STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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UTILITY
REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF INDIANA BELL TELEPHONE COMPANY, INCORPORATED, D/B/A AMERITECH INDIANA PURSUANT TO I.C. 8-1-2-61 FOR A THREE-PHASE PROCESS FOR COMMISSION REVIEW OF VARIOUS SUBMISSIONS OF AMERITECH INDIANA TO SHOW COMPLIANCE WITH SECTION 271(C) OF THE TELECOMMUNICATIONS ACT OF 1996	)	CAUSE NO. 41657

INITIAL COMMENTS OF Z-TEL COMMUNICATIONS, INC. ON AMERITECH INDIANA'S DRAFT SECTION 271 APPLICATION

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Z-Tel Communications, Inc. ("Z-Tel"), through counsel, hereby files its Initial Comments on Ameritech Indiana's Draft Section 271 Application.[1]

I. INTRODUCTION AND SUMMARY

With this Application, Ameritech Indiana is literally knocking at the door of the Indiana Utility Regulatory Commission ("Commission" or "IURC") seeking approval of its entry into the long-distance telecommunications market. The Commission, by virtue of federal law, however, cannot unlock that door unless and until it finds that the Indiana market is—as the Department of Justice has said--"fully and irreversibly" open to competition.[2] That competition is the key. Here, as demonstrated below, and in the comments of other CLECs filing here, the "key" with which to unlock the door is nowhere to be found. Indeed, Ameritech Indiana's own obstructionist and discriminatory

[1] Z-Tel reserves the right to supplement these comments and/or file supporting affidavits at an appropriate time. In fact, Z-Tel understands the Commission's October 31, 2002 Process Order in this Cause to anticipate further comments following OSS testing.

[2] United States Department of Justice Evaluation, *In re Section 271 Application of Bell South Corporation, et al. for Provision of In-Region, InterLATA Service in Louisiana* (DOJ La. I Eval.) CC Docket No. 97-231 (Dec. 10, 1997) (La I) at iii, 1-2.

tactics make sure that such is the case. Simply put, Ameritech's Application must fail because Ameritech itself has failed to remove the obstacles it has placed in the path of competition.

Three issues deserve special focus. First, Ameritech provides discriminatory access to line loss information. Second, it provides inaccurate billing information. Third, it refuses to offer remote call forwarding to UNE-P CLECs.

II. AMERITECH CLEARLY AND OBVIOUSLY CONTINUES TO FAIL TO COMPLY WITH THE SECTION 271 COMPETITIVE CHECKLIST

The premature nature of the Ameritech Indiana Application is underscored by the fact that it controls its own means of compliance. The fact that it is still unable to provide its wholesale customers with satisfactory, nondiscriminatory access to its network speaks as to its true intentions.

A. Ameritech provides discriminatory access to line loss information.

It is without question that Ameritech Indiana provides discriminatory access to line loss information. As Ameritech admits in its Brief, "In the latter half of 2001, Ameritech and its affiliates learned that they were not providing some notices on a timely basis."[3] What Ameritech fails to note is that it "learned" this lesson only after the Illinois Commerce Commission determined that "Ameritech has unreasonably provided Z-Tel inferior and discriminatory access to operations support systems...."[4] Ameritech's Brief here provides no assurance that this discrimination has been rectified—and indeed,

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[3] *Brief in Support of Application by SBC Communications, Inc., Ameritech Indiana and Ameritech Long Distance for Provision of In-Region, Interlata Services in Indiana*, IURC Cause No. 41567, at p. 30

[4] *Z-Tel Communications, Inc. v. Illinois Bell Telephone Company d/b/a Ameritech Illinois, Verified Complaint and Request for Emergency Relief Pursuant to Sections 13-514, 13-515 and 13-516 of the Illinois Public Utilities Act*, 02-0160, Order, 16 (May 8, 2002).

it has not. Instead, it explains that it has set up a team to monitor the process. This is patently unacceptable. First Ameritech attempts to brush aside line loss issues as not significant. Second, Ameritech seems to believe that its "efforts"—rather than its performance—is what matters. Ameritech is wrong on both counts.

Ameritech's provision of nondiscriminatory access to line loss information is a material OSS issue. Without timely and accurate line loss information, a UNE-P provider like Z-Tel has no idea when to stop billing a customer that has migrated to another carrier. When a customer is wrongly double billed as a result of an Ameritech line loss failure, the customer blames Z-Tel, even though the double billing results from a clear fault in Ameritech's OSS.

This has been devastating to Z-Tel. Throughout the five state region and since January 2001, Ameritech's faulty line loss process has resulted in approximately 12,000 complaints from Z-Tel customers. Hundreds of additional complaints have been received from regulatory agencies. The negative impact to Z-Tel's reputation has been immense.

In addition, without accurate information of when customers disconnect from Z-Tel service, Z-Tel is unable to audit accurately the fees for UNEs billed by Ameritech to Z-Tel. For example, Z-Tel has recently disputed 332 regional occurrences of being billed for UNE's after Z-Tel submitted a disconnect order to Ameritech. Ameritech's dispute response was that they couldn't disconnect the line because it wasn't a Z-Tel customer. Nonetheless, Ameritech continued to bill Z-Tel for the underlying UNEs for that customer's line.

Since May 2002, Ameritech has declared the line loss problems "fixed" on numerous occasions. But Z-Tel's experience is that problems keep popping up. Following are some examples:

- June 10, 2002: Ameritech re-flowed hundreds of notices to Z-Tel due to a system problem with partial migrations.
- August 12, 2002: The Michigan KPMG report shows problems continue: it showed a failure rate of 19.5% in providing timely line loss notifications.
- Between August 15, 2002 and September 11, 2002, Ameritech acknowledged that it failed to report to Z-Tel hundreds of line losses. These were eventually received on September 19, 2002.
- November 12, 2002: Ameritech acknowledged that approximately 100 notices did not contain conversion dates and needed to be re-flowed.

SBC-Ameritech should be required to deliver six consecutive months of acceptable line loss performance before this problem is considered "fixed." The target should be 97%+ of all line loss notices delivered in 24 hours (including an accounting for all missing line loss notices) and performance that exceeds that provided to the Ameritech retail unit. Until this standard is met, Ameritech should not be allowed to pursue winback efforts for 30 days and they should not receive a passing grade on checklist item #2.

B. **Ameritech provides inaccurate wholesale billing information.**

Ameritech's wholesale bill is essentially impossible to accurately audit and reconcile.

Moreover, even when Z-Tel identifies clear overcharges, Ameritech's billing dispute process is excessively difficult to navigate. Indeed, Ameritech's wholesale billing problems are so acute that they deny Z-Tel a meaningful opportunity to compete in Indiana.

At present, Z-Tel has approximately 700 line item billing disputes outstanding with Ameritech (regionwide). The total disputed amount is approximately $3 million. 51

of those disputes are in Indiana. 26 of those have been outstanding for more than 120 days The inability to timely resolve billing disputes wreaks havoc on Z-Tel's ability to account for its costs of goods sold, and greatly hamstrings Z-Tel's ability to do business planning in Indiana. Z-Tel must be able to identify all incorrect charges billed on any given invoice prior to making payment. Further, Z-Tel should have the ability to file disputes for items determined to be incorrectly billed. Ameritech, however, makes this task virtually impossible.

The Michigan E&Y Report reinforces this concern by stating:

> *PM 14 (Parity Measures) – The process by which the Company performed bill audits to verify wholesale universal service ordering code (USOC) rates did not ensure all items in the audit sample were tested and did not obtain all the relevant information in all cases to accurately determine if the USOC rate was accurate. Additionally, for the retail comparison for both resale submeasures, the company did not have a process in place to accurately capture and report when invalid USOC rates were identified in the bill and audit process. Also, for the Resale monthly recurring/non recurring wholesale submeasure, the company's process does not compare the USOC rates per the rate tables to the actual bill sent. Utilizing the Company's current process, a difference would not be identified.*

The checklist mandates that Ameritech must provide timely and accurate bills to CLECs, such as Z-Tel. Doing so requires Ameritech to make such bills auditable by including clear cross references to the applicable tariff, call flow, and interconnection agreement so rate descriptions and rate amounts can be verified. Ameritech's failure to provide such a wholesale bill further demonstrates that it has failed to provide nondiscriminatory access to the OSS UNE.

C. Ameritech refuses to offer remote call forwarding in conjunction with UNE-P

Ameritech has failed and continues to fail to provide certain switching functionality to CLECs, such as Remote Call Forwarding ("RCF"). RCF is a service often subscribed to by small business customers, which allows the customer to keep its phone number when changing physical locations.

When Z-Tel places a UNE-P order to migrate that customer's service, Ameritech refuses to migrate the remote call forwarding fucntion with the order. This refusal results in a requirement that the end user customer changes their phone number in order to make Z-Tel their local service provider. Of course, that creates significant burden and cost to the customer, e.g., new business cards, yellow page listings, etc.

This is a major impediment to competing in this market segment. Although Ameritech has committed to providing this functionality earlier this year, it has not done so yet. Thus, Ameritech cannot satisfy check list item vi.

III. CONCLUSION

As demonstrated above, Ameritech Indiana is not remotely close to satisfying the Section 271 checklist. Ameritech should be focusing its energy on complying with the law, and not requiring the Commission and competitors to waste scarce resources on this premature proceeding.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Robert K. Johnson, hereby certify that the "Initial Comments of Z-Tel Communications, Inc. on Ameritech Indiana's Draft Section 271 Application" was served electronically on December 11, 2002 to Ameritech271@urc.state.in.us.

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