

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In Matter of	)	
	)	
Ameritech Operating Companies	)	Transmittal No. 1014
	)	
Tariff F.C.C. No. 2	)	

**ORDER**

Adopted: December 5, 1996

Released: December 6, 1996

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

1. On October 10, 1996, Ameritech Operating Companies (Ameritech) filed Transmittal No. 1014 to add an Optical 622.08 Mbps (OC-12) interface to the Network Access Connection (NAC) component within the existing SONET Xpress product line. On the same date, Ameritech filed a request for confidential treatment of its cost support data and for a waiver of the Commission's rules requiring cost support data to be filed on the record.<sup>1</sup> On October 24, 1996, MCI Communications Corporation (MCI) filed a petition to reject or, in the alternative, to suspend and investigate Transmittal No. 1014. On October 31, 1996, Ameritech filed an opposition to MCI's petition.

2. In Transmittal No. 1014, Ameritech asserts that with the addition of an Optical 622.08 Mbps (OC-12) interface to the NAC, customers will have the ability to access the SONET Xpress shared ring network optically rather than through an intermediate electrical to optical conversion step. Ameritech further states that this interface will be available in two versions: one with lower level signals (DS1/VT1.5) sorted and grouped within an STS-1 by the customer and the other with the lower level signals neither sorted nor grouped.<sup>2</sup>

3. With its transmittal, Ameritech filed a request that the cost support data for Transmittal No. 1014 be withheld from disclosure pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457 and 0.459, and Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4). In addition, Ameritech seeks a waiver, pursuant to section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, of sections 0.453(j) and 0.455(b)(11) of

---

<sup>1</sup> Letter from Michael S. Pabian, Ameritech to Acting Secretary, FCC, dated Sept. 6, 1996 (*Sept 6 Letter*). See para. 3, *infra*, for further discussion of Ameritech's requests.

<sup>2</sup> Ameritech Transmittal No. 1014, Description and Justification (D&J) at 1.

the rules, 47 C.F.R. §§ 0.453(j) and 0.455(b)(11), to the extent that these rules require cost support materials to be publicly available.<sup>3</sup> To support its claim, Ameritech maintains that the cost support material contains very detailed information concerning the type of competition Ameritech faces for its high capacity services and that the information in question is the type not normally made public. In addition, Ameritech provides documentation to support the contention that its competitive position would be impaired if cost information concerning these competitive services was made public.<sup>4</sup>

4. In its petition, MCI argues that Ameritech violated sections 203 and 412 of the Communications Act, 47 U.S.C. §§ 203 and 412, and Part 61 of the Commission's rules, 47 C.F.R. Part 61, for failure to file its cost support data on the record.<sup>5</sup> In addition, MCI maintains that Ameritech does not support its claim for confidential treatment with any evidence linking release of the cost data to likely competitive harm.<sup>6</sup> Finally, MCI contends that the level of competition in Ameritech's service area does not justify an exception from the Commission's rules requiring cost support data to be publicly available.<sup>7</sup>

5. In response, Ameritech asserts that it has supplied the necessary cost data in support of Transmittal No. 1014. Furthermore, Ameritech states that the Commission's rules, specifically sections 0.453, 0.457, and 0.459, 47 C.F.R. §§ 0.453, 0.457, and 0.459, provide that a filing party can request that its data be withheld from public disclosure and that Ameritech has made such a request.<sup>8</sup> Finally, Ameritech states it has provided the Commission with adequate information to support its request for confidential treatment of its cost support data.<sup>9</sup>

6. Sections 0.453(j) and 0.455(b)(11) of the Commission's rules, 47 C.F.R. §§ 0.453(j) and 0.455(b)(11), provide that materials filed in support of tariff revisions are to be publicly available. Ameritech, however, has filed a request for confidential treatment of its tariff support material filed in Transmittal No. 1014 under the requirements of section 0.459 of the Commission's rules, 47 C.F.R. § 0.459. Ameritech also filed a request for a waiver of sections 0.453(j) and 0.455(b)(11) of the Commission's rules requiring cost support data to be on the

---

<sup>3</sup> *Sept. 6 Letter* at 1.

<sup>4</sup> *Id.* at 2-3.

<sup>5</sup> MCI Petition at 3-4.

<sup>6</sup> *Id.* at 6-8.

<sup>7</sup> *Id.* at 9.

<sup>8</sup> Ameritech Reply at 2.

<sup>9</sup> *Id.* at 2-3.

record. The waiver was filed pursuant to section 1.3 of the Commission's rules, 47 C.F.R. § 1.3<sup>10</sup>

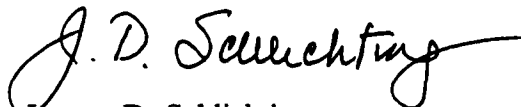
7. Accordingly, the Competitive Pricing Division finds that there is good cause to grant Ameritech's request for a waiver of the Commission's rules that require tariff cost support data to be publicly available. The Division, therefore, grants Ameritech a waiver of sections 0.453(j) and 0.455(b)(11) of the Commission's rules. As a result, the cost support material filed in Transmittal No. 1014 for which Ameritech sought confidential treatment will not be publicly available. The Division grants this waiver for the limited purpose of reviewing this transmittal.

8. We have reviewed the transmittal filed by Ameritech, and the associated pleadings. We conclude that no compelling argument has been presented that the tariff is patently unlawful so as to warrant rejection and that an investigation of this transmittal is not warranted at this time.

9. Accordingly, IT IS ORDERED that, pursuant to Section 0.291 and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.291, 1.3, for the purposes of this proceeding, sections 0.453(j) and 0.455(b)(11) of the Commission's rules, 47 C.F.R. 0.453(j), 0.455(b)(11), ARE WAIVED.

10. IT IS FURTHER ORDERED that the petition to reject, or in the alternative, to suspend and investigate Ameritech Operating Companies Tariff F.C.C. No. 2, Transmittal No. 1014 filed by MCI Telecommunications Corporation IS DENIED.

## FEDERAL COMMUNICATIONS COMMISSION



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

---

<sup>10</sup> Section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, provides that the Commission may, on its own motion, waive any provisions of its rules if good cause is shown. *Cf.*, *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Company v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (discussing standards for granting waivers filed by parties).