e-mail message to me: "We will be forwarding to you later this week a Performance Measure amendment for your Michigan Contract for your review. There will be some

slight changes to the amendment from the Illinois and Ohio amendments. As soon as I have a copy I will forward it on to you.” The e-mail is attached as AT&T Exhibit KWM-1.

Q. WHEN DID AMERITECH PRESENT AT&T WITH AN INTERCONNECTION AGREEMENT AMENDMENT?

A. On June 14, 2001, our account representative e-mailed me what she characterized as “the generic template for the Michigan Performance Measure Amendment and Appendix.” The Ameritech account representative’s e-mail message is attached as AT&T Exhibit KWM-2.

Q. WHAT DID AMERITECH PROVIDE TO AT&T?

A. Attached to the e-mail were two documents. The first one is entitled “Amendment to Interconnection Agreement By and Between Ameritech Michigan and ____ (“Amendment”). This document is attached as AT&T Exhibit KWM-3. This document is relatively straightforward, and clearly is generic in nature, as our account representative states. It refers to Appendix Performance Measurements, and states this document supercedes and replaces all provisions previously existing in the Interconnection Agreement referring to performance. The Amendment is generic in that it has a lengthy footnote referring to a whole host of legal arguments relating to issues other than performance remedy plans.

The document entitled “Appendix Performance Measurements” (“Appendix”) is the second attachment to the June 14, 2001 e-mail. The Appendix, attached as AT&T Exhibit KWM-4, purports to implement the Commission’s recent decision in Case No. U-11830 establishing a performance remedy plan for Ameritech and thus is the basis on which Ameritech claims it is offering a performance remedy plan to Michigan CLECs.

Q. WHAT DOES AMERITECH’S APPENDIX PROVIDE?

A. Section 1.6 of the Appendix provides in relevant part:

In the event that the state commission that approved this Agreement subsequently orders liquidated damages/remedies with respect to performance measures in a proceeding binding on both parties, the parties agree to incorporate commission-ordered liquidated damages/remedies into this Agreement once the decision approving such remedies *becomes final, non-modifiable, and any appeals are exhausted. The parties expressly reserve all of their rights to challenge any liquidated damage/remedy award, including but not limited to the right to oppose any such order and associated contract provision because remedy/liquidated damage provisions must be voluntarily agreed to and AM-MI does not at this time so agree.* (emphasis supplied)

Q. WHAT IS THE EFFECT ON AT&T OF THIS PROVISION?

A. There are two obvious objectionable aspects to this proposal, each of which shows that Ameritech has decided to ignore the Commission’s decision in Case No. U-11830.

First, the Appendix indefinitely delays implementation of the Commission's mandate in Case No. U-11830 by stating it is not effective until any Commission order "*becomes final, non-modifiable, and any appeals are exhausted*". One need not be an attorney to figure out that this clause encourages Ameritech to endlessly appeal the Commission's decision in the courts, to prevent the remedy plan from going into effect.

Second, the Appendix confers on Ameritech the unilateral ability to veto the application of the Commission's remedy plan. The Appendix provides: "*The parties expressly reserve all of their rights to challenge any liquidated damage/remedy award, including but not limited to the right to oppose any such order and associated contract provision because remedy/liquidated damage provisions must be voluntarily agreed to and AM-MI does not at this time so agree.*" Ameritech is stating that it, not the Commission, decides on whether it needs to offer the remedy plan. Not surprisingly, once it establishes its "right" to self-regulation, Ameritech decides it does not like the idea of paying remedies to CLECs, and opts to ignore the Commission's decision.

Q. HAS AT&T NOTIFIED THE COMMISSION OF AMERITECH'S PROPOSED APPENDIX?

A. Yes. AT&T and McLeodUSA, both of which were provided the identical Appendix, filed these documents yesterday in Case No. U-11830.

Q. HAS THE COMMISSION ALSO REQUIRED AMERITECH TO OFFER THE REMEDY PLAN VIA TARIFF?

A. Yes. The Commission required that Ameritech file within ten days of the date of the order a tariff implementing the remedy plan order for carriers interconnecting with Ameritech via tariff, rather than by interconnection agreement. (Remedy Plan Order, p. 20). Ameritech subsequently sought an extension of time to file the compliance tariff.

Q. DID AMERITECH EVER FILE A COMPLIANCE TARIFF?

A. No. While Ameritech asked for a 30-day filing extension, they never filed the compliance tariff, which should have been filed on May 17. Ameritech has never filed a compliance tariff. Like those carriers with interconnection agreements, competitors interconnecting with Ameritech via tariffs also are not permitted by Ameritech to use the Commission-mandated remedy plan.

Q. WHAT DO YOU CONCLUDE FROM THIS COURSE OF ACTION ON AMERITECH'S PART?

A. There is no effective performance remedy plan in place today in Michigan, and Ameritech appears to be taking the position that it alone decides when, and in what manner, such a plan ever goes into effect. The Commission should not tolerate Ameritech's conduct. It is flouting the Commission's Remedy Plan Order, and shows Ameritech's cavalier attitude toward its legal obligations, and this is at a time when Ameritech presumably is on "good behavior" with a Section 271

application imminent. One can only imagine how Ameritech will conduct itself if premature 271 authority is granted.

II. THE EXISTING PERFORMANCE MEASURES DO NOT COVER THE ENTIRE SECTION 271 COMPETITIVE CHECKLIST

Q. HAVE ALL OF THE ISSUES THAT AROSE FROM THE PERFORMANCE MEASURE COLLABORATIVES BEEN RESOLVED AND THE COMMITMENTS MADE BY AMERITECH BEEN MET?

A. No. I find Ameritech's 271 filing puzzling, at best. There are many remaining issues that must be resolved and tasks to be completed. I will discuss the issues that remain unresolved for Performance Measures and compliance.

Q. MR. FIORETTI STATES THAT THE PERFORMANCE MEASURES IN EFFECT IN MICHIGAN COVER EVERY COMPETITIVE CHECKLIST ITEM. IS MR. FIORETTI'S ASSESMENT ACCURATE?

A. No, it is not. Ameritech has committed to the CLEC community and the state commissions that it will provide performance measures for every major product it is required to provide. Yet Ameritech has refused to provide the CLECs with resold DSL, as it was required to do as a result of the ASCENT decision by the United States Court of Appeals.²

Because of the ASCENT mandate, the CLECs have asked for the performance measures to go with its required offering of resold DSL services, but Ameritech has refused to provide these measurements either.

Specifically, the CLECs have requested that the Master Test Plan in all five Ameritech states be changed to include testing for resold DSL and to include resold DSL performance measures in the Performance Measurement Test.

Ameritech has refused. AT&T and other CLECs asked for Dispute Resolution in Indiana and Ohio to add resold DSL and their corresponding measures to the Master Test Plan, and the Indiana Commission ALJ ordered Ameritech Indiana to comply with the Ascent order.³

Q. IS AMERITECH COMPLYING WITH THE INDIANA ALJ DECISION?

A. No. At the June 19, 2001 Chicago meeting of the Performance Measurements Collaborative Six Month Review, Ameritech essentially told the participants it will ignore the Indiana ALJ decision, pending its various appeals. Ameritech refused to provide a date by which it would comply with the Indiana ALJ Order.⁴

² *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001) (“ASCENT”). The ASCENT decision is discussed by AT&T Affiant Scott Finney.

³ Assuming Ameritech continues to oppose the development and testing of these new performance measurements, I expect AT&T and other CLECs will also file for dispute resolution in Michigan, Illinois and Wisconsin.

⁴ Ameritech’s continued refusal to work with the CLECs and Staff to develop performance measurements for resold DSL services is inexplicable, given its requirement to offer these services to CLECs and the Indiana requirement – that is also pending for a decision here – requiring KPMG’s Third Party Test of Ameritech’s OSS to include such services. AT&T and other CLECs have argued repeatedly that Ameritech, either directly or through its affiliate ASI, offers DSL services and specifically DSL transport to retail customers and must, therefore, offer the same products at a wholesale rate to CLECs for resale.

**Q. HAS THE INDIANA COMMISSION ADDRESSED AMERITECH'S
APPEAL OF THE INDIANA ALJ ORDER?**

A. Yes. In a 4-0 decision issued on June 27, 2001, the Indiana Commission ruled: "KPMG's test of Ameritech's OSS should evaluate Ameritech's wholesale provision of resold DSL services." The Commission also instructed the parties to collaborate on formulating performance measurements and changes to the Master Test Plan consistent with this requirement.⁵

**III. AMERITECH HAS NOT YET COMPLIED WITH ITS OBLIGATION TO
PROVIDE THREE CONSECUTIVE MONTHS OF COMPLIANT
PERFORMANCE DATA.**

**Q. DOES AMERITECH'S INFORMATIONAL FILING DISCUSS THE
MICHIGAN REQUIREMENT THAT IT PROVIDE THREE MONTHS'
CONSECUTIVE DATA SHOWING COMPLIANT PERFORMANCE?**

A. Yes. Ameritech not only discusses this obligation, but acknowledges it has yet to fulfill it. (See Statement of Robin M. Gleason, pp. 11-12). Ms. Gleason states that such data will be provided later this year. (Id.)

**Q. SHOULD THE COMMISSION HAVE CONFIDENCE THAT
AMERITECH WILL MEET ITS REQUIREMENT BY THE END OF 2001?**

⁵ This decision is discussed in more detail and attached to the Affidavit of Scott Finney.

A. No. In its Order of February 9, 2000 in Case No.U-11830, the Commission expressly ordered Ameritech to pass all of its performance measures for three consecutive months. . As the Commission is aware, Ameritech’s wholesale and retail service performance in the past year has been abysmal. Moreover, the Performance Measure Test has not yet been completed, so the accuracy of Ameritech’s self reported data has not yet been verified. Ameritech must be required to back up its assurances with three months of actual, valid data that shows it has met the standards in the Performance Measures. I cannot see how Ameritech can meet this requirement by the end of the year.

**IV. AMERITECH’S OWN PERFORMANCE MEASUREMENT DATA
SHOWS IT PROVIDES POOR WHOLESALE SERVICES TO CLECS**

**Q. DOES AMERITECH TODAY PROVIDE ADEQUATE WHOLESALE
SERVICES TO AT&T?**

A. No. Ameritech’s wholesale service quality is chronically poor.

**Q. ARE THERE SPECIFIC EXAMPLES OF AMERITECH’S CONTINUING
INABILITY TO PROVIDE ADEQUATE SERVICE TO CLECS?**

A. Yes. Ameritech has **never met** several of its performance measures. For example, Ameritech has never met Michigan Performance Measure #5, “Percent Firm Order Confirmations (FOCs) Returned Within “X” Hours” for electronically submitted interconnection trunks, electronically submitted UNE Loops (<50 lines

per order), or electronically submitted UNE P orders. With the exception of January 2001, Ameritech Michigan has also **never passed** Michigan Performance Measure #7.1 “Percent Mechanized Completions Returned Within One Day Of Work Completion” Ameritech Michigan has **never passed** Michigan Performance Measure #13 “Order Process Percent Flow Through” for UNE Loops (this measures how many orders *designed* to flow through actually flow through. PM 13.1 measures total order flow through).

This is by no means an exhaustive list of performance measures Ameritech has never passed. I have not addressed the many performance measures that Ameritech only occasionally passes. However, discussion of Ameritech’s *self reported* passing or failing Michigan Performance Measures is premature, at best.

Q. WHY IS DISCUSSION OF AMERITECH MICHIGAN’S PERFORMANCE PREMATURE AT THIS TIME?

A. To date, there has been no independent verification of the accuracy of Ameritech’s self-reported performance. The Commission has ordered Ameritech to engage an outside auditor to verify the accuracy and completeness of its performance reports.

The performance measure audit is part of the Michigan Master Test Plan, which will be executed by KPMG. While the performance measure portion of the test

has begun, it is not nearly complete. In fact, I believe that the test will not be completed, at the earliest, until December 2001.

The performance measure portion of the test will comprehensively assess Ameritech's performance reporting. The test will examine whether performance data is collected correctly, stored safely, and that calculations are done according to the published business rules. Until the test is completed, we cannot know that the performance reported by Ameritech Michigan is accurate.

Q. DO YOU BELIEVE THAT AMERITECH IS ACCURATELY REPORTING PERFORMANCE RESULTS?

A. No. Some of the reports are incorrect. For example, the OSS collaborative requested a complete matrix of order types that, when submitted electronically, will flow through SBC/Ameritech's ordering system. Although Ameritech shows on the matrix that Loop with LNP orders do not flow through, they are reporting that Loop with LNP orders flow through their ordering systems 40% of the time in PM 13.1. Since Ameritech has told the CLECs that this is not possible, we can only conclude that the performance reports are incorrect. And in fact, Ameritech admitted that the reports for 13.1 are incorrect. Most problematic is that Ameritech has known the reports are wrong for over three months, and yet it has still not fixed its incorrect data collection and reporting.

We also have numerous observations from KPMG on hot cut procedures, where Ameritech technicians have not followed established, documented, installation practices – or in some cases were not even aware of the correct practices. There is no way, until KPMG has finished its assessments, that we can know whether the actions (or lack thereof) of Ameritech’s technicians were accurately reported in the Hot Cut performance measures.

Q. HAVE SBC AND ITS SUBSIDIARIES MISREPORTED PERFORMANCE IN THE PAST?

- A. Yes, they have, on numerous occasions. In fact, the FCC has fined SBC for misstating Ameritech performance reports provided to the FCC as part of the SBC and Ameritech merger requirements. In addition, SBC recently withdrew its 271 application for Missouri long distance approval at the FCC partially in response to questions of the veracity of affidavits they filed regarding OSS performance.

The Texas PUC has ordered SBC to engage in yet another Performance Measure audit of flow through measures as to which SBC “misinterpreted”, to its benefit, the PUC’s order and, consequently overstated CLEC order flow through and understated its own retail flow through. This “misinterpretation” resulted in a passing score, when SBC actually failed. The Texas PUC is also auditing maintenance and repair measures, due to Birch Telecom uncovering a serious problem with SBC wholesale maintenance database. Not only are the performance measurement reports incorrect, but more seriously, CLECs are

prevented from submitting timely electronic customer trouble reports, and despite many months of trying to resolve the problem, SBC has been unable to fix the database. AT&T has just begun to place UNE-P orders in Michigan, and is just now getting access to the mechanized trouble reporting system that is the gateway to the LMOS database. But there is no reason to believe that we will not find the same problems with Ameritech's LMOS database, and that maintenance and repair performance data for UNE-P and Resale orders in Michigan are not already being distorted in a manner similar to what has already been demonstrated for Texas. This problem alone speaks very loudly to the necessity to wait until the third party test is complete before conducting any assessment of 271 compliance. All of these examples show that a thorough, and impartial, assessment of Ameritech's performance reporting is essential for the CLECs and the Commission to have confidence in Ameritech's self reported results.

Q. IS IT ENOUGH THAT AMERITECH SHOW THAT IT IS ACCURATELY REPORTING PERFORMANCE RESULTS?

A. No. Accurately reporting performance results is only half the performance picture. Ameritech Michigan must *actually meet* the performance standards outlined in the performance measures. In fact, as discussed earlier, the Commission has ordered Ameritech Michigan to show three months of compliant performance for every measure.

The Master Test Plan in Michigan is a military style test – meaning when Ameritech fails a test, it must fix the problem and test again. The process is

repeated until the test is passed. For performance measures, the test is not whether the processes the performance measures are met, but whether the results are reported accurately. Therefore, I believe Ameritech is required to successfully complete the performance measures test, so that all parties can have confidence in the accuracy of the results. Then, and only then, can Ameritech show three months of compliance with all of the performance measures.

V. CONCLUSION

Q. PLEASE PROVIDE YOUR OVERALL RECOMMENDATION TO THE COMMISSION.

A. Ameritech's draft application and affidavits for a positive 271 recommendation by the Commission is seriously premature. Ameritech's petition is obviously a "trust me, would I lie to you?" filing. Ameritech's actions in (1) openly ignoring this Commission's Remedy Plan Order; (2) refusing to add resold DSL measurements to the OSS test performance measurements; and (3) consistently failing to provide adequate wholesale services to CLECs pursuant to the Commission's requirements provide the answer to this question.

Q. DOES THIS CONCLUDE YOUR AFFIDAVIT?

A. Yes.