

**OFFICIAL FILE**

I.C.C. DOCKET NO. 00-0056

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

Staff Exhibit No. 1

Date 3-3-00 Reporter CK

Agreement dated December 21, 1999 : 00-0056  
between Pathnet :  
and Ameritech-Illinois pursuant to :  
the Telecommunications Act of 1996. :

**VERIFIED STATEMENT OF JULIE M. VANDERLAAN**

My name is Julie M. VanderLaan and I am employed by the Illinois Commerce Commission as an Economic Analyst in the Telecommunications Division. I graduated from Illinois State University with both a Master of Science Degree in Economics with a Concentration in Regulation in 1996, and a Bachelor of Science Degree in Finance and Economics in 1993. One of my responsibilities as an analyst is to review negotiated agreements and provide a recommendation as to their approval.

I have reviewed the agreement dated December 21, 1999 between Pathnet and Ameritech-Illinois ("Ameritech"). The agreement shall commence has a three-year initial term and establishes the financial and operational terms for the physical interconnection between Ameritech's and Pathnet's networks. Upon expiration of the initial three-year term, the agreement will be renewed for one-year periods unless written notice of termination is provided at least one hundred and twenty days prior to the expiration of the initial or renewal term.

The existing agreement had established the financial and operational terms for: networks on mutual and reciprocal compensation; unbundled access to Ameritech's network elements, including Ameritech's operations support systems functions; physical collocation; number portability; resale; and a variety of other business relationships.

## **STANDARD OF REVIEW**

The purpose of my verified statement is to examine the agreement based on the standards set forth in section 252(e)(2)(A) of the 1996 Act. Specifically, this section states:

The State commission may only reject-

- an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that-
- (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

### **I. Approval under Section 252(e)**

#### **A. Discrimination**

The first issue that must be addressed by the Commission in approving or rejecting a negotiated agreement under Section 252(e)(2)(A) is whether it discriminates against a telecommunications carrier that is not a party to the agreement. Discrimination is generally defined as giving preferential treatment. In previous dockets, Staff has taken the position that in order to determine if a negotiated agreement is discriminatory, the Commission should determine if all similarly situated carriers are allowed to purchase the service under the same terms and conditions as provided in the agreement. I recommend that the Commission use the same approach when evaluating this negotiated agreement.

A carrier should be deemed to be a similarly situated carrier for purposes of this agreement if telecommunications traffic is exchanged between itself and Ameritech Illinois for termination on each other's networks and if it imposes costs on Ameritech

Illinois that are no higher than the costs imposed by Pathnet. If a similarly situated carrier is allowed to purchase the service(s) under the same terms and conditions as provided in this contract, then this contract should not be considered discriminatory. Evaluating the term discrimination in this manner is consistent with the economic theory of discrimination. Economic theory defines discrimination as the practice of charging different prices (or the same prices) for various units of a single product when the price differences (or same prices) are not justified by cost. See, Dolan, Edwin G. and David E. Lindsey, Microeconomics, 6<sup>th</sup> Edition, The Dryden Press, Orlando, FL (1991) at pg. 586.

I have no reason to conclude that the agreement is discriminatory. Also, Section 252(i) of the 1996 Act allows similarly situated carriers to enter into essentially the same contract.

#### **B. Public Interest**

The second issue that must be addressed by the Commission in approving or rejecting a negotiated agreement under Section 252(e)(2)(A) is whether it is contrary to the public interest, convenience, and necessity. I recommend that the Commission examine the agreement on the basis of economic efficiency, equity, past Commission orders, and state and federal law to determine if the agreement is consistent with the public interest.

In this Amendment, the parties agreed to use the same language that was submitted in Ameritech's Collocation Tariff filed pursuant to Section 251(c)(6) of the Federal Telecommunications Act of 1996. That tariff has been suspended and is currently under investigation by the Illinois Commerce Commission in ILL C.C. Docket

99-0615. In my opinion, the outcome of the Commission's investigation may impact relevant parts of this Agreement. However, I believe the parties were aware of this fact and have made adequate provisions for such an occurrence in Sections 28.2 and 28.3 which set forth provisions with respect to reservation of rights and regulatory changes, respectively.

In the light of this provision and considering the parties' knowledge of the pending investigation of Ameritech's collocation tariff in Docket 99-0615, I recommend that this Agreement be approved.

In previous dockets, Staff took the position that negotiated agreements should be considered economically efficient if the services are priced at or above their Long Run Service Incremental Costs ("LRSICs"). Requiring that a service be priced at or above its LRSIC ensures that the service is not being subsidized and complies with the Commission's pricing policy. All of the services in this agreement are priced at or above their respective LRSICs. Therefore, this agreement should not be considered economically inefficient.

It is Staff's position that it is best to address all collocation concerns in one docket (in this case Docket 99-0615). Consequently, given that Commission Orders are binding on the parties, I have no reason to conclude that this agreement is contrary to the public interest and nothing in this agreement leads me to the conclusion that the agreement is inequitable, inconsistent with past Commission Orders, or in violation of state or federal law. Therefore, I recommend that the Commission approve the agreement subject to the implementation requirements of the next section.

## **II. Implementation**

In order to implement the Ameritech Illinois-Pathnet agreement, the Commission should require Ameritech Illinois to, within five days from the date the agreement is approved, modify its tariffs to reference the negotiated agreement for each service. Such a requirement is consistent with the Commission's Orders in previous negotiated agreement dockets and allows interested parties access to the agreement. The following section of Ameritech Illinois' tariffs should reference the Ameritech Illinois-Pathnet:

### ***Agreements with Telecommunications carriers (ICC No. 21 Section 19.15).***

In addition, the Commission should require Ameritech Illinois to file a copy of the approved agreement with the Chief Clerk's Office, within five days from the date the agreement is approved. The Chief Clerk should be directed to place the agreement in a separate binder. Such a requirement is also consistent with the Commission's Orders in previous negotiated agreement dockets.

For the reasons set forth above, I recommend that the Commission approve the agreement under Section 252(e) of the 1996 Act.

VERIFICATION

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF SANGAMON )

I, Julie M. VanderLaan, do on oath depose and state that if called as a witness herein, I would testify to the facts contained in the foregoing document based upon personal knowledge.

Julie M. VanderLaan

SIGNED AND SWORN TO BEFORE ME THIS 29th DAY OF February, 2000.

Joyce Adcock  
NOTARY PUBLIC

