

MICHIGAN TELECOMMUNICATIONS REPORT™

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FEATURES

UNITED STATES COURT OF APPEALS TEMPORARILY UPHOLDS INJUNCTION AGAINST MTA RATE FREEZE

On July 13, 2001, the United States Court of Appeals for the Sixth Circuit issued an Opinion affirming the United States District Court for the Eastern District of Michigan's September 28, 2000 Order preliminarily enjoining Section 701 (the rate freeze provision) of the Michigan Telecommunications Act ("MTA") and reversing the District Court's denial of an injunction of Section 310(7), the elimination of the \$3.28 end user line charge ("EUCL") of the MTA.

On July 17, 2000, Governor Engler signed into law a reenactment of the Michigan Telecommunications Act, 2000 PA 295. As part of the reenactment, the MTA provided for a rate freeze for non-competitive telecommunication services, Section 701 of the MTA. The 2000 reenactment of the MTA also provided that a provider of basic local exchange service, with 250,000 or fewer customers in Michigan, "shall not assess or impose on end-users an intrastate subscriber line charge or end user line charge", Section 310(7).

Ameritech Michigan and Verizon North Incorporated (the "Plaintiffs") brought actions before the United States District Court for the Eastern District of Michigan seeking to

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have Sections 701 and 310(7) of the MTA declared unconstitutional. The District Court granted the Plaintiffs a preliminary injunction against the rate freeze but denied their request for an injunction against the prohibition on charging a EUCL.

On cross-appeals by the State of Michigan and the Plaintiffs, the Circuit Court of Appeals upheld the injunction against the rate freeze and imposed a preliminary injunction against the prohibition on charging a EUCL. The Court found that the Plaintiffs had a substantial likelihood of success on the merits in challenging the constitutionality of sections 701 and 310(7) of the MTA. The Court found that the MTA's definition of a "just and reasonable rate" "does not pass constitutional muster." The MTA defines a just and reasonable rate as "a rate that is not inadequate, excessive, or unreasonably discriminatory." The MTA further defines a rate as "inadequate if it is less than the total service long run incremental cost of providing this service." Thus, it appears that lack of a provision for a hearing was a defect the Court found troubling. The Court believes that a just and reasonable rate should not just cover costs, but also must insure a fair and reasonable rate of return on investment. The Court believes that the Plaintiffs have shown that the rate freeze and abolishment of the EUCL, "without providing a mechanism to safeguard the right to earn a constitutional rate of return" has a substantial likelihood of being found unconstitutional. The Court also examined the impact on the Plaintiffs if they succeeded, on the merits, without a preliminary injunction. The Court found that a subsequent rate increase, to recover lost profits during the period of litigation, could cause a loss of established good will that could irreparably harm the Plaintiffs. Therefore, the Court left the higher rates in place until the merits of the case are ruled upon

Because the Plaintiffs presented a serious question as to the constitutionality of Sections 701 and 310(7) of the MTA, the Court has enjoined enforcement of those sections and remanded this proceeding to the United States District Court for the Eastern District of Michigan for a determination of the constitutionality of the applicable sections of the MTA on their merits.

MPSC TO REVIEW PROPOSED RULES GOVERNING TELECOM SERVICES QUALITY

On July 11, 2001, the Michigan Public Service Commission announced that it will hold a public hearing to accept comments on proposed rules governing the quality of telecommunications services in Michigan. The proposed rules address a broad range of issues, including repair and installation, emergency repairs, engineering standards, identity verification, customer billing, and billing accuracy. The proposed rules would replace existing telecommunications service quality rules which expire September 1, 2001.

Any interested person is encouraged to attend the hearing on Wednesday, August 8, 2001 at 9:00 a.m. at the Commission's office, 6545 Mercantile Way, Suite 7, Lansing, Michigan. The hearing

will provide the opportunity for all interested persons to present comments or questions concerning the proposed rules. Written comments may be submitted at the public hearing. Interested parties may also send written comments to the Commission by Wednesday, August 15, 2001. (See also **Orders**, this issue).

MPSC INCREASES SLAMMING PROTECTIONS

The Michigan Public Service Commission announced on July 11, 2001 it was taking action to further protect Michigan telephone customers by approving modifications to the Commission's anti-slamming procedures. Under the modified procedures, the Commission clarified that all Michigan telecommunications service providers are required to notify, on behalf of a customer, both the carrier that is being replaced and the newly selected telephone service provider when the customer selects a new provider. The Commission concluded that the service provider may notify the providers of the change through an electronic notification over the Customer Account Records Exchange (CARE) system, by the Internet, fax, letter, or telephone call to a designated number. The notification must take place within 7 days of the requested change in service, and must include the date upon which the service was added or cancelled. Once the replaced service provider has processed this notice of cancellation, this provider must discontinue billing the customer for the discontinued service. The replaced service provider may continue to collect from this customer all charges due prior to the termination of the service, however. The order applies to all change orders, whether they involve a local or long distance provider. "Requiring carriers to promptly provide cancellation notices to customers' former service providers will better ensure that customer are not billed for services that have been cancelled," said Chairman Laura Chappelle. "Although imposing this requirement may slightly increase the providers' operating expenses, the Commission finds that it is a small price to pay to avoid double-billing customers." (See also **Orders**, this issue).

SBC/AMERITECH PHASING IN 50-CENT CHARGES FOR LOCAL PAYPHONE CALLS

SBC/Ameritech announced on July 6, 2001 that due to increased operating costs and declining usage of public payphones, it is raising the rate for local payphone calls from 35 cents to 50 cents in its 13-state service region. SBC/Ameritech expects that all its payphones will be converted by September, and said that the price increase was necessary "to address the mounting costs and the continuing drop in usage due to increased use of alternative communications, including wireless phones and pre-paid phone cards, as well as other factors. According to the company, SBC payphone usage has dropped significantly over the past four years. Calls to 911 and toll-free numbers will continue to be free.

* * *

PENDING LEGISLATION

The following is a list of active telecommunications bills that have been introduced during the current legislative session. Copies of bills and public acts referred to in this column may be obtained by contacting your state senator or representative, on the Michigan Legislature Web site, <<http://www.michiganlegislature.org/>> or from the Legislative Service Bureau Document Room at (517) 373-0169.

Senate Bill # Senator	Date Introduced	Description	Status
SB 280 Dunaskiss	03/07/01	Creates new act; provides for definition of public utilities	To Senate Committee on Technology/Energy
SB 446 Dunaskiss	05/01/01	Provides for the clarification of the definition of public utilities	Passed Senate Committee 24-1; 06/28/2001 placed on third reading in House

House Bill # Representative	Date Introduced	Description	Status
HB 4219 Mortimer	02/13/01	Creates new Cellular Tower Attachment Act to require approval of MPSC regarding construction of cellular communication towers	To House Committee on Energy/Technology
HB 4220 Mortimer	02/13/01	Amends MTA to establish MPSC authority regarding proposed Cellular Tower Attachment Act. Tie Bar with HB 4219	To House Committee on Energy/Technology
HB 4307 Anderson	02/20/01	Amends MTA by adding section 312c to require notification of long-distance charges to a customer using a pay telephone	To House Committee on Energy/Technology
HB 4764 Neumann	05/15/01	Amends MTA to provide for the structural separation of local exchange companies with more than 250,000 users	To House Committee on Energy/Technology

ORDERS

Case No. U-11326

BRE Communications LLC, d/b/a Phone Michigan, and Ameritech Michigan (interconnection agreement)

On July 11, 2001, the Michigan Public Service Commission (“Commission”) issued an order approving the Fourth Amendment to the Interconnection Agreement between BRE Communications, L.L.C., d/b/a Phone Michigan, and Ameritech Michigan. The Fourth Amendment incorporates into the Agreement certain terms and conditions pertaining to acceptance testing.

Case No. U-11340

Climax Telephone Company, d/b/a CTS Telecom Inc (arbitration of interconnection agreement with Ameritech Michigan)

On July 11, 2001, the Michigan Public Service Commission (“Commission”) issued an order approving the Third Amendment to the Interconnection Agreement between Climax Telephone Company and Ameritech Michigan. The Third Amendment adds to the Agreement Appendix OSS-Resale and UNE and the associated pricing schedule.

Case No. U-11830

Ameritech Michigan (performance measurers, reporting and benchmarks)

On July 11, 2001, the Michigan Public Service Commission (“Commission”) granted the joint motion filed on June 8, 2001 requesting the Commission amend its prior orders to conform to agreements reached through the collaborative process regarding further modifications and additions to the performance measurements and standards. The joint motion was filed by AT&T Communications of Michigan, Inc., McLeodUSA Telecommunications Services, Inc., CoreComm Michigan, Inc., Horizon Telecommunications, Inc., MCI WorldCom Communications, Inc., Brooks Fiber Communications of Michigan, Inc., MCImetro Access Transmission Services, Inc., Z-Tel Communications, Inc., IP Communications Corporation, Rhythm Links, Inc., XO Michigan, Inc., CLEC Association of Michigan, Attorney General Jennifer M. Granholm, the Commission Staff, and Ameritech Michigan. According to the motion, implementation of the changes would occur in time for the reporting of July 2001 data. The Commission, in its order, acknowledged and commended the efforts of the collaborating parties’ ongoing commitment to review and proposed additional modifications or measurements, as the need arises, as well as to propose remedies for any performance failures.

Case No. U-11900
Commission's Own Motion
(anti-slamming procedures)

On July 11, 2001, the Michigan Public Service Commission ("Commission") issued an order modifying the Commission's anti-slamming procedures and granting the petition for reopening filed on February 6, 2001 by MCI WorldCom Communications, Inc., MCI WorldCom Network Services, Inc., and MCImetro Access Transmission Services, Inc. (collectively, ("WorldCom"). WorldCom requested that the Commission reopen the proceedings and insert in its anti-slamming procedures a provision requiring each carrier that executes a primary interexchange carrier (PIC) change order to provide notice of that change to the carrier whose service is being replaced. The Commission concludes that "[r]equiring executing carriers to promptly provide cancellation notices to customers' former service providers will . . . better ensure that end users are not billed for services that have previously been cancelled. Except for the modifications approved by this order, all relief requested in the February 6, 2001 petition for reopening and the responses to that petition were denied by the Commission.

Case No. U-11990
Eagle Communications Inc
(license)

On July 11, 2001, the Michigan Public Service Commission ("Commission") issued an order rescinding the license to provide basic local exchange service granted to Eagle Communications, Inc. ("Eagle") on August 17, 1999, and directing Eagle to surrender to the North American Numbering Plan Administrator any numbers that have been assigned to it. On June 7, 2001 Eagle indicated its intent to surrender the license.

Case No. U-12105
Midwest Telecom Company
(license)

On July 11, 2001, the Michigan Public Service Commission ("Commission") issued an order rescinding the license to provide basic local exchange service granted to Midwest Telecom Company ("Midwest") on December 6, 1999, and directing Midwest to surrender to the North American Numbering Plan Administrator any numbers that have been assigned to it. On May 24, 2001 Midwest indicated its intent to surrender the license.

Case No. U-12225
BlueStar Networks Inc
(license)

On July 11, 2001, the Michigan Public Service Commission (“Commission”) issued an order rescinding the license to provide basic local exchange service granted to BlueStar Networks, Inc. (“BlueStar”) on February 22, 2000, and directing BlueStar to surrender to the North American Numbering Plan Administrator any numbers that have been assigned to it. On June 7, 2001 BlueStar indicated its intent to surrender the license.

Case No. U-12288
Vectris Telecom Inc
(license)

On July 11, 2001, the Michigan Public Service Commission (“Commission”) issued an order rescinding the license to provide basic local exchange service granted to Vectris Telecom, Inc. (“Vectris”) on April 24, 2000, and directing Vectris to surrender to the North American Numbering Plan Administrator any numbers that have been assigned to it. On May 28, 2001 Vectris indicated its intent to surrender the license.

Case No. U-12353
Urban Media of Michigan Inc
(license)

On July 11, 2001, the Michigan Public Service Commission (“Commission”) issued an order rescinding the license to provide basic local exchange service granted to Urban Media of Michigan, Inc. (“Urban Media”) on June 19, 2000, and directed Urban Media to surrender to the North American Numbering Plan Administrator any numbers that have been assigned to it. On June 18, 2001 Urban Media indicated its intent to surrender the license.

Case No. U-12448
MGC Communications Inc and Ameritech Michigan
(interconnection agreement)

On July 11, 2001, the Michigan Public Service Commission (“Commission”) issued an order approving the Second Amendment to the Interconnection Agreement between MGC Communications, Inc. and Ameritech Michigan. The Second Amendment incorporates in the Agreement rates and charges approved by the Commission in Case No. U-11831.

Case No. U-12735
LightBonding.com Inc
(license)

On July 11, 2001, the Michigan Public Service Commission (“Commission”) issued an order rescinding the license to provide basic local exchange service granted to LightBonding.com, Inc. (“LightBonding”) on March 7, 2001, and directing LightBonding to surrender to the North American Numbering Plan Administrator any numbers that have been assigned to it. On June 8, 2001 LightBonding indicated its intent to surrender the license.

Case No. U-12759
Covenant House Michigan and Great Lakes Telecom Inc v
AT&T Corp. and Teleport Communications Group Inc
(consumer complaint: billing dispute)

Case No. U-12764
Molly-Maid and Great Lakes Telecom Inc v
AT&T Corp. and Teleport Communications Group Inc
(consumer complaint: billing dispute)

On July 11, 2001, the Michigan Public Service Commission (“Commission”) ordered AT&T Communications of Michigan, Inc. (“AT&T”) and Teleport Communications Group, Inc., a/k/a TCG Detroit (“TCG Detroit”), 1) to pay fines, within 30 days of the order, totaling \$30,000.00 for violations of the cramming provisions of the Michigan Telecommunications Act (“MTA”), (\$15,000.00 of which is to be paid directly to Covenant House Michigan (“Covenant House”) and the remainder to the State of Michigan); 2) to reimburse Covenant House and Great Lakes Telecom, Inc. (“Great Lakes”) for their attorney fees and costs incurred in litigating Case No. U-12759; 3) to issue, within 30 days, all bill credits necessary to remove from Covenant House’s current outstanding balance all unauthorized remote call forwarding charges billed since June 2000; and, 4) to cease and desist from issuing bills for amounts in excess of those that Covenant House has contracted to pay, threatening to terminate Covenant House’s service for non-payment of disputed charges, and committing any further violation of the MTA. In all other respects the Commission dismissed with prejudice the complaints filed by Covenant House and Great Lakes in Case No. U-12759 and by Molly-Maid and Great Lakes in Case No. U-12764.

Case No. U-12769
TDS Metrocom Inc and Ameritech Michigan
(interconnection agreement)

On July 11, 2001, the Michigan Public Service Commission (“Commission”) issued an order approving the Second and Third Amendments to the Interconnection Agreement between TDS

Metrocom, Inc. and Ameritech Michigan. The Second Amendment adds to the Agreement Appendix Virtual Collocation and Appendix Physical Collocation and replaces associated pricing in the Agreement. The Third Amendment adds Appendix UNE Remand and replaces associated pricing in the Agreement.

Case No. U-12784

**National Door Lite v National Directory Assistance and MBPC Communications Inc
(consumer complaint: unauthorized charge)**

On July 11, 2001, the Michigan Public Service Commission (“Commission”) found National Directory Assistance and MBPC Communications, Inc. (“Respondents”) in violation of anti-cramming provisions of the Michigan Telecommunications Act (“MTA”) and ordered the Respondents to make restitution to National Door Lite (“Complainant”) in the amount of \$4,375.00 within 30 days and to cease and desist from violations of the MTA. Complainant alleged an unauthorized charge of \$3.28 on its November 2000 telephone bill and requested reimbursement for the time value its president’s efforts to address the dispute. The Commission determined that a fine was “not appropriate under the circumstances of this case”, in which the cramming incident at issue resulted in a one-time, apparently inadvertent charge of \$3.28 which was reversed by Respondents upon being apprised of the mistake.

Case No. U-12809

**Ameritech Michigan and Verizon North Inc
(amended licenses)**

On July 11, 2001, the Michigan Public Service Commission (“Commission”) issued an order approving the Verizon North Inc.’s (“Verizon”) request to withdraw its February 2, 2001 application to amend its license to provide basic local exchange service, and directed Verizon to file within 30 days answers to several questions regarding how its conduct in Michigan to date has been consistent with the Michigan Telecommunications Act (“MTA”). On February 2, 2001 Ameritech Michigan and Verizon filed a joint application for approval to alter the geographic areas of their licenses in order to transfer certain territory from Verizon’s DeWitt Exchange to Ameritech Michigan’s Lansing Exchange. The applicants represented that the transfer would most economically and uniformly facilitate the provision of service to a subdivision. In an order issued April 17, 2001, the Commission found that it was consistent with the competitive purposes of the MTA to transfer the territory to and amend the license of Ameritech Michigan. However, the Commission concluded that it should conduct a hearing on Verizon’s request to amend its license. Verizon then filed a request to withdraw as a party and joint applicant, and stated that it was not necessary under the MTA to alter its license to delete that area from its service territory. The Commission directed Verizon to answer the following questions:

- 1) Why is Verizon not actively competing in Michigan, particularly in exchanges that have traditionally been served by Ameritech Michigan?
- 2) Why is there little, if any, local competition in the Michigan exchanges that have traditionally been served by it?
- 3) Why has it not made available to its customers the choice of service providers that its affiliate has made available in New York and Massachusetts?
- 4) When will Verizon begin competing in the Detroit metropolitan area as required by the Federal Communications Commission order approving the merger between GTE and Bell Atlantic?
- 5) What changes in circumstances are required to facilitate greater local competition in Verizon's Michigan exchanges?

Case No. U-12829

**Grand Traverse Motel v Protel Advantage Inc, d/b/a Long Distance Savings
(consumer complaint: slamming)**

On July 11, 2001 the Michigan Public Service Commission ("Commission") dismissed with prejudice the complaint of Grand Traverse Motel ("Complainant") alleging that Protel Advantage, Inc., d/b/a Long Distance Savings, switched its telephone service providers without authorization. On April 24, 2001 Complainant filed a request to withdraw the complaint with prejudice based upon a settlement agreement in which Protel agreed to pay \$3,000.00 to Complainant.

Case No. U-12838

**James D. Magnuson and Carol M. Hogan v
Ameritech Michigan
(consumer complaint: unauthorized charges)**

On July 11, 2001 the Michigan Public Service Commission dismissed with prejudice the complaint of James D. Magnuson and Carol M. Hogan ("Complainants") against Ameritech Michigan alleging unauthorized charges. On April 27, 2001 Complainants filed a request to withdraw the complaint.

Case No. U-12860
El Paso Networks LLC
(license)

On July 11, 2001 the Michigan Public Service Commission issued an order dismissing without prejudice the application of El Paso Networks, LLC for a license to provide basic local exchange service. On May 10, 2001 El Paso Networks filed a request to withdraw the application.

Case No. U-12870
MediaGate Communications Inc
(license)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) granted to MediaGate Communications, Inc. a license to provide basic local exchange service in all exchanges currently served by Verizon North Inc., Contel of the South, Inc., d/b/a Verizon North Systems, CenturyTel of Michigan, Incorporated, CenturyTel of Northern Michigan, Incorporated, CenturyTel of Midwest-Michigan, Incorporated, and CenturyTel of Upper Michigan, Incorporated.

Case No. U-12871
Quick Communications Inc
(license)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) granted to Quick Communications, Inc. a license to provide basic local exchange service in all exchanges currently served by Ameritech Michigan in the lower peninsula of the state.

Case No. U-12888
New Access Communications LLC
(license)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) granted to New Access Communications LLC a license to provide basic local exchange service in the exchanges currently served by Ameritech Michigan and Verizon North Inc.

Case No. U-12898
TC3 Telecom Inc and Verizon North Inc and Contel of the South Inc, d/b/a Verizon North Systems
(interconnection agreement)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) approved the

Line Sharing Supplemental Agreement to the Interconnection Agreement between TC3 Telecom, Inc. (“TC3”) and Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems (collectively, “Verizon”). The amendment results from the decision of TC3 to adopt the terms of the Supplemental Line Sharing Agreement between Sprint Communications Company LP and Verizon, which is deemed approved on February 5, 2001

Case No. U-12904

Ronald Schneck v Ameritech Michigan
(consumer complaint: billing dispute)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) dismissed with prejudice the complaint of Ronald Schneck (“Complainant”) against Ameritech Michigan regarding a billing dispute. On June 8, 2001 Complainant filed a request to withdraw the complaint.

Case No. U-12905

Access One Inc
(license)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) granted to Access One, Inc. a license to provide basic local exchange service in all exchanges currently served by Ameritech Michigan, Verizon North Inc., and Contel of the South, Inc., d/b/a Verizon North Systems.

Case No. U-12910

Daniel F. McNamara v Ameritech Michigan
(consumer complaint: unauthorized charges)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) dismissed with prejudice the complaint of Daniel F. McNamara (“Complainant”) against Ameritech Michigan alleging unauthorized changes. On May 17, 2001 Complainant filed a request to withdraw the complaint with prejudice.

Case No. U-12923

Gersham Nelson v Comcast Telecommunications of Michigan LLC, f/k/a MediaOne Telecommunications of Michigan Inc
(consumer complaint: slamming)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) dismissed with prejudice the complaint of Gersham Nelson (“Complainant”) against Comcast Telecommunications of Michigan, LLC, f/k/a MediaOne Telecommunications of Michigan, Inc., alleging an unauthorized

switch in service providers. On June 1, 2001 Complainant filed a request to withdraw his complaint.

Case No. U-12924

**Emergent Communications LLC
(license)**

On July 11, 2001 the Michigan Public Service Commission (“Commission”) granted to Emergent Communications, LLC a license to provide basic local exchange service in all exchanges currently served by Ameritech Michigan, Verizon North Inc., and Contel of the South, Inc., d/b/a Verizon North Systems.

Case No. U-12927

**Covad Communications Company and Ameritech Michigan
(interconnection agreement)**

On July 11, 2001 the Michigan Public Service Commission (“Commission”) approved the Interconnection Agreement between Covad Communications Company (“Covad”) and Ameritech Michigan. The Agreement results from the decision of Covad to adopt the terms and conditions of the interconnection agreement between Rhythms Links, Inc., f/k/a Accelerated Connections, Inc., and Ameritech Michigan, that was approved by the Commission on February 2, 1999 in Case No. U-11841, including the merger amendment and the First and Second Amendments that were approved May 22, 2000 and November 2, 2000, respectively.

Case No. U-12932

**Paul Dilcher v MCI WorldCom Communications Inc
(consumer complaint: slamming)**

On July 11, 2001 the Michigan Public Service Commission (“Commission”) dismissed with prejudice the complaint of Paul Dilcher (“Complainant”) against MCI WorldCom Communications, Inc., alleging an unauthorized switch in service providers. On May 24, 2001 Complainant filed a request to withdraw his complaint.

Case No. U-12936

**Husaynu & Plezia PC v Ameritech Michigan
(consumer complaint: quality of service)**

On July 11, 2001 the Michigan Public Service Commission (“Commission”) dismissed with prejudice the complaint of Husaynu & Plezia, P.C. (“Complainant”) against Ameritech Michigan regarding the quality of service. On May 21, 2001 Complainant filed a request to withdraw the complaint.

Case No. U-12938
Wesley Pringle v MCI WorldCom Communications Inc
(consumer complaint: billing dispute)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) dismissed with prejudice the complaint of Wesley Pringle (“Complainant”) against MCI WorldCom Communications, Inc. regarding a billing dispute. On June 1, 2001 Complainant filed a request to withdraw his complaint.

Case No. U-12944
TDS Metrocom Inc
(Section 304(10) exemption)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) issued an order granting to TDS Metrocom, Inc. an exemption pursuant to Section 304(10) of the Michigan Telecommunications Act.

Case No. U-12946
Midwestern Telecommunications Inc and Ameritech Michigan
(interconnection agreement)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) issued an order approving the Interconnection Agreement between Midwestern Telecommunications, Inc. and Ameritech Michigan. The Agreement establishes comprehensive rates, terms, and conditions for the purchase of various services from Ameritech Michigan at wholesale rates for subsequent resale to customers within the state.

Case No. U-12948
CIMCO Communications Inc
(Section 304(10) exemption)

Case No. U-12953
MichTel Inc
(Section 304(10) exemption)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) issued an order granting exemptions, pursuant to Section 304(10) of the Michigan Telecommunications Act, to CIMCO Communications, Inc. and MichTel, Inc.

Case No. U-12954
Buckeye TeleSystem Inc and Ameritech Michigan
(interconnection agreement)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) issued an order approving the Interconnection Agreement between Buckeye TeleSystem, Inc.. (“Buckeye”) and Ameritech Michigan. The Agreement results from the decision of Buckeye to adopt the rates, terms and conditions of the interconnection agreement (including the Appendix DSL for line sharing) between Coast to Coast Telecommunications, Inc. and Ameritech Michigan that was approved by the Commission on October 24, 2000 in Case No. U-12382.

Case No. U-12955
Comcast Telecommunications Inc and Ameritech Michigan
(interconnection agreement)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) issued an order approving the Interconnection Agreement between Comcast Telecommunications, inc. (“Comcast”) and Ameritech Michigan. The Agreement results from the decision of Comcast to adopt the rates, terms and conditions of the interconnection agreement between Rhythms Links, Inc. and Ameritech Michigan that was approved by the Commission on February 2, 1999 in Case No. U-11841, and the merger amendment and First and Second Amendments that were approved on May 22, 2000 and November 2, 2000, respectively.

Case No. U-12958
AT&T Wireless PCS LLC and Ameritech Michigan
(interconnection agreement)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) issued an order approving the Interconnection Agreement and First Amendment between AT&T Wireless PCS, LLC (“AT&T Wireless”) and Ameritech Michigan. The Agreement results from the decision of AT&T Wireless to adopt the rates, terms and conditions of the interconnection agreement between Pacific Bell and AT&T Wireless Services of California, Inc. that was approved by the California Public Utilities Commission on October 7, 1999, including a subsequent amendment.

Case No. U-12962
Adelphia Business Solutions Operations Inc and Ameritech Michigan
(interconnection agreement)

On July 11, 2001 the Michigan Public Service Commission (“Commission”) issued an order approving the Interconnection Agreement between Adelphia Business Solutions Operations, Inc. (“Adelphia”) and Ameritech Michigan. The Agreement results from the decision of Adelphia to

adopt the rates, terms and conditions of the interconnection agreement (including the Appendix DSL for line sharing) between Coast to Coast Telecommunications, Inc., and Ameritech Michigan that was approved by the Commission on October 24, 2000 in Case No. U-12382.

Case No. U-13013
Commission's Own Motion
(quality of service rules)

On July 11, 2001 the Michigan Public Service Commission ("Commission") ordered that a public hearing regarding the adoption of proposed rules governing the quality of telecommunication services will be held at 9:00 a.m. on August 8, 2001 in the offices of the Commission. The hearing will be legislative in nature and any person may present data, views, questions, and arguments regarding the proposed rules. All written comments must be filed no later than 5:00 p.m. on August 15, 2001.

* * *

PROPOSALS FOR DECISION

Case No. U-12797
Metromedia Fiber Network Services Inc v
City of Dearborn
(ROW dispute)

On June 28, 2001, Michigan Public Service Commission ("Commission") Administrative Law Judge ("ALJ") James N. Rigas issued a Proposal for Decision ("PFD") in the matter of a four-count complaint of Metromedia Fiber Network Services, Inc. ("MFN") against the City of Dearborn ("City") alleging various violations of the Michigan Telecommunications Act ("MTA"), including failing to act on MFN's MTA permit application within 90 days in violation of Section 251 (which requires municipalities to issue such permits within 90 days), and demanding fees in excess of the City's "fixed and variable costs" in violation of Section 253 of the MTA.

In the PFD, the ALJ found that the City violated Section 251 for failing to act on MFN's application and that offering to negotiate a franchise agreement is not the equivalent of acting on an application for a permit. The ALJ also determined that the City's "conduct represented an effort to interpose permit conditions that attempt to create another tier of regulation. Citing the Commission's October 24, 2000 order in the matter of the complaint of Coast to Coast Telecommunications, Inc. against the City of Birmingham, Case No. U-12354, the ALJ held that local governments may not interpose permit conditions that attempt to regulate the rates, terms, or conditions of the telecommunications service provided by the carrier to its customers.

Additionally, the ALJ determined that the fees requested by the City were in violation of section 253:

“With regard to the compensation sought by the City for use of the right-of-way, the Administrative Law Judge finds that such fees exceed the City's fixed and variable costs in violation of the MTA[.] The Wayne County Circuit Court found in [TCG Detroit v City of Dearborn, WCCC Case No. 98-803937-CK], that the City's ‘fixed and variable costs’ were at most \$2,500 for issuing a MTA permit and *de minimis* for maintaining the portion of the right-of-way actually used by TCG. The fees proposed by the City greatly exceed these amounts. In addition, the Commission held in the Case No. U-12354, that Section 253 of the MTA requires that the costs be attributable to the provider's use of the rights-of-way and that there ‘must be a reasonable relationship between the costs incurred by the City for statutorily permissible purposes and the provider's usage.’ In this case the fees proposed by the City have not been shown to be reasonably related to the provider's usage or limited to recouping the City's actual costs.

The ALJ dismissed MFN's discrimination claim against the City, holding that no evidence was presented to demonstrate that the City discriminated against similarly situated providers. Id. p 17.

The ALJ recommended the City be fined \$1,000 per day for its violations of the MTA commencing from the expiration of the 90-day period under Section 251 until the filing of the complaint (approximately \$200,000) and awarded MFN all of its costs including attorney fees for bringing the complaint. A final determination by the Commission is expected in late August.

* * *

NOTICES OF HEARING

Case No. U-12957
Paula J. Marchewka v AT-N Corporation
(consumer complaint: slamming)

The May 23, 2001 complaint of Paula J. Marchewka alleging that AT-N Corporation switched her telephone service providers without authorization will be considered by the Michigan Public Service Commission at 9:00 a.m.. on July 24, 2001.

Case No. U-12969
KMC Data LLC
(license)

The June 5, 2001 application of KMC Data, LLC for a license to provide local exchange services in the exchanges currently served by Ameritech Michigan, Verizon North, Inc., and Verizon North Systems is set for an evidentiary hearing on August 20, 2001 at 9:00 a.m. Interventions are due on or before August 16, 2001.

* * *

PSC HEARINGS

Note: Unless indicated otherwise, hearings are held in the offices of the Commission, 6545 Mercantile Way, Suite 7, Lansing.

Hearings Scheduled for Last Week (ending July 13, 2001)

no telecom hearings scheduled

Hearings Scheduled for This Week (ending July 20, 2001)

July 17, 2001, 9:00 a.m.
Case No. U-12963/public hearing
Bernath v MCI WorldCom (billing dispute)

July 18, 2001, 9:00 a.m.
Case No. U-12971/evidentiary hearing
Hoolsema v MCI WorldCom (slamming)

Future Hearings Scheduled

The Michigan Public Service Commission hearings listed below are subject to cancellation. Interested persons should confirm with the Commission all hearing information on the day before the hearing. Additional hearings not listed here may also be scheduled.

July 24, 2001 9:00 a.m.
Case No. U-12957
Marchewka v AT-N Corporation (slamming)

August 20, 2001, 9:00 a.m.
Case No. U-12969/evidentiary hearing
KMC Data LLC (license)

July 26, 2001, 9:00 a.m.
Case No. U-12853/evidentiary hearing
Ware v McLeodUSA (disconnection of service)

APPLICATIONS AND COMPLAINTS

Case No. U-11340

Climax Telephone Company and Ameritech Michigan (interconnection agreement)

On May 22, 2001 Climax Telephone Company, d/b/a CTS Telecommunications, Inc. and Ameritech Michigan jointly applied to the Michigan Public Service Commission (“Commission”) for approval of the Third Amendment to their Interconnection Agreement approved by the Commission on August 13, 1997. The Third Amendment, executed as of April 10, 2001, adds to the Agreement Appendix OSS-Resale and UNE and the associated Pricing Table.

Case No. U-12273

Long Distance of Michigan Inc and Ameritech Michigan (interconnection agreement)

On July 16, 2001 Long Distance of Michigan, Inc. (“LDMI”) and Ameritech Michigan jointly applied to the Michigan Public Service Commission (“Commission”) for approve of the Second Amendment to their Interconnection Agreement, approved by the Commission on April 24, 2000. The Second Amendment, executed as of April 18, 2001, incorporates into the Agreement Appendix Merger Conditions, ULS-ST Rate Elements and the associated Pricing Table.

Case No. U-12850

Commission’s Own Motion (616 area code relief plan)

On July 5, 2001 Verizon Wireless (“VZW”) filed a petition for rehearing of the Michigan Public Service Commission’s (“Commission”) June 5, 2001 decision establishing the implementation schedule for permissive and mandatory dialing of the 616 area code relief plan, and requests that the Commission accelerate the implementation schedule. VZW states that its petition for rehearing is based upon errors of law and unintended consequences. The Commission’s order noted that, “[b]ased on the industry’s recent decision to ration codes at the rate of five per month, Ameritech Michigan reports, the expected NXX code exhaustion date has now been pushed back . . . and comes much closer to [Ameritech’s] proposed mandatory dialing date. . . .” VZW purports that although the Commission recognized that code exhaustion would occur prior to the full implementation of the area code relief it ordered, it based its decision on the “hope” that Ameritech Michigan can find a way to speed up the implementation. VZW asserts that the Commission’s reliance on this “hope” is clear error and completely ignores the anticompetitive effects of artificial code rationing.” Code rationing, says VZW, may forestall the complete exhaust, but is not an alternative to area code relief. Further VZW submits that artificially rationing codes at merely five NXX codes per month constitutes a crisis situation, and estimates that, based upon code requests so

far this year, over 80 requests will be denied because Ameritech is refusing to allocate sufficient resources to implement the new area code. “Wireless carriers,” states VZW, “face a serious threat of running out of numbers to meet growing customer demand . . . in the Grand Rapids region.” VZW requests that the Commission accelerate the implementation schedule so that full implementation will be completed and NXX codes can be assigned prior to September 1, 2002.

Case No. U-12863

**Seaway Painting LLC v MCI WorldCom Communications Inc
(consumer complaint: billing/slamming dispute)**

On July 5, 2001 MCI WorldCom Communications, Inc. (“WorldCom”) filed a petition for rehearing in the matter of the slamming complaint of Seaway Painting, L.L.C. (“Complainant”) and requests that the Michigan Public Service Commission (“Commission”) issue an order providing that non-attorneys may not represent slamming and/or cramming complainants before the Commission. In this proceeding Complainant filed a request to withdraw its complaint without prejudice based on its decision to reexamine the scope of its complaint and the belief that it was necessary to obtain the assistance of counsel. The Commission dismissed the complaint in an order issued June 5, 2001, but also concluded that Complainant could refile its complaint and proceed with the assistance of a person of its choice, who need not be a licensed attorney. WorldCom argues that the Commission’s order is in error. According to WorldCom, “Substantively, the Commission erred because its decision (i) is contrary to the law and (ii) conflicts with the Michigan Rule of Professional Conduct (“MRPC”). Procedurally, the Commission erred because (I) it addressed the representation issue *sua sponte* without providing the parties an opportunity to present argument on this issue and (ii) its Order is not supported by the applicable legal authority.”

I

WorldCom asserts that “[d]espite well established principles, the Commission’s Order, without the benefit or briefs or analysis by any affected parties”, concluded that the Michigan Telecommunications Act (“MTA”) “creates an exception to the general rule” that individuals who are not licensed attorneys are prohibited from practicing law, and thus generally may not represent clients before administrative bodies. Additionally, Michigan’s constitution sets forth that “a corporation can appear only by attorney” WorldCom claims that “a plain reading of the statutory phrase ‘without the assistance of counsel’”, in section 506(1) of the MTA, indicates only that “an individual may proceed in *pro per*”, which “is not the same a saying that an individual may be represented by another non-lawyer.” Further, WorldCom argues that if the Michigan “Legislature had intended to permit non-attorneys to represent slamming/cramming complaints before the MPSC, it certain knew how to do so”, and “would have written the provision to state that complainants ‘may be represented by counsel *or other duly authorized agent*’, a phrase which WorldCom states has been recognized by the Michigan Supreme Court and used repeatedly by the Legislature to permit non-lawyers to serve in a representative capacity at administrative or judicial hearings. Finally, WorldCom states that the MRPC prohibit attorneys from “‘assist[ing] a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.’”

WorldCom also asserts that the Commission's decision is also procedurally flawed. WorldCom notes that the Administrative Procedures Act of 1969 ("APA") "requires that parties be given an opportunity to present argument on an issue where (I) the agency is making a final decision without the benefit of having heard a contested case or having read the record; and (ii) the decision rendered is adverse to a non-agency party to the proceeding." In this proceeding, since the complainant voluntarily stopped the contested case, no record was ever made on the issue of non-attorneys acting on behalf of slamming/cramming complainants. WorldCom asserts that the decision is clearly adverse to WorldCom, "because it encourages the creation of a *niche market* or *new cottage industry*" for non-lawyer consultants and the 'call 1-800-slamming and we will get you quick bucks' scenario." Further, WorldCom claims that the Commission's decision was also procedurally improper under the APA and the Michigan Constitution because (I) its conclusion of law was not 'supported by authority or reasoned opinion;' (ii) the decision was not 'authorized by law;' and (iii) the decision was not lawful."

Case No. U-12954
Buckeye TeleSystem Inc and Ameritech Michigan
(interconnection agreement)

On May 22, 2001 Buckeye TeleSystem, Inc. ("Buckeye") and Ameritech Michigan jointly applied to the Michigan Public Service Commission ("Commission") for approval of their Interconnection Agreement executed as of April 10, 2001. The Agreement results from Buckeye's decision to adopt the terms and conditions of the interconnection agreement dated September 18, 2000 between Coast to Coast Telecommunications, Inc. and Ameritech Michigan, including the Appendix DSL for line sharing or HFPL, that was approved by the Commission in an order issued October 24, 2000 in Case No. U-12382. The Agreement has an initial term that expires on September 18, 2003.

Case No. U-12955
Comcast Telecommunications Inc and Ameritech Michigan
(interconnection agreement)

On May 22, 2001 Comcast Telecommunications, Inc. ("Comcast") and Ameritech Michigan jointly applied to the Michigan Public Service Commission ("Commission") for approval of their Interconnection Agreement executed as of April 19, 2001. The Agreement results from Comcast's decision to adopt the terms and conditions of the interconnection agreement dated August 18, 1998 between Rhythm Links, Inc., f/k/a Accelerated Connections, Inc., and Ameritech Michigan approved by the Commission on February 2, 1999 in Case No. U-11841. The Agreement has an initial term that expires on August 17, 2001.

Case No. U-12956
Max's Service v American Phone Service
(consumer complaint: slamming)

On May 22, 2001 Max's Service ("Complainant"), of Traverse City, filed a formal complaint with the Michigan Public Service Commission alleging that American Phone Service switched its telephone service without authorization. Complainant requests reimbursement for out-of-pocket expenses, the imposition of fines and the entry of a cease and desist order against American Phone Service.

Case No. U-12984
Michael and Jennifer Traub v MCI WorldCom
(consumer complaint: billing dispute)

On June 10, 2001 Michael and Jennifer Traub requested that the Michigan Public Service Commission dismiss with prejudice their complaint against MCI WorldCom involving a billing dispute.

Case No. U-13004
Linda Cadreau v Ameritech Michigan
(consumer complaint: quality of service)

On July 5, 2001 Linda Cadreau ("Complainant"), of Northville, filed a formal complaint with the Michigan Public Service Commission ("Commission") alleging that Ameritech Michigan did not take the proper action to repair her telephone service after she reported the outage in early May 2001. Complainant states that four or five Ameritech employees were sent to her residence (including one who claimed he was in construction and "didn't really do repairs"), none of which was able to make the necessary repair. Complainant states that at one point Ameritech instructed her to call its business office and order a repair part. She states that she tried to call, but was left on "hold" so long that she had to hang up because of the expense of incurring so many minutes on her cellular phone. Complainant further states that the repair was not made until after she reported the matter to the Commission. Complainant requests that she be reimbursed for the additional expenses she incurred using an alternate phone and credit for the month in which service was disrupted.

Case No. U-13005
TelNet Worldwide Inc and Ameritech Michigan
(interconnection agreement)

On July 6, 2001 TelNet Worldwide, Inc. ("TelNet") and Ameritech Michigan jointly applied to the Michigan Public Service Commission ("Commission") for approval of their Interconnection Agreement executed as of June 1, 2001. The Agreement results from TelNet's decision to adopt the

terms and conditions of the interconnection agreement, including the Appendix DSL for line sharing or HFPL, dated September 18, 2000 between Coast to Coast Telecommunications, Inc. and Ameritech Michigan, that was approved by the Commission in an order issued on October 24, 2000 in Case No. U-12382. The Agreement has an initial term that expires on September 18, 2003.

Case No. U-13006
MichTel Inc and Ameritech Michigan
(interconnection agreement)

On July 6, 2001 MichTel, Inc. (“MichTel”) and Ameritech Michigan jointly applied to the Michigan Public Service Commission (“Commission”) for approval of their Interconnection Agreement executed as of June 5, 2001. The Agreement results from MichTel’s decision to adopt the terms and conditions of the interconnection agreement, including the Appendix DSL for line sharing or HFPL, dated September 18, 2000 between Coast to Coast Telecommunications, Inc. and Ameritech Michigan, that was approved by the Commission in an order issued on October 24, 2000 in Case No. U-12382. The Agreement has an initial term that expires on September 18, 2003.

Case No. U-13007
Ameritech Michigan
(directory assistance services)

On July 6, 2001 Ameritech Michigan submitted to the Michigan Public Service Commission (“Commission”) its application for a determination that directory assistance services provided to und-users are competitive in all areas of Michigan in which Ameritech provides such services. On December 15, 2000 Ameritech made a similar filing pursuant to sections 207 and 701 of the Michigan Telecommunications Act (“MTA”), but the Commission, in an order issued March 29, 2001 determined that section 208 of the MTA was also applicable to the filing; that a more extensive record was required for the Commission to make a determination; and that to determine whether directory assistance services are competitive, Ameritech should file an application under section 203, pursuant to the authority granted the Commission under section 208. Ameritech claims that “[r]obust alternatives to [its] directory assistance services are provided by various local and toll telecommunications providers, including AT&T Sprint and WorldCom, as well as internet content providers, cellular telephone companies, directory publishers, independent directory assistance providers, software companies and others.” Further, Ameritech asserts that competition in this market is not hampered by entry barriers, and that conditions are very favorable for potential competitors to offer even more alternatives to Ameritech’s directory assistance service. Finally, Ameritech notes that “[d]irectory assistance services have recently been declared competitive in Kansas and Connecticut, and a number of jurisdictions no longer regulate the price of directory assistance services.

Case No. U-13008
TruComm Corporation
(license)

On July 9, 2001 TruComm Corporation (“TruComm”) applied to the Michigan Public Service Commission for a license to provide basic local exchange services in LATA exchanges served by Ameritech Michigan throughout the state. TruComm states that it is an Illinois corporation with offices located in Buffalo Grove, Illinois.

Case No. U-13010
James M. Sesnie v GTE Long Distance
(consumer complaint: slamming)

On July 6, 2001 James M. Sesnie (“Complainant”), of Grosse Pointe Farms, filed a formal complaint with the Michigan Public Service Commission alleging that GTE Long Distance switched his telephone service without authorization. Complainant requests reimbursement of his out-of-pocket expenses, the imposition of fines and the entry of a cease and desist order against GTE Long Distance.

Case No. U-13014
Nikki S. Miller v Ameritech Michigan
(consumer complaint: billing dispute)

On July 11, 2001 Nikki S. Miller (“Complainant”), of Savannah, Tennessee, and formerly of Kentwood, Michigan, filed a formal complaint with the Michigan Public Service Commission (“Commission”) alleging that Ameritech Michigan is holding her responsible for a delinquent account in the amount of approximately \$2,000.00. Complainant claims that she did not authorize this phone service and was not aware of the account until she moved and was not allowed to order new phone service until she paid the outstanding balance. Complainant requests that the Commission order Ameritech to remove the outstanding balance from her account, impose fines upon and enter a cease and desist order against Ameritech.

Case No. U-13015
Joyce Marhofer v Ameritech Michigan
(consumer complaint: unauthorized charges)

On July 11, 2001 Joyce Marhofer (“Complainant”), of Pinckney, filed a formal complaint with the Michigan Public Service Commission alleging that Ameritech Michigan has assessed her account for unauthorized calling card calls extending over three billing periods. Complainant states that she has informed Ameritech that her calling card and pin number were stolen and that the person responsible for making these calls is in prison. Further Complainant said she was forced to pay the

disputed charges when she received a disconnect notice from Ameritech. Complainant requests reimbursement for her economic loss of over \$1300.00, the imposition of fines and the entry of a cease and desist order against Ameritech.

Case No. U-13016

**Motema Security Services v America Net
(consumer complaint: slamming)**

On July 11, 2001 Motema Security Services (“Complainant”), of Southfield, filed a formal complaint with the Michigan Public Service Commission alleging that its telephone services were switched by America Net without authorization. Complainant requests \$3,500.00 for out-of-pocket expenses, the imposition of fines and the entry of a cease and desist order against America Net.

Case No. U-13017

**RFB Cellular Inc and Ameritech Michigan
(interconnection agreement)**

On July 12, 2001 RFB Cellular, Inc. (“RFB”) and Ameritech Michigan jointly requested Michigan Public Service Commission (“Commission”) approval of their Interconnection Agreement. The application states that RFB Cellular is a commercial mobile radio (CMRS) provider with facilities located throughout Michigan. The Agreement results from the decision of RFB to adopt the terms and conditions of the interconnection agreement dated October 14, 1999 between CenturyTel Wireless, Inc. and Ameritech Michigan, approved by the Commission on January 10, 2000 in Case No. U-11989. The Agreement has an initial term that expires on October 13, 2002.

Case No. U-13019

**Yaseka and Rashaan Shipp v AmeriVoice Telecommunications
(consumer complaint: failure to provide service)**

On July 16, 2001 Yaseka and Rashaan Shipp (“Complainants”), of Detroit, filed a formal complaint with the Michigan Public Service Commission alleging that AmeriVoice Telecommunications has failed to provide dial tone service as promised. Complainants state that on June 3, 2001 they received a call stating that BigTel, their current phone service provider, was going out of business and that if Complainants wished to continue service with no interruption and to use the same phone number, they needed to make a \$57.00 deposit to a company called Digital Innovation and that the new service would be provided by AmeriVoice. Complainants paid the deposit on the following day, however, their phone service was disconnected on June 18, 2001 and was not restored until 10 days later. Complainants request reimbursement for their economic loss of \$457.08, the imposition of fines and the entry of a cease and desist order against AmeriVoice.

Case No. U-13021
Dominion Telecom Inc
(license)

On July 16, 2001 Dominion Telecom, Inc. (“Dominion”) applied to the Michigan Public Service Commission for a license to provide basic local exchange telecommunications services in the service territories of Ameritech Michigan, Verizon North Inc. and Verizon North Systems. Dominion states that it is a privately-held Virginia corporation headquartered in Richmond, Virginia, and a wholly-owned subsidiary of Dominion Fiber Ventures LLC, a Delaware limited liability company and an affiliate of Dominion Resources, Inc., a fully integrated gas and electric energy holding company headquartered in Richmond, Virginia. Dominion further states that it was formerly known as VPS Communications, Inc. and was organized exclusively to provide state-of-the-art telecommunications services to customers in the state of Michigan and throughout the United States.

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PSC NOTICES OF OPPORTUNITY FOR COMMENT

No Notices of Opportunities for Comment have been issued in the preceding two-weeks.

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SCHEDULED MPSC MEETINGS FOR JULY 2001

July 11, 2001	Wednesday	9:00 a.m..
July 25, 2001	Wednesday	9:00 a.m.

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