

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)
_____)

**COMMENTS OF
Z-TEL COMMUNICATIONS, INC.**

Dated: June 29, 2001

I. INTRODUCTION

Z-Tel Communications, Inc. (“Z-Tel”) is a Tampa, Florida-based competitive local exchange carrier (“CLEC”) that offers bundled packages of local, long distance, and enhanced services to residential customers using the combination of unbundled network elements (“UNEs”) known as the UNE Platform, or “UNE-P.” As of March 31, 2001, Z-Tel was providing integrated local, long distance, and enhanced services to more than 380,000 residential customers in 19 states. Z-Tel fully expects to provide service to thousands of additional customers in every state in which Z-Tel has a meaningful opportunity to provide service.

By these comments, Z-Tel opposes Ameritech Michigan’s application for Section 271 relief in Michigan.¹ Z-Tel’s ability to obtain UNEs from Ameritech Michigan continues to be frustrated by significant operational concerns that have a significant adverse impact on the ability of UNE-P providers, such as Z-Tel, to provide service in Michigan. The operational problems which include, among other things, the inefficient processing of orders, the failure of Ameritech to provide accurate line loss reports, and suspending service to Z-Tel customers for their alleged past due bills owed to Ameritech. In addition, Ameritech fails to make all aspects of unbundled switching available as an UNE, so that a full array of product offerings may be made available to Z-Tel customers. Further, Ameritech fails to ensure the resale of DSL services will be available in Michigan.

¹ The facts set forth in these Comments are supported by the affidavit of Ron Walters of Z-Tel, attached as Exhibit A.

II. BACKGROUND

Z-Tel filed a letter with the Commission on October 5, 2000 which stated “Z-Tel agrees that by implementing fully the terms and conditions of the New M2A, Ameritech would demonstrate that it has met the requirements of Section 271 for purposes of providing combinations of unbundled network elements.” Z-Tel’s comments in this filing clearly show that all the terms and conditions of the New M2A have not been met. For example, the following M2A commitments have not been fully demonstrated:

- Section X.2.3.2 “Ameritech shall provide nondiscriminatory access to operations support systems on an unbundled basis to CLEC for the provision of a telecommunications service.”
- Section X.2.3.3 “The service installation for each specific new UNE-P combination is provided at parity with the comparable retail service.”
- Section X.2.3.4 “Ameritech will provide CLEC access to the Unbundled Network Elements provided for in the Amendment, including combinations of Network Elements, without restriction except as provided in this Amendment.”
- Section X.2.3.5 “When CLEC orders specific unbundled Network Elements in combination, Ameritech will provide the requested elements with all the functionality, and with at least the same quality of performance and operations systems support (ordering, provisioning, maintenance, billing and recording), that Ameritech provides through its own network to

its local exchange service customers receiving equivalent service using the same combination.

Further, even if Ameritech satisfies the 271 checklist, which it does not, it would not be in the public interest to allow Ameritech Michigan to enter the in-region interLATA market. Through other actions, Ameritech is impeding competition in the local market. For example, Ameritech Michigan takes 30 to 45 days to convert or “winback” a customer that initially accepts Z-Tel service and then decides it wishes to return to Ameritech. During this waiting period these customers are often misled into believing that the cause for the delay is the conduct of Z-Tel, which is totally false. If local competition is to flourish, residential customers must be able to switch and return to other providers, including Ameritech, in a prompt manner. Otherwise, customers will be reluctant to try new service offerings of new local providers. This is particularly true, if customers are misled to believe that the new providers are the cause of the delay. Until this impediment is removed residential competition will not flourish in Michigan.

III. AMERITECH MICHIGAN DOES NOT SATISFY ALL THE REQUIREMENTS OF THE COMPETITIVE CHECKLIST

A. Checklist Item No. 2: Access to Network Elements

1. Incorrect Billing To UNE-P Providers

Ameritech Michigan’s tariffs clearly establish that Z-Tel is to pay a one time branding charge per trunk in Michigan. Despite this clear and unequivocal language, Z-Tel continues to receive bills imposing a “pay-for-use” branding charge. This defect in Ameritech’s billing system was first noticed in January 2001 and is not solely limited to Michigan but also occurs throughout the Ameritech region. In an attempt to

resolve this matter, Z-Tel eventually had to initiate a formal billing dispute with Ameritech Michigan in April 2001. Despite Z-Tel's best efforts, Ameritech has not responded to the formal dispute and continues to incorrectly bill this branding charge.

Ameritech is also charging Z-Tel for customer lines after that customer appears on the Ameritech line loss report. The Line Loss Report provides notice that the customer has left Z-Tel and migrated to Ameritech service. Clearly, this is a situation where Z-Tel is being billed in error. This has involved 332 Michigan accounts and charges of \$12,000.

These facts demonstrate that Ameritech Michigan's billing system is inadequate and cannot easily be modified when errors become readily apparent.

2. Ameritech Michigan's Operation Support Systems "OSS" Is Wholly Inadequate

a. Failure To Provide Accurate Line Loss Reports

Significant problems exist with respect to Ameritech Michigan's provisioning of UNEs to carriers such as Z-Tel. As a UNE-P provider, Z-Tel must rely entirely upon Ameritech Michigan's Line Loss Report to establish which customers of Z-Tel are no longer taking service from Z-Tel. An accurate Line Loss Report is critical so Z-Tel may insure that former customers are no longer billed for future services by Z-Tel.

Beginning in April 2001, Ameritech failed to provide line loss notifications to Z-Tel. This occurred for customers both in Illinois and Michigan. Given the critical nature of this information, Z-Tel promptly sought resolution and escalated this matter all the way to the Executive Presidential level at SBC. Despite repeated efforts by Z-Tel, this matter was not resolved for six weeks and not until a notice of intent to file a complaint regarding this issue was filed with the Illinois Commission. Attached as

Exhibit B to this filing is an Affidavit of Sandra E. Williams setting forth the timeline that shows the difficulties Z-Tel had in resolving this significant problem.

Even when Ameritech sends line loss information, the information is often delayed, inaccurate, or at best, confusing. For example, in May 2001, Z-Tel received line loss data an average of 12 days after the customer account was closed. In 60% of cases, the line loss data was received more than 10 days after the customers' account was closed. Z-Tel has also experienced cases when two Line Loss Reports were received for the same customer account. This often results in delayed, double or inaccurate customer billing.

In addition, Z-Tel is receiving line loss cases which seem to indicate they are related to new service orders. These are noted as "N" orders on the report. The Line Loss Report should only contain disconnect orders or "D" orders. This indicates to Z-Tel that the customer has disconnected Z-Tel service. In May 2001, 49% of the line loss reports were marked as "N" orders. Again, delayed, double or inaccurate customer billing is a possible result.

As discussed above the line loss report is critical since this is the only way an UNE-P provider, such as Z-Tel, knows if a customer is no longer taking its service. When an accurate line loss report is provided, Z-Tel is able to stop billing the customer for future services. When a line loss report is not provided, as was the case for six weeks, Z-Tel continues to bill the customers. As a result of Ameritech Michigan's failure to provide accurate line loss reports, at least 10 informal complaints were filed with the MPSC from April to June 2001 regarding double billing (Attached as Exhibit C is the list of customers names and complaint dates, which is

filed under seal.) These were customers who had chosen service from Z-Tel then canceled this service by switching back to Ameritech. Because Ameritech provided no line loss report to Z-Tel, both Ameritech and Z-Tel were billing these customers.

This example shows that CLECs are not provided adequate access to Ameritech Michigan's OSS. The anti-competitive nature of this problem is also very significant. From residential customers' perspective they assume that the erroneous double billing is a result of an error on the part of Z-Tel. Due to the nature of the problem it is not readily apparent to the customer that the cause of the double billing is Ameritech Michigan's failure to report to Z-Tel that the customer was no longer taking Z-Tel's service.

The customer confusion resulting from being "double billed" does not encourage competition in Michigan's local market. This also results in numerous customer complaints not only being voiced to Z-Tel but to the Commission. This, of course, harms Z-Tel's reputation in the marketplace and before the Commission. Significant resources of Z-Tel and the Commission must then be spent receiving, researching and resolving customer complaint calls, e-mails and letters. All of which would be avoided if Ameritech Michigan would properly provide an accurate and timely line loss report. Finally, when a line loss report is not being provided to a CLEC, it should not take Ameritech six weeks to resolve this problem.

b. Unlawful Termination of Z-Tel's Customers

Another issue relates to Ameritech Michigan's suspending service to customers of Z-Tel for past due accounts allegedly owed to Ameritech Michigan. A residential customer who accepts service from Z-Tel is no longer an Ameritech

customer, but instead is a customer of Z-Tel. Z-Tel then purchases the UNE combinations necessary to provide service to that customer from Ameritech Michigan. Despite the absence of any direct relationship between Ameritech Michigan and Z-Tel's customer, Ameritech has canceled service to Z-Tel customers for alleged past due amounts owed to Ameritech Michigan (see, Exhibit D filed under privacy seal). While Ameritech Michigan may have various remedies to pursue debts allegedly owed by its former customers, Ameritech Michigan's lawful collection activity does not and should not include preventing Z-Tel from selling its services to those customers.

c. Processing Of Orders By Ameritech Is Also Inadequate

Significant problems also occur with respect to Ameritech Michigan's processing of Z-Tel's orders. When Z-Tel submits an order to Ameritech, Ameritech returns a Firm Order Commitment ("FOC"). Despite receiving a FOC from Ameritech Michigan, many FOCs are not followed by completion notices by Ameritech Michigan. In fact, many Z-Tel orders are left unresolved for more than 90 days. Thus, Z-Tel has no idea whether the order has already been successfully processed, is being successfully processed, or whether the order has been rejected by Ameritech for some yet unknown reason.

The lack of this critical information leads to significant billing and related issues. For example, Z-Tel cannot begin billing a customer until it receives confirmation that the order was processed. If the order has actually been processed, and Ameritech failed to provide the confirmation then the Z-Tel customer is not being timely billed. If the customer order has simply not been processed, then Z-Tel is

being denied revenue from this potential customer. In either event, Z-Tel's reputation with its customer is injured because the customer is either (1) not receiving timely bills or (2) is not receiving requested service.

In submitting orders, difficulty also arises when the customer seeks to have third party or collect call blocking. Ameritech Michigan's graphical user interface "GUI" can not process these orders. If Z-Tel submits an order with call blocking through the GUI interface, Z-Tel receives an "Invalid Subline Activity" error message. In order to eradicate the error message and continue processing the order, Z-Tel must contact Ameritech's Mechanized Customer Service Center or "MCSC". At that time a trouble ticket is opened and a MCSC representative must send a request to Ameritech Michigan's business office to remove this error. This process takes from 2 to 5 days for each order. As a result, the submissions of these customers' orders are unnecessarily delayed. On June 28, 2001, Ameritech Michigan stated that this problem was fixed and Z-Tel is currently verifying Ameritech's claims.

Other difficulties in the order processing include new accounts being provisioned with incorrect features, customer service records or CSRs not being updated in a timely manner, difficulty validating the customer's address for a transfer of service order, and unavailability of line test definitions for repair.

B. Checklist Item No. 6.: Unbundled Local Switching

Ameritech Michigan does not provide as unbundled elements all the features and functions of its local switches. In a series of e-mails, Ameritech Michigan sets forth the USOCs, which are not currently available to UNE providers. (Exhibit E.) The list of unavailable features and functions are significant. For example, Ameritech

Michigan does not provide the unbundled features and functions which would permit a UNE-P carrier to provide its customers the service equivalent of what Ameritech Michigan markets as “Privacy Manager.” The “Privacy Manager” service rejects all calls showing on a caller ID unit as private, blocked or unavailable. Privacy Manager asks the caller to record their name and will play it back to the called party so that the called party may decide whether or not to accept the call. The elements necessary to provide this type of service are not made available to UNE-P providers, and Ameritech is not in compliance with this item of the checklist.

In addition to not providing the features and functions necessary to provide a service such as “Privacy Manager,” Ameritech in its “winback” letters offers Privacy Manager “absolutely free for 6 months” to those customers who have accepted service from an UNE-P provider. See Exhibit F. Ameritech brashly uses a service the elements of which it refuses to provide to UNE-P providers to compete against UNE-P providers. Ameritech Michigan is overtly using its lack of compliance with a critical component of the Section 271 checklist to unfairly compete. Until Ameritech Michigan makes such features and functions of its switches available, it is not in compliance with the competitive checklist and it should not be provided 271 relief.

C. Checklist Item No. 14: Resale Of DSL Service

Currently, Ameritech Michigan is not making available for resale its xDSL service. Ameritech Michigan contends that the service is not being provided in Michigan by Ameritech Michigan but instead it is being provided by affiliates. Thus, Ameritech Michigan contends that it is not obligated to provide xDSL as a wholesale service to CLECs. The court in Association of Communications Enterprises v FCC,

235 F3d 662 (DC Cir. 2001) squarely rejected this position taken by Ameritech Michigan. (See also, In Re Indiana Bell 271 Compliance Filing (Cause No. 41657, Order EDR –1, June 27, 2001) where the Indiana Commission rejected the same position taken by Ameritech in that state.) In addition to requiring Ameritech Michigan to resell xDSL service, there needs to be developed corresponding performance measures, OSS testing, and appropriate remedial measures with respect to xDSL service. (Id.) Until such time, Ameritech Michigan will not be in compliance with its resale obligations under checklist item 14.

IV. AMERITECH MICHIGAN'S ENTRY INTO THE INTERLATA SERVICE MARKET WILL NOT FURTHER THE PUBLIC INTEREST

A. Other Conduct Of Ameritech Michigan Impedes Local Competition

In addition to the lack of compliance with the checklist items, Z-Tel also opposes Ameritech Michigan's request for 271 relief because other conduct by Ameritech Michigan impedes the creation of a competitive local market. For example, if an Ameritech customer switches to a CLEC, such as Z-Tel, and the customer decides to switch back to Ameritech Michigan, Ameritech Michigan takes 30 to 45 days to process this customer. In order for competition to exist, residential customers must be able to efficiently and promptly exercise choice. Residential customers will be significantly less willing to accept new service from new local service providers, once they learn that it will take 30 to 45 days for Ameritech Michigan to re-institute service to them.

In addition to the delay caused by Ameritech Michigan, Ameritech attempts to place the blame for the delay on the new provider. For example, customers seeking to switch back to Ameritech have been told that Z-Tel is "holding their lines" or

“holding their telephone numbers.” Also, Ameritech Michigan has advised some customers that they must place a disconnect order with Z-Tel before they can begin to initiate service from Ameritech Michigan. None of these statements are true. Ameritech Michigan has the ability to promptly transfer a customer from Z-Tel service to its service without any assistance from Z-Tel. Attached as Exhibit G is an e-mail from Ameritech Michigan’s Scott Alexander, which acknowledges that Ameritech Michigan is responsible for these lengthy delays in re-instituting service to customers. Until Ameritech is willing to address and remedy this impediment to competition, residential customers will be reluctant to try new services from new local providers.

B. In Order To Be In The Public Interest, There Must Be A Meaningful Incentive For Ameritech Michigan To Comply With The Performance Measures And Have Penalties For Failure To Comply.

Z-Tel supports the Joint Michigan CLEC filings with respect to the re-hearing and/or clarification of the Commission April 17, 2001 Order and Opinion and opposes Ameritech Michigan’s request for re-hearing relating to the proposed remedy plan. The remedy plan must impose meaningful penalties and should require direct payments from Ameritech Michigan to CLECs. In addition, the Commission should clarify its earlier Order rejecting the “K Table” which has resulted in SWBT avoiding nearly 60% of all penalties for its poor service in Texas.

V. CONCLUSION

For the reasons set forth above, Ameritech Michigan should not be granted relief under Section 271 of federal Telecommunications Act of 1996.

Respectfully submitted,

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