

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

DA 96-1518

In the Matter of	)	
	)	
Ameritech Operating Companies	)	Transmittal Nos. 988 and 989
	)	
Tariff F.C.C. No. 2	)	
	)	

**ORDER**

Adopted: September 10, 1996

Released: September 10, 1996

By the Chief, Competitive Pricing Division, Common Carrier Bureau:

**I. INTRODUCTION**

1. On August 9, 1996, Ameritech Operating Companies (Ameritech) filed Transmittal Nos. 988 and 989, to modify Sections 3, 6, and 7 of its Access Service Tariff F.C.C. No. 2. On August 15, 1996, AT&T Corp. (AT&T) and MCI Telecommunications Corporation (MCI) filed petitions to reject or, alternatively, to suspend and investigate these transmittals. On August 26, 1996, Ameritech filed Transmittal No. 997 to revise certain provisions in Transmittal No. 988. On September 4, 1996, Ameritech filed Transmittal No. 1003 to revise certain provisions in Transmittal Nos. 988 and 997. Transmittal Nos. 988, 989, 997, and 1003 are scheduled to become effective on September 11, 1996.<sup>1</sup>

2. In its transmittals, Ameritech explains that its 1996 annual access tariff filing, Transmittal No. 961,<sup>2</sup> included exogenous amounts, which increased the price cap indices (PCIs) to reflect the rate base treatment of other post-retirement employee benefits (OPEBs)

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<sup>1</sup> Ameritech Transmittal No. 995, filed August 22, 1996, deferred the effective date of the material filed under Transmittal Nos. 988 and 989, from August 23, 1996, to August 30, 1996. This same material was subsequently deferred to September 6, 1996, under Transmittal No. 999 filed on August 29, 1996, and further deferred to September 11, 1996, under Transmittal No. 1005 filed on September 6, 1996.

<sup>2</sup> Ameritech Transmittal No. 961, filed April 2, 1996 (second amendment filed June 18, 1996).

costs.<sup>3</sup> Ameritech states that Transmittal Nos. 988 and 989 propose, among other things, rate increases for Carrier Common Line (CCL), local switching, and tandem switched transport within the PCI limits established in its 1996 annual access tariff filings.

## II. PETITIONS AND RESPONSE

3. In its petition, AT&T contends that Ameritech's proposal to increase access rates is inconsistent with the goals stated in the Commission's *Local Competition Order*.<sup>4</sup> In this regard, AT&T states that the Commission indicated in the *Local Competition Order* that prompt implementation of access reform and reduction of access charges is essential to achieve the goals of developing viable competition in the local exchange and exchange access markets.<sup>5</sup> AT&T also argues that Ameritech's proposed CCL rate increases exceed the applicable price cap for CCL charges by approximately \$2.236 million, thus making Ameritech's transmittals subject to more stringent Commission review.<sup>6</sup> In any event, AT&T argues that even if Ameritech's calculations are correct, Ameritech's tariff filings should be suspended because a substantial portion of the PCI "headroom" on which it relies for these rate increases represent costs that the Commission has placed under investigation in the *1996 Annual Access Order*.<sup>7</sup>

4. In its petition, MCI asserts that Ameritech's proposed CCL charges would result in a 18.3 percent increase in average CCL charges, with rates increasing by as much as almost 30 percent in Ohio.<sup>8</sup> MCI argues that the Commission should suspend and investigate Ameritech's Transmittal No. 988 because the proposed CCL rate increase is substantial, unprecedented, and anti-competitive.<sup>9</sup> According to MCI, Ameritech's proposal to increase access charges is an attempt to place long distance carriers in a price squeeze, in anticipation of its own entry into the long distance market, and to forestall the development of local

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<sup>3</sup> Ameritech Transmittal No. 988, Description and Justification (D&J) at 1; Ameritech Transmittal No. 989, D&J at 1.

<sup>4</sup> AT&T Petition at 3, citing Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Service Providers, CC Docket Nos. 96-98 and 95-185, First Report and Order, FCC 96-325, released August 8, 1996 (*Local Competition Order*).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 3-4.

<sup>7</sup> *Id.* at 5-6, citing 1996 Annual Access Tariff Filings, Memorandum Opinion and Order, DA 96-1022 (rel. June 24, 1996) (*1996 Annual Access Order*).

<sup>8</sup> MCI Petition at 3.

<sup>9</sup> *Id.* at 5-9.

competition.<sup>10</sup> In addition, MCI argues that Ameritech's proposed rate increases are contrary to the Commission's objectives to make access charges cost-based.<sup>11</sup> Furthermore, MCI contends that Ameritech has failed, in violation of Section 61.49(b) of the Commission's Rules, to submit support material showing that its proposed rate increases are within band.<sup>12</sup> In particular, MCI argues that Section 69.105(b)(7) of the Commission's Rules, 47 C.F.R. § 105(b)(7), requires that carriers that employ state-specific CCL rates must use state-specific PCIs. MCI contends that Transmittal No. 988 must be rejected because Ameritech's failure to supply the necessary state-specific PCIs makes it impossible to determine whether the proposed rates comply with the applicable bands.<sup>13</sup> Finally, MCI asserts that Ameritech has gained unauthorized pricing flexibility by using a single region-wide PCI, but treating the state-specific CCL charges as independent rate elements.<sup>14</sup>

5. On August, 20, 1996, Ameritech filed a response to AT&T's and MCI's petitions. Ameritech asserts that AT&T's and MCI's claims that its proposed rate increases are anti-competitive and conflict with the Commission's goals in the *Local Competition Order* lack merit.<sup>15</sup> Ameritech explains that the proposed CCL rate increases are based on its loop costs and an increase in its long term support payments to the National Exchange Carrier Association (NECA)<sup>16</sup> and that it is completely justified in seeking recovery of these costs.<sup>17</sup> In any event, Ameritech points out that because its proposed CCL rate increases are "within band," and therefore presumptively lawful, it was not legally required to explain the business reasons for the proposed CCL rate increase.<sup>18</sup> Ameritech points out that on average, in both the state and interstate jurisdictions, its filing proposes access rates that will increase by only 0.4 percent in 1996.<sup>19</sup> With respect to MCI's charge that its proposal to increase access rates will burden interexchange carriers (IXCs) that are planning to enter the local market, Ameritech asserts that Ameritech's long distance operations will have to pay the same rates

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<sup>10</sup> *Id.* at 6.

<sup>11</sup> *Id.* at 8, citing the *Local Competition Order*.

<sup>12</sup> 47 C.F.R. § 61.49(b). Section 61.49(b) provides that within band tariff filings must be accompanied by supporting material sufficient to establish compliance with the applicable bands.

<sup>13</sup> *Id.* at 9.

<sup>14</sup> *Id.* at 11.

<sup>15</sup> Ameritech Reply at 2.

<sup>16</sup> *Id.* at 3.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 2.

<sup>19</sup> *Id.* at 3.

that IXCs pay Ameritech for access.<sup>20</sup> In addition, Ameritech maintains that the proposed rate increases do not apply to the exchange of local traffic.

6. Ameritech disputes AT&T's claim that its proposed CCL rate increases exceed the applicable price cap band. Ameritech states that AT&T's calculations incorrectly assume that Ameritech's weighted state-specific CCL rates for originating and terminating traffic are the same.<sup>21</sup> To the contrary, Ameritech asserts that the mix of originating and terminating traffic varies by state.

7. Finally, Ameritech argues that, in reality, both petitioners are challenging its proposal to increase its rates to reflect the PCI adjustments made in its 1996 annual access filing as a result of the Commission's recent ruling in the RAO 20 proceeding.<sup>22</sup> Ameritech maintains that, at most, the Commission should treat the instant transmittals in the same manner that it treated the annual filing by suspending them for one day and permitting them to take effect subject to an investigation.<sup>23</sup>

8. In response to the tariff revisions submitted by Ameritech to correct the CCL rate development, on September 9, 1996, AT&T filed a petition to reject, or in the alternative, suspend and investigate Ameritech's Transmittal No. 1003. Also, on September 9, 1996, MCI submitted a letter to the Commission requesting that the Commission reject Transmittal No. 988 and Ameritech's subsequent transmittals proposing revisions to its CCL rates.<sup>24</sup> AT&T and MCI contend that despite Ameritech's revisions to its tariffs and support material, Ameritech's calculations of the maximum permissible state-specific CCL rates do not comply with the Commission's rules or policies.<sup>25</sup> In addition, AT&T argues that Ameritech continues to violate Section 61.49(b) of the Commission's rules by failing to provide the necessary material to support the development of the state-specific common line PCIs reflected in Transmittal No. 1003.<sup>26</sup> On September 10, 1996, Ameritech filed a reply to AT&T's petition and MCI's letter. Ameritech states that the tariff revisions and adjustments that it submitted in response to the Commission's requests for additional information

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 4, citing Responsible Accounting Officer Letter 20, Uniform Accounting For Postretirement Benefits Other Than Pensions in Part 32, CC Docket No. 96-22, Memorandum Opinion and Order and Notice of Proposed Rulemaking, FCC 96-63 (rel. March 7, 1996).

<sup>23</sup> *Id.*

<sup>24</sup> Letter from Alan Buzacott, MCI Regulatory Analyst, to James Schlichting, Chief Competitive Pricing Division, Federal Communications Commission (dated September 9, 1996).

<sup>25</sup> AT&T Petition, filed September 9, 1996, at 4-5; MCI Letter at 2-3.

<sup>26</sup> AT&T Petition, filed September 9, 1996, at 5.

demonstrate that its tariff filings, including its proposal to increase CCL rates, comply with the Commission's price cap rules.<sup>27</sup>

### III. DISCUSSION

9. We have reviewed Ameritech's Transmittals Nos. 988, 989, 997, and 1003 and the related pleadings. We conclude that no compelling argument has been presented that these tariffs are patently unlawful so as to warrant rejection. We find, however, that to the extent that Ameritech's transmittals propose to raise access rates to reflect the PCI adjustments attributable to its treatment of OPEBs made in Ameritech's 1996 annual access filing, they raise the same issues regarding Ameritech's rate base treatment of OPEBs costs for prior years as those identified in the *1996 Annual Access Order*.<sup>28</sup> Therefore, Ameritech's revisions in Transmittal Nos. 988, 989, 997, and 1003 will be suspended for one day and consolidated with the investigation initiated in the *1996 Annual Access Order*. The aforementioned revisions will also be subject to an accounting order to facilitate any refunds that may later prove necessary.

### IV. ORDERING CLAUSES

10. Accordingly, IT IS ORDERED that pursuant to Section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a) and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, the rate adjustments to Ameritech Operating Companies Tariff F.C.C. No. 2 filed under Transmittal Nos. 988, 989, 997, and 1003 ARE SUSPENDED for one day from the effective date and an investigation of the referenced tariff transmittals IS INSTITUTED and consolidated with the investigation initiated in the *1996 Annual Access Order*, DA 96-1022, released June 24, 1996.

11. IT IS FURTHER ORDERED that Ameritech Operating Companies SHALL FILE tariff revisions within five business days of the release date of this Order to reflect this suspension.

12. IT IS FURTHER ORDERED that, for the above purposes, we waive Sections 61.56, 61.58, and 61.59 of the Commission's Rules, 47 C.F.R. §§ 61.56, 61.58, and 61.59. Ameritech Operating Companies should cite the "DA" number of the instant Order as the authority for this filing.

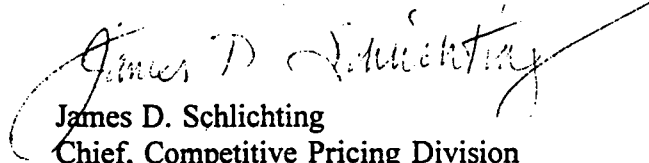
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<sup>27</sup> Ameritech Reply, filed September 10, 1996, at 2-4.

<sup>28</sup> In the *1996 Annual Access Order*, the Common Carrier Bureau (Bureau) found, among other things, that the LECs' rate base treatment of OPEBs costs raised substantial questions of lawfulness that warranted investigation. Thus, the Bureau suspended the affected tariffs for one day, imposed an accounting order, and initiated an investigation. The Bureau indicated that it would designate issues for investigation in a subsequent order.

13. IT IS FURTHER ORDERED that, pursuant to Section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), Ameritech Operating Companies shall keep accurate account of all amounts received by reason of the rates that are the subject of this investigation.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script, reading "James D. Schlichting". The signature is written in dark ink and is positioned above the printed name and title.

James D. Schlichting  
Chief, Competitive Pricing Division  
Common Carrier Bureau