LAW OFFICES
DYKEMA GOSSETT
PROFESSIONAL LIMITED LIABILITY COMPANY

800 MICHIGAN NATIONAL TOWER
LANSING, MICHIGAN 48933-1742

TELEPHONE (517) 374-9100
FACSIMILE (517) 374-9191
WWW.DYKEMA.COM

Ann Arbor, Michigan
Bloomfield Hills, Michigan
Chicago, Illinois

Detroit, Michigan
Grand Rapids, Michigan
Washington, DC

CHRISTINE MASON SONERAL

DIRECT DIAL: (517) 374-9184
E-MAIL: CMASON@DYKEMA.COM

December 14, 2001

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way, Ste. 7
Lansing, MI 48909

Re: Case No. U-13007
WorldCom Exceptions to PFD

Dear Ms. Wideman:

Enclosed please find original and four copies of WorldCom Reply to Exceptions in the above referenced matter. Also enclosed is Proof of Service upon the Parties of Record.

If there are any questions or comments, do not hesitate to contact me.

Sincerely,

DYKEMA GOSSETT PLLC

Christine Mason Soneral

Christine Mason Soneral

CMS/jmb
Enclosures
cc: Jim Denniston
Parties of Record

LAN01\87357.1
ID\CMMA

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of Ameritech Michigan for a determination that directory assistance services provided to end-uses are competitive services under the Michigan Telecommunications Act.	))))	**Case No. U-13007 BOH Docket No. 2001-1227**

WORLDCOM REPLY TO EXCEPTIONS

MCImetro Access Transmission Services, LLC (a WorldCom company, hereinafter referred to as "WorldCom") respectfully submits its Reply to Exceptions, and in support, states as follows:

INTRODUCTION

This brief focuses on the exceptions filed by Ameritech, and addresses those issues not previously addressed in the WorldCom exceptions.

"ACTUAL COMPETITION" HAS NOT BEEN DEMONSTRATED

Ameritech (at page 4 of its exceptions) criticizes the PFD for not identifying a quantitative threshold for determining how much competition is actual competition. This argument is also related to Ameritech's argument (at pages 15-17 of its exceptions) that competition and end user usage has been measured by independent and reliable methods. The irony here is that WorldCom has presented such a quantitative methodology in this matter, Ameritech has resisted employing a quantitative methodology, and the ALJ struck this methodology from testimony. The issue has now come back full circle and the Commission should adopt the methodology set forth in the stricken testimony, the

emergency appeal, and in WorldCom's exceptions in this matter as it is the methodology which has been accepted by the FCC and it is the only methodology presented in this proceeding. Adoption of this methodology would fully address Ameritech's concerns that the PFD has failed to quantify the degree of competition which must exist to warrant a finding of "actual competition."

Simply basing its case on the fact that it has lost revenue only proves that Ameritech is having trouble making money. Without any evidence related to market share or supply and demand elasticity, Ameritech's claims ring hollow and certainly do not prove anything with respect to whether the DA marketplace in Michigan is competitive.

Moreover, Ameritech's twisted analogy of the DA marketplace to cornflakes and shredded wheat fails to demonstrate "actual competition," when one considers these products are made by the same company. Moreover, comparing different brands of the same product is not the same as comparing different products within different markets. Just because Ameritech may sell the same DA information to different markets is no reason to call those markets the same or those products functionally equivalent.

Closely related to the actual competition issue is the issue of what constitutes functionally equivalent services which are in competition. This requirement is set forth in MTA Sec. 208(3)(e). Ameritech is incorrect in arguing that print directories, internet directory assistance, and wireless directory assistance are functionally equivalent to Ameritech's DA.

A. Directory Publishing is not functionally equivalent to DA

Directory Publishing (DP) is not functionally equivalent to DA. DP includes print directories, internet directories, cd-roms, etc.

The PFD is correct that print directories have been around for a long time and are not competitive with Ameritech DA. The PFD was also correct in concluding that internet directory assistance is not functionally equivalent to Ameritech DA as a substantial number of end-users do not have computers with internet access and the process for obtaining a phone number over the internet is far different than simply dialing 1-555-1212. (PFD at 15). Ameritech needs to compare functionally similar services and define the relevant market in order to even begin to attempt to show that its service or market is competitive.

The white/yellow pages can be an inappropriate method for those who have lost the directory or where the directory is out of date where the consumer is looking for a new number. Internet directories are also time consuming to access as the customer would first have to turn on a computer (assuming that the customer had a computer) and then find the appropriate website and then wait for the search engine on the web site to access to desired information. In short, these other services do not have the functionality, ubiquity, or convenience offered by DA over the telephone and, as such, are not comparable. In determining whether any service has alternatives, it is essential that the alternatives be comparable.

Ameritech has confusingly intertwined the DA market with DP. In considering the competitiveness of the DA environment, the Commission should not consider DP as part of the DA marketplace. Ameritech claims that the proliferation of directory

publishing services, including listings available on the Internet, from CD-ROM and on-line databases, and White Pages and Yellow Pages Directories necessitate the need to declare the DA marketplace a competitive environment. Because the two services do not share the same market, they function differently, and are thus treated separately with respect to regulation. DP should not be considered as having an effect on the DA marketplace for purposes of the Commission's review.

The FCC noted this distinction in its recent *Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended*, CC Docket No. 99-273, FCC 01-27, First Report and Order, rel. January 23, 2001, *("DAL Provisioning Order")*. In that decision, the FCC noted that DA which uses Directory Assistance Listing ("DAL") information is regulated under Section 251 of the Telecommunications Act of 1996 ("FTA"), while DP, which uses subscriber listing information ("SLI") is regulated under Section 222 of the FTA. Concluding that DAL could not be used to provision DP services, the FCC determined that "entities providing oral DA services are not engaging in the publication of a directory, regardless of whether they are engaged in 'publishing' or 'disseminating information.'" [1] The FCC stated that "[i]n the future, if directory assistance and directory publishing evolve to resemble one another more closely, we may revisit this issue."[2]

Because DA and DP are apples and oranges, the Commission should not consider one affecting the competitive marketplace of the other. Furthermore, many of the "alternatives" which Ameritech has identified are not functionally similar and therefore are not competitive alternatives.

---

1 *DAL Provisioning Order*, at par. 48.

2 *Id.*

B. Wireless is not functionally equivalent to DA

Also, wireless service is not available for those customers who do not have wireless service. Wireless is also not functionally equivalent. The PFD was also correct in determining that a substantial number of customers do not have access to wireless DA. Even if it were, Ameritech still has not shown any quantification that it has met the prerequisite methodology to show that wireless DA is being used to the extent to show "actual competition."

C. Access Code Service is not functionally equivalent to DA

Access code services such as WorldCom's 10-10-9000 service are clearly not actual competition. A customer can also access the national DA of MCI WorldCom Communications, Inc., (MWCI) by dialing 00 or 10-10-9000. The 00 method will allow a customer who has presubscribed to MWCI to access MWCI automated operator that will allow the customer to use MWCI's 10-10-9000 service but this method has not been promoted by MWCI. Any customer not presubscribed to a WorldCom affiliate as their long distance carrier must use the dial around access code of 10109000 to access this national DA service. (Tr 185-186). MWCI's 10-10-9000 service, while heavily promoted in the first year of its introduction during 1998-99, is a now a grand-fathered service and despite Ms. Moore's assertion that this service is "heavily promoted" in Michigan, MWCI does not promote this service at all anymore as the service has been a losing proposition for MWCI. The volume of calls shows that this is not competitive. (Third Party Confidential Record, Tr 244). Because this is a national service, however, MWCI neither promotes nor tracks the calling patterns in any specific part of the country or state. Moreover, unlike 1-555-1212, MWCI's 10-10-9000 service cannot be accessed by

customers calling from businesses that routinely block 1010 access codes in their PBX or Centrex systems. (Tr 186).

COST STUDIES

Ameritech is now pretending that the application at hand has not been filed under Section 208. (See, Ameritech's exceptions at pages 19-25). It is clear that Ameritech's application was brought under Section 208 of the MTA. (See, Ameritech's application, pars. 7, 8 and claim for relief). Ameritech appears to recognize that it has significant difficulty in meeting the requirements under Section 208 and therefor tries to sidestep this state law mandated section. It is clear that Ameritech has failed to meet the requirements of Section 208. These requirements include the fact that Ameritech must first obtain approval of its TSLRIC studies for DA before filing to have DA declared competitive. (See, Section 208(9) and order in Case No. U-12765 at page 12).

Further, the cost studies submitted by Ameritech are invalid for the reasons stated by Staff and explained in the PFD. Ameritech's exceptions in this regard are totally deficient and do not warrant any further response.

CONCLUSION

Based on the above, the Commission should reject the exceptions of Ameritech and adopt the exceptions of WorldCom.

By: 

James R. Denniston (P57736)
MCImetro Access Transmission Services, LLC
("WorldCom")
205 North Michigan Avenue
Suite 1100
Chicago, Illinois 60601
(312) 260-3190

Of Counsel:

Albert Ernst (P24059)
Christine Mason Soneral (P58820)
DYKEMA GOSSETT PLLC
800 Michigan National Tower
Lansing, Michigan 48933
(517) 374-9155/(517) 374-9184

December 14, 2001

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of Ameritech Michigan for a determination that directory assistance services provided to end-uses are competitive services under the Michigan Telecommunications Act.	)))))	Case No. U-13007

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Jeanne M. Beachnau, being first duly sworn, deposes and says that on December 14, 2001, she caused to be served upon the parties listed in the attached Service List, copies of WorldCom Reply to Exceptions in the above-captioned matter by United States First Class Mail and electronic mail.

Jeanne M. Beachnau

Subscribed and sworn to before me
on December 14, 2001.

H. Sharyl Stofer

H. Sharyl Stofer, Notary Public
Ingham County, Michigan
My commission expires: 12/17/03

SERVICE LIST

MR. WILLIAM J. CHAMPION III
DICKINSON WRIGHT PLLC
500 WOODWARD AVENUE
DETROIT, MI 48226

MR. BRUCE R. BYRD
AMERITECH MICHIGAN
444 MICHIGAN AVENUE
ROOM 1750
DETROIT, MI 48226

MR. MICHAEL NICKERSON
ASSISTANT ATTORNEY GENERAL
MICHIGAN PUB SERVICE COMM
6545 MERCANTILE WAY, STE 15
LANSING, MI 48911

HON. GEORGE SCHANKLER ALJ
MICHIGAN PUB SERVICE COMM
PO BOX 30221
LANSING MI 48909

MR ORJIAKOR N ISIOGU
ASSISTANT ATTORNEY GENERAL
SPECIAL LITIGATION DIVISION
PO BOX 30218
LANSING MI 48909

MR LELAND ROSIER
CLARK HILL PLC
2455 WOODLAKE CIRCLE
OKEMOS MI 48864-5941

MR MICHAEL ASHTON
FRASER TREBILCOCK DAVIS & FOSTER
1000 MICHIGAN NATIONAL TWR
LANSING MI 48933

MR HARVEY MESSING
MR. GARY L. FIELD
LOOMIS EWERT PARSLEY DAVIS & GOTTING
232 S CAPITOL STE 1000
LANSING MI 48933

MR. JOHN J. REIDY III, J.D.
AT&T
222 WEST ADAMS, #1500
CHICAGO, IL 60606

::ODMA\PCDOCS\LAN01\87356\1