

Federal Communications Commission

William F. Caton,

Acting Secretary.

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BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

August 19, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 24, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Judy Boley at 202-418-0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060-0767.

Title:

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit; individuals or households.

Number of Respondents: 44,000.

Estimated Time Per Response:

Ownership and Gross Revenues Information—.5 to 4 hours; Disclosure of Terms of Joint Bidding Agreements—.5 hours; Maintaining Ownership and Gross Revenues Information—4 hours per response and 5 year retention; Transfer Disclosure—.5 hours.

Cost to Respondents: \$45,734,700.

Total Annual Burden: 764,500 hours.

Needs and Uses: The ownership, gross revenues and joint bidding agreement information portions of this collection will be used by the Commission to determine whether the applicant is legally, technically and financially qualified to be a licensee. Without such information, the Commission could not determine whether to issue the licenses to the applicants that provide telecommunications, multi-channel video programming distribution and other communications services to the public and therefore fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. The information will also be used to ensure the market integrity of future auctions. Likewise, the information collected in connection with § 1.2111(a) of the Commission's rules 47 CFR 1.2111(a) will be used to maintain the market integrity of future auctions and prevent unjust enrichment.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97-22480 Filed 8-22-97; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 97-137; FCC 97-298]

Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as Amended, To Provide In-Region, InterLATA Services in Michigan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Memorandum Opinion and Order (Order) in CC Docket No. 97-137 concludes that Ameritech Michigan (Ameritech) has not satisfied the

requirements of section 271 of the Communications Act of 1934, as amended (Act). The Commission therefore denies Ameritech's application for authorization to provide in-region, interLATA services in Michigan. The Order declines to grant Ameritech authority to provide in-region, interLATA services in Michigan. **EFFECTIVE DATE:** August 19, 1997.

FOR FURTHER INFORMATION CONTACT: Melissa Waksman, Attorney, Policy and Program Planning Division, Common Carrier Bureau, (202) 418-1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order adopted and released August 19, 1997. The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., NW, Room 239, Washington, DC. The complete text also may be obtained through the World Wide Web, at <http://www.fcc.gov/Bureaus/CommonCarrier/Orders/fcc97-298.wp>, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th St., NW, Washington, DC 20036.

Synopsis of Order

1. On May 21, 1997, Ameritech Michigan (Ameritech) filed an application for authorization under section 271 of the Communications Act of 1934, as amended, to provide in-region, interLATA services in the State of Michigan. In this Order, the Commission finds that Ameritech has met its burden of demonstrating that it is providing access and interconnection to an unaffiliated, facilities-based provider of telephone exchange service to residential and business subscribers in Michigan, as required by section 271(c)(1)(A) of the statute. The Commission further concludes, however, that Ameritech has not yet demonstrated that it has fully implemented the competitive checklist in section 271(c)(2)(B). In particular, the Commission finds that Ameritech has not met its burden of showing that it meets the competitive checklist with respect to: (1) Access to its operations support systems; (2) interconnection; and (3) access to its 911 and E911 services. In addition, the Commission finds that Ameritech has not demonstrated that its "requested [in-region, interLATA authorization] will be carried out in accordance" with the structural and transactional requirements of sections 272(b)(3) and 272(b)(5), respectively. Accordingly, the Commission, pursuant to section 271(d)(3) of the Communications Act of

1934, as amended, (the Act), denies Ameritech's application to provide in-region, interLATA services in Michigan.

2. *Compliance with Section 271(c)(1)(A).* The Commission finds that Ameritech has entered into binding agreements with Brooks Fiber, MFS WorldCom, and TCG that have been approved under section 252 and that specify the terms and conditions under which Ameritech is providing access and interconnection to its network facilities for the network facilities of these three competing providers of telephone exchange service to residential and business subscribers. In addition, the Commission determines that Brooks Fiber is offering such telephone exchange service exclusively over its own telephone exchange service facilities. Thus, the Commission concludes that Ameritech has satisfied the requirements of section 271(c)(1)(A) through its interconnection agreement with Brooks Fiber. Because Ameritech has satisfied section 271(c)(1)(A) through its agreement with Brooks Fiber, the Commission does not reach the issue of whether Ameritech has also satisfied this provision through its agreements with MFS WorldCom and TCG.

3. *Compliance with the Competitive Checklist in section 272(B).* Because the Commission has concluded that Ameritech satisfies section 271(c)(1)(A), the Commission must next determine whether Ameritech has "fully implemented the competitive checklist in subsection (c)(2)(B)." For the reasons set forth below, the Commission concludes that Ameritech has not yet demonstrated by a preponderance of the evidence that it has fully implemented the competitive checklist.

4. As a preliminary matter, the Commission concludes that a BOC "provides" a checklist item if it actually furnishes the item at rates and on terms and conditions that comply with the Act or, where no competitor is actually using the item, if the BOC makes the checklist item available as both a legal and a practical matter. The Commission emphasizes that the mere fact that a BOC has "offered" to provide checklist items will not suffice for a BOC petitioning for entry pursuant to section 271(c)(1)(A) (i.e., "Track A"), to establish checklist compliance. To be "providing" a checklist item, a BOC must have a concrete and specific legal obligation to furnish the item upon request pursuant to state-approved interconnection agreements that set forth prices and other terms and conditions for each checklist item. Moreover, the petitioning BOC must demonstrate that it is presently ready to

furnish each checklist item in the quantities that competitors may reasonably demand and at an acceptable level of quality.

5. With respect to the first checklist item addressed, the Commission concludes, consistent with the findings of the Department of Justice and the Michigan Public Service Commission, that Ameritech has failed to demonstrate by a preponderance of the evidence that it provides nondiscriminatory access to all of the operations support systems (OSS) functions provided to competing carriers, as required by the competitive checklist. First, the Commission outlines its general approach to analyzing the adequacy of a BOC's operations support systems. Second, the Commission briefly describes the evidence in the record on this issue. Third, the Commission analyzes Ameritech's provision of access to OSS functions. The Commission emphasizes that Ameritech must demonstrate that it is providing nondiscriminatory access to OSS functions associated with unbundled network elements. The Commission then concludes that Ameritech has not demonstrated that the access to OSS functions that it provides to competing carriers for the ordering and provisioning of resale services is equivalent to the access it provides to itself. Because Ameritech fails to meet this fundamental obligation, the Commission need not decide, in the context of this application, whether Ameritech complies with its duty to provide nondiscriminatory access to each and every other remaining OSS function. Therefore, although the Commission does not address every OSS-related issue raised in the context of this application, the Commission makes clear that it has not affirmatively concluded that those OSS functions not addressed in this decision are in compliance with the requirements of section 271. Fourth, the Commission concludes that Ameritech has failed to provide the Commission with empirical data necessary for it to analyze whether Ameritech is providing nondiscriminatory access to all OSS functions, as required by the Act. Finally, in order to provide additional guidance, the Commission concludes by highlighting a number of other OSS-related issues that are of concern to the Commission.

6. The next checklist item the Commission addresses is interconnection. The Commission concludes, consistent with the Department of Justice's finding, that Ameritech has not established by a

preponderance of the evidence that it is providing interconnection in accordance with the requirements of the Act. First, the Commission finds that the data Ameritech submitted provide the Commission with an inadequate basis to compare the quality of the interconnection that Ameritech provides to other carriers to that which Ameritech provides itself. For example, Ameritech's data contain insufficient information regarding the actual level of trunk blockage and no information about the rate of call completion. Next, the Commission concludes that even if it were to evaluate the quality of interconnection that Ameritech provides based solely on the data that Ameritech submitted, the difference between the blocking rates on trunks that interconnect competing LECs' networks with Ameritech's network and the blocking rates on Ameritech's retail trunks suggests that Ameritech's interconnection facilities do not meet the technical criteria and service standards that Ameritech uses within its own network, contrary to the requirements imposed by section 251(c)(2)(C).

7. The Commission also addresses the checklist item that requires Ameritech to provide nondiscriminatory access to 911 and E911 services, and concludes, in agreement with the Michigan Public Service Commission, that Ameritech has not met its burden of demonstrating that it satisfies this obligation. Specifically, the Commission finds that Ameritech maintains entries in its 911 database for its own customers with greater accuracy and reliability than it does the entries for the customers for competing local exchange carriers. In reaching this conclusion, the Commission finds it significant that there have been at least three instances involving customers of competing carriers, one as recently as May 21, 1997, where incorrect end user information was sent to emergency services personnel. Ameritech, which acknowledged fault in all three incidents, has presented no evidence to demonstrate that the 911 database error rate for competing local exchange carrier customer information is equivalent to the error rate for Ameritech's own customers. The Commission also concludes that Ameritech has not demonstrated that it provides facilities-based competitors that physically interconnect with Ameritech access to the 911 database in a manner that is at parity with the access it provides itself. In addition to these parity issues, the Commission expresses concerns regarding Ameritech's efforts to detect and remedy

errors in competitors' end user 911 data and in the proper functioning of competitors' trunking facilities.

8. *Compliance with Section 272.* In addition to making findings regarding Ameritech's compliance with section 271(c)(1)(A) and with the competitive checklist, the Commission addresses, pursuant to section 271(d)(3)(B), whether Ameritech has demonstrated that the requested authorization will be carried out in accordance with section 272. The Commission concludes that, based on its current and past behavior, Ameritech has failed to demonstrate that it will carry out the requested authorization in accordance with the requirements of section 272.

9. Specifically, the Commission concludes that Ameritech's corporate structure is not in compliance with the section 272(b)(3) requirement that its interLATA affiliate (ACI) maintain "separate" directors from the operating company (Ameritech Michigan). In particular, the Commission finds that under Delaware and Michigan corporate law, Ameritech Corporation has the duties, responsibilities, and liabilities of a director for both ACI and Ameritech Michigan. As a result, ACI lacks the independent management intended by the separate director requirement.

10. Additionally, the Commission concludes that Ameritech has failed to demonstrate that it will carry out the requested authorization in accordance with the section 272(b)(5) requirements that all transactions between Ameritech Michigan and ACI be conducted on an arm's length basis, be reduced to writing, and be available for public inspection. Specifically, the Commission finds that Ameritech has failed to disclose publicly the rates for all of the transactions between Ameritech and ACI. Moreover, it appears that Ameritech and ACI have not disclosed publicly all of their transactions as required by section 272(b)(5). Accordingly, if Ameritech continues its present behavior, and does not remedy these problems, it would not be in compliance with the requirements of section 272(b)(5).

11. *Public Interest.* Based on the Commission's conclusions that Ameritech has not implemented fully the competitive checklist and has not complied with the requirements of section 272, the Commission denies Ameritech's application for authorization to provide in-region, interLATA telecommunications services in Michigan. As a result, the Commission need not reach the further question of whether the requested authorization is consistent with the

public interest, convenience and necessity, as required by section 271(d)(3)(C). The Commission believes, however, that, provided the competitive checklist, public interest, and other requirements of section 271 are satisfied, BOC entry into the long distance market will further Congress' objectives of promoting competition and deregulation of telecommunication markets. In order to expedite such entry, the Commission believes it would be useful to identify certain issues for the benefit of future applicants and commenting parties, including the relevant state commission and the Department of Justice, relating to the meaning and scope of the public interest inquiry mandated by Congress. Accordingly, the Commission identifies the various factors it will consider and balance in undertaking a public interest analysis. The Commission notes that the presence or absence of any one factor will not dictate the outcome of its public interest inquiry. The Commission emphasizes, however, that it is not examining the public interest showing made in Ameritech's application, nor is the discussion intended to be an exhaustive analysis of the scope of the Commission's public interest inquiry generally.

12. *Other Matters.* In order to provide guidance to Ameritech, the Department of Justice, the Michigan Public Service Commission, and other interested parties, the Commission briefly addresses, but does not make any findings with respect to, certain other matters raised in the record. These matters include: the pricing requirements of the competitive checklist; Ameritech's compliance with remaining checklist requirements; Ameritech's inbound telemarketing script; Ameritech's intraLATA toll service; and access to customer proprietary network information.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

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FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes

and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 18, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. *North Fork Bancorporation, Inc.*, Melville, New York; to acquire 100 percent of the voting shares of Branford Savings Bank, Branford, Connecticut.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. *Anderson Financial Group, Inc.*, Golden Valley, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Northern National Bank, Nisswa, Minnesota, a *de novo* bank.

2. *International Bancorporation*, Golden Valley, Minnesota; to acquire 100 percent of the voting shares of Northern National Bank, Nisswa, Minnesota, a *de novo* bank.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Citizens Bankers, Inc.*, Baytown, Texas, and Citizens Bankers of Delaware, Wilmington, Delaware; to acquire 100 percent of the voting shares of First National Bank of Bay City, Bay City, Texas.