

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
STEVEN E. TURNER

STATE OF ALABAMA)
) s.s.
COUNTY OF MONTGOMERY)

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 Steven E. Turner
Steven E. Turner, Affiant

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

Handwritten signature of Notary Public
Notary Public

STATE OF MICHIGAN

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**In the matter, on the Commission's own motion,)
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Case No. U-12320

AFFIDAVIT OF STEVEN E. TURNER

ON BEHALF OF

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

JUNE 29, 2001

I, Steven E. Turner, being of lawful age and duly sworn upon my oath, do hereby depose and state as follows:

I. INTRODUCTION AND QUALIFICATIONS

1. My name is Steven E. Turner. Currently, I head my own telecommunications and financial consulting firm, Kaleo Consulting.

2. I hold a Bachelor of Science degree in Electrical Engineering from Auburn University in Auburn, Alabama. I also hold a Masters of Business Administration in Finance from Georgia State University in Atlanta, Georgia.

3. From 1986 through 1987, I was employed by General Electric in their Advanced Technologies Department as a Research Engineer developing high speed graphics simulators. I joined AT&T in 1987 and, during my career there, held a variety of engineering, operations, and management positions. These positions covered the switching, transport, and signaling disciplines within AT&T. From 1995 until 1997, I worked in the Local Infrastructure and Access Management organization within AT&T. It was during this tenure that I became familiar with the many regulatory issues surrounding AT&T's local market entry, and specifically with the issues regarding the unbundling of Incumbent Local Exchange Company (ILEC) networks.

4. I formed Kaleo Consulting in January 1997. I consult primarily on regulatory issues related to facilities-based entry into local exchange service and, using financial models, advise companies on how and where to enter telecommunications markets.

5. I have filed testimony or appeared before commissions in the states of Alabama, Arkansas, California, Colorado, Delaware, Georgia, Florida, Hawaii, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New York, Ohio, Oklahoma,

Pennsylvania, Texas, Washington, and Wisconsin. Additionally, I have filed testimony with the Federal Communications Commission regarding Southwestern Bell Telephone Company's (SWBT) compliance with §271 of the Federal Telecommunications Act in 1997.

II. PURPOSE AND SUMMARY OF STATEMENT

6. The purpose of my affidavit is to rebut the claims contained in Deborah O. Heritage's Draft Affidavit on behalf of Ameritech regarding the presence, extent, and effectiveness of local exchange competition in Michigan. Specifically, I will demonstrate that, contrary to the exaggerated claims of Ms. Heritage, facilities-based competition exists only in a very limited form in Michigan and at such a nascent level that it cannot provide a "check" on the anticompetitive tendencies of local exchange service monopolies such as Ameritech. I will also discuss why resale provides only a very limited form of competition and why this Commission should not rely on it in evaluating Ameritech's 271 application. Finally, I will demonstrate that because of the extremely limited nature of local competition at this time in Michigan, that granting Ameritech's application would not be "consistent with the public interest, convenience, and necessity" within the meaning of Section 271(d)(3)(C) of the Act.

III. SOURCE OF INFORMATION

7. Prior to examining the state of competition in Michigan, it is important for this Commission to be aware of the limited data that was available to AT&T and other CLECs in preparing the analysis. Specifically, Ms. Heritage did not make the information in her affidavit available to the parties, even in a restricted confidential manner, so as to substantiate the claims made in her affidavit regarding the level of competition. In doing so, Ms. Heritage has departed from the position that SBC took in Kansas and Oklahoma where the proprietary data that served as the basis for the level of competition claims were at least documented in the confidential

version of SBC's affidavits. Nonetheless, even though this information has not been made available in Michigan, I will present an evaluation of the level of competition to the extent possible and point out specific investigations this Commission should undertake given that it does have all of the data available.

8. There are three other sources of information that I will draw on for my evaluation in this affidavit. *First*, I will review the findings in the Staff Market Conditions Report, where appropriate, in evaluating the level of competition that this Commission's Staff determined in its evaluation of May 23, 2001.¹ *Second*, to the extent available I will utilize public sources of information on the status of competitors that Ameritech has identified for itself in Michigan. Specifically, I will make reference to press releases and financial filings to present this Commission with an assessment of the sustainability of the limited competition that does exist in Michigan. *Third*, I will make reference to the Texas Public Utility Commission, 2001 Report on the Scope of Competition in Telecommunications Markets. This document was requested by the Texas legislature and prepared by the Texas Public Utility Commission and starkly contrasts with Ms. Heritage's view of the impact of SBC's entry into the long distance market in Texas.

9. In short, my affidavit will demonstrate that the competition that exists in Michigan is highly concentrated on a very limited set of customers – ISPs – and that this narrow range of competition is not what Congress envisioned when it enacted the Telecommunications Act of 1996. Moreover, while Ameritech puts forward many statistics related to the level of competition in Michigan, even using its flawed data, the reality is that only 1.6 percent of Ameritech's local traffic is being served by CLECs. Moreover, when more reliable data is used (such as that collected by the Commission Staff), the data show that only 0.8% of Ameritech's

¹ Michigan Public Service Commission Staff Report, Results of 2nd Competitive Market Conditions Survey, May 23, 2001, Case No. U-12320.

local traffic is being served by CLECs. As such, this Commission should be extremely concerned that sustainable competition has not yet been established in Michigan and should be cautioned by the negative experiences that Texas – a state where SBC has received long distance authority – is currently encountering because it likely permitted SBC into the long distance market prematurely.

IV. ONLY LIMITED FACILITIES-BASED COMPETITION EXISTS IN MICHIGAN

A. Several Factors Significantly Limit the Potential for Facilities-Based Competition in Michigan

10. There are several significant factors that must be evaluated in considering the capabilities of CLECs to provide facilities-based service in Michigan. Whereas not an exhaustive list, CLECs would likely require the following components to be in place to provide facilities-based local exchange service: (1) interconnection trunks and usage; (2) use of unbundled loops; (3) local switching; and (4) interoffice facilities. The following paragraphs will briefly review the capabilities of Michigan CLECs in each of these areas. However, in summary, these components are currently in place in only a limited scope in providing a competitive alternative to Michigan. Moreover, Ms. Heritage's use of these similar statistics grossly overstates the competitive threat of CLECs in Michigan when placed in context against the vastly greater resources of Ameritech.

1. Interconnection Trunks and Usage

11. Perhaps more than any other factor discussed in this part of the testimony, CLEC traffic traversing interconnection trunks demonstrates both the extremely limited size and scope of competition in Michigan. Interconnection trunks are used to exchange traffic between local exchange carriers (LECs). Given that Ameritech is the dominant LEC in Michigan, the quantity

of interconnection trunks terminating on its network is some indication of the level of facilities-based competition in Michigan. According to the information provided by Ameritech in the Heritage Affidavit, 249,798 interconnection trunks have been established between itself and CLECs in Michigan.² Further, in Ameritech's "Michigan 14 Point Checklist Description" (Attachment A to the Heritage Affidavit), Ameritech indicates that approximately 45.71 billion minutes of local traffic were exchanged across these interconnection trunks between January of 1997 and February of 2001.³ While these numbers appear quite large and seem to indicate a thriving local exchange market, in reality, they illustrate quite the opposite.

12. To put any measure of interconnection minutes into perspective, we must compare them with Ameritech's experience. To illustrate this point, I will use the most recent publicly available information filed by Ameritech with the National Exchange Carriers Association (NECA). In the Monitoring Report for September 2000, Ameritech reports that it switched approximately **223.7 billion** end office local minutes from 1997 to 1999.⁴ Based on information in this Local Dial Equipment Minutes Report, one can project the number of local minutes in 2000 and the first two months of 2001 as well (the comparable period for Ameritech's reported interconnection minutes). The result is that in Michigan Ameritech switched approximately **79.6 billion** minutes of local use in 2000 and **13.7 billion** minutes of local use in the first two months of 2001.⁵ Because virtually all CLEC local calls either terminate to an

² Draft Affidavit of Deborah O. Heritage on behalf of Ameritech, Michigan Public Service Commission, at p. 11.

³ SBC's Michigan 14 Point Checklist Description, March 2001 (Attachment A to Heritage Affidavit).

⁴ NECA September 2000 Monitoring Report, Table 8.7, Local Dial Equipment Minutes by Study Area. This report contains the end office local minutes of use by year from 1996 until 1999.

⁵ Table 8.7 referenced above provides annual end office local switching minutes of use by year from 1996 until 1999. To make the 2000 and 2001 projections, I calculated the 2000 and 2001 minutes of use using a linear projection. A linear projection likely understates the number of local minutes in each of these years.

Ameritech customer or originate from an Ameritech customer (because of the CLEC's currently low market share), all of their local minutes of use must pass over the interconnection trunks. In other words, the combined local minutes of the CLECs (**45.71 billion minutes of use**) is directly comparable to Ameritech's local minutes during the same time period (**317.0 billion minutes of use**).⁶ In short, even though Ameritech has represented the CLECs combined interconnection trunks and minutes of use as the large numbers of 249,798 and 45.71 billion, respectively, the CLEC's traffic only represents **12.6 percent** of the local usage in Michigan. Facilities-based competition is only in its early stages at its present levels if Ameritech's data were accepted. But as I discuss below, there are additional reasons to disregard the data that Ameritech has relied upon.⁷

13. The preceding analysis illustrates directly the *limited size* of competition in Michigan. However, the interconnection information provided by Ameritech also gives a strong indication of the *narrow scope* of this competition as well. Ameritech provides a very important statistic regarding the nature of the interconnection traffic between Ameritech and the CLECs: the traffic flow is significantly out of balance. Of the **45.71 billion** minutes of use exchanged between Ameritech and the CLECs, **42.87 billion** of the minutes originated with Ameritech (terminating to the CLECs), whereas only **2.83 billion** of the minutes originated with the CLECs (terminating to Ameritech). Another way of looking at this disparity is that approximately **87.6**

However, this conservatively presents my analysis here in that the larger the number of Ameritech local minutes, the smaller the percentage of traffic provided by CLECs. In summary, the local minutes of use are 79.6 billion for 2000 and 82.2 billion for 2001 of which only two months were used (13.7 billion).

⁶ This total of 317.0 billion minutes of local use is merely the sum of the 1997 through 2001 (first two months) local minutes of use – 72.3 billion, 75.2 billion, 76.2 billion, 79.6 billion, and 13.7 billion, respectively.

⁷ As I note below, Ameritech's underlying data is itself flawed, and its erroneous analysis only compounds the incorrect conclusions it draws from that data. The Commission Staff, however, has collected far more reliable data, which, when analyzed correctly, shows that non-ISP CLEC traffic accounts for less than 1% of the total usage minutes on the network.

percent of the local traffic handled by CLECs was for customers who were enormous terminators of traffic.⁸ The only way to create this type of disparity is to specifically target customers who are significant net terminators of traffic. Specifically, **87.6 percent** of the CLEC local traffic in Michigan is from a narrow scope of customers who terminate tremendous amounts of traffic such as Internet Service Providers. I do not in any way fault CLECs for initially targeting these types of customers. However, this Commission should understand that even the limited amount of facilities-based competition that currently exists in Michigan is targeted at a very narrow set of customers. It is impossible for competition in a small and narrow segment of the local exchange market to create the type of market discipline needed before allowing Ameritech to receive interLATA authority. Consequently, the proportion of facilities-based local competition that addresses non-ISP users in Michigan is only **12.4 percent**.

14. Throughout Ms. Heritage's Affidavit, Ameritech consistently overstates the level of competition largely by inappropriately converting the trunks between Ameritech and the CLECs into equivalent line counts.⁹ Ameritech relies on this inappropriate conversion because it does not know the quantity of CLEC customers that are served exclusively on the CLEC network. However, I would recommend that the clearest means of estimating the level of competition in the local market is the volume of minutes that are traversing the local interconnection trunks. This measure captures those customers that are served via unbundled loops with the CLEC's switches as well as those customers that are served exclusively by the

⁸ The 87.6 percent calculation was developed as follows: I assumed that the 2.83 billion CLEC originating minutes would likely be balanced by 2.83 billion terminating minutes associated with a "normal" local user. This accounts for 5.66 billion of the 45.71 billion local minutes of use for CLECs between January 1997 and February 2001. The remaining 42.87 billion minutes divided by 45.71 billion minutes yields the 87.6 percent figure.

⁹ Later in this testimony, I will describe in detail how Ameritech has systematically overstated the quantity of facilities-based lines in Michigan largely by inappropriately converting trunk counts into end user line counts.

CLEC's network. Based on this encompassing measure, only **12.6 percent** of the Michigan local exchange market is currently being served by CLECs and only **1.6 percent** if the CLECs service to ISPs is excluded. In short, this is a *de minimis* level of facilities-based competition and cannot substantiate Ameritech's request for interLATA relief at this time.

2. Unbundled Loops

15. Ameritech repeatedly through the Heritage Affidavit attempts to exaggerate the extent of facilities-based competition. In the preceding subsection, I have outlined how Ameritech's use of data, when not put into perspective, does not properly illustrate the limited nature of facilities-based competition in Michigan. Frankly, the limited use of unbundled loops in Michigan speaks for itself.

16. According to Ameritech, only **199,166** unbundled loops have been utilized in Michigan.¹⁰ Unbundled loop usage is a key factor in demonstrating the actual level of competition in Michigan. In its most recent publicly available data, Ameritech indicates that it has **5,397,189** switched access lines in Michigan.¹¹ As such, currently only **3.7 percent** of the access lines in Michigan have been leased from Ameritech as unbundled loops.¹²

¹⁰ Affidavit of Deborah O. Heritage, p. 8. Please note that 199,000 is the sum of the 68,000 loops used as part of UNE-P and the 131,000 loops used on a standalone basis. A more precise value of 199,166 loops was taken from Attachment A to Ms. Heritage's affidavit.

¹¹ FCC Report 43-08, ARMIS Operating Report, Michigan Bell, All Study Areas, 2000, Table II, Switched Access Lines in Service by Technology.

¹² This measure of competition is greater than the 1.6 percent value developed based on interconnection traffic. This difference is likely due to CLECs using unbundled loops to support service to ISPs.

3. Local Switching

17. Based on information provided by Ameritech in the Heritage Affidavit, there are 23 competing local voice switches in Michigan.¹³ Ms. Heritage seems to believe that it is important that these 23 switches can serve 88 percent of the market in Michigan.¹⁴ However, in competition against these 23 switches, Ameritech has 176 central office switches excluding remotes and 459 switches including remotes based on the latest publicly available information.¹⁵ In other words, Ameritech has sufficient capacity in Michigan to serve every line approximately 6.7 times using the same computations Ms. Heritage made and this does not count the capacity of Ameritech's remotes. Competing local exchange carriers only have **4.77 percent** of the total local exchange switches in Michigan. My point in making these comparisons is two-fold: (1) The fact that CLECs have 23 switches has no real relationship to the number of lines the CLECs can or will serve anymore than it matters that Ameritech can serve every line in Michigan 6.7 times; and (2) competition is extremely vulnerable to an incumbent such as Ameritech that has as much excess capacity as it does as Ameritech can erode the thin margins that exist for CLECs that are using these 23 switches.

18. CLECs have taken the important step of deploying local switching in Michigan to provide local exchange services. Yet, Ameritech's existing resources significantly overmatch the current level of competitive local switching in Michigan and place the investment that CLECs have made in Michigan at considerable risk if Ameritech is given premature entry into the long distance market.

¹³ Affidavit of Deborah O. Heritage, p. 5.

¹⁴ *Id.*

¹⁵ FCC Report 43-08, ARMIS Operating Report, Michigan Bell, All Study Areas, 2000, Table II, Switched Access Lines in Service by Technology.

V. RESALE IS NOT FACILITIES-BASED COMPETITION

19. Ameritech spends a considerable amount of time in its filing discussing its access line losses due to resale competition. Again, to place this in perspective, Ameritech's current access line loss due to resale competition in Michigan is **165,846** access lines or **3.07 percent** of Ameritech total access lines in Michigan.¹⁶ More telling, these resold lines actually represent **34.3 percent** of all of the competition in Michigan.¹⁷ Yet, resale competition by definition does not meet the requirement of Section 271(c)(1)(A) of the Act that facilities-based competition be offered by competing providers either exclusively or predominantly over their own telephone exchange service facilities. Although resale is one mechanism by which a new entrant may enter the local telecommunications market, it will not and cannot provide effective competition for an ILEC such as Ameritech.

A. Resale Is Limited in the Type of Service Offerings That Can Be Economically Resold in the Local Market

20. Resale has severe limitations as a means of offering effective local exchange competition. *First*, resale limits the new entrant to precisely the same service offerings as the incumbent. In fact, the new entrant cannot even economically offer a new package of features to the market. For example, Ameritech has a combination of features in Michigan known as "The Works." This feature package comes with 8 features for residential customers and is priced at \$24.95 in Michigan. If a new entrant wanted to offer a comparable feature package with six features in Michigan, an offer currently not available with Ameritech, the new entrant's cost

¹⁶ Affidavit of Deborah O. Heritage, p. 16.

¹⁷ Affidavit of Deborah O. Heritage, p. 5.

would be the individual price for each of the six features.¹⁸ The wholesale price, given Michigan's 18.2% discount, would be \$24.14 for residential customers. The wholesale price for six features would almost be higher than the retail price for "The Works." As a result, the new entrant would not be able to introduce a new combination of features to the local market under resale without suffering significant losses. Non-recurring costs associated with creation of the new entrant's own feature package only exacerbates this situation.

21. Competition is not served if the new entrant must wait for Ameritech to offer this or any other feature package to its customers and then procure the avoided cost discount for the new package. The bottom line is that the new entrant under resale has no real opportunity to introduce new services or combinations of services that customers want. The ability to offer such new services, however, is surely at the very heart of the competition for local services envisioned in the Act.

VI. MISLEADING ANALYSIS AND OTHER DATA

A. Virtually the Entirety of Ameritech's Facilities-Based Access Line Count Is Based on an Inappropriate Estimate

22. When one reads through the statistics in the Heritage Affidavit, it reads as if Ameritech is facing certain imminent market doom, particularly for business access lines. However, it is helpful to understand that as much as **91.0 percent** of the supposed access line losses alleged by Ameritech are mere estimates based largely on inappropriately converting *all* interconnection trunks into access line equivalents without any regard for how the trunks are

¹⁸ For the purposes of this exercise the following six features were selected: Call Waiting, Call Forwarding, Three Way Calling, Speed Calling 8, Caller ID, and Caller ID with Name. The monthly retail price for these six features under Ameritech pricing is \$29.50 for residential customers. The wholesale price under Resale for these six features is \$24.14 for residential customers.

used.¹⁹ Specifically, Ms. Heritage states that Michigan CLECs have acquired as many as 755,023 facilities-based access lines.²⁰ However, upon review of the Heritage Affidavit describing the development of these figures, only 68,079 access lines (those that are UNE-P Combinations) are directly counted in the total. The remaining lines 686,944 are estimated. She reaches this estimate by multiplying the 249,798 interconnection trunks that Ameritech has provisioned in Michigan by a factor of 2.75 lines per trunk.

23. The problem with this approach is that it is not a reasonable method of estimating the number of lines served by competitors. While estimating in and of itself would not be inappropriate, and might even be necessary given the nature of the exercise, Ms. Heritage and Ameritech use faulty assumptions regarding interconnection trunks that dramatically skew their estimates. *First*, Ameritech did not make any adjustment for the large quantity of ISP traffic that CLECs terminate. As demonstrated earlier in this Affidavit, local traffic for Michigan CLECs is predominantly ISP traffic at present (87.6 percent). Because of the nature of this traffic, the CLEC will require closer to one – not 2.75 as the Heritage Affidavit espouses – trunk per each ISP line equivalent. If this is not done, the CLEC could have a situation where it has ISP lines available to terminate calls, but has insufficient trunk capacity to complete the call from Ameritech. In short, for these trunks, the 2.75 ratio used in the Heritage affidavit significantly overstates the number of access lines, and given the large percentage of ISP traffic terminating to CLECs today the vast majority of trunks fall into this category.

24. *Second*, Ms. Heritage alludes to the reality that many CLECs when they are at the early stages of their networks do not have the economies of scale to obtain the efficient trunk

¹⁹ Affidavit of Deborah O. Heritage, p. 4.

²⁰ Affidavit of Deborah O. Heritage, p. 4. See “Interconnection Trunks 2.75:1 Ratio + UNE-P.”

configurations Ameritech currently enjoys. Moreover, because CLECs primarily serve business customers that have a very focused busy hour, this consequently drives up CLEC trunking requirements. In short, there are numerous reasons why Ms. Heritage's approach to converting all of the interconnection trunks to line equivalents using a 2.75 factor is simply inaccurate.

25. *Third*, Ms. Heritage acknowledges that when this issue has been evaluated by the Department of Justice in earlier proceedings, the Department of Justice has recognized that SBC's use of a 2.75 factor overstates the level of competition. Specifically, the Department of Justice in commenting on the Texas Section 271 application recommended that a 1:1 ratio between trunks and estimated lines was a "more reasonable multiplier."²¹ Contrary to Ms. Heritage's assertions, the 1:1 ratio is reasonable and appropriately estimates the number of lines behind the interconnection trunks for the CLEC given the above considerations. In short, this Commission should utilize the line counts estimated by the 1:1 ratio, if the Commission chooses not to use the traffic estimate that was presented earlier.

B. Ameritech's Reliance on the E911 Database for the Split of Business and Residential Facilities-Based Lines Is Inaccurate

26. There are several concerns with Ms. Heritage's reliance on the E911 database for estimating the amount of residential versus business competition. Ms. Heritage makes an important point in her affidavit regarding the E911 database, but then fails to account for this in her determination of the number of facilities-based business and residential lines. In particular, Ms. Heritage proposes that the ratio of lines – business to residential – contained in the E911 database be used to determine the split of all facilities-based lines after converting the trunks into

²¹ See Comments of the United States Department of Justice at fn. 15. *Application of SBC Communications, Inc. Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region InterLATA Services in Texas*, CC Docket No. 00-4 (FCC filed Feb. 14, 2000).

line equivalents. This approach is significantly flawed and Ms. Heritage documents why in her own affidavit.

27. As Ms. Heritage notes, E911 listings only represent those customer lines from which outbound calls can be made.²² As a result, business customers such as call centers, reservation or telemarketing centers, and Internet providers will have few of their access lines represented in the E911 database. This means that the ratio of business lines reflected by the database may be *understated*. Accordingly, the listings in the E911 database still provide only an estimate for the number of business and residential listings served by facilities-based CLECs.²³ The point is that if the E911 database underreports business lines (because the CLEC does not need to include many of them in the database) then the ratio of business to residential lines in the E911 database will make the residential percentage look artificially high. As such, Ms. Heritage's approach will convert trunks to equivalent access lines that are not included in the E911 database because the lines are business lines that do not need to be reported. Yet, Ms. Heritage has reported them in her affidavit as residential lines. In short, Ms. Heritage has systematically over-reported the number of facilities-based residential lines that is critical in this Commission's development of the record on the extent of facilities-based competition.

C. The Michigan Public Service Commission Staff Has Its Own Doubts About Ameritech's Claims Regarding the Level of Competition

28. One of the difficulties in evaluating the level of competition is that the CLECs are the only parties that can actually provide the information necessary to determine the level of

²² Affidavit of Deborah O. Heritage, p. 10.

²³ Affidavit of Deborah O. Heritage, p. 10. Please note that Ms. Heritage makes a slight mischaracterization in saying that using the E911 data "understates" the number of business lines. In reality, all the use of the E911 data does is shift the same number of lines in different proportions between business and residential lines. In short, the reality is that understating the number of E911 business listings does understate the business lines, but more importantly *overstates the residential line count*.

competition. Fortunately, in Michigan, this Commission has undertaken the effort to collect this type of information directly from the CLECs rather than relying exclusively on Ameritech for competitive data. Interestingly, the Michigan Public Service Commission Staff has found that “(t)here is a large discrepancy between what Ameritech reports and what the CLECs report.”²⁴ As I have indicated at various points throughout this affidavit, there are systemic problems with the approaches Ameritech has used to *estimate* the level of competition. Moreover, when an actual count is available, such as with the interconnection traffic that yields a competitive level of 1.6 percent, Ameritech has ignored this measure for Michigan. Nonetheless, the Michigan Public Service Commission Staff concurs that the issue is one of estimating versus measuring the actual level of competition when it states: “This can be attributed to what Ameritech estimates as the number of lines that the CLECs provide over their own facilities and what the CLECs report as actual.”²⁵

29. The quantity of facilities-based competition that the Michigan Public Service Commission Staff identified is 362,563 access lines as reported by Michigan CLECs.²⁶ On the other hand, Ameritech *estimated* the quantity of facilities-based competition to be 780,100 access lines – more than double the amount reported by the CLECs. In short, if the level of facilities-based competition is calculated based on the number of lines identified by the CLECs, **6.3 percent of the lines** in Ameritech territory are served by CLECs. However, this quantity of lines includes ISP lines – a segment of the telecommunications landscape that is highly competitive,

²⁴ Michigan Public Service Commission, Staff Report, Results of 2nd Competitive Market Conditions Survey, May 23, 2001, Case No. U-12320, p. 1.

²⁵ Michigan Public Service Commission, Staff Report, Results of 2nd Competitive Market Conditions Survey, May 23, 2001, Case No. U-12320, p. 1.

²⁶ Michigan Public Service Commission, Staff Report, Results of 2nd Competitive Market Conditions Survey, May 23, 2001, Case No. U-12320, Attachment A. Please note that this calculation is based on removing the resold lines from the total number of access lines.

but not representative of the customers Congress was attempting to help via the Telecommunications Act of 1996. If these lines are excluded (using the 87.6 factor developed from Attachment A to Ms. Heritage's affidavit) then the level of facilities-based competition is approximately **0.8 percent**.

D. Ameritech Is Not Looking At the Same Telecommunications Market in Texas that the Texas Public Utility Commission Is Looking At

30. One of the most misleading characterizations in Ms. Heritage's affidavit is her evaluation of what happened in Texas *after* SBC was granted long distance authority in the state. Part of the difficulty is that Ameritech places its emphasis on the wrong event in concluding that competition accelerated in Texas. Specifically, Ms. Heritage argues that SBC receiving long distance authority was the catalyst that caused so many CLECs to be aggressively marketing for local service in Texas. However, as someone who was extremely familiar with the details of the proceedings in Texas having testified there on countless occasions and having owned a CLEC in Texas, the growth in competitive service was the result of the Texas Public Utility Commission forcing Southwestern Bell to put appropriate pro-competitive rules in place – not the issuance of long distance relief for SBC. In other words, if SBC had been granted long distance authority without the pro-competitive measures being in place for Texas, there would not have been the growth in the local market that was observed.

31. However, even with this said, the story in Texas is not nearly as positive as Ms. Heritage would want this Commission to believe. Ms. Heritage points out many statistics indicating that competition has had supposedly “phenomenal” growth in Texas since SBC was granted long distance authority.²⁷ However, the Texas Public Utility Commission's (Texas

²⁷ Affidavit of Deborah O. Heritage, pp. 16-17.

PUC) own report on the state of competition **prepared after Section 271 “relief” was granted in Texas** – *2001 Report on the Scope of Competition in Telecommunications Markets* – does not identify such a positive environment in Texas.²⁸ Specifically, the Texas PUC found:

*In the four largest metro areas of Texas, facilities-based competitors have developed increased capacity for long-run competition with incumbent providers. As a result, the market for business customers in these metro areas has strong potential for genuine competition, although market penetration levels are too low to conclude that full competition has arrived. Whether residential and rural customers will have competitive choices is more uncertain.*²⁹

Please note that the Commission sees the potential for competition in only the four largest metro areas in Texas (Dallas, Houston, San Antonio, and Austin) – all of which are extremely large business markets. However, the Texas PUC concludes that, “market penetration levels are too low to conclude that full competition has arrived.”³⁰ Moreover, the story for residential and rural competition is far worse in that the Texas PUC notes that these customers “have largely been left behind in the move to competition.”³¹

32. The Texas PUC went on to note that even the “shining examples” of competition in Texas had to “reconsider” their plans for competition in Texas.³² Specifically, AT&T (October 25, 2000), Sprint (November 3, 2000), and WorldCom (November 1, 2000) all announced plans to scale back their local market entry in Texas for the residential market.³³

²⁸ Texas Public Utility Commission, 2001 Report on the Scope of Competition in Telecommunications Markets, January 11, 2001.

²⁹ Texas Public Utility Commission, 2001 Report on the Scope of Competition in Telecommunications Markets, January 11, 2001, Cover Letter Summary (emphasis added).

³⁰ *Id.*

³¹ *Id.*

³² Texas Public Utility Commission, 2001 Report on the Scope of Competition in Telecommunications Markets, January 11, 2001, p. 57.

³³ Texas Public Utility Commission, 2001 Report on the Scope of Competition in Telecommunications Markets, January 11, 2001, p. 58.

Moreover, Verizon (October 20, 2000) and Excel Communications (November 20, 2000) both cancelled their intent to enter the local telecommunications market in Texas.³⁴ This is not to mention the numerous CLECs that have gone bankrupt in the last six months that were also participants in the Texas local telecommunications market. The bottom line is that local competition is not occurring at a “phenomenal” level, contrary to the claims of Ms. Heritage.

33. The most telling illustration of the lack of competition in Texas can be seen by SBC’s own actions in Texas since receiving long distance authority in the state. *First*, SBC made great claims that it would lower prices for long distance when it would be permitted to enter the long distance market in Texas and for a time it did. However, after capturing approximately 1.5 million long-distance customers in Texas in just over six months, SBC increased rates for its basic long-distance offer in Texas from 9 cents to 10 cents a minute (an 11 percent increase), and increased its discounted rate for customers who buy other services from Southwestern Bell to 8 cents from 6 cents a minute (an 33 percent increase).³⁵ Moreover, SBC also demonstrated how concerned it was with the level of data competition in Texas as well in that it raised the price that it is charging for vertical features as well.³⁶ Neither of these actions is the response to a competitive challenge in Texas, but rather a demonstration that SBC is cementing its position in Texas as the dominant provider of *all* telecommunications services and is beginning to reap the financial windfall. In short, because only the “potential” for a

³⁴ *Id.*

³⁵ AUSTIN AMERICAN STATESMAN, SBC Raises Nonlocal Rates at p. D12 (Feb. 2, 2001).

³⁶ Texas Public Utility Commission, 2001 Report on the Scope of Competition in Telecommunications Markets, January 11, 2001, p. 83.

competitive environment existed in Texas and not the real thing, consumers in Texas are now paying higher prices because of SBC's premature entry into the long distance market.³⁷

E. Many of the CLECs that Ameritech Relies on for Facilities-Based Competition Are Either Struggling or Leaving the Market

34. Ms. Heritage, in her affidavit, lists 35 facilities-based CLECs as evidence of the vibrant competitive market in Michigan. I believe it is equally important to note that many of these companies that Ameritech is relying on for its facilities-based competition today are either in bankruptcy or at death's door. In short, this Commission must evaluate whether the local service competition in Michigan is sustainable and irreversible in evaluating whether Ameritech's entry into the long distance market is appropriate at present. The evidence below indicates that there is concern in this area.

35. Specifically, at least five of the companies listed in Ms. Heritage's affidavit are already in bankruptcy: (1) Teligent, Inc. (filed on May 21, 2001); (2) @Link Networks (filed April 25, 2001); (3) WinStar Communications (filed April 18, 2001); (4) Pathnet Telecommunications (filed April 2, 2001); and (5) NorthPoint Communications (filed January 16, 2001). In addition to these companies, there are several other CLECs whose market capitalization have been severely compromised, as illustrated by their stock prices and general information available for analysts and auditors: (1) Covad Communications (stock at \$0.66); (2) DSL.net (stock at \$0.87); and (3) Rhythms Links (stock at \$0.11). There are other companies that could be added to this latter list and will be added over the coming months confirming that

³⁷ There is much more that is compelling in the Texas Public Utility Commission, 2001 Report on the Scope of Competition in Telecommunications Markets. However, because of its significant length, I have not attached it to my testimony. Rather, it can be found on the Texas PUC website at: http://www.puc.state.tx.us/telecomm/reports/scope/2001scope_tele.pdf.

the competition that Ameritech touts today is actually reeling from the challenges of entering the local telecommunications market.

VII. SUMMARY

36. Facilities-based competition is present in Michigan in only a limited capacity at present. The best measure of local competition is the quantity of local minutes being switched by the CLEC switches in Michigan. Based on Ameritech's own flawed data, CLECs switch only **1.6 percent** of traditional (non-ISP) local traffic for the entirety of Ameritech-Michigan's territory. Using the Commission Staff's more reliable data, **the percentage drops below 1% (to 0.8%)**.

37. Another indicator of the limited nature of competition in Michigan is the scarce number of unbundled loops that have been purchased from Ameritech. In the five plus years since the Act passed, only 199,166 unbundled loops or 3.7 percent have been purchased for all of Michigan. Other indicators of the limited nature of competition in Michigan exist, but the conclusion cannot be ignored: Competition has only begun to develop in Michigan.

38. Ameritech has consistently exaggerated the scope and volume of competition throughout its filing. Principally this has been done by inappropriately converting all of the interconnection trunks in Michigan into equivalent access lines. This overly simplistic approach to assessing the scope of competition in Michigan fails to recognize that many of these interconnection trunks are being used to terminate internet traffic such that Ameritech Michigan's line to trunk ratio significantly exaggerates the number of actual lines in service. Further, of the facilities-based lines that Ameritech has *estimated*, only 68,079 of them can result in Ameritech actually counting working lines. Fully 91.0 percent of the supposed facilities-based lines in Michigan are the result of Ameritech inappropriately estimating the level of

competition. In short, this estimate fails to demonstrate anything concrete regarding the level of competition. Further, actual measured traffic as summarized above is the best alternative for actually measuring the level of competition in the local market.

39. This completes my affidavit.