

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6216

Joint Petition of SBC Communications and Ameritech)
Corporation for Approval of Transfer of Control)

Order entered: 5/4/99

INTRODUCTION

On February 17, 1999, SBC Communications ("SBC") and Ameritech Corporation ("Ameritech") (collectively "Petitioners") jointly filed a Petition ("Petition") requesting authority from the Vermont Public Service Board ("Board", pursuant to 30 V.S.A. §§ 107, for approval of an indirect transfer of control of Ameritech Communications International, Inc. ("ACI") and Ameritech Payphone Services, Inc. ("APS").¹

By letter filed April 16, 1999, the Vermont Department of Public Service ("Department") notified the Board that the Department recommends approval of the proposed transfer of control without the need for hearings or investigation. The Department further noted that the transaction will not cause confusion or inconvenience to customers of ACI or APS, and the transaction will be transparent in terms of services received.

The Board has reviewed the petition and the accompanying documents and agrees that approval should be granted without hearing.

FINDINGS OF FACT

Based upon the Petition and accompanying documents, we hereby make the following findings of fact.

1. Ameritech is a publicly-traded Delaware corporation, which is headquartered in Chicago, Illinois. Ameritech is the parent company of ACI, a non-dominant carrier that is authorized to provide resold intrastate telecommunications services in the State of Vermont pursuant to certification granted by this Board in C.P.G. No. 271 on December 12, 1996, and APS which was authorized to provide customer-owned, coin-operated telephone services in the State of Vermont pursuant to certification granted by this Board in C.P.G. No. 436 on September 23, 1998. Ameritech provides a full range of telecommunications services to

1. ACI received CPG 271 on 12/12/96 to offer resold intrastate telecommunications services. APS received CPG 436 on 9/23/98 to provide COCOT services.

customers in numerous other states. Petition at 4.

2. The financial resources of Ameritech were demonstrated in Ameritech's financial information (attached as Exhibit D to the Petition), which contains consolidated financial statements for Ameritech and its subsidiaries. Exhibit D.

3. SBC is a publicly-traded Delaware corporation, which is headquartered in San Antonio, Texas. SBC, through its subsidiaries, offers a full range of telecommunications services throughout the United States and other countries. SBC has the managerial experience and technical and financial qualifications to acquire indirect control of ACI and APS. Petition at 4 and Exhibit C.

4. Ameritech and SBC have determined that they will realize significant economic and marketing efficiencies by establishing Ameritech as a wholly-owned subsidiary of SBC. Petition at 2.

5. The proposed transaction is structured as a merger of SBC Delaware, Inc. ("Merger Sub"), a newly-formed Delaware subsidiary of SBC created specifically for the purpose of consummating the transaction. Pursuant to the merger plan, Merger Sub will merge with and into Ameritech, with Ameritech being the surviving entity. The surviving Delaware corporation will continue under the name Ameritech Corporation. At the time of the merger, the plan provides for an exchange ratio of 1.316 shares of SBC common stock for each share of Ameritech common stock. A chart illustrating the corporate structure of the Petitioners prior to and immediately following consummation of the proposed transaction and a copy of the merger agreement were attached as Exhibits B and A, respectively, to the Petition. Petition at 2-3 and Exhibits A and B.

6. Following completion of the proposed transaction, both regulated entities -- ACI and APS -- will continue to provide service to their respective customers under existing service arrangements and pursuant to their respective authorizations. The proposed transaction, therefore, simply will result in a change in the ultimate corporate parent of ACI and APS, and will not involve a change in the manner in which ACI and APS provide service to their Vermont customers. Accordingly, the transaction will be virtually transparent to ACI and APS customers in terms of the services that they receive. Petition at 3.

7. The proposed transaction will serve the public interest in promoting competition among telecommunications carriers by providing SBC and Ameritech the opportunity to

strengthen their respective positions in the competitive telecommunications marketplace. The proposed transaction will invigorate competition by enabling SBC and Ameritech to pursue their respective marketing and business plans more effectively by combining their financial and technical resources. Moreover, the transaction will combine the complementary managerial skills, background, and experience of SBC and Ameritech in providing telecommunications services to the public. Petitioners anticipate that the contemplated business combination will result in a company better equipped to accelerate its growth as a competitive telecommunications service provider. In addition, the transfer of control will allow Petitioners to manage their telecommunications operations more efficiently, thereby enhancing Petitioners' operational flexibility and efficiency as well as their financial viability. The proposed transaction is not inconsistent with the provision of high quality and innovative telecommunications services to APS's and ACI's existing customers and should promote competition in the Vermont telecommunications service market. In sum, the proposed acquisition will benefit the public interest by enhancing the ability of SBC and Ameritech to offer competitively priced services in the Vermont telecommunications marketplace. Petition at 6.

DISCUSSION

Under 30 V.S.A. § 107(a), "[n]o company shall directly or indirectly acquire a controlling interest in any company subject to the jurisdiction of the [Board] . . . without the approval of the [Board]." "Controlling interest" is defined as "ten percent or more of the outstanding voting securities of a company" or such other interest as the Board determines "to constitute the means to direct or cause the direction of the management or policies of a company." 30 V.S.A. § 107(c)(1).² In order to approve the acquisition of such a controlling interest, the Board must first find that it will "promote the public good." 30 V.S.A. § 107(b).

After reviewing SBC and Ameritech's petition, we conclude that 30 V.S.A. § 107 applies because the merger involves the transfer of controlling interest of Ameritech and its Vermont operating subsidiaries, which will become a wholly-owned subsidiary of SBC, into the control of SBC, and thus results in the transfer of more than 10 percent of the shares to another company.

2. The statute also provides that "[t]he presumption that ten percent or more of the outstanding voting securities of a company constitutes a controlling interest may be rebutted by a company under procedures established by the board by rule." 30 V.S.A. § 107(c)(1).

We further conclude that the merger will allow both companies to operate more efficiently in the current telecommunications marketplace and that the reorganization will not affect the intrastate long distance services that APS and ACI provide to customers in Vermont. The merger, therefore, will promote the public good. Consequently, we conclude that the standard for approval is met under 30 V.S.A. § 107(b) and that the Board should approve the proposed corporate reorganization.

CONCLUSIONS

The merger of Ameritech and SBC should be approved because it will promote the public good of the State of Vermont and will not result in obstructing or preventing competition in the provision of the services they are currently offering. 30 V.S.A. §§ 107(b), 311.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The indirect transfer of control of Ameritech Communications International, Inc., and Ameritech Payphone Services, Inc. to SBC Communications, Inc. is approved.
2. Petitioners should file a letter notifying the Board of the completion of the transfer, within one week of such completion.

DATED at Montpelier, Vermont, this 4th day of May, 1999.

<u>s/ Michael H. Dworkin</u>)	
)	PUBLIC SERVICE
)	
<u>s/ Suzanne D. Rude</u>)	BOARD
)	
)	OF VERMONT
<u>s/ David C. Coen</u>)	

OFFICE OF THE CLERK

Filed: May 4, 1999

Attest: s/ Susan M. Hudson
Clerk of the Board

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.