

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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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. )  
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Case No. U-12320

At the February 9, 2000 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. John G. Strand, Chairman  
Hon. David A. Svanda, Commissioner  
Hon. Robert B. Nelson, Commissioner

**ORDER**

The federal Telecommunications Act of 1996 added Section 271 to the Communications Act of 1934, as amended, 47 USC 151 et seq., (FTA). In Section 271 of the FTA, Congress specified the conditions under which a regional Bell operating company, such as Ameritech Michigan, may provide in-region interLATA services. Section 271(c)(2)(B) sets forth a competitive checklist that enumerates the access and interconnection that Ameritech Michigan must provide or offer to other telecommunications carriers before the Federal Communications Commission (FCC) may authorize it to provide in-region interLATA services. Section 271(d)(2)(B) requires the FCC to consult with state commissions with respect to an applicant's compliance with the competitive checklist.

In an order issued on June 5, 1996 in Case No. U-11104, the Commission opened a docket for the purpose of consulting with the FCC concerning Ameritech Michigan's compliance with the requirements of the competitive checklist. In an order issued today in Cases Nos. U-11104 and U-12143, the Commission finds that the docket in Case No. U-11104 should be closed. Accordingly, the docket in this proceeding is being opened so that Ameritech Michigan and other interested parties may file any documents that bear on Ameritech Michigan's compliance or noncompliance with the Section 271 competitive checklist and on the status of competition in Ameritech Michigan's service territory. To the extent necessary to fulfill its obligation to consult with the FCC, the Commission may conduct hearings, solicit comments, or order the filing of data pertinent to its investigation. Further, unless ordered otherwise, the proceedings will be conducted as a legislative-type inquiry. Consequently, any person may participate without seeking to intervene.

Because of the rigid time constraints imposed by the FTA and the FCC, the Commission is persuaded that all participants in this investigation should adhere to the following schedule and procedures:

1. Within 7 days of this order, Ameritech Michigan shall serve a copy of the order on every competitive local exchange carrier (CLEC) licensed to provide basic local exchange service in Ameritech Michigan's service territory and upon all telecommunications providers with which it has interconnection agreements.
2. Within 21 days of this order, interested persons may file a notice of interest in this docket. Interested persons who miss this deadline will be permitted to participate upon filing a notice, but their participation will be on a prospective basis; i.e., they will take the case as they find it.
3. As soon as possible following issuance of this order but at least 2 months prior to filing its next Section 271 application with the FCC, Ameritech Michigan shall file a notice of intent to file such application with this Commission and shall serve a copy of the notice on all CLECs, telecommunication providers with which it has interconnection agreements, and any other persons who filed

a notice of intent to participate in this proceeding.<sup>1</sup> The notice must set forth the status of Ameritech Michigan's conformance with the Section 271 checklist, including the commitments necessary to reach full compliance. The notice should be similar to the 'Prefiling Statement' submitted by Bell Atlantic to the New York Public Utilities Commission in Case No. U-97-C-0271.

4. As soon as possible following issuance of this order, Ameritech Michigan shall commence a collaborative process with the Commission Staff (Staff) and CLECs to assure Section 271 checklist compliance.
5. Within 30 days of this order, Ameritech Michigan shall file in this docket an initial proposal with respect to third-party testing of its operations support systems (OSS). Ameritech Michigan shall serve copies of its proposal on all parties in Cases Nos. U-11104, U-12143, and U-11830. The precise details of the OSS testing program shall be determined in collaboration with the Staff and the CLECs. In the event that the parties are not able to resolve differences regarding the details of the OSS testing program in a timely manner, they shall jointly submit a petition to the Commission that sets forth all areas of agreement and that highlights all areas of disagreement. The joint petition shall include the positions of all parties regarding the areas of disagreement as well as the Staff's recommendation on each disputed issue. Following the filing of the joint petition, the Commission may without further proceedings issue an order resolving all disputes regarding details of the OSS testing program.
6. Within 30 days of this order, Ameritech Michigan shall file tariffs that demonstrate its full compliance with state and federal statutes, rules, and previous Commission orders on unbundled network element (UNE) offerings, including Commission orders addressing the availability of the UNE platform discussed in the February 9, 2000 order in Cases Nos. U-11104 and U-12143. If any party believes that Ameritech Michigan's tariff filings are insufficient or inconsistent with the Commission's prior orders regarding the UNE platform, questions regarding the sufficiency of the tariffs should first be addressed in the collaborative process established by this order. If the parties reach an impasse during the collaborative process, any party having a disagreement with Ameritech Michigan's tariff filings may file an application and complaint pursuant to Section 203 of the Michigan Telecommunication Act, MCL 484.2101 et seq.; MSA 22.1469(101) et seq., (MTA) in a separate docket. Ameritech Michigan's failure to file acceptable tariffs addressing the availability of the UNE platform will have a significant influence on the timely completion and the outcome of this proceeding.

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<sup>1</sup>Ameritech Michigan and all parties participating in this docket shall abide by the filing requirements specified in the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.

7. As a part of the collaborative process, Ameritech Michigan shall develop a comprehensive “customer-friendly” manual for all aspects of resale, interconnection, UNE provisioning, and OSS. Further, Ameritech Michigan’s provisioning and constant updating of such manual shall be subject to third-party OSS testing.
8. As part of the approval process, Ameritech Michigan must demonstrate parity for all OSS between CLECs and Ameritech Michigan. Additionally, Ameritech Michigan must demonstrate nondiscriminatory access to all interconnection services delineated in Section 271's checklist provision.
9. In order to be successful, third-party OSS testing must demonstrate the capability of Ameritech Michigan’s OSS at commercial volumes. The methods by which Ameritech Michigan shall demonstrate OSS capability and commercial volumes shall be subject to definition in the collaborative process.
10. The performance measures and standards described in the May 27 and September 3, 1999 orders in Case No. U-11830 shall be implemented immediately. Moreover, through the collaborative process, Ameritech Michigan shall adopt measures to ensure continuing parity for all OSS between CLECs and Ameritech Michigan and nondiscriminatory access to all interconnection services delineated in the checklist provisions.
11. CLECs should contribute information regarding general market conditions and competition issues in the Section 271 checklist proceeding. In its August 19, 1997 order in FCC Docket No. 97-137, which involved Ameritech Michigan’s initial application for in-region Section 271 authority, the FCC indicated that an important aspect of the review of a Section 271 application includes an investigation by state commissions of the status of local competition. In so doing, the FCC stated that:

[A]n analysis of the state of local competition in Michigan . . . will be valuable to our assessment of the public interest. . . . Accordingly, in future applications, we suggest that the relevant state commission develop, and submit to the Commission, a record containing the state of local competition as part of its consultation. . . . We recognize that carriers may view much of this information as proprietary. . . . Nevertheless, we encourage states to develop and submit to the Commission as much information as possible.

August 19, 1997 order, FCC Docket No. 97-137, ¶ 34.

The Commission is persuaded that the information to be filed by all CLECs in response to this requirement should be developed as a part of the collaborative process. As soon as possible after issuance of this order,

the parties to the collaborative process shall finalize a list of the information to be filed by CLECs and procedures for protecting proprietary data contained in that information. When the list of information has been finalized, all CLECs shall file the required information regarding the state of local competition in Michigan within 45 days.

12. The collaborative process should be used to develop specific performance assurance measures, including a self-effectuating system to prevent backsliding. Ameritech Michigan's performance enforcement plan shall include the key elements discussed in the December 22, 1999 order in CC Docket No. 99-295, FCC 99-404 involving Bell Atlantic's Section 271 order. In particular, the performance enhancement plan shall include provisions for Ameritech Michigan to make self-executing performance payments in the event its performance does not meet standards.
13. Ameritech Michigan shall complete a minimum of three consecutive months of data reporting its compliance with all performance measures required by the Commission's orders in Case No. U-11830.
14. The following time lines are appropriate for the filing of information:
  - a. When Ameritech Michigan believes that it has satisfied a particular competitive checklist item, the company shall file the information with the Commission and should serve such information on all parties who have filed a notice of interest in this proceeding. In the event that Ameritech Michigan believes that the information required to support its position is confidential, the company shall complete the necessary protective arrangements prior to filing the information.
  - b. Parties shall have 15 days to file replies or comments related to Ameritech Michigan's filings. Those replies or comments shall be served on Ameritech Michigan and all other parties. Ameritech Michigan shall have 15 days to respond to the comments of other parties.
  - c. Parties may file other information, but the Commission advises the parties that it will be interested only in comments reflecting new or different data rather than a repetition of previous positions or arguments. The Commission stresses that it is more interested in the quality of the information than the quantity.
  - d. Parties may file any information that they believe necessary for the Commission's decision at any time during the pendency of this matter. The Commission cautions the parties to be cognizant of

the severe time constraints of this process. Last minute filings may limit the ability of the Commission to give full, or any, consideration to the information in those filings.

Finally, the Commission encourages Ameritech Michigan to consult with the Staff on matters related to content, timing, and protection of any information the company intends to file in this docket prior to any filings.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, 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 AACCS, R 460.17101 et seq.
- b. Procedures should be established to provide the information needed to permit the Commission to consult with the FCC on Ameritech Michigan's compliance with the competitive checklist in Section 271 of the FTA.

THEREFORE, IT IS ORDERED that the evaluation of Ameritech Michigan's compliance with the competitive checklist shall be conducted in accordance with the procedures described in this order.

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

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand  
Chairman

( S E A L )

/s/ David A. Svanda  
Commissioner

/s/ Robert B. Nelson  
Commissioner

By its action of February 9, 2000.

/s/ Dorothy Wideman  
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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Suggested Minute:

“Adopt and issue order dated February 9, 2000 commencing a proceeding to consider Ameritech Michigan’s compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996, to commence certain collaborative efforts, and to evaluate the status of competition in Ameritech Michigan’s service territory, as set forth in the order.”