

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application for)
Approval of an Interconnection Agree-)
ment Between Ameritech Ohio and NOW) Case No. 99-557-TP-NAG
Communications Pursuant to Section 252)
of the Telecommunications Act of 1996.)

FINDING AND ORDER

The Commission finds:

- (1) On May 5, 1999, Ameritech Ohio and NOW Communications (NOW), filed an application seeking review and approval of a negotiated interconnection agreement pursuant to Section 252 of the Telecommunications Act of 1996 (1996 Act).
- (2) Under the Commission's Mediation/Arbitration Guidelines, we do not directly solicit comments on the merits of every interconnection agreement that is submitted for our approval. *In the Matter of the Implementation of the Mediation and Arbitration Provisions of the Federal Telecommunications Act of 1996*, Case No. 96-463-TP-UNC, Entry (March 27, 1997). There were no comments by interested persons filed in this docket.
- (3) It appears to us that the submitted interconnection arrangement has been arrived at through negotiations between Ameritech Ohio and NOW. As such, the interconnection agreement is of the type contemplated by Section 252(a) of the 1996 Act. Consequently, it appears to the Commission that the applicants, in seeking Commission review and approval of the arrangement in this case, have taken appropriate action as mandated under Section 252(e)(1) of the 1996 Act. That provision states:
 - (1) Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.

- (4) Our review of the interconnection agreement submitted in this case must be conducted in compliance with Section 252 of the 1996 Act. Among other things, this means that this Commission must either approve or reject the interconnection arrangement submitted in this case by no later than August 5, 1999 (i.e., 90 days from the submission of the agreement), otherwise it will be deemed approved under Section 252(e)(4) of the 1996 Act.

Section 252(e)(2)(A) of the 1996 Act limits the criteria upon which a state commission may rely to find that a negotiated interconnection agreement, properly subject to its review, should be rejected. It states:

The State commission may only reject an agreement (or any portion thereof) adopted by negotiation ... 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....

- (5) The submitted agreement is entitled a "Local Exchange Telecommunications Services Resale Agreement." The parties have agreed upon a number of terms, pursuant to which Ameritech Ohio will make its retail telecommunications services available for purchase by NOW.
- (6) We note that NOW has sought, but not yet been issued, a certificate of public convenience and necessity from this Commission authorizing it to conduct operations as a public utility and a provider of prepaid local exchange service. *In the Matter of the Application of NOW Communications, Inc., for Authority to Resell Local Exchange and Intrastate Interexchange Telecommunications Services on a Prepaid Basis in the State of Ohio*, Case No. 98-1466-TP-ACE (98-1466). On May 28, 1999, NOW's application in 98-1466 was consolidated with four other applications for prepaid local exchange service for a determination on the generic public policy concerns. The Commission granted the Ohio Consumers' Counsel, Edgemont Neighborhood Coalition, the city of Toledo, Appalachian People's Action Coalition, Parkview Areawide Seniors, the city of Cleveland, The Ohio Telecommunications Industry Association, Suretel, Inc.,

Corecomm Newco, Preferred Carrier Services, ICG Telecom Group, United Telephone Company/Sprint Communications, and AT&T Communications of Ohio, intervention in this case and evidentiary hearings are scheduled. The parties in 98-1466 claim that the prepaid local service being proposed by NOW is not in the public interest and urge the Commission to deny NOW's application.

Upon review of the record in this matter, the Commission finds that we cannot approve the proposed interconnection arrangement under the criteria of Section 252(e) of the 1996 Act. NOW will necessarily utilize the services that it purchases from Ameritech Ohio, pursuant to the terms of this agreement, to provide telecommunications services in Ohio. Based on the unique circumstances of this case (i.e., the service being proposed by NOW is being challenged on public interest grounds), we are unable to conclude, at this time, that the implementation of the submitted agreement is consistent with the public interest, convenience, and necessity. However, the Commission will keep this case open and review its conclusion upon completion of NOW's certification proceeding.

It is, therefore,

ORDERED, That the interconnection arrangement between Ameritech Ohio and NOW, submitted for Commission approval on May 5, 1999, is rejected for the limited reasons explained in this finding and order. It is, further,

ORDERED, That this case remain open until the Commission orders otherwise. It is, further,

ORDERED, That a copy of this finding and order be served upon Ameritech Ohio, NOW, and their counsel, all certified new entrant carriers and those with pending certification applications, all incumbent local exchange companies who have received requests for interconnection, and upon all interested parties of record in this case.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Ronda Hartman Fergus

Craig A. Glazer

Judith A. Jones

Donald L. Mason

SEF;jkg