



Mary Connor

Bill Analysis
Legislative Service Commission

H.B. 573

124th General Assembly
(As Introduced)

Rep. Schuring

BILL SUMMARY

- Adds to existing state telecommunications policy the objective of promoting competition in the local exchange service market.
- Imposes a state statutory, network interconnection and access requirement on incumbent telephone companies, excepting under specified circumstances companies serving fewer than 50,000 access lines.
- Provides that an incumbent company's compliance with the interconnection and access requirement is to be determined by measuring the incumbent's performance, and specifies certain PUCO-approved performance measurements as the measurements applicable to a Bell operating company eligible to seek or having obtained approval for intrastate, interLATA long distance service in Ohio (Ameritech).
- Expressly states the PUCO's authority to enforce an incumbent company's compliance through the procedures and remedies of existing complaint law.
- For a Bell operating company eligible to seek or having obtained approval for intrastate, interLATA long distance service (Ameritech), additionally requires the PUCO to order the company, for each instance of noncompliance, to make the remedy payments proposed to the PUCO by competitive local carriers in October, 2000, and imposes such remedy payments by operation of law if the complaint proceeding is not concluded and an order issued within 180 days.

CONTENT AND OPERATION

Background

Competition in the local telephone market relies in large part on interconnection among telephone companies, especially interconnection with incumbent companies. Federal law imposes a network interconnection and access requirement on all "incumbent local exchange carriers"--local exchange carriers that (1) provided service in an area on February 8, 1996, and were deemed members of the Exchange Carrier Association pursuant to specified regulations of the Federal Communications Commission (FCC), or (2) are successors to or assignees of any such member. Federal law also imposes reciprocal interconnection responsibilities on all other local exchange carriers.

Additionally, federal law limits the offering by a "Bell operating company" (in Ohio, Ameritech Ohio) of in-region "interLATA services"--that is, telecommunication services between a point within, to a point outside of, a geographical area called a "local access and transport area" (LATA--a concept that originated with the 1982 AT&T Consent Decree). Specifically, a Bell company is prohibited from offering in-region interLATA services without an FCC determination that the services are in the public interest and that the company complies with a "competitive checklist" of specific interconnection and access requirements. In making that determination, federal law requires the FCC to consult with the state utilities commission to verify the Bell company's compliance with the checklist. (47 U.S.C. 153 and 47 U.S.C. 251 et seq.) Ameritech has provided notice of intent to apply after January 1, 2002, to the FCC for approval to provide in-region interLATA services in Ohio; it has not made that application to date.

The issue of interconnection between incumbent Ohio companies and new competitive local exchange carriers has come before the Public Utilities Commission (PUCO) in a number of proceedings. One of those proceedings is an investigation into Ameritech's entry into in-region interLATA services in Ohio. The PUCO is considering such Ameritech authority in three phases; currently, the proceeding is in its second phase. A PUCO-supervised, collaborative process between Ameritech and new carriers and other interested parties has been pursued to develop specific interconnection requirements for Ameritech and to develop performance measurements and remedies for failure to achieve those levels of performance. To spur that process, the PUCO ordered Ameritech to implement the performance measurements and remedy plan approved by the FCC for Bell operations in three other states, and those performance measurements and that remedy plan became the starting point for the collaborative discussion of desired modifications. The remedy plan has been described as consisting of self-executing remedies to be paid to new carriers or the State of Ohio, or both. At this point in

the interLATA proceeding, most of Ameritech's performance measurements for Ohio are in place, and related third-party testing of the adequacy of aspects of Ameritech's operating system is underway. There reportedly is less agreement as to an appropriate remedy plan. New carriers proposed an alternative remedy plan to the PUCO in October, 2000, (in Appendix J of a joint petition filed in *In the Matter of the Investigation into Ameritech Ohio's Entry into In-Region InterLATA Service Under Section 271 of the Telecommunications Act of 1996*, Case No. 00-942-TP-COI). The PUCO has not ruled to date on that or any other remedy plan as an alternative to the remedy plan initially established.

The bill

The bill adds to existing state telecommunications policy the objective of promoting competition in the local exchange service market (sec. 4927.02(A)(6)). It also imposes a state statutory, network interconnection and access requirement on incumbent telephone companies, that is, on telephone companies that are public utilities under Ohio public utility law and that meet the definition (described above) of an "incumbent local exchange carrier" under federal law. Following is a description of the bill's general interconnection and access requirement and its provisions regarding compliance with and enforcement of that requirement.

General interconnection requirement

The bill requires an incumbent telephone company to provide, to the facilities and equipment of any requesting telephone company, interconnection with and access to the incumbent's network. This network interconnection and access must be at least equal in quality to that which the incumbent provides to itself, to any subsidiary or affiliate, or to any other party.

The bill exempts from this interconnection and access requirement an incumbent telephone company serving fewer than 50,000 access lines until the incumbent receives a bona fide request for interconnection and access. Too, upon receipt of a bona fide request, such a company may seek from the PUCO an exemption from compliance with the requirement. (Sec. 4927.05(A).)

Compliance measurement

The bill provides that an incumbent telephone company's compliance with the network interconnection and access requirement is to be determined by measuring the incumbent's performance.

The bill specifies the performance measurements applicable to an incumbent telephone company that is eligible to seek or has authority to provide intrastate, interLATA long distance service in Ohio pursuant to the federal law governing Bell operating companies (in effect, applicable to Ameritech): these

performance measurements must be either the performance measurements in effect as of January 1, 2002, and adopted on December 20, 2001, by the PUCO in the proceeding concerning the question of Ameritech's entry into interLATA service (Case No. 00-942-TP-COI), or later PUCO modifications of those measurements. (Sec. 4927.05(B).)

Compliance enforcement

The bill states that its provisions do not affect the authority of the PUCO to hear or initiate complaints under existing complaint law (sec. 4905.26) regarding the failure of an incumbent telephone company to comply with the bill's general network interconnection and access requirement (sec. 4927.05(D)). Under complaint law, the PUCO, upon its own initiative or complaint, or the complaint of any person, may provide for hearing a complaint and, after reasonable notice and opportunity for hearing, may order remedies specified in existing public utility law.

The bill also specifies PUCO enforcement authority and an additional allowable remedy regarding the compliance of an incumbent telephone company eligible to seek or having authority to provide intrastate, interLATA long distance service under the federal telecommunications law; in effect, Ameritech (sec. 4927.05(C)(1)). The bill expressly states the PUCO's authority pursuant to complaint law to make a determination of such an incumbent's compliance. Upon a determination of noncompliance, the bill requires the PUCO to order the incumbent to make, for each instance of noncompliance, the remedy payments set forth in a remedy plan proposed to the PUCO in October, 2000, in Appendix J of a joint petition filed by competitive local exchange carriers in the Ameritech interLATA proceeding.

The bill also states that, if the complaint proceeding is not concluded and an order issued within 180 days after the date the proceeding was initiated, the remedy payments specified in Appendix J are imposed by operation of law and must be paid in accordance with Appendix J for each instance of noncompliance alleged in the complaint. (Sec. 4927.05(C)(2).)

HISTORY

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