

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 ) Case No. U-11104  
the Telecommunications Act of 1996. )  
\_\_\_\_\_ )

At the June 5, 1997 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman  
Hon. John C. Shea, Commissioner  
Hon. David A. Svanda, Commissioner

**ORDER**

On September 30, 1996, Ameritech Michigan filed an application seeking Commission approval of its proposed statement of generally available terms and conditions for interconnection pursuant to Section 252(f) of the federal Telecommunications Act of 1996 (federal Act), 47 USC 252(f), and the Michigan Telecommunications Act, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.

By October 21, 1996, responses to Ameritech Michigan's filing were filed by the Telecommunications Resellers Association, the Michigan Cable Telecommunications Association, the Commission Staff (Staff), AT&T Communications of Michigan (AT&T), Competitive Telecommunications Corporation, MCI Telecommunications Corporation (MCI), and Sprint Communications Company, L.P. Those responses included a joint motion for summary disposition. By October 30, 1996, Ameritech Michigan filed replies to the responses.

By letter dated November 19, 1996, Ameritech Michigan agreed that the proposed statement would not go into effect pending a Commission order to be issued by April 1, 1997.

By letter dated March 24, 1997, Ameritech Michigan advised the Commission that it would amend its application within 30 days and requested that the Commission not take action with regard to its original statement. Ameritech Michigan also acknowledged that the Commission would have 60 days after submission of the amended petition to take action.

On April 10, 1997, Ameritech Michigan filed its amended application. Ameritech Michigan states that the period for Commission review is thus extended until June 10, 1997, pursuant to Section 252(f)(3) of the federal Act. 47 USC 252(f)(3).

On April 30, 1997, the Commission received responses to the amended application by AT&T and MCI. MCI renewed the previously filed motion for summary disposition. On May 22, 1997, the Staff filed a response to Ameritech Michigan's amended application, recommending that the Commission reject the request for approval.

After considering the arguments raised by the parties, the provisions in the federal Act that are related to statements of generally available terms and conditions for interconnection, and the public interest, the Commission concludes that Ameritech Michigan's application should be denied.

Section 271(c) provides in relevant part:

(1) AGREEMENT OR STATEMENT. – A Bell operating company meets the requirements of this paragraph if it meets the requirements of subparagraph (A) or subparagraph (B) of this paragraph for each State for which the authorization is sought.

(A) PRESENCE OF A FACILITIES-BASED COMPETITOR. – A Bell operating company meets the requirements of this subparagraph if it has entered into one or more binding agreements that have been approved under section 252 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service . . .

(B) FAILURE TO REQUEST ACCESS. --- A Bell operating company meets the requirements of this subparagraph if, after 10 months after the date of enactment of the Telecommunications Act of 1996, no such provider has requested the access and interconnection described in subparagraph (A) before the date which is 3 months before the date the company makes its application under subsection (d)(1), and a statement of the terms and conditions that the company generally offers to provide such access and interconnection has been approved or permitted to take effect by the State commission under section 252(f).

47 USC 271(c).

In the Commission's view, this section of the federal Act provides two alternative methods for a Bell operating company to demonstrate compliance with the first statutory requirement for providing certain interLATA services. First, it may demonstrate that it has entered into approved, binding agreements for interconnection. Second, if no competitive provider has requested access and interconnection to provide local exchange service within the statutory time period, the company may seek Commission approval of a statement of generally available terms and conditions for interconnection pursuant to Section 252(f). The Commission concludes that if competitive providers have requested interconnection with the Bell operating company in a timely manner, the second option is not available.<sup>1</sup>

The Commission notes that Ameritech Michigan has received many requests for interconnection and has engaged in negotiations and arbitration proceedings concerning interconnection agreements. Several cases have been processed through arbitration proceedings before the Commission. The Commission has approved interconnection agreements, both negotiated and arbitrated, between Ameritech Michigan and several licensed basic local exchange providers. Ameritech Michigan has therefore begun to comply under subparagraph (A) and does not qualify for the provisions of subparagraph (B). Moreover, the Commission finds that approval of Ameritech Michigan's proposed statement would have a negative effect on ongoing and future

---

<sup>1</sup>This interpretation has been adopted by, inter alia, the United States Department of Justice (DOJ). See the DOJ's May 16, 1997 filing in the application of SBC Communications, Inc., et al, CC Docket No. 97-121, pp. 7-9.

negotiations with competitive local exchange providers, and thus, would hinder the development of competition. Therefore, the Commission finds that, consonant with the public interest and applicable law, the application should be denied.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended by 1995 PA 216, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC 151 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.
- b. The application for approval of generally available terms and conditions for interconnection filed by Ameritech Michigan should be denied.

THEREFORE, IT IS ORDERED that the application filed by Ameritech Michigan for approval of its proposed generally available terms and conditions for interconnection is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

John G. Strand  
Chairman

(SEAL)

John C. Shea  
Commissioner, concurring in a separate  
opinion.

David A. Svanda  
Commissioner

By its action of June 5, 1997.

Dorothy Wideman  
Executive Secretary

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

---

Chairman

---

Commissioner, concurring in a separate  
opinion.

---

Commissioner

By its action of June 5, 1997.

---

Its Executive Secretary

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

Case No. U-11104

Suggested Minute:

“Adopt and issue order dated June 5, 1997 denying the application filed by Ameritech Michigan for approval of its proposed generally available terms and conditions for interconnection, as set forth in the order.”

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 Telecommunications Act of 1996. )  
\_\_\_\_\_ )

Case No. U-11104

**CONCURRING OPINION OF COMMISSIONER JOHN C. SHEA**

\_\_\_\_\_ (Submitted on June 5, 1997 concerning order issued on same date)

I concur in the result set forth in the order, but not for the reasons stated therein. The terms and conditions for interconnection to Ameritech Michigan should be governed by the provisions of the Michigan Telecommunications Act, MCL 484.2101 et seq.; MSA 22.1469(101) et seq., and not the Federal Telecommunications Act, 47 USC 151 et seq.

MICHIGAN PUBLIC SERVICE COMMISSION

\_\_\_\_\_  
Commissioner