

SB451

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# BOB JAUCH

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WISCONSIN STATE SENATOR

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Testimony of Senator Bob Jauch  
In Favor of Senate Bill 451

Before the Senate Committee on  
Health, Utilities, Veterans and Military Affairs

February 27, 2002

In December of last year Senator Chvala asked me to chair a Senate Task Force on Telecommunications Issues. I set an ambitious timetable of four meetings and told the task force I intended to have a bill on the Senate floor in March. Senate Bill 451 responds to various recommendations made to me as chair of the Senate Task Force on Telecommunications Issues. The bill remains consistent to the intentions of Act 496, the goals of a de-regulated competitive telecommunications industry and the principles I established at the onset of the task force meetings: increased consumer competition and consumer choice, lower cost of telecommunications services, ensuring service quality and giving consumers meaningful remedies for abuses and poor service.

The substitute amendment to Senate Bill 451 which I have put before you sets forth aggressive but fair steps designed to encourage a fair, competitive marketplace that gives all Wisconsin citizens choice for telecommunication services. It keeps faith with the citizens who expect a telecommunication public policy that advantages the consumer and establishes high expectations for the creation of a competitive market place throughout the State.

I have passed out a longer outline of Senate Bill 451, but here are the major points:

1. The bill permits deregulation of small business lines served by Ameritech and Verizon to further advance competition and choice in the business market, while at the same time providing adequate safeguards to protect the operators of small businesses from predatory pricing.
2. The bill gives the PSC three months to promulgate meaningful wholesale service standards and remedies applicable to all incumbent local exchange carriers, with the goal of opening up the "last mile" to meaningful competition. While the standards would apply to all ILECs, the bill combines flexibility with parity by permitting the PSC to exempt individual ILECs if doing so is in the public interest.
3. The bill creates meaningful retail service standards and credits to protect Ameritech consumers from a repeat of the retail service quality meltdowns the

company experienced during the summer of 2000 – which was itself a repeat, on a greater scale, of a similar meltdown in 1995.

4. The bill provides for a Rural Telecommunications Investment Plan, which will promote competition and the deployment of advanced services in rural areas by giving small, rural telephone companies additional financial flexibility to start competitive telephone or cable television ventures, while at the same time opening up their own territory to competition.
5. Telecommunications continues to be the number one source of complaints to DATCP. This bill incorporates the consumer protection provisions of AB 818, introduced by Representative Jon Richards and cosponsored by me. Rep. Richards and I worked with the Department of Agriculture, Trade and Consumer Protection for over one year to develop this package of curbs on slamming and cramming practices committed by bad actors in the telecommunications industry.

Senate Bill 451 establishes procedures to hold large telecommunications providers accountable to meet both retail and wholesale service standards. The purpose is not to reinvent regulation but rather to maintain a vigorous regulatory presence to protect consumers and competitive telecommunications companies in the absence of true competition. The proposal recognizes that true parity cannot be expected because of the massive differences in economies of scale between existing large monopolies and developing competitive telephone service providers. This proposal recognizes that the existing law has not fulfilled the promise of competition in Wisconsin and there must be carefully designed incentives and penalties to make sure that the promise of competition is met to residents as well as businesses, to the distant rural customer as well as to the suburban or urban customer.

It is not acceptable when only 8% of the residential customers are offered any choice. It is not acceptable that 70% of the business customers are deprived real choice to lower their operating costs and improve efficiency in their business.

In reaching my conclusions to offer this bill, I have listened carefully to concerns expressed the industry. I have read their suggestions, compared ideas with other State laws and have attempted to craft solutions that will improve the behavior of the industry and dramatically improve the competitive marketplace for choice for consumers.

These recommendations reflect the public interest but are not crafted to punish any one telecommunications provider. My purpose is to recommend a proposal that will facilitate accelerated competitive activity with minimum state interference throughout Wisconsin. There is no simple single bullet theory that will create competition. For competition to exist we will need a removal of statutory barriers, the elimination of procedural barriers that restrict open choice and the introduction of stimulus to encourage companies to change their behavior to accelerate competition. We can model our legislation upon the successful initiatives in other States and we can be creative in molding our own solutions to make this law work better.

## OUTLINE OF LRB s0339/1 (SUB AMENDMENT TO SB 451)

The substitute amendment to SB 451 accomplishes the following goals:

### I. Deregulation of small business lines (Sections 15 and 16 of the sub)

In general under current law, business lines serviced by price-capped telecommunications utilities (Ameritech and Verizon) are not subject to price caps like residential lines are. This is not true of businesses with three or fewer lines. This continuing regulation of small business lines is a pre- Act 496 anachronism. As a member of the Senate Task Force on Telecommunications Issues, Ameritech has asked that these lines be deregulated, and I agree with them -- if we provide adequate safeguards for small businesses.

Under this plan, both Ameritech and Verizon can petition the PSC to lift the price caps on three and fewer lines in specific geographic areas, if those companies can prove that effective competition exists in those markets for those lines. We should not throw small businesses to the wolves by simply allowing these companies to raise prices without first ensuring that some minimum degree of effective competition exists. In addition, to spur the maximum development of competition for these small business lines, we require that a company petitioning the PSC for relief from the price caps must give its small business customers one year to get out from under long-term, anti-competitive contracts. By requiring such as waiver as part of a voluntary petition we avoid any potential impairment of contract issues under the U.S. Constitution.

### II. Wholesale Service Quality Standards (Sections 31 and 32 of the sub)

Meaningful and effective wholesale service quality standards are key to bringing competition and cost-saving choices to Wisconsin consumers. The goal should be to achieve the same degree of seamless integration and ease of consumer movement in the local telephone market as is currently experienced in the long-distance market. No one can plausibly suggest that we have achieved that yet. Therefore, the *long-term goal* should be that it is just as easy to switch from CLEC to CLEC or from CLEC back to ILEC as it should be to switch from a large ILEC to a CLEC.

Given that, it makes sense to address the issue of wholesale service quality standards and remedies for telecommunications utilities or ILECs. These are the only companies that provide any meaningful level of wholesale telecommunications service in Wisconsin -- they are the companies that own the crucial "last mile" of wire to the consumer's home. No one has presented me with any evidence that wholesale service quality problems exist with telephone providers other than the state's largest companies. Please resist

empty arguments for so-called "parity" on this issue, designed to apply wholesale standards and remedies small competitive telephone providers or CLECs. These arguments are only designed to retard competition by burdening small competitive telephone providers with a completely unnecessary degree of regulation. This bill provides parity with flexibility, by applying wholesale service standards and penalties to all ILECs but permitting the PSC to exempt individual ILECs if doing so is in the public interest.

By adopting meaningful wholesale service quality standards and remedies for the state's incumbent telephone utilities, a degree of **true** parity should be achieved across the industry to achieve the desired degree of seamless integration and ease of consumer movement.

### III. Retail Service Quality Standards and Credits (Sections 17 through 25)

When it comes to retail service quality, Ameritech stands out in a number of respects. The company's history of retail service quality problems is entirely unique, and there is evidence to believe it is a problem of a cyclical nature. The problems we saw in the year 2000 were similar to the problems we saw in 1995 – and so were the excuses offered by Ameritech. In some cases, the excuses we heard in 2000 were identical to what we heard in 1995. While it is true that Ameritech has made some recent and significant improvements in retail service quality, it is also true that for the first six months of 2001, complaints to the PSC about Ameritech actually exceeded the number of complaints for the first six months of 2000 – by 27%! Keep in mind that this increase occurred months **after** Ameritech's service quality meltdown during the summer of 2000.

While Ameritech should not be punished for past mistakes – or for mistakes it *might* make in the future – it would be grossly imprudent given the company's repeated history of service quality problems not to grant some limited protection to the Ameritech consumer over and above what exists now.

It must also be recognized that Ameritech is, in many respects, a largely unregulated and *de facto* monopoly, at least in the residential service market. (Out of total revenues of about \$1.4 billion, only about \$250 million of the companies revenue comes from regulated, price-capped services.) Therefore, it makes sense to consider an approach that phases out standards and penalties over time, and that ensures that the PSC has adequate tools to deal with future problems with any telecommunications provider on a case-by-case basis. Ultimately, competition and meaningful consumer choice should be the guarantor of retail service quality. However, as demonstrated by the problems Ameritech experienced during the year 2000, we are not at that point yet.

To that end, this proposal establishes mandatory service quality standards and customer credits for Ameritech customers. These provisions sunset in five

years, in the hope that adequate competition will have developed by the time to provide a powerful market-based incentive for Ameritech to provide quality service on an uninterrupted basis.

Again, I would ask that you reject empty pleas for "parity" on this issue. While Ameritech's stated concern for the welfare of its competitors' customers is admirable, its real motive is to burden its competitors with unneeded and costly regulation. The market will function to discipline other providers when it comes to retail service. Obviously the market does not provide this type of incentive to Ameritech, given their problems in 2000 and 2001. Only Ameritech has compiled the kind of historical record that justifies this level of consumer protection.

IV. Service Quality Penalty Under Price-Cap Formula (Section 14 of the sub)

To provide additional leverage to guarantee Ameritech's retail service quality, the bill proposes to increase the service quality penalty under the price cap formula for Ameritech from 2% to 10%. This would increase the maximum offset for service quality from approximately \$5 million to \$25 million.

V. Rural Telecommunications Investment Plan (Sections 27 through 30)

To spur the development of competition and the deployment of advanced services in rural areas, I am proposing certain modifications to the general prohibition on cross-subsidization. Under this proposal, small telecommunications utilities (those with fewer than 50,000 lines) would be able to do the following:

1. Small telecommunications utilities would be permitted to guarantee loans for affiliated, competitive ventures for the purpose of funding telecommunications services or cable television. While the guarantee could be for the life of the loan and could exceed the company's retained earnings, it would have to be taken out within five years of the bill's enactment. In order to take advantage of this provision, the company would have to waive both its state franchise and its rural exemption. If the company was unwilling to waive its federal rural exemption, then the affiliated venture must pay the incumbent utility an annual payment of 1% of the outstanding balance of the loan.
2. A small telecommunications company can allow free use of certain intangibles (name, goodwill, and intellectual property such as trademarks) by an affiliated competitive interest for use in offering telecommunications services or cable television service. In order to take advantage of this provision, the small telephone company must waive both its state franchise and its rural exemption. If the company is unwilling to waive its federal rural exemption, then the affiliated

venture must pay the incumbent utility an annual payment equal to 1% of its gross sales for each year that it uses the intangibles.

3. The plan also directs the PSC to develop rules governing asset transfers between small telephone companies and affiliated interests, and such rules must conform to federal FCC rules. In general, these rules would permit small companies to share personnel on a cost-value basis rather than a market-value basis up to an aggregate value of \$500,000 per year.

I believe this Rural Telecommunications Investment Plan will spur the development of competition and the deployment of advanced services in rural areas by providing meaningful financial incentives to small rural telephone companies to start competitive ventures while at the same time opening up their own protected territories to meaningful competition. Nobody gets a free ride under this proposal – the costs and benefits are carefully balanced.

VI. Interconnection, Collocation and Network Elements (Section 26 of the sub)

These provisions are similar to those contained in a telecom reform bill passed last year by the Illinois legislature and would require Ameritech to provide interconnection, collocation and network elements to competitors in a manner that promotes the maximum development of competition in this state and at a cost that is just, reasonable and nondiscriminatory.

VII. Slamming and Cramming (Sections 1 through 9 of the sub)

Telecommunications continues to be the number one source of complaints to DATCP. This bill incorporates the consumer protection provisions of AB 818, introduced by Representative Jon Richards and cosponsored by me. Rep. Richards and I worked with the Department of Agriculture, Trade and Consumer Protection for over one year to develop this package of curbs on slamming and cramming practices committed by bad actors in the telecommunications industry.

VIII. 5-Year PSC Study of Telecommunications Competition (Section 11)

Finally, I have incorporated, with changes I found to be appropriate, the suggestion of Ameritech that the PSC be required to conduct a thorough and far-reaching study of the status of telecommunications competition in Wisconsin five years after the enactment of this bill.

**TESTIMONY OF JOHN DUDLEY**

**President - Verizon Great Lakes Region**

**Before the Wisconsin Senate Committee on  
Health, Utilities, Veterans and Military Affairs**

**February 27, 2002**

Good afternoon, Mr. Chairman and members of the Committee. My name is John Dudley and I am the Great Lakes Region President for Verizon. I am here today to represent Verizon's interests in the state of Wisconsin.

Verizon and its predecessor companies have a long history of providing quality telephone service to Wisconsin consumers. As members of the Committee may be aware, Verizon has participated for the last year in meetings of the Telecommunications Task Force in both the Senate and the Assembly. Verizon has provided comments, attended meetings and been available to discuss the issues with members of the Task Force.

In the Senate Task Force, Verizon took the position that Act 496, passed by the legislature in 1994, was a good starting point on the road to reduce regulation on telecommunications carriers and set the course for a new approach based on competition and the marketplace. SB 451 reverses the philosophy underlying Act 496 and provides a whole host of unintended consequences for Wisconsin consumers and our industry. For this reason, the company does not support the provisions of SB 451.

**Grappling with the complex topic of "competition"**

From the beginning, Senator Jauch and other members of the Senate Task Force have expressed concern about the 'lack of competition' and choice for Wisconsin

consumers. Some of the members have said that they see little to no competition in telecommunications services and have become frustrated that consumers do not appear to have choices or alternatives, particularly when service quality is low. However, it's not quite so simple to assume telecommunications competition does not exist just because you can't see it. Even when there really are no alternatives available, it does not mean that the incumbent provider is being an obstructionist.

In telecommunications, "competition" cannot be spoken of generically. There are many markets and submarkets for the various telecommunications services. And, there is a variety of providers and potential providers for these services: basic residential and business phone service ("POTS"), inter and intrastate toll service, private lines, additional residential lines, Internet access, wireless, data and other advanced services are just a few of the submarkets. Players within these submarkets include wireless carriers, competitive local exchange carriers ("CLECs"), long distance carriers, data carriers ("DLECs"), CATV providers, satellite radio carriers and information service providers ("ISPs").

For a simple example, look at one of the services offered by your local telephone company - voice mail service. There may be no other carrier offering a competing voice mail service in your neighborhood. Does not mean there are no competing alternatives and thus, no competition? Of course not. All you need to do is walk into a nearby department store and pick up a simple automatic answering machine and you have a competing alternative.

Verizon agrees with many of today's leading economists' views on telecommunication competition. They argue that you cannot look at telecommunications competition and limit it to a particular technology. The industry has become more

complex than the simple local call over copper wires; so has the definition of competition.

As the long distance market continues to evolve, the once Holy Grail called “LATA” boundaries has become almost meaningless. When you consider that most wireless carriers today call the entire nation “local” in their calling plans, LATA boundaries become less important to consumers. Evidence indicates that more customers are abandoning their wired phones for wireless phones that effectively don’t have these old boundaries. Customers no longer have to think about what is a local call vs. an “in-region” toll call vs. a “normal” toll call vs. an EAS call.

Voice over Internet Protocol (VOIP) where customers make “calls” using their computers is also becoming a reality and we can be sure that other technologies will have further dramatic impact on communications competition. As history repeatedly teaches, competition does not spring from government central management or regulation, it springs from the genius of our free market economy.

Let’s get away from the voice mail example and look at POTS service. When you ask yourself if there is competition for POTS, consider the following:

- For the first time ever in history, POTS phone lines to the home are decreasing nationally while wireless, cable and satellite connections are increasing.
- A recent USA Today/CNN/Gallup poll finds that one in every five customers has abandoned their landline phones for cellular phones.
- Forrester Research estimates more than 5 million homes will use mobile and high-speed Internet access as their primary connection within 4 years.

- Rather than calling, has your child used e-mail to communicate with a nearby friend using Instant Messaging?
- How many times have you used your cell phone to make a call rather than pulling off the road to the nearest pay phone or sent an email rather than making a call? At work? At home? Even some legislators encourage constituents to contact them via e-mail rather than the phone.
- Internet users wanting high-speed connections have more than phone company offerings of DSL, DS1 or Frame Relay for choices. They can get connected via cable modem service offered by CATV companies, wireless Internet, and even satellite "broadband". These various broadband technologies are offering "local" and "long distance" calling using hand-held devices, laptops or PCs. They have the potential to replace the once-traditional ILEC local service and "phone" as we have come to know.

Those who quickly claim that telecommunications competition does not exist, often overlook these examples of "local" competition, many which use networks other than the phone company's traditional copper wires.

Over the last twenty-five years, the long distance, Internet and cellular markets have attracted many investors and new companies. These companies have developed an entire impressive array of new services and technologies (fiber optics, digital communications, satellite communications, etc.). This has undoubtedly provided a huge

economic benefit to Wisconsin and the entire country. But ask yourself this. How did such vibrant competition come about?

The progress we have seen in Wisconsin for competition in the long distance market and the cellular market has been accomplished by reduced regulation, not by increasing regulations or adding measurements. Entrepreneurs in these markets have come to expect market regulation rather than government intervention to guide progress in Wisconsin. Public policies set by Wisconsin's previous lawmakers have given clear signals that the wireless and long distance doors are open in Wisconsin. Investors have not had to worry about entering the state only to be crushed later by burdensome regulations.

Has Wisconsin given up on market dynamics in favor of the anomaly called "regulated competition"? Under this legislation being considered today in SB 451, investment in the telecommunications industry will likely be brought to a halt if the investing public sees "sticks" instead of "carrots". Investors need a consistent framework of public policy in order to feel comfortable about their decisions. SB 451, if implemented as introduced, would reverse Wisconsin's deregulatory impetus gained from the past 8 years. Many provisions of the bill would lead to conflicting and confusing directions in policy and would increase regulatory and administrative costs for companies without any accompanying benefit to Wisconsin consumers.

The theory of telecommunications competition is virtually unassailable. It worked with long distance; it can work on other telecommunications services. If provided with the opportunity to enter a market and make a profit, companies will invest

shrewdly in the latest technology to develop those services most in demand by potential customers. If the market is free and open, consumers benefit as companies compete.

Regulation is no substitute for this healthy, market-driven competition. With regulation, the public service commission only approximates but cannot replicate a competitive marketplace.

Unfortunately, the legislation before you does not increase competition. It clearly increases regulation and makes Wisconsin's government a bigger, more powerful player in spite of the competition that exists and the competition that will continue to grow. The consequences are stifled investment in new products and services for existing and potential carriers. The legislation, as introduced, would be placing Wisconsin at a competitive disadvantage in attracting technology investment dollars.

**Definition of competition (Section 14):**

This legislation, as written, leaves it up to the Public Service Commission to decide competitive market questions. The legislature is giving the Commission an impossible task. Workshops and hearings would consume Commission resources with numerous "white papers", dueling economists, and a rulemaking definition of competition that would probably be obsolete, if not irrelevant, by the day it was approved. It would simply be a costly process to produce an outdated result.

Verizon suggests that competition exists when providers have the freedom to enter and exit the market and customers have a choice of technologies or carriers for telecommunications services. This competition only can develop in the marketplace, not by regulators applying rigid formulas.

You can lead a horse to water but you can't make it drink. Likewise, you can have every door wide open to competition but that doesn't guarantee competition at each and every door.

Is a government definition of telecommunications competition really necessary? Will it positively impact investment and consumer choices? I think not. Verizon believes that this section of the bill should be eliminated.

**Retail Service Quality Standards and Penalties (Sections 6,7,9,19,20,21,22,23, 24, 25, 26, 27):**

These sections of the proposed SB 451 establish mandatory, automatic credits to customers for service disruptions, failure to meet installation intervals, and failure to keep appointments. While these service quality factors are important, it is ill advised for policymakers to now micromanage the industry after years of convincing evidence that the marketplace regulates quality. Can you imagine how a company looking to establish a competing widget business in Wisconsin would feel if policymakers began instituting new regulations on statewide widget production and distribution -- especially if those new rules were a direct result of an existing company making an inferior product?

Attempts to implement industry-wide regulations designed to punish poor quality unintentionally damages other providers and potential providers focused on product differentiation. In the American free enterprise system, price is not the only factor determining consumer choice. Service quality is a competitive tool – a tool which companies like Verizon use to differentiate their products and services.

Government does not need to intervene. The market ultimately forces a company to provide good service or give up share to providers offering better service. Verizon recognizes this. In Wisconsin, our service quality record is outstanding. As you can see by the four graphs attached to my testimony, year after year, Verizon has continually met or exceeded the current retail service quality standards set for us by the PSC. In addition, our consumer complaints are at near all-time lows. Clearly, Verizon prides itself on its commitment to customer service. We don't seek to meet the commission standards; we seek to exceed our customers' expectations.

Nowhere have our efforts to differentiate ourselves been more evident than in our Service Performance Guarantee (SPG). Verizon was the first company in Wisconsin to voluntarily implement such a measure and it has met with great success. Verizon's SPG is a tariffed item that lets our customers know that if we don't live up to their expectation, we'll make it right by providing a monetary credit for a missed appointment, a missed installation or an imperfect attempt to repair a problem. Neither the legislature nor the PSC required us to implement the SPG. We did it because we wanted to differentiate ourselves from our competition.

The proposed legislation as introduced would impose new service standards, self-executing "credits and allow excessive penalties - presumably because of one carrier's poor service record. However, the legislation as it currently exists would easily allow a Verizon competitor, customer or consumer group to undeservedly cry "foul" and perhaps bring upon the company a rash of unwarranted punishment and unnecessary credits. Verizon doesn't need such self-executing penalties. Verizon's service performance guarantee shows our commitment to good service. Such punishment and penalties dilute

the value our customers perceive from Verizon's SPG, making this differentiator worthless.

Legislating "good" service in a competitive market is antithetical to the basic precepts of American business. Many industries recognize that customers value products and services in different ways. In addition, regulations such as those proposed in SB 451 would lead to increased administrative and operating costs, which translate into increased prices – something I doubt Wisconsin citizens want. Before this legislature makes a determination that quality standards are lacking or inadequate, the public needs to know what the costs are going to be to implement a new set of standards.

The automatic credit provisions of the legislation, as they currently exist, could easily be extended to good companies like Verizon, thus penalizing us for not being perfect. Perfection is a goal Verizon strives to achieve. However, if we make a mistake, let us determine how to make it right with our customers. So far, we've done pretty well without legislation.

Even though the market eventually weeds out companies that have an unacceptable level of service, there are already provisions in place in Wisconsin that can address blatant misconduct and willful disregard for customer service. For example, there already are a host of consumer protection laws on the books, not to mention consumer sanctions. And, as I mentioned earlier, consumers do have choices and will buy discretionary services from those companies that execute the basics well. The unintended consequences of this section of SB 451 may well result in fewer competitors if you take away those competitors' ability to differentiate their service quality.

The current act already includes several sections that allow fining of public utilities if they violate the law or a Commission order. Not only that, but the act provides for treble damages in case of the most egregious conduct or willful violation of the law. There is more than sufficient authority already on the books to take action against telecommunications companies if the public interest requires such action.

**Wholesale standards for Interconnection, Collocation, UNEs (Sections 18,28):**

These sections of SB 451 establish further regulatory requirements beyond the FCC's requirements and the requirements of the federal Telecommunications Act of 1996. In some cases, duplicate standards would be implemented. Such new rules in Wisconsin simply are not necessary and are redundant. Examples of measures in place today include:

- An FCC 14-point checklist for 271 long distance entry and in various merger agreements that apply to both Verizon and SBC/Ameritech.
- A Wholesale Service Quality plan for Verizon approved by the FCC (with CLEC input). This "Carrier to Carrier Performance Assurance Plan" (C2C PAP) ensures that Verizon networks are open to any and all CLECs. To date, Verizon has not missed any standards and has not been penalized a single dollar for wholesale service quality standards attributable to Wisconsin. While the Wisconsin legislature is considering a handful of wholesale standards and how to apply penalties if those standards are not met, Verizon is already being measured under the C2C PAP using over 150 standards – many more than are being considered in this legislation.

- More than 50 interconnection agreements exist between Verizon and CLECs in Wisconsin. These agreements address Verizon's UNE, unbundling, and collocation obligations.
- The FCC has made recent proposals for a wholesale service quality rulemaking, which will also further ensure open networks.

The proposed legislation in SB 451 would duplicate areas already covered by federal regulations, legislation and contracts between companies. This proposal would lead to even further delays in telecommunications competition. What more can, or should, you add to 150 measurements?

**The Structural Separation Club (Section 12):**

The "structural separation" threat implied in SB 451 (to permit the Public Service Commission to break up a company if competition does not develop within five years) is yet another misguided attempt to mandate competition. It will have a chilling effect on potential investors, fearing the huge costs this "club" would impose on a large telecommunications carrier. Various national think tanks, other state legislatures, the FCC and other states' public utility commissions have already rejected this idea. Their conclusions are that such a drastic measure would increase customer confusion, unnecessarily increase resources, raise rates and lower service quality. Does this legislature or the Wisconsin PSC really need to spend valuable time on this "solution in search of a problem"?

Section 12 proposes that the Commission investigate competition throughout the five-year period and report to the legislature on the status of competition. While Verizon does not object to this provision, we are confident that such a report will show the gradual and consistent development of competition. On the whole, we believe it is unnecessary and unproductive.

**Increased Price Cap Penalty from 2% to 10% (Section 15):**

This provision increases the penalty mechanism for certain price-regulated carriers as a result of inadequate service. These carriers would have their rates adjusted through a formula that would increase the current 2% rate penalty to a maximum penalty of 10%. As previously stated, such penalties are just bad public policy. Verizon believes that Wisconsin's economic and business system should be based on market risk and reward. A better approach to ensuring increased service quality would be to actually provide INCENTIVES for companies that increase their level of quality. Consequently, Verizon proposes that this section be amended to actually reward companies by 10% if they have put forth the extra effort and costs associated with good service quality. Good service quality does not come cheap. There should be incentives that recognize this.

**Small Company Cross Subsidy: (Sections 11,30,32)**

Verizon contends this provision of the bill may ultimately lead to domination by one class of carrier and will add nothing to competition. Right now in five exchanges served by Verizon, small, rural phone companies currently are overbuilding our facilities and are serving customers that once were Verizon customers. This is unrefuted evidence

that rural competition from these small companies already exists and is growing. As such, there is no need to artificially slant the playing field in favor of the smaller telcos by legally allowing them to cross-subsidize. Such provisions are simply not necessary.

Cross-subsidizing will neither create nor encourage real competition in the rural Wisconsin marketplace. It in fact creates a disincentive for any incumbent or potential facilities-based carrier to try and compete against a company that is legally allowed to keep their prices below cost. Even the federal Telecom Act, in trying to instill local competition, recognized that implicit subsidies were not consistent with real competition.

### **Conclusion**

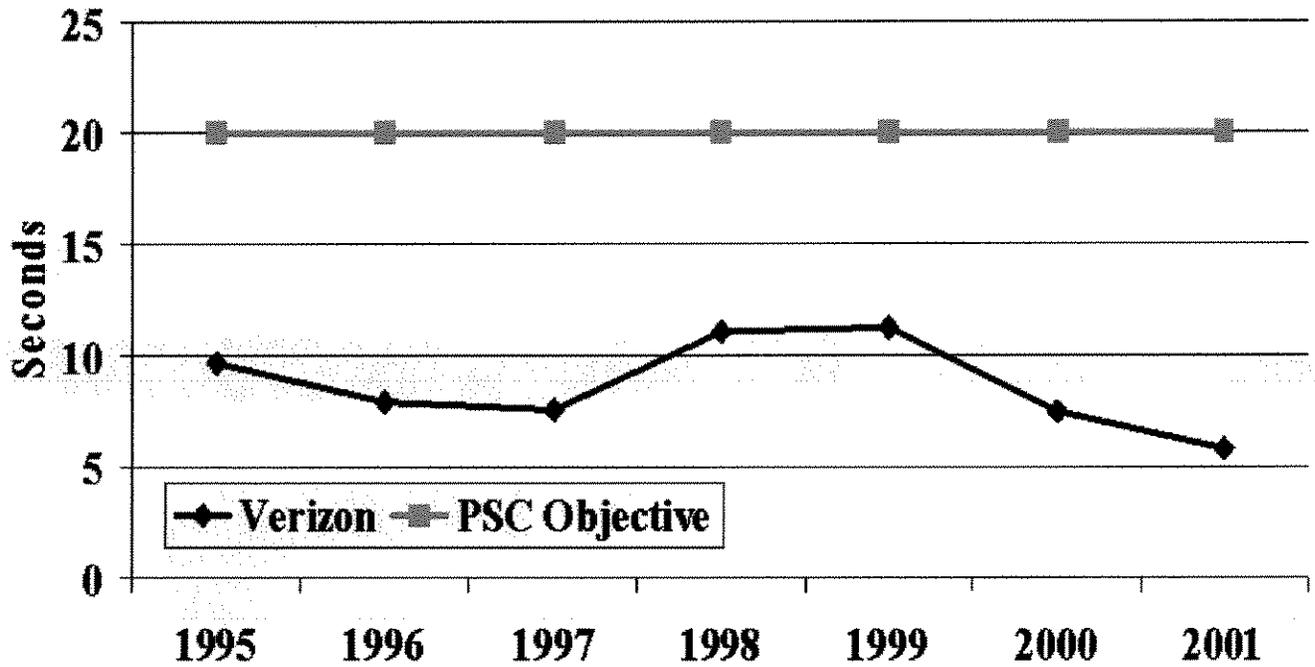
In summary, the provisions of SB 451 I have addressed offer a smorgasbord of regulatory admonitions; standards and definitions best left to the marketplace. The unintended consequence of SB 451 would be a negative impact on the development and deployment of competitive telecommunication technologies across the state of Wisconsin. The Task Force proposal and the resultant Senate legislation before us today move in precisely the wrong direction.

The bill as it currently exists is an abandonment of the direction set eight years ago by this legislature through Wisconsin Act 496 – an Act that has served consumers in the state well and recognized the changing environment of telecommunications. Verizon believes that between the provisions of Act 496, the Federal Telecommunications Act of 1996 and the marketplace, sufficient mechanisms are in place to deal with bad actors and to encourage competition in rural and urban areas of Wisconsin.

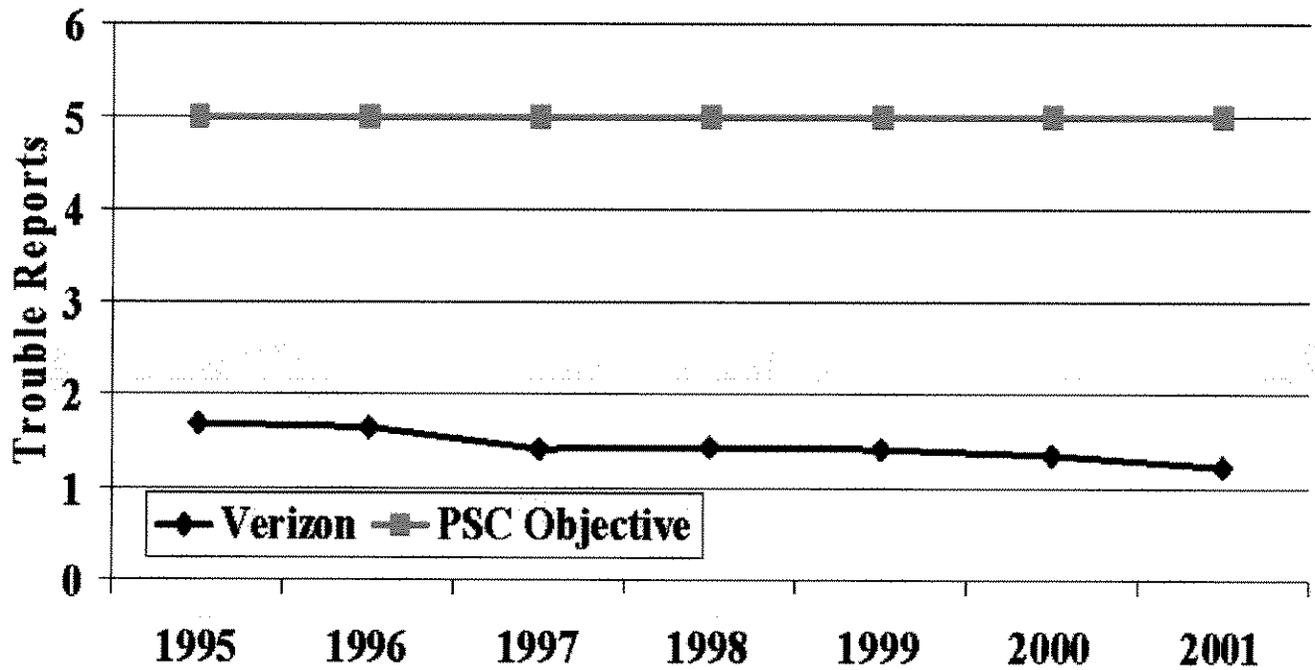
I encourage the Senate to continue the vision and deregulatory direction evident in Wisconsin's Act 496.

I thank you for your time and for allowing me this opportunity to comment on the legislation as it has been presented.

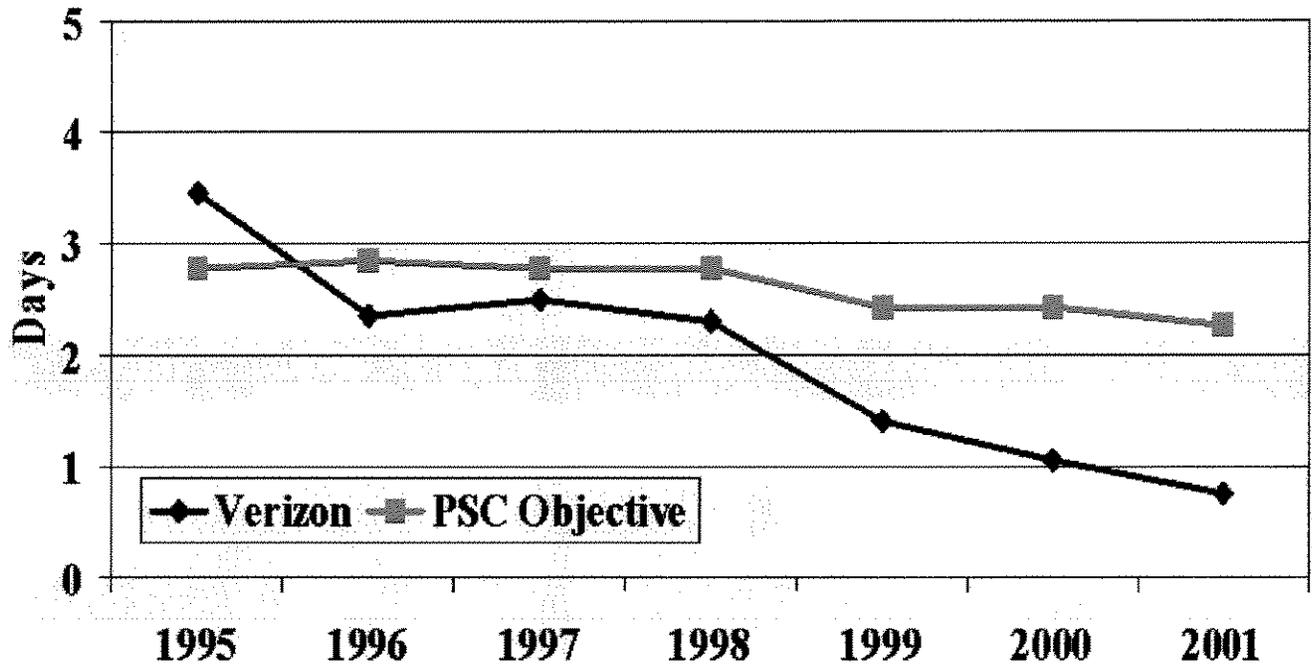
## Verizon North - Wisconsin Operations Average Employee Answer Time for Repair Calls



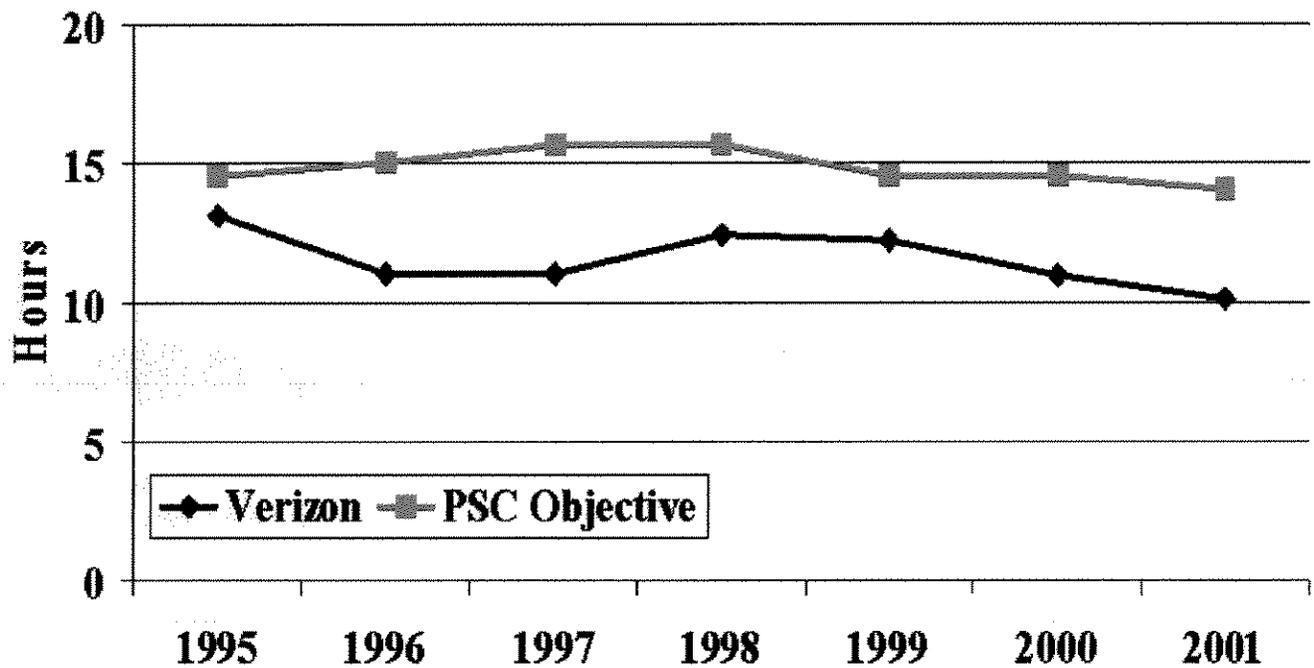
## Verizon North - Wisconsin Operations Initial Trouble Reports Per 100 Access Lines



## Verizon North - Wisconsin Operations Average Time Interval for Installations



## Verizon North - Wisconsin Operations Average Time Out of Service



BEFORE THE  
COMMITTEE ON HEALTH, UTILITIES, VETERANS AND MILITARY AFFAIRS

TESTIMONY OF

Pamela H. Sherwood  
Vice President of Regulatory Affairs  
Midwest Division

TIME WARNER TELECOM INC.

Time Warner Telecom  
3235 Intertech Drive  
Brookfield, WI 53045  
February 27, 2002

**Mr. Chairman and Members of the Committee:**

On behalf of Time Warner Telecom, I would like to thank the committee for the opportunity to talk to you today about the status of local phone competition. My name is Pamela Sherwood and I am the Vice President of Regulatory Affairs for the Midwest Division of Time Warner Telecom ("TWTC"), which has grown to be one of the largest new competitive providers in the telecommunications industry. We exist today because of the pro-competitive policies adopted in Wisconsin Act 496 and the Federal Telecommunications Act of 1996.

TWTC builds its own local and regional fiber optic networks and delivers broadband data, dedicated Internet access, and voice services to small, medium and large businesses. We provide service to a diverse customer base across the country. The Company currently serves business customers in 42 U.S. metropolitan areas. We plan to begin offering service in two more metropolitan areas by the end of the year 2001. We have invested approximately \$2.0 billion in building a network infrastructure, laying 500 route miles of fiber in Wisconsin, and have created nearly 2,500 high-tech jobs nationwide, 81 of which are in Wisconsin. Wisconsin is the headquarters for the Internet and Data Division of Time Warner Telecom. We have installed two switches and connected 181 buildings to our network to serve customers in the Milwaukee area, like Bank One, GE Medical, Midwest Express Center, Cobalt Insurance and Marquette Medical.

My response to the question "Is Act 496 promoting competition?" is no. It laid part of the foundation, but the foundation needs reconstruction. And where improvement is needed is in ensuring that measures are taken to prevent the incumbent provider from stamping out the competition that has developed in Wisconsin.

**TIME WARNER TELECOM INC. IS PROVIDING FACILITIES-BASED COMPETITION  
JUST AS THE WISCONSIN ACT AND THE FEDERAL ACT ENVISIONED**

**COMPANY HISTORY**

Time Warner Telecom began in 1993 as part of the Time Warner Entertainment Limited Partnership, offering facilities to other telecom carriers.

In 1997, the Company added voice circuit switches and began operating as a business CLEC. In 1998, Time Warner Communications became a separate entity from Time Warner Entertainment and began to operate as Time Warner Telecom Inc. During 1999, TWTC became EBITDA positive, acquired an ISP, built a national IP backbone and went public, offering 18,000,000 shares on the NASDAQ exchange. We trade under the symbol: TWTC. In August 2000, TWTC successfully purchased the assets of GST Telecommunications. This allowed us to double the size of the company and extend our operating footprint throughout the Western United States. By the end of 2001, TWTC plans to offer telecommunications services over its own fiber optic networks in 44 markets in 21 different states.

**OWNERSHIP STRUCTURE**

We are very proud to carry the Time Warner name. While Time Warner Inc., now AOL Time Warner, owns 44% of Time Warner Telecom Inc. stock, Time Warner Telecom Inc. is an independently owned and operated company. We have no financial backing from AOL Time Warner. We obtain the capital we need to do business the same way the rest of the independent CLECs obtain theirs, through debt and equity offerings in the financial markets and from operating cash flow.

**COMPANY GROWTH**

Today we have approximately 2500 employees and by the end of 2001 will be providing service and employing people in 21 states. TWTC's growth plans focus on geographic expansion, extension into new market segments and development of new data and Internet-based products and services. Our success to date is the result of building and deploying our extensive local and regional fiber optic networks all the way to the end user's building and

providing a diverse physical alternative to the incumbent LEC. Our expertise is in selling complex network services that customers want and need over these networks. We provide high quality broadband service to a diverse segment of the small, medium and large businesses in the country. We have already constructed approximately 9800 route miles of fiber. TWTC has constructed more route miles than any other local competitive carrier in the U.S. The fiber optic infrastructure we have built is important because it allows us to continue to layer more products and services on our network. One of the distinguishing characteristics of our network is that we have been laying this fiber in metropolitan areas; and the networks are large, averaging 400 route miles per city – 500 route miles in Wisconsin.

However, it is important that the Wisconsin legislature recognize that the largest competitor in all of our markets, the local incumbent, has the ability to stymie our growth. Establishment of certain ground rules, standards of service for wholesale customers and vigorous enforcement is the only elixir to the problem of anti-competitive behavior and abuse of market power.

#### **SERVICE PROVIDED**

This is how we do business. In every city that Time Warner Telecom lays fiber, the sales staff is required to prove in advance that there is business to be secured. We don't build a network just to show growth, we build a network to provide a service that is desired. And I can assure you that there is demand for the service we provide. In many cases we supplement the services that the incumbent carrier provides. Often, companies will come to us for their new business or for a specific portion of their telecom needs. As we prove our ability to provide this service, they give us more and more of their business.

The fiber optic networks we have built allow us to offer our customers any technology, product or service solution. Our networks allow us to provide voice and data telecommunications services to a diverse customer base including public schools, private schools, universities, health care facilities, banks, the high-tech community, government agencies and military installations, law firms, public utilities, many small businesses, Internet Service Providers, insurance

companies and most interestingly many of the telecommunications companies operating in the U.S.

**FOSTERING COMPETITION IN WISCONSIN REQUIRES  
SERVICE STANDARDS AND EFFECTIVE ENFORCEMENT**

TWTC has not just spent the last five years building networks. We have also been engaged in legal and regulatory battles across the nation for the right to do so. We are making progress in breaking the monopoly stranglehold, but it has not been quick and it has not been easy.

The Wisconsin Act of 1994 and the Federal Telecom Act of 1996 provided a framework transitioning the local telephone market from a monopoly to a competitive marketplace. The simple fact is, no company wants to lose business. This creates strong incentives for the monopoly provider to act in anti-competitive ways. But, in order to have a competitive market, the monopoly must lose customers to new entrants. It is not in the incumbent's financial interest to cooperate and assist their competitors in taking their customers. But, without this very activity, competition will not exist. Competition requires cooperation.

Government intervention and regulation are necessary until a competitive marketplace exists to replace that regulation. In the long run, it is in everyone's best interest to see this occur. Until it exists, government must stand ready to supply the incentives that the market cannot, incentives such as minimum standards of service for wholesale customers, with the appropriate financial incentive to meet and exceed those standards.

**SBC-AMERITECH'S STRATEGIC INCOMPETENCE**

Let me provide you with a few examples of the day-to-day hurdles that engulf our employees' time and attention, diverting them from building our customer base and deploying new network.

New entrants like TWTC must rely on the incumbent to interconnect networks so that calls can pass seamlessly, to make changes to their systems to recognize calls from competitors customers and to provision services that only the incumbent can provide such as the last mile of

the network. It is this reliance, and the lack of the incentive for the incumbent to get it right, that can cause a new entrant irreparable damage. It is clearly in Ameritech's best interest not to install trunks, open codes and provision circuits in a timely manner. If Ameritech fails to do this the quality of TWTC's service is severely diminished because customers cannot make calls and TWTC's overall business suffers because we cannot grow the business. We call this "Strategic Incompetence", because on the face of it, these daily problems could be written off as simple incompetence – but the consistent and strategic nature of the problems justifies the conclusion that Ameritech is protecting its market share while not overtly appearing to be engaging in anti-competitive behavior.

For instance, Time Warner Telecom notified Ameritech in November of 2000 that Ameritech needed to change its equipment to accept new telephone numbers of Time Warner Telecom customers in Hartland. Ameritech was supposed to have the new telephone numbers coded no later than January 29, 2001 so they get routed to the right place. We received no notice from Ameritech that there was any problem, so Time Warner Telecom went about business as usual, selling services to customers. When our customers in Hartland were ready to begin making calls, TWTC found out that Ameritech had still not made the change in its system. Ameritech finally got the work done – two months after it was supposed to have it done, putting TWTC in the position of explaining to new customers that they could not make calls because Ameritech hadn't done the work it was supposed to do. Ameritech has been a telecom company for over 80 years and should know how to modify its systems when new telephone numbers are added.

In some cases, TWTC leases the "last mile" necessary to reach the customer directly from Ameritech instead of duplicating the facility and pays a premium price to do so. 23% of the time, Ameritech does not install the service when it said it would. This puts TWTC in the position of having to explain to the customer that TWTC cannot provide service because Ameritech reneged on its commitment or forcing TWTC to expend a lot of time and resources babysitting orders. For example, we placed an order with Ameritech for service for a customer who was moving their business, and Ameritech committed to having the work done on July 20, 2001. TWTC

communicated that date to the customer, who scheduled movers based on the commitment that service would be installed on July 20. On July 18, Ameritech checked its system and notified TWTC that it did not have the facilities it needed on hand. TWTC had installed equipment on an expedited basis to meet the customer's moved date, and suddenly, Ameritech was putting this customer in the position of not having service at the last minute. TWTC escalated this issue to the top level of Ameritech and found that the "missing facilities" was a card that is typically kept on hand and easily found by Ameritech. Ameritech finally installed the service on July 19.

Other times, Ameritech delays making updates in its databases, which delays TWTC's ability to provide service to end-users. TWTC placed an order with Ameritech in April, and Ameritech told TWTC it would take six weeks for Ameritech to complete the work. Few customers are patient enough to wait six weeks for service! TWTC pushed Ameritech for a better date, and the circuit was ready within three weeks, but Ameritech would not allow TWTC to test the circuit until Ameritech had updated its records, which took another five days.

#### **IS THE PROBLEM FIXED?**

Ameritech 'claims' that the problems large numbers of retail customers experienced in 2000 have been fixed. These are the same 'claims' that Ameritech made when it had service problems in 1995 – problems that re-appeared five years later. The legislature and the Commission cannot be misled into believing that Ameritech's quality of service problem has been 'solved' never to reappear.

The bandage that Ameritech had put over its retail quality of service problem has failed to heal the gaping wounds in the quality of service that Ameritech provides to its wholesale quality of service providers. Ameritech does not have enough skilled and qualified employees devoted to wholesale customer's issues and Ameritech's own data provided to the FCC for July and August of this year paints a dismal picture for wholesale quality of service. For example:

- Dispatched Technician: when a problem required Ameritech to dispatch a technician, it took 45-48% longer to restore service for a CLEC customer than it did for Ameritech's own retail customer (161 hours vs. 109 hours);

- No Dispatch Required: it took Ameritech 47% longer to restore service to a CLEC customer when the problem didn't require a technician to be dispatched (28 hours vs. 19 hours);
- Installation of service: it took Ameritech 2.4 days to install a CLEC business customer compared to 1/2 day for an Ameritech business customer.

The most recent 7 months of data that Ameritech provided to TWTC illustrates that Ameritech quality of service has certainly not been 'fixed.' Ameritech manages to install services within the customer desired due date only 68-69% of the time. Even when it gets the service installed within the time frame committed, 9%-25% of the circuit's fail (depending on the type of service) – meaning that customers are still without service. This forces TWTC to place a 'trouble' ticket to get the failed circuits fixed – raising a new set of problems – getting Ameritech's time and attention from qualified technicians to solve the problem. 22% of the time, once the circuits are fixed, TWTC experiences trouble on the circuit again. The new customer does not care whose problems it is – they simply want the problem fixed.

While TWTC continues to work for a 'fix' to the quality of service problems with Ameritech and has been discussing these problems with Ameritech for over 16 months, Ameritech has refused to agree to be contractually bound to provision service within certain intervals, standards for service or to provide meaningful compensation for the harm done to TWTC by Ameritech's poor quality of service. Our experience leads us to only one conclusion - there must be a legislative fix to the problem that would require Ameritech to compensate new entrants for missing installation intervals, not repairing service problems promptly and having a large number of repeat problems. If those standards are not met, there must be self-executing remedies that create the appropriate financial incentive to meet those standards. It cannot simply be a 'cost of doing business' that Ameritech pays in lieu of fixing the problem. States like Illinois have based this incentive on a percentage of Ameritech's gross revenues, passing legislation with a 0.00825% of revenue penalty – allowing it to impose fines up to \$250,000 a day, \$91.25 million a year. Other states and the FCC have imposed fines and in those states, Ameritech is paying attention - making improvements to its infrastructure and process. Wisconsin should follow the visionary lead of Illinois to ensure that Ameritech to provide quality service to its wholesale customers by providing the right legislative incentives.

**VIGOROUS COMPETITION MUST BE ESTABLISHED IN THE LOCAL MARKET  
PRIOR TO ALLOWING AMERITECH INTO THE LONG DISTANCE MARKET**

The Federal Telecom Act of 96 attempted to create an incentive for the incumbents to open their networks to competition -- the "carrot" of in-region long distance entry for the incumbents if and when they open their local networks to competition. By requiring the incumbents to meet the 14-point checklist prior to entering the long distance market, Congress has given the incumbents a financial incentive to cooperate.

While TWTC appreciates Ameritech's desire to be able to offer a long distance product, that product is available to customers and carriers today on a competitive basis. In order for consumers to truly enjoy the benefits of a broadband network and truly competitive pricing, we must have competition at the local level. The only true way to incent Ameritech to provide its customers with broadband telecommunications service is by ensuring that if it doesn't, there is another carrier in the marketplace that will. Herein lies the danger -- if the incumbent is granted long distance relief before there is vibrant, sustainable competition, then customers and the state of Wisconsin will be the losers; they will lose competitive choices that drive technological development, high quality service and lower prices and Wisconsin will lose the very companies that are building the telecommunications infrastructure and drawing high tech businesses to the state. Customers will be left with one choice -- to purchase from the monopoly -- who will then have additional regulatory freedom and little, if any, oversight by the Commission. A way to ensure that Wisconsin isn't left with only a deregulated monopoly is to require that 20% of customers be served by a competitor before Ameritech is allowed into the long distance marketplace.

## CONCLUSION

Time Warner Telecom is committed to building broadband networks in the local markets. Faced with this direct competition, the incumbents will have no choice but to meet us in the marketplace by deploying new facilities or finding more ways to expand the ability of their copper wires to provide broadband services.

Wisconsin began the process of laying the ground rules for competition in 1994. Seven years later, the incumbent providers have grown by mega mergers, Ameritech maintains over 90% of the market share with rising revenues, and new entrants are battling a war of attrition. The risk of remonopolization is real. Adjustments need to be made to Wisconsin's Telecom Act so the Commission and competitors can obtain a remedy when the rules aren't followed. The enforcement measures that Wisconsin's Commission has at its disposal must be meaningful and provide the right incentive. They must be something more than just the "price for doing business." It is naïve to expect the incumbent phone companies to develop policies and procedures that will allow their competitors to steal their customers. But without competitors taking customers away from the local monopoly, you will not have competition.

Again, I very much appreciate the opportunity to appear before you today, and I welcome the opportunity to answer any questions that you may have. Thank you.

## kpmg Consulting

Exception Report	19	Version	1	Owner	KPMG Consulting
Issued	November 29, 2001	Test	PMR1	Role	Test Manager
Applicability	Michigan, Illinois, Indiana, Ohio, Wisconsin				

Ameritech's data retention policies regarding source data do not enable thorough and complete audits to be conducted or facilitate the resolution of potential disputes which may arise between the CLECs, Ameritech and the regulatory agencies regarding the correct reporting of performance measurement results.

### Issue

As part of Metrics Data Collection and Storage (PMR1) testing, KPMG Consulting has attempted to identify the source systems that capture data used in the calculation and subsequent reporting of performance measurements. Ameritech has indicated that "raw" data (i.e. order level data) is retained for three years. However, KPMG Consulting has learned that this data, although detailed, has been processed and therefore cannot be considered to be in its rawest form. KPMG Consulting's expectation is that source data be retained in its raw unprocessed form and not be summarized, processed or filtered. Any processing which occurs may compromise the integrity of the data, possibly introducing errors in the reporting of the performance measurement results.

On July 24, 2001 KPMG Consulting requested from Ameritech data retention policies for what had been identified as source systems in order to determine the retention of source system data. Over the course of the next several months, KPMG Consulting worked with Ameritech to obtain the required information. To date, KPMG Consulting has been unable to discern from Ameritech its data retention policies and practices on an individual source system basis. Ameritech provided a document<sup>1</sup> which indicates that systems which first capture the data used in Performance Measurement Reporting "...are transactional systems, not reporting systems, they typically do not retain data for more than one or two months."

Long term retention of source system data is necessary in order to conduct thorough and complete audits and resolve potential disputes that may arise between CLECs, Ameritech, and regulatory agencies regarding the correct reporting of performance measurement results. Ameritech may also be unable to regenerate corrected historical performance measurement reports if inaccuracies in these reports are found.

### Assessment

Ameritech's failure to maintain source data in its original form makes complete and thorough annual audits of retrospective data impossible. Attempts to trace errors in the reported results are hindered by the lack of retention of source data, and Ameritech may not be able to regenerate performance measurement reports as required.

<sup>1</sup> Document entitled "Data Retention Architecture" provided by Jim Ehr on November 15, 2001.

*This exception report is for discussion purposes only and is subject to change without notice.*

## kpmg Consulting

Exception Report	20	Version	1	Owner	KPMG Consulting
Issued	November 30, 2001	Test	PMR1, PMR4, PMR5	Role	Test Manager
Applicability	Michigan, Illinois, Indiana, Ohio, Wisconsin				

The procedures and controls Ameritech has in place for performance measurement calculation and reporting are inadequate.

### Issue

KPMG Consulting has concluded that Ameritech's procedures, documentation, and controls for calculating and reporting performance measures are inadequate to ensure that the results reported are consistently accurate and complete.

During the course of testing, KPMG Consulting has requested Ameritech technical documentation that describes how performance measurement results are calculated from performance measurement reporting systems. Accurate and complete technical documentation is essential for Ameritech to ensure that its personnel follow a consistent set of procedures and that system changes can be made reliably over time. KPMG Consulting has concluded that the documentation provided for approximately half of the performance measures is inaccurate, incomplete or does not exist.

KPMG Consulting also requested information about the flow of data through Ameritech systems from the initial point of data capture through to the performance measurement reporting. In many cases, the technical documentation made available did not accurately or completely trace the flow of data from the source system to the performance measure reporting system. Additionally, Ameritech personnel interviewed about these topics did not possess the requisite knowledge to adequately describe how performance measurement data is processed through Ameritech systems and to describe how Ameritech calculates performance measurement results. This information, whether available through documentation or knowledgeable personnel, is necessary for Ameritech to ensure accurate and complete performance measures calculation and reporting, particularly as changes are made to the Operational Support Systems that provide data for calculations.

To assess whether apparently inadequate performance metrics procedures, controls, and documentation could be leading to inaccurate reporting, KPMG Consulting has been monitoring the restatement activity for performance measurement results posted on the Ameritech performance measurement website. Since May 22, 2001, KPMG Consulting has observed that Ameritech frequently restates performance measurement results.

Table 1 below, illustrates a series of changes that have occurred to the April posted performance measure results between May 22<sup>nd</sup> (when they were initially posted) and November 6<sup>th</sup>. Ameritech restated the results for 53 of the 165 performance measurements, or nearly a third of the total. Of the 53 restated measures, fifteen were restated more than once. In total, Ameritech made 79 performance measurement restatements.

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## kpmg Consulting

**Table 1 - Changes<sup>1</sup> Over Time for the Month of April<sup>2</sup>**

Download Dates	# of PM's Changed
05/22 to 05/29	0
05/29 to 06/04	0
06/04 to 06/11	15
06/11 to 06/18	0
06/18 to 06/25	6
06/25 to 07/02	0
07/02 to 07/09	19
07/09 to 07/16	1
07/16 to 08/22	10
08/22 to 09/04	16
09/04 to 09/10	0
09/10 to 09/17	1
09/17 to 10/01	3
10/01 to 10/15	0
10/15 to 10/30	0
10/30 to 11/06	8
<b>Total</b>	<b>79<sup>3</sup></b>

KPMG Consulting also looked at the percentage of measures that changed by reporting month, including April, May, June, July, August and September. The figures in Table 2 illustrates that results were restated for over a quarter of the measures for April, May and June. Additionally, September results were restated less than 2 weeks after the results were posted.

KPMG Consulting's analysis shows that Ameritech continuously restates results as a normal course of business. Consequently, KPMG Consulting expects that as time progresses additional restatements for performance measurement results for July, August, and September will occur thereby increasing the percentage of measures restated for those three months to levels similar to those found for April through June.

<sup>1</sup> A change is counted if any of the following pieces of information were restated: Numerator, Denominator, CLEC Value, Retail Value, Benchmark, Z-Value or the Affiliate Value. Formatting changes, such as reporting to 2 decimal places rather than 0 decimal places are not counted as a change.

<sup>2</sup> All States

<sup>3</sup> This figure indicates the total number of changes that occurred between May 22<sup>nd</sup> (initial posting) and November 6<sup>th</sup>. This does not indicate the number of performance measures changed; one performance measure may have changed multiple times.

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## kpmg Consulting

**Table 2 - Changes by Reporting Month<sup>4</sup>**

Distinct Number of Performance Measures For Which Posted Results Changed <sup>5</sup>				
Reporting Month	Download Dates	PMs Changed <sup>6</sup>	Total PMs	% Changed
April	05/22 to 11/06	53	165	32%
May	06/21 to 11/06	54	165	33%
June	07/23 to 11/06	42	165	25%
July	08/22 to 11/05	27	165	16%
August	09/24 to 11/05	11	151	7%
September	10/23 to 11/05	3	151	2%

In summary, KPMG Consulting has found that Ameritech's procedures, documentation, and controls for calculating and reporting performance measures are inadequate to ensure that the results reported are consistently accurate and complete. These inadequacies are resulting in inaccurate performance metrics reporting which require frequent restatements of Ameritech's posted performance measurement results.

### Assessment

CLECs and regulatory agencies rely upon Ameritech's published performance measurements to assess the quality of service provided by Ameritech. Without reasonable assurance that such measurements are accurate, the reliability of Ameritech's performance measurement results could be called into question by numerous interested parties.

<sup>4</sup> A change is counted if any of the following pieces of information were restated: Numerator, Denominator, CLEC Value, Retail Value, Benchmark, Z-Value or the Affiliate Value. Formatting changes, such as reporting to 2 decimal places rather than 0 decimal places are not counted as a change. .

<sup>5</sup> All States.

<sup>6</sup> This represents the number of distinct performance measures changed between the two dates indicated.

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## kpmg Consulting

Exception Report	41	Version	1	Owner	KPMG Consulting
Issued	February 11, 2002	Test	PMR3	Role	Test Manager
Applicability	Michigan, Illinois, Indiana, Ohio, Wisconsin				

Ameritech's metrics change management process does not require the identification of changes to source data systems that impact metrics reporting and the communication of those changes to relevant parties.

### Issue

As part of the PMR3 (Metrics Change Management) test, KPMG Consulting reviewed Ameritech's change management procedure manual *SBC/Ameritech Performance Measures Internal Change Management Policy & Procedure*. The review revealed that Ameritech's change management process does not provide for the monitoring and communicating of changes made to upstream data systems that impact metrics. Upstream systems are the systems that come directly before and provide data to metrics reporting systems.

KPMG Consulting also interviewed Ameritech's personnel responsible for the eleven systems used in calculating performance measurements: Regulatory Reporting System (RRS); Decision Support System (DSS); Mechanized Order Receipt/Tel (MORTel); Ameritech Customer Information System (ACIS); Ameritech Service Order Negotiation System (ASON); Work Force Administration (WFA-/C/DI/DO); Loop Maintenance Operation Support (LMOS); Mechanized Trouble Analysis System (MTAS); Facilities Modification Orders (FMOD); 114-115 Database System; and Collocation Database System. The interviews revealed that there are no requirements for communication between the owners of the OSS source systems and owners of the metrics reporting systems about changes that impact metrics reporting.

### Assessment

Without communication between system owners, Ameritech personnel responsible for producing metrics reports may be unaware of changes made to such systems that impact metrics reporting. This may lead to incorrect reporting of performance measurement results.

*This exception report is for discussion purposes only and is subject to change without notice.*

<b>Exception Report</b>	<b>42</b>	<b>Version</b>	<b>1</b>	<b>Owner</b>	<b>KPMG Consulting</b>
<b>Issued</b>	<b>February 11, 2002</b>	<b>Test</b>	<b>PMR4</b>	<b>Role</b>	<b>Test Manager</b>
<b>Applicability</b>	<b>Michigan, Illinois, Indiana, Ohio, and Wisconsin</b>				

Ameritech failed to extract all the April 2001 data from the Regulatory Reporting System (RRS) required to calculate certain performance measurements.

### Issue

During attempts to resolve discrepancies KPMG Consulting identified in the PMR5 (Metrics Calculation and Reporting) test for the month of April, Ameritech identified a flaw in the data extraction process that limits the extracted data from RRS used in the calculation of performance measurements to a maximum capacity of 2 Gigabytes. As a result data records beyond the 2 Gigabyte limit were not properly extracted and could not have been included in the published performance measurement calculations.

KPMG Consulting's review found that extracts for POTS Install and POTS Repair data exceeded the 2 Gigabyte limit, affecting a total of 48 performance measurements. At current rates of growth, KPMG Consulting believes this extraction issue would eventually impact all RRS based performance measures.

### Assessment

CLECs and regulators rely on Ameritech's published performance measures to assess the quality of service provided by Ameritech. Ameritech's failure to completely extract complete data for use in these calculations resulted in inaccurate performance measures that impede the ability of CLECs and regulators to assess and rely on posted performance measurement results.

*This exception report is for discussion purposes only and is subject to change without notice.*

**TESTIMONY OF  
ANDREW S. PETERSEN  
DIRECTOR-LEGISLATIVE AFFAIRS  
TDS TELECOMMUNICATIONS, INC.**

**THE STATE OF COMPETITION IN THE  
WISCONSIN TELECOMMUNICATIONS  
MARKET**

## INTRODUCTION

For members of the Committee I have not yet met, my name is Drew Petersen. I am Director of Legislative Affairs for TDS Telecom Inc., which is headquartered here in Madison, WI. We are the fifth largest employer in Dane County and provide local phone service to a wide variety of residents throughout the State of Wisconsin.

As you might expect from my title, my primary day-to-day responsibilities as Director of Legislative Affairs are to serve as Chief company spokesman before the US Congress, Federal Agencies, the White House, various media outlets and of course, all of the 29 state legislatures where we have local service operations.

For purposes of today's discussion, I will be focusing my remarks on behalf of both our incumbent local exchange carrier (ILEC), TDS TELECOM, which owns and operates nineteen local phone companies in such communities as Verona, Waunakee, New Glarus, Waterford, Middleton, Monroe, Bonduel, Neillsville and Alma-- and our competitive local exchange carrier (CLEC), TDS METROCOM, which is the largest CLEC in Wisconsin providing business phone service to approximately 65,000 business lines and residential service to 60,000.

As a point of reference, the average size of our ILEC companies is around 6,000 lines so it might interest the committee to know that we are both a member of the Wisconsin State Telecom Association (WSTA) and a chief competitor to at least a few of the membership of WSTA.

To be clear, the majority of our corporate interest and involvement in this legislation is related to our CLEC operations and the struggles we have consistently encountered with the largest incumbent local phone provider in Wisconsin, SBC-Ameritech. To that end, we are succinctly of the view that to successfully alter the competitive local phone marketplace in Wisconsin, public policy makers should reform three specific components contained in Wisconsin Act 496. The telecommunications reform package we contemplate today aims to do just that.

First, wholesale service standards for SBC-Ameritech are essential to remedy the anti-competitive behavior we have encountered time and again from SBC-Ameritech as a chief competitor and purchaser of wholesale services. Second, retail service incentives are necessary to protect SBC-Ameritech's and many CLEC customers from the service outages, missed appointments and unreliable service standards encountered in 1996 and again in 2000 as provided by SBC-Ameritech. And finally, additional enforcement authority is needed by the Wisconsin Public Service Commission (WI PSC) to ensure the public interest is protected and also that the cycle of litigation that SBC-Ameritech has opted in favor of, instead of making adequate infrastructure and operating support system investments must end.

My testimony today will provide some useful background information on how we operate our CLEC business model and how we provide service to residential and business customers in Wisconsin. It will also address the specific,

targeted enforcement authority the Wisconsin Public Service Commission deserves as the chief watchdog of the local phone industry.

## **BACKGROUND**

TDS Metrocom is a Wisconsin facilities-based competitive local exchange carrier, authorized to provide telecommunications services, including local access services, basic access lines, analog, and digital trunks for PBX and other switching equipment as well as dedicated access and private line services. In addition to these services, we provide enhanced products and services including custom and advanced calling features, voice mail, calling cards, and long distance and high speed Internet services using DSL technology. We operate in Wisconsin, Illinois, and Michigan. In essence, we provide business and residential customers an alternative to SBC-Ameritech in our chosen markets, a goal I believe public policy maker's intended when they passed Wisconsin Act 496.

While TDS Metrocom provides service over our own fiber-optic facilities, we also provide a significant amount of our services to customers through the purchase of unbundled copper loops from SBC-Ameritech Wisconsin. Unbundled copper loops are physical copper network connections running from the customer's premise to TDS METROCOM's network point of interconnect with SBC-Ameritech. Simply put, this is part of the network we lease from Ameritech that enables us to connect customers to our network. It is the "last mile" or the portion of the public telephone network referred to as the infrastructure that leads from the curb to the home. This concept of "leasing loops" is one of the

fundamental principles of the federal Telecommunications Act of 1996 as well as Wisconsin Act 496. It is the law of the land, the Federal Communications Commission and the Wisconsin PSC recognize it and it is not currently being followed by SBC-Ameritech today.

Certain barriers to competition exist in Wisconsin, which, until adequately addressed, will prevent the realization of a truly competitive telecommunications market in the state. Over the course of the last several months, my colleagues and I, the Wisconsin Public Service Commission and various consumer groups have demonstrated time and again in both the Assembly and Senate Telecommunications taskforces respectively that SBC-Ameritech can and has erected barriers to make competitive entry unattractive from an investment standpoint.

For example, seeking to charge exorbitant unbundled loop rates. SBC-Ameritech has recently proposed loop rates that would exceed current rates by roughly three times the current level set by the Wisconsin Public Service Commission. This has the dramatic impact of causing investors to get jittery as to whether or not it will remain attractive and cost effective to continue to serve CLEC customers under this proposed new regime.

SBC-Ameritech has also levied arbitrary and undocumented construction charges that appear after we secure an SBC-Ameritech customer to our network. These charges leave us with a one-time charge of often thousands of dollars that was not anticipated when the switch was originally contemplated. Public service

commissions around the Midwest have outlawed or significantly reduced the ability of SBC-Ameritech to levy these charges. The Wisconsin Public Service Commission has not been able to make this important determination.

Finally, it is imperative that this committee understand that the Wisconsin Public Service Commission currently lacks the enforcement authority to protect the rights of retail and business consumers and CLEC's to ensure minimum standards of conduct are adhered to. The Commissions authority must be surgically enhanced to remove the barriers to competition erected by SBC-Ameritech.

#### **WISCONSIN PUBLIC SERVICE COMMISSION ENFORCEMENT AUTHORITY**

Under current state law, the Commission lacks adequate enforcement authority and CLEC's lack adequate enforcement rights to force SBC-Ameritech to comply with its contractual obligations and existing telecommunications laws, and remedy those violations.

As we know from the summer of 2000 and since, SBC-Ameritech has a history of unfair and anticompetitive refusal to honor its agreements. SBC-Ameritech also has a highly litigious approach to regulatory issues, and engages in undue litigation and delay tactics. Moreover, because of its monopoly position, SBC-Ameritech has little real incentive to comply with Commission directives, such as implementing OSS systems improvements like the "Hot Cut" process.

Consequently, CLEC's currently are required to engage in protracted and expensive regulatory and legal proceedings, for example, under § 196.199, Stats., to force SBC-Ameritech to comply with its contractual and legal obligations.

TDS Metrocom was the first and only company to use the dispute resolution process under § 196.199 and we experienced numerous shortcomings with the law.

Moreover, because Wisconsin case law has held that the Commission does not have authority to directly levy forfeitures and penalties for the violation of telecommunications laws, CLEC's often are left without any remedy, or an inadequate remedy, even after engaging in protracted and expensive litigation. SBC-Ameritech, in turn, is able to avoid, or delay, performing its obligations and duties without any real consequences.

Accordingly, this legislation is absolutely necessary to enhance the Commission's enforcement authority and enhance competitor's enforcement rights. Specifically, legislation should be enacted, which enhances the Commission's enforcement powers, including (a) granting the Commission explicit authority to take administrative action and institute all necessary proceedings for the enforcement of existing telecommunications laws; (b) authorizing the Commission to levy forfeitures or penalties directly for violation of existing laws; (c) authorizing the Commission to award forfeitures, penalties or damages to telecommunications providers harmed by violations of

telecommunications laws; and, (d) authorizing the Commission to award attorney's fees.

Similarly, legislation should be enacted which authorizes telecommunications providers (a) to bring complaint proceedings before the Commission and before a court; (b) to seek an award for actual damages for harms suffered; and, (c) to seek attorney's fees.

If faced with certain and substantial consequences for its violations of the law and failure to comply with its contractual obligations, SBC-Ameritech may be deterred from engaging in anticompetitive behavior.

### **CONCLUSION**

Over the course of the last several months, the Assembly and Senate Telecommunications Taskforces have thoughtfully, responsibly and willingly reviewed the pace of competition present in Wisconsin, the significant amount of anti-competitive behavior illustrated time and again by SBC-Ameritech and have crafted, targeted and surgical reforms that will stabilize the competitive local phone service marketplace in Wisconsin.

Let me be clear, reform of the telecommunications landscape in Wisconsin is long overdue. Since 1994, only 240,000 retail or business lines of approximately 4 million phone lines in this state have migrated away from incumbent carriers to CLEC's. I would respectfully suggest this is not because SBC-Ameritech is providing stellar service.

CLEC's have been forced to operate at a competitive disadvantage because of opportunistic anti-competitive practices employed by SBC-Ameritech that must be stopped "dead in their tracks" today.

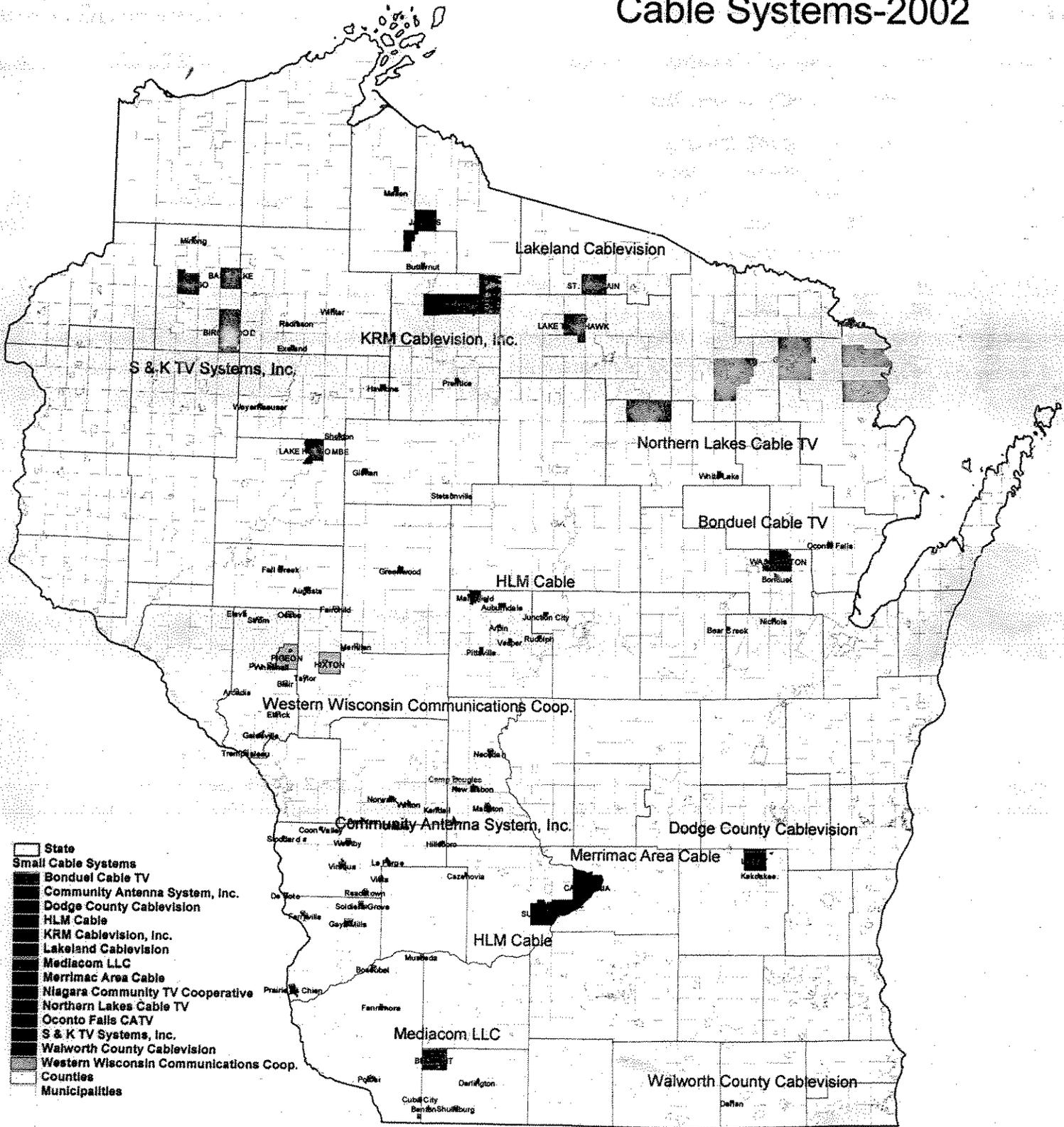
With the adoption of this telecommunications reform package, legislators will clear away the regulatory underbrush that aids incumbents and set a course for sustained consumer choice in the local phone marketplace.

This package, crafted over the course of the last several months aims to accomplish these reforms swiftly and deliberately. This was the task and charge considered by each task force and the results are clear and unequivocal.

We should adopt these measures without delay for the benefit of your constituents, our customers and the general public that is clamoring for reform to take place.

I thank you for the opportunity to provide this testimony. I look forward to any and all questions the committee may have.

# Wisconsin's Small Cable Systems-2002



# Wisconsin's Small Cable Systems

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## **Bonduel Cable TV**

### *Wisconsin Communities Served*

Bonduel-V, SHAWANO  
Cecil-V, SHAWANO  
Washington-T, SHAWANO

## **Community Antenna System, Inc.**

### *Wisconsin Communities Served*

Cazenovia-V, RICHLAND  
Cazenovia-V, SAUK  
Elroy-C, JUNEAU  
Hillsboro-C, VERNON  
Kendall-V, MONROE

## **Dodge County Cablevision**

### *Wisconsin Communities Served*

Brownsville-V, DODGE  
Kekoskee-V, DODGE  
Leroy-T, DODGE

## **HLM Cable**

### *Wisconsin Communities Served*

Arpin-V, WOOD  
Auburndale-V, WOOD  
Hewitt-V, WOOD  
Junction City-V, PORTAGE  
Marshfield-C, WOOD  
Pittsville-C, WOOD  
Rudolph-V, WOOD  
Sumpter-T, SAUK  
Vesper-V, WOOD

# Wisconsin's Small Cable Systems

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## **KRM Cablevision, Inc.**

### *Wisconsin Communities Served*

Augusta-C, EAU CLAIRE  
Butternut-V, ASHLAND  
Fall Creek-V, EAU CLAIRE  
Fifield-T, PRICE  
Greenwood-C, CLARK  
Hawkins-V, RUSK  
Jacobs-T, ASHLAND  
Mellen-C, ASHLAND  
Prentice-V, PRICE  
Stetsonville-V, TAYLOR

## **Lakeland Cablevision**

### *Wisconsin Communities Served*

Lake Tomahawk-T, ONEIDA  
St. Germain-T, VILAS

# Wisconsin's Small Cable Systems

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## Mediacom LLC

### *Wisconsin Communities Served*

Belmont-T, LAFAYETTE  
Benton-V, LAFAYETTE  
Boscobel-C, GRANT  
Camp Douglas-V, JUNEAU  
Cashton-V, MONROE  
Chaseburg-V, VERNON  
Coon Valley-V, VERNON  
Cuba City-C, GRANT  
Cuba City-C, LAFAYETTE  
Darlington-C, LAFAYETTE  
De Soto-V, CRAWFORD  
De Soto-V, VERNON  
Fennimore-C, GRANT  
Ferryville-V, CRAWFORD  
Gays Mills-V, CRAWFORD  
Hazel Green-V, GRANT  
Hustler-V, JUNEAU  
La Farge-V, VERNON  
Mauston-C, JUNEAU  
Muscodav-V, GRANT  
Muscodav-V, IOWA  
Necedah-V, JUNEAU  
New Lisbon-C, JUNEAU  
Norwalk-V, MONROE  
Ontario-V, VERNON  
Potosi-V, GRANT  
Prairie Du Chien-C, CRAWFORD  
Readstown-V, VERNON  
Shullsburg-C, LAFAYETTE  
Soldiers Grove-V, CRAWFORD  
Stoddard-V, VERNON  
Tennyson-V, GRANT  
Viola-V, RICHLAND  
Viola-V, VERNON  
Viroqua-C, VERNON  
Westby-C, VERNON  
Wilton-V, MONROE

# **Wisconsin's Small Cable Systems**

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## **Merrimac Area Cable**

### *Wisconsin Communities Served*

Caledonia-T, COLUMBIA  
Merrimac-T, SAUK  
Merrimac-V, SAUK

## **Niagara Community TV Cooperative**

### *Wisconsin Communities Served*

Niagara-C, MARINETTE

## **Northern Lakes Cable TV**

### *Wisconsin Communities Served*

Amberg-T, MARINETTE  
Bear Creek-V, OUTAGAMIE  
Elcho-T, LANGLADE  
Goodman-T, MARINETTE  
Krakow-T, SHAWANO  
Laona-T, FOREST  
Nichols-V, OUTAGAMIE  
Pembine-T, MARINETTE  
White Lake-V, LANGLADE

## **Oconto Falls CATV**

### *Wisconsin Communities Served*

Oconto Falls-C, OCONTO

# **Wisconsin's Small Cable Systems**

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## **S & K TV Systems, Inc.**

### *Wisconsin Communities Served*

Birchwood-T, WASHBURN  
Exeland-V, SAWYER  
Gilman-V, TAYLOR  
Lake Holcombe-T, CHIPPEWA  
Mikana-T, BARRON  
Minong-V, WASHBURN  
Radisson-V, SAWYER  
Sheldon-V, RUSK  
Trego-T, WASHBURN  
Weyerhaeuser-V, RUSK  
Winter-V, SAWYER

## **Walworth County Cablevision**

### *Wisconsin Communities Served*

Darien-V, WALWORTH

# Wisconsin's Small Cable Systems

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## Western Wisconsin Communications

### *Wisconsin Communities Served*

Alma Center-V, JACKSON  
Arcadia-C, TREMPEALEAU  
Blair-C, TREMPEALEAU  
Eleva-V, TREMPEALEAU  
Ettrick-V, TREMPEALEAU  
Fairchild-V, EAU CLAIRE  
Galesville-C, TREMPEALEAU  
Hixton-V, JACKSON  
Humbird-T, CLARK ✓  
Independence-C, TREMPEALEAU  
Merrillan-V, JACKSON  
Osseo-C, TREMPEALEAU  
Pigeon Falls-V, TREMPEALEAU ✓  
Pigeon-T, TREMPEALEAU ✓  
Strum-V, TREMPEALEAU  
Taylor-V, JACKSON  
Trempealeau-V, TREMPEALEAU  
Whitehall-C, TREMPEALEAU

# CITIZENS' UTILITY BOARD

For immediate release, November 5, 2001

For more information:

Steve Hiniker, CUB (608) 251-3322

Doug Johnson, Wisconsin Merchants Federation (608) 257-3541

## Ameritech Shatters Records for Rate of Return

Ameritech of Wisconsin filed a report with Federal Communication Commission showing that it achieved a record setting 42% rate of return on its investments in 2001. Ameritech, which is Wisconsin's largest unregulated telephone monopoly, set records for the highest number of consumer complaints over the same period.

This 2000 rate of return of 42% by SBC Wisconsin compares with 2.5% for Verizon in New York, 22.7% for the entire Bellsouth area, and 6-8% for the three largest providers in the competitive long distance industry.

"Until customers have a choice for alternative service Ameritech will continue to ignore its service problems. It is cheaper for Ameritech to ignore its customer needs and pay fines for rotten service than it is for them to fix the problem," said Steve Hiniker, Executive Director of the Citizens' Utility Board.

"Customers will not achieve any benefits of deregulation until real competition exists in the marketplace," added Doug Johnson, general counsel to the Wisconsin Merchants Federation.

According to recent figures from the Public Service Commission of Wisconsin, Ameritech still controls 94% of all of the residential telephone service in its territory.

Wisconsin has seen complaints rise consistently since deregulation in 1994. Complaint levels this year are more than 600% higher than they were in 1993 – the last year of fully regulated local telephone service.

The Wisconsin Merchants Federation and the Citizens' Utility Board are working together to promote legislation that will bring competition to the local telephone industry.

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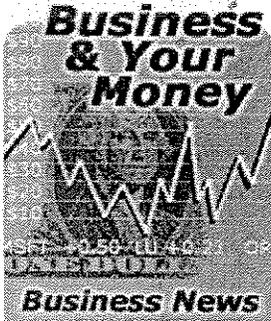
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# Ameritech criticized over PSC inspection

## Union contract prohibits monitoring, company says

By LEE BERGQUIST of the Journal Sentinel staff

Last Updated: Feb. 26, 2002

Wisconsin's top utility regulator sharply criticized Ameritech on Tuesday after the company blocked her agency from observing workers at a customer service center in Appleton.

After getting complaints from customers, the state Public Service Commission planned to visit the call center Feb. 20 to see how the phone company employees documented interactions with customers.

But PSC staff were rebuffed after Ameritech said a union contract with the Communications Workers of America prohibited anyone but the company from monitoring its employees.

"They made a direct challenge to our regulatory authority, and I don't think that we can tolerate it, and we are going to go right back and get what we need," said Ave Bie, the agency's chairwoman.

Ameritech grappled with widespread service troubles in 2000, and since that time, both the PSC and the company say service has improved.

But in this latest incident, regulators are concerned that customer service operators are not accurately reporting conversations with customers on matters ranging from billing problems to ordering new service.

In a small sample that the PSC ultimately obtained, 31% of the workers compiling the records failed to enter the name of the caller, and 24% of the time they used vague language such as "checking

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information" that did not explain why the customer called Ameritech.

Bie said that state law allows the agency to make the inspections and supersedes union accords. She cited a law that reads, in part, "the commission, its agents or examiners may enter a premises occupied by a public utility to make any examination."

Commission member Joe Mettner agreed.

"Obscure clauses in union contracts cannot be used as a pretext to prohibit a PSC examiner from making such observations when the statutes provide clear authority for us to do so," Mettner said.

Ameritech spokeswoman Blair Klein downplayed the dispute, calling it a "small issue" that "has been resolved to everyone's satisfaction."

In trying to strike a balance between its union and the agency that regulates it, Ameritech believes it reached an agreement with the PSC by letting personnel into the Appleton facility two days later and allowing them to examine reports filed by operators after they talked with customers, Klein said.

The PSC agreed to a compromise at the time and looked only at records produced by operators that represented less than 6% of the call center's work force.

The agency said the matter is not over.

If the commission believes it needs more information, it will demand to observe operators on the job and monitor their actions remotely - just as Ameritech's own managers do, said PSC spokeswoman Annemarie Newman.

This type of oversight troubles Teri Pluta, a staff representative for District 4 of the Communications Workers of America, which represents Wisconsin, Illinois, Michigan, Indiana and Ohio.

Pluta's understanding of the situation is that the union is trying to reach a compromise, but she said her members have a contract to protect employees from unwarranted intrusions.

About 195 CWA members handle phone calls from customers in Wisconsin and Indiana at the Appleton call center.

"We are definitely not trying to hide anything," she said. "We worked long and hard to negotiate this."

Appeared in the Milwaukee Journal Sentinel on Feb. 27, 2002.

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# **AMERITECH WISCONSIN SERVICE QUALITY PROBLEMS-2000**

*Milwaukee Journal Sentinel; November 15, 2000*

Reed blamed Ameritech problems on three factors: "Incredibly" high demand for company service, an unprecedented number of experienced repair technicians who accepted an early retirement package, and heavy spring and summer rains in southeast Wisconsin...

"We have fixed the problems," Reed added, noting that Ameritech has spent 1.8 billion to replace and upgrade its equipment in the five-state region in the past two years and added 800 employees in Wisconsin alone.

*Wisconsin State Journal; November 16, 2000*

Ameritech Vice President Holly Reed said the service problems were because of unforeseen retirements, a tight labor market, bad weather and an increase in demand for service...

"We have made great strides in improving our customer service," Reed said, adding that she apologized to customers who had problems.

# AMERITECH WISCONSIN SERVICE QUALITY PROBLEMS-1995

*The Capital Times; December 15, 1995*

An Ameritech spokesman acknowledged repair service was poor during the summer, but said the problems are being resolved...

"Our service dipped to levels that weren't acceptable to anyone, including us," said Ralph Deptolla, an Ameritech spokesman in Milwaukee. "We had a problem and we're fixing it."...

Deptolla said the summer's heavy rains and heat waves stressed equipment at the same time an unexpectedly large number of technicians took early retirement.

*Wisconsin State Journal; August 25, 1995*

Ralph Deptolla, an Ameritech spokesman, acknowledged the recently lagging service, attributing it to weather conditions and reduced work force due to the company's recent streamlining efforts...

"We are committed to fixing our service problems as quickly as we possibly can. Good weather and our commitment to improving service will have a positive effect on our quality," he said.

*Milwaukee Journal Sentinel; August 24, 1996*

Deptolla said the company has fixed the problems that caused last year's service woes...

"It's time to close the book on year-old news," Deptolla said.

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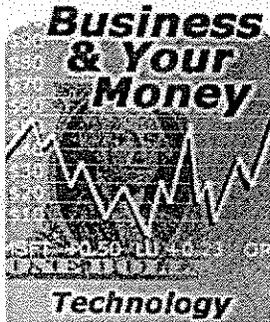
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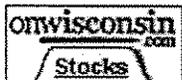
# Ameritech troubles rated as worst

By LEE BERGQUIST of the Journal Sentinel staff

Last Updated: Dec. 9, 2001

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Service troubles that dogged Ameritech in 2000 turned out to be the worst in the country, according to several measures in a new federal report.

Ameritech's five-state operation ranked the lowest in four of seven measures of customer service and finished next to the bottom in another, the Federal Communications Commission reported in a review of phone companies' service quality last year.

The FCC's report underscores the depth of the problem for the regional Baby Bell last year in Wisconsin, Illinois, Indiana, Michigan and Ohio. The study said those troubles were generally worse than at other major local phone companies.

Ameritech ranked the lowest in complaints, installing residential service, repairing residential service and the length of time residential customers initially were out of service.

The company ranked next to the bottom in the number of days residential customers had to wait to install service.

After Ameritech hit the worst of its troubles last fall, Wisconsin regulators say that the company has improved in 2001.

But Steve Hiniker, executive director of the Citizens' Utility Board, a utility watchdog group, said the report shows just how extensive last year's troubles were.

"This is what we get because of less regulation and inadequate competition," Hiniker said.

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But Ameritech noted that service is improving.

"We have made significant improvement in our service quality over the past year," said spokeswoman Lisa Claybon. "We recognize we had problems in 2000."

The PSC ordered Ameritech to pay \$10 million in credits to its customers because of the service problems. Ameritech doled out another \$3.5 million in credits on its own.

Appeared in the Milwaukee Journal Sentinel on Dec. 10, 2001.

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# PSC order puts Ameritech's long-distance plan on hold

By LEE BERGQUIST  
of the Journal Sentinel staff

Ameritech's hopes to sell long-distance service suffered a setback this week, when state regulators ordered the company to halt testing on part of an important system that monitors competitors' access to its network.

The state Public Service Commission told Ameritech that an

elaborate electronic testing procedure is so riddled with errors that the company can't proceed until the system is fixed.

The system in question is part of Operational Support System — the back-office operations competitors use to communicate with Ameritech about moving customers from company to company.

The system also helps keep

track of when competitors want to buy portions of Ameritech's network.

Having a workable back-office system is one of 14 steps local phone companies must satisfy to gain access to the long-distance market — Ameritech now sells only local service. The PSC's actions underscore the difficulty in opening the phone market to

complete competition.

So far, the PSC and a consultant hired to build a system that tests Ameritech's back-office system have expressed frustration with the process, in part, because Ameritech constantly re-states figures on how it is transacting business with competitors.

Commissioners decided Tuesday that Ameritech could not

proceed with a more intensive part of the testing until it starts providing reliable data.

"My basic comment to Ameritech is 'Knock it off,'" PSC member Joe Meltner said. "The longer you delay, it assumes the functional equivalent of putting (the company's entry into long

Please see **AMERITECH, 2D**

## Phone company must fix errors in back-office system

**AMERITECH, From 1D**

distance) on the shelf gathering dust. That's how serious it is."

But Ameritech spokeswoman Blair Klein said greater understanding and progress has been made in the past week-and-a-half between the consultant, KPMG Consulting, and Ameritech. Klein also said this week's developments would not slow Ameri-

tech's long-distance plans in Wisconsin.

"We are absolutely confident that the information we are providing KPMG is accurate," Klein said. "But we are deferring testing until we provide KPMG with the same confidence in our data that we have."

Meltner rejected such talk, saying he has attended meetings where Ameritech has tried to

place the onus on KPMG for failing to be more clear, or putting off problems to other departments of Ameritech.

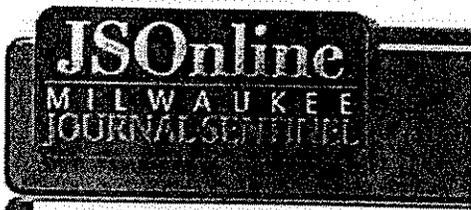
This week's developments "just confirms what we have been telling people," said James W. Butman, president of TDS Metrocom Inc. of Madison. Butman has complained frequently that Ameritech has been reluctant to open its network to competitors.

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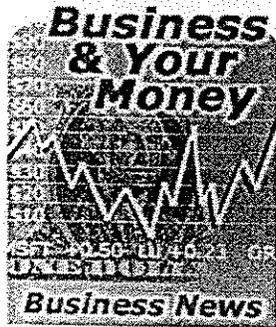


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# Ameritech rings up strong profits

## Phone company weathers an otherwise rough year

By LEE BERGQUIST of the Journal Sentinel staff

Last Updated: Nov. 7, 2001

At a time when more than 100,000 Ameritech customers in Wisconsin were hit by poor service last year, the phone company's operations here recorded its highest profits in at least five years.

Ameritech Wisconsin earned \$350 million on revenue of \$1.4 billion, figures filed with the Federal Communications Commission last month show.

Using another key measure of profitability, Ameritech Wisconsin earned a return on equity of 42% last year - far higher than any of the other Ameritech states of Illinois, Michigan, Indiana and Ohio.

Illinois earned a return of 30% and parent company SBC Communications Corp. earned 26%. By comparison, the entire telecommunications industry averaged a return last year of 8.6%.

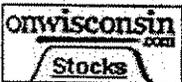
Return on equity tells shareholders how well their money is being spent. It is calculated by dividing the net worth of a company by its net income.

Ameritech spokesman David Saltz said he could not explain why the company performed better in 2000 than any year since 1996. He explained the reason earnings jumped 194% from 1999 was because Ameritech paid taxes in '99 on profits from the 1998 sale of 23 phone exchanges to CenturyTel Inc. of Monroe, La.

As for why Wisconsin's returns were so much higher than the rest of the Ameritech region, he said: "Each state has its own unique

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operating environment."

Ameritech earnings soared at a time when the company came under heavy fire from regulators across the Midwest for its inability to promptly respond to repairs and other requests for service. During parts of the summer and fall, customers sometimes had to wait more than a week to get their phones working.

Ameritech blamed heavy rains and a shortage of repair crews for much of the problems. But the company's own employees and others charged that the regional Bell - despite high-tech infrastructure investments - had failed to spend enough on poles, wires and other equipment close to the end user.

In Wisconsin, state regulators levied penalties in the form of credits to customers totaling \$10 million. Ameritech also issued credits of \$3.5 million.

The profit report drew criticism from the Citizens' Utility Board, which is part of a coalition that says Ameritech has exploited its market dominance and has been slow to open up its network.

"We think this is a direct relation between Ameritech's willingness to make profits for their shareholders and its unwillingness to make necessary investments in its infrastructure," said Steve Hiniker, CUB's executive director.

"The only reason they can do this is because they are a monopoly - there is no competition."

Citing figures from PSC by the end of 2000, Hiniker said that independent phone companies have only 6% of Ameritech's market.

Last month, PSC member Joe Mettner told a legislative panel that lawmakers might want to consider giving his agency more authority over phone companies. Mettner said the PSC regulates only about 20% of Ameritech's revenue in Wisconsin.

Saltz disagreed and said competition is "alive and well" in Wisconsin. He noted that 48 different companies had 383,638 lines, or about 16% of the market as of August.

Saltz said last year's earnings gave the company the capital it needed to spend more on equipment and personnel and improve service; annual investment in infrastructure since 1996 have risen from \$155 million to \$330 million.

As for service, he said PSC figures show the number of complaints has fallen.



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## As SBC Wars With Regulators, Local Phone Competition Stalls

By SHAWN YOUNG, YOCHI J. DREAZEN and REBECCA  
BLUMENSTEIN  
Staff Reporters of THE WALL STREET JOURNAL

Six years ago this month, when Congress set out to pry open the nation's local telephone business, Southwestern Bell was the sort of cushy monopoly Washington wanted to bust up.

It controlled virtually all of the local phone lines in a territory spread across five states. It made huge profits. And few competitors dared to cross it.

Today a lot has changed -- but not in the way Congress expected. Now known as SBC Communications Inc., the company dominates local phone service in 13 states and controls a third of the nation's phone lines. Annual profits have more than tripled, to \$7.2 billion. And several of its erstwhile rivals are in bankruptcy, leaving many government officials across its region fuming.

"We had a vision that we would have major players competing for our business, that there would be at least two choices for all of us," says Michigan Gov. John Engler. "That has not happened, and that is a great frustration to me."

Retorts Edward E. Whitacre Jr., SBC's combative chief executive: "Our markets are unequivocally open."

The San Antonio company's rise is part of a dramatic consolidation of power in the nation's \$112 billion-a-year local telephone market. Far from losing out to their competitors, the four remaining Baby Bells -- SBC, Verizon Communications Inc., BellSouth Corp. and Qwest Communications International Inc. -- now form one of the most powerful blocs in the business world. With control of more than 90% of the nation's local phone lines, they're on the verge of storming the long-distance market as well. One measure of their market heft: Average local phone

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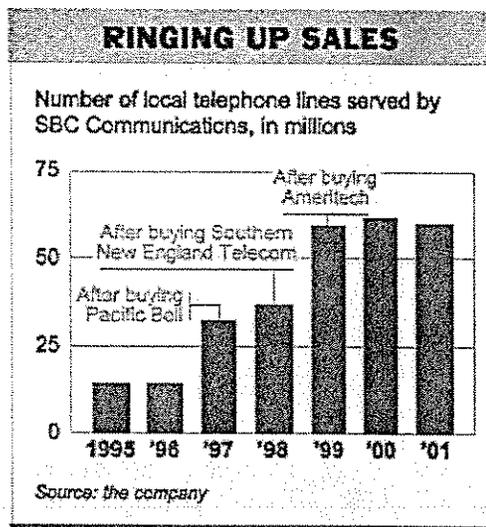
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bills have jumped 17% since the Telecommunications Reform Act of 1996 went into effect, according to the advocacy group Consumers Union.

At a time when economic forces are leading industry after industry to gravitate toward a few major players, the troubles of telecom reform aren't unique. America's skies are dominated by six big carriers despite more than two decades of airline deregulation. Tearing down government restrictions on interstate banking has left that industry overshadowed by a few megabanks. And the once-diffuse cable business is now an oligopoly: If Comcast Corp.'s planned merger with AT&T Broadband goes through, three companies will control 65% of the U.S. market.



Still, few regulatory overhauls have flamed out more visibly -- or cost investors more -- than the one that sought to bring some competition to America's dial tone. Scores of companies that were formed in recent years to take on the Bells

have stumbled badly, and dozens are in bankruptcy proceedings or have shut down.

Many policymakers now concede that it may be impossible to foster meaningful competition from within the local phone industry. Michael Powell, chairman of the Federal Communications Commission, argues that competition will come from without, as the powerful players that control the cable and wireless phone industries accelerate efforts to offer voice and data services.

"Many people make the mistake of assuming that big is somehow bad," says Mr. Powell. "But of course there will be big companies, and when you look at the investment that telecom requires, there should be."

The 111-page telecom reform bill, signed into law in February 1996 after two years of negotiation, was patterned in many ways after the successful deregulation of long-distance in the 1980s. Back then, AT&T Corp.

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SBC Communications	Do
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CHANGE	
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PRICE	
CHANGE	
U.S. dollars	
Qwest Communicator	

was stripped of its Bell monopolies by court edict and forced to rent its long-distance network to rivals, such as MCI Communications Corp., while the upstarts assembled their own nationwide networks.

International Inc. (Q)  
PRICE  
CHANGE  
U.S. dollars

For the Bells, the Federal Communications Commission decided to implement the new law by using a carrot and a stick. If they proved they had opened their local phone networks to competitors, the Bells would get permission to enter long-distance within their home territories. And if they didn't, an intricate network of fines was established, to be assessed by federal and state regulators.

Comcast Corp. CI A (C)  
PRICE  
CHANGE  
U.S. dollars

AT&T Corp. (T)  
PRICE  
CHANGE  
U.S. dollars

One thing lawmakers and investors didn't adequately contemplate, however, was how hard it would be for competitors to replicate the Bells' main asset: control over the "last mile" of wires into America's homes and businesses. The other thing: how fiercely the Bells would fight to defend that asset.

CoreComm Ltd. (COM)  
PRICE  
CHANGE  
U.S. dollars

None of the regional Bell giants has been as aggressive as SBC, which began to attack the FCC almost immediately after the agency began unveiling rules and regulations designed to put the act into place. The company blasted the agency for moves such as requiring it to allow competitors to lease access to network and equipment.

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Relations really deteriorated in the summer of 1997, when the FCC rejected SBC's application to sell long-distance service in Oklahoma. The FCC said that the application was woefully lacking, noting, for instance, that SBC cited as evidence of local competition four residential customers served by tiny Brooks Fiber Properties. It thought all four were employees of that company using the service on an experimental basis. The rejection infuriated SBC officials.

"The FCC is playing games with us," complained Mr. Whitacre a few days after the decision. The 60-year-old engineer, who got his start in the phone business climbing during summer breaks in college, believed the agency was being far too strict.

SBC then went to court, arguing that the act was unconstitutional because it imposed special restrictions on Bells trying to sell long-distance that didn't apply to their competitors, and that regulators had overstepped their authority. The company hired constitutional lawyer Lawrence Tribe and filed its sweeping, complex lawsuit in court in tiny Wichita Falls, Texas. SBC won an initial round but lost on appeal.

The early clashes with the FCC and the prospect of losing customers to competitors cemented Mr. Whitacre's desire to get bigger. Phone lines were the company's bread and butter, says Mr. Whitacre, "and we were best off to enlarge that business."

In April 1996, three months after the act was passed, Southwestern Bell announced a billion-dollar deal to buy Pacific Bell, which serves the huge California market. Then,

1998, Mr. Whitacre reached for the big prize -- the \$62 billion acquisition of AT&T, the former Bell that serves the five-state Midwest region.

#### An Immediate Pledge

Recognizing potential regulatory opposition to its growing might, SBC officials immediately pledged that the combined company would be a torchbearer for local competition by attacking 30 large markets in the heart of other Bells' territories. In these 30 new markets and the regions it currently serves, SBC will offer service nationwide to 180 million people -- two-thirds of the U.S. population," the company vowed when it closed the deal in 1999.

But as it was promising a grand entrance across the nation, the company helped craft lax standards for keeping that promise.

Under these standards, in each market SBC promises to serve outside its own territory, the company is required to serve as few as three homes. It has to install or lease only one piece of switching equipment in each market in the first three years after the merger. The company eventually must install additional switching equipment in the markets, and is required to seek more customers.

"Our game plan is to meet the merger commitments to the letter of the law," says Gilliam, the SBC vice president in charge of meeting regulatory standards for long-distance. So far, the expansion hasn't gotten very far. SBC closed an office last year only two weeks after opening it with 40 employees. Similar retrenchments occurred in Tampa and Seattle.

For many regulators, the Ameritech merger was a turning point in the effort to turn long-distance competition into local phone service. "One of the biggest concerns was that Ameritech, the most progressive and innovative of the Bells, was going to be absorbed by SBC. SBC had a well-earned reputation for doing everything they could to slow down competition," says Bob Atkinson, who headed the FCC's common-carrier bureau during the merger.

Soon after the Ameritech merger, consumer advocates and local officials say, service quality in the Midwest plummeted as large numbers of employees left. Customers were forced to endure long waits for new phone lines or repairs in record numbers. A major aggravation were sales tactics that officials in several states have complained are aggressive and misleading. Customers trying to take care of routine matters like copies of bills couldn't get service until they'd listened to sales pitches that some involved misleading labels like "the basics" for expensive packages of add-on services.

"They keep you on the phone for 45 minutes before you can even get a real person," says Arthur J. Zaccanti, a resident of Clinton Township, Mich. "Who is watching out for the consumer here?"

Around the country, SBC has racked up \$188 million in penalties since 1999 for failing to meet competition and service requirements. Last month, the FCC proposed a slap with a \$6 million fine, one of its largest penalties ever, for failing to meet standards for opening its former Ameritech markets in the Midwest to competitors.

SBC officials are exasperated by the fines, which they say are blown far out of proportion at a time when they are meeting standards more than 90% of the time. Company officials say they gauge performance according to 100,000 measures every month, and even minor gaffes can trigger automatic penalties. "It's impossible not to pay money," says SBC counsel Jim Ellis. "And every time you do, you get a headline. It's an absurd system."

For example, the company says it paid nearly \$50,000 in a three-month period for taking between 1.07 seconds and 1.35 seconds to send certain electronic responses to competitors in Indiana and Wisconsin over its electronic systems. The standard that failed to meet is response within one second. The company wants the standard changed to two seconds.

#### Perception Problem

"Obviously we had our problems in the Ameritech region," says William M. Daugherty, former commerce secretary in the Clinton administration, who is now SBC's president. "And now there's a knee-jerk perception that there are problems, when the data says otherwise." SBC says service in the Midwest is now back to where it was before it was spun off, and in some areas it's better than it has been in more than a decade.

All told, the company says, competitors are serving 12 million lines in its territory. SBC has devoted 6,000 of its 193,000 employees to meeting their needs. Competitors are trying to gain market share, although at a rate half that of a year ago, according to analysts. SBC cites as evidence of its good faith the fact that regulators have granted it permission to provide long-distance service in five states.

But competitors who connect to the old Ameritech system complain that continued bungling by SBC is hurting them because their customers naturally blame them when something goes wrong. Competitors also complain that wholesale prices for leases of Bell networks are often arbitrary and intentionally anticompetitive.

In Ohio, SBC charged competitors an administrative fee of \$111.86 per line even when they signed up a customer or moved an existing customer onto a different interconnection framework that's better for the competitors. In Michigan, regulators let Ameritech charge only 34 cents for making the same switch. It took Ohio regulators nearly a year to bring the fee down to 74 cents.

SBC knew its \$111.86 fee would never stick and that it would have to refund the difference between its rate and the one the state set, contends Jerry Finefrock, founder of LDMI Telecommunications, a company based in Hamtramck, Mich., that provides long-distance, Internet and local phone service. "They did that deliberately as a barrier to entry," he says.

CoreComm, a rival carrier based in New York City, says in an antitrust suit filed against SBC in an Ohio federal court that the Bell giant owes it \$3.6 million in reimbursement for the overcharge. Its suit says when CoreComm switched customers from one wholesaler to another at SBC, a behind-the-scenes process that shouldn't have affected service, many customers lost their phone service entirely, had calls misrouted and got services they never ordered, which CoreComm was billed for.

SBC says the suit is a misguided attempt to turn a billing dispute into an antitrust

Both CoreComm and Mr. Finefrock complain that SBC continues to cling to archaic policies that push up their costs and make competing for local customers made expensive. The company's internal systems for handling orders remain woefully inadequate, say rivals who claim that the difficulties slow them down and force them to intervene manually in matters that should be handled with a few keystrokes on a computer.

"They are a very, very aggressive company. There's no doubt about that," says Tom Harvill, head of the Illinois Commerce Commission, which narrowly approved the Ameritech merger in 1999. Last year, Illinois regulators got into a confrontation with SBC Whitacre after trying to force SBC to share its data lines with competitors. Mr. Whitacre sent an angry letter threatening to slow the company's rollout of speedy Internet service, but regulators didn't ease off. SBC later made good on the threat.

"Saying they'll withhold DSL from that many people is really concrete evidence you're dealing with a textbook monopolist," says Mr. Harvill.

SBC says it can't put huge investments at risk when regulators keep changing the rules and often force it to offer rivals facilities and services below cost.

As SBC has postponed its broadband rollout to 100 cities, Gov. Engler is worried that businesses in Michigan are losing a competitive edge. Whirlpool Inc. of Benton Harbor, Mich., for example, has to conduct trials of its Internet-controlled appliances for months in Kansas City, Kan., where there is widespread broadband access available to homes.

Mr. Whitacre makes no apologies for the DSL slowdown and gives every sign he intends to escalate his battle with regulators. "Somebody needs to stand up and say what we believe," he says.

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*Updated February 11, 2002 12:01 a.m. EST*

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