

# MICHIGAN TELECOMMUNICATIONS REPORT™

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## FEATURES

### **MPSC FINDS DEARBORN VIOLATES MTA ROW PROVISIONS**

On August 16, 2001, the Michigan Public Service Commission (“Commission”) issued its Order in a four-count complaint brought by Metromedia Fiber Network Services, Inc. (“MFN”) against the City of Dearborn (“City”) finding 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. The Commission also held that the City’s primary purpose in asserting its claimed defenses was to harass and injure the provider, and that it had harmed not only MFN, but also the residents of Michigan and the City’s own residents.

The Commission determined that the City violated Section 251 for failing to grant or deny access to the rights-of-way within 90 days of receiving MFN’s request for access. The Commission further determined that the City’s requirement that a provider enter into a franchise agreement with the City as a condition of obtaining consent to use the public rights-of-way is inconsistent with the MTA: “[t]he requirement that a telecommunications service provider enter into a franchise agreement is at odds with the plain language of Article 2A. The Legislature must be presumed to be familiar with the concept a franchise, and yet it chose to require the issuance of a permit under Section 251.”

Although the Commission assumed that Article 2A of the MTA is constitutional, the Commission briefly addressed the City’s claim that Article 2A violates Article 7 Section 29 of the Michigan Constitution:

“The City’s argument suffers from at least four flaws. First, the argument depends on “consent” and “franchise” [as used by the constitution] being synonymous. The Michigan Supreme Court has ruled, with respect to the comparable provisions in the 1908 Constitution, that consent and not a franchise is required for the use of a city’s streets.

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Second, the argument depends on a provider of telecommunications services being a public utility as that term is used in the constitution. The Legislature does not view it as a utility service. MCL 484.2102(dd). Third, the argument depends on the provision of telecommunication services constituting the transacting of local business as that term is used in the constitution. The Michigan

Supreme Court has ruled that telephone service is not local in character.

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Fourth, even if the City were correct that it may require a franchise as a conditions of MFN's transacting of local business within the City (which requires a conclusion both that the telecommunications service providers are public utilities and that the provision of telecommunications services is a transacting of local business), the City's argument depends on a conclusion that a provider must obtain a franchise to transact local business at the same time as it obtains consent to use the rights-of-way. MFN's decision to run a portion of its network through the City of Dearborn did not necessarily mean that it would provide service within the city limits or would seek to do so over the City's objection.

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The Commission concludes that the City's insistence that MFN obtain a franchise violates Article 2A . . . . The Commission finds only that the City has violated the MTA by requiring that MFN obtain a franchise as a condition of obtaining access to the public rights-of-way."

The Commission also determined that the City's fees violated Section 253 of the MTA and that the approach taken by the City in support of its costs is "fundamentally inconsistent with the MTA because it does not focus on the costs that MFN will cause the City to incur. The Commission explained:

"It is beyond dispute that the City takes a very expansive view of the costs associated with the rights-of-way, a view that cannot be squared with the language of the MTA. The Commission has previously rejected an approach similar to, if not identical to, the City's in Case No. U-12354."

Additionally, the Commission struck down a majority of the provisions of the franchise agreement complained of by MFN as volatile of the MTA:

"The franchise seeks, in these and other provisions, to regulate matters that are not related to the use of the rights-of-way, to collect additional fees through free services and facilities, to set rates, to

regulate matters that are within the jurisdiction of the Commission or the Federal Communications Commission, and to regulate matters that the Legislature has determined should not be regulated at all.”

\*\*\*

The MTA requires the issuance of a lawful permit, not the issuance of a permit that a provider must litigate section by section to eliminate the unlawful provisions.”

The Commission did not make a definitive ruling on MFN’s discrimination claim citing lack of evidence in the record to conclude that MFN is similarly situated with the other providers. However, the Commission did say that there was no apparent rational basis for the different fees that the City charges, but, the more fundamental problem with the fees is that the City’s approach is not consistent with the MTA.

The Commission also determined that a fine would be appropriate in this case. The Commission held that the public interest demands that municipalities not be permitted to use unlawful or insubstantial reasons to stop the deployment of advanced, or even basic, telecommunications in this state. The Commission determined that the City’s violation was a second offense and that the City acted in bad faith: “[a]ny reasonable reading of the MTA and the court decisions should have resulted in the City’s issuance of a lawful permit long ago.” The Commission determined that the City’s actions have harmed the residents of Michigan and the City’s own residents by depriving them of access to another high-speed broadband network and fined the City \$2,000 per day for the first ten days after issuance of this Order, and \$4,000 per day thereafter until the City issues a permit that fully complies with the MTA or denies MFN’s application for a lawful reason as determined by the Commission.

The Commission also awarded MFN its attorney fees and costs concluding that the fees and costs are warranted both under Section 601 of the MTA and Section 209 because the City’s position in this proceeding has been frivolous. The Commission determined that:

“the City’s primary purpose in asserting its claimed defenses has been to harass and injure MFN. Furthermore, as discussed in this Order, some of the City’s legal positions are devoid of arguable legal merit.”

Also, the Commission issued a cease and desist order against the City to place the City on unmistakable notice that it has failed to comply with the MTA and that future violations will result in greater sanctions than imposed by the Commission in this case.

## **MODEL RIGHTS-OF-WAY FORMS ENDORSED BY MPSC**

At the August 16, 2001 meeting of the Michigan Public Service Commission (“Commission”), the Commission adopted the following minute:

“On October 24, 2000, the Commission directed its Staff to commence a collaborative process to facilitate the implementation of Article 2A of the Michigan Telecommunications Act regarding the use of public rights-of-way by telecommunications providers. Interested providers, municipalities, and others were asked to participate in the process on a voluntary and non-prejudicial basis to the respective legal positions.

“The Staff convened a series of collaborative meetings, pursuant to the Commission’s direction, which have produced a sample cover letter, an application for a permit, and a unilateral permit and a bilateral permit.

“The Commission hereby endorses and encourages the voluntary use of the model rights-of-way forms, as reasonable compromises created by knowledgeable representatives of the key stakeholders. The Commission believes the model documents to be more consistent with legislative intent than most similar documents currently in use, and it is the Commission’s belief that the utilization of these forms will generally provide a ‘safe harbor’ that is less likely to produce conflict and disputes than the use of other forms.

“The Commission further endorses and encourages the use of these forms in the hopes of standardizing and streamlining the process for telecommunications providers to secure access to and use of public rights-of-way in Michigan, as intended by Article 2A of the Michigan Telecommunications Act.”

### **INDEX OF CASES HIGHLIGHTED**

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**MPSC ADOPTS INTERIM TELECOMMUNICATION SERVICE  
QUALITY STANDARDS EFFECTIVE SEPTEMBER 1, 2001**

On August 16, 2001 the Michigan Public Service Commission issued a press release announcing that in order to provide ongoing protection for Michigan telephone customers, interim telecommunication service quality standards were adopted to take effect September 1, 2001, and remain in effect until a subsequent Commission order or until new service quality rules become effective. The interim telecommunication service quality standards include the same substantive provisions of the currently service quality rules, slated to expire on September 1, 2001. The Commission and MPSC Staff are continuing to work on new service quality rules, the subject of a public hearing on August 8, 2001. Written comments on the new quality rules were received through August 15, 2001. "Extensive and substantive comments were provided on the draft service quality rules, both at the public hearing and through written comments," said Chairman Laura Chappelle. "To ensure that the Commission has ample time to develop comprehensive rules that will best protect Michigan consumers, we concluded that interim telecommunications service quality standards should be adopted."

\* \* \*

**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.

<b>Senate Bill # Senator</b>	<b>Date Introduced</b>	<b>Description</b>	<b>Status</b>
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

<b>House Bill # Representative</b>	<b>Date Introduced</b>	<b>Description</b>	<b>Status</b>
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-11838**

**LDM Systems  
(license)**

On August 16, 2001 the Michigan Public Service Commission issued an order rescinding the license granted to RSL COM U.S.A., Inc., d/k/a LDM Systems, Inc., (“RSL”) to provide basic local exchange service. On July 10, 2001 RSL indicated its intent to surrender the license.

**Case No. U-12178**

**AT&T Wireless Services Inc and Verizon North Inc and  
Contel of the South Inc, d/b/a Verizon North Systems  
(interconnection agreement)**

On August 16, 2001 the Michigan Public Service Commission issued an order approving the First Amendment (“Amendment”) to the Interconnection Agreement between AT&T Wireless Services, Inc., and Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems. The Amendment replaces the directory distribution provisions of the agreement.

**Case No. U-12253**

**Broadband Office Communications Inc  
(license)**

On August 16, 2001 the Michigan Public Service Commission issued an order rescinding the

license of Broadband Office Communications, Inc. (“BBOC”) to provide basic local exchange service. On July 13, 2001 BBOC indicated its intent to surrender the license.

**Case No. U-12273**

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

On August 16, 2001 the Michigan Public Service Commission issued an order approving the Second Amendment (“Amendment”) to the Interconnection Agreement between Long Distance of Michigan, Inc. and Ameritech Michigan. The Second Amendment adds Appendix Merger Conditions, ULS-ST Rate Elements, and the associated pricing table.

**Case No. U-12326**

**2<sup>nd</sup> Century Communications Inc  
(license)**

On August 16, 2001 the Michigan Public Service Commission issued an order rescinding the license of 2<sup>nd</sup> Century Communications, Inc. (“2<sup>nd</sup> Century”) to provide basic local exchange service. On July 25, 2001 2<sup>nd</sup> Century indicated its intent to surrender the license.

**Case No. U-12352**

**OnSite Access Local LLC  
(license)**

On August 16, 2001 the Michigan Public Service Commission issued an order rescinding the license of OnSite Access Local LLC (“OnSite”) to provide basic local exchange service. On June 29, 2001 OnSite indicated its intent to surrender the license.

**Case No. U-12635**

**Sigma Networks Telecommunications Inc  
(license)**

On August 16, 2001 the Michigan Public Service Commission issued an order rescinding the license of Sigma Networks Telecommunications, Inc. (“Sigma”). On July 9, 2001 Sigma indicated its intent to surrender the license.

**Case No. U-12778**  
**Best Computer Consulting Inc v**  
**Sprint Communications Company LP**  
**(consumer complaint: billing dispute)**

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Best Computer Consulting, Inc. against Sprint Communications Company L.P. involving a billing dispute. On July 20, 2001 the parties filed a request to dismiss the complaint with prejudice.

**Case No. U-12797**  
**Metromedia Fiber Network Services Inc v City of Dearborn, Michigan**  
**(R-O-W dispute)**

On August 16, 2001 the Michigan Public Service Commission issued an order finding that the City of Dearborn's (the "City") actions involving a permit application filed by Metromedia Fiber Network Services, Inc. ("MFN") were not a good faith implementation of the provisions of the Michigan Telecommunications Act ("MTA") and imposed daily fines on the City until it takes definitive action with MFN, in full compliance with the MTA and the instant order. The Commission found that: 1) the City failed to act on MFN's request for a permit within the time required by the MTA; 2) the City's insistence upon the use of a franchise agreement violates the MTA; 3) and, that the terms of the City's franchise agreement violate the MTA. The Commission concluded that the City must pay the attorney fees and const of MFN incurred in connection with this case and that the City must pay a fine to the State of Michigan from the date of the issuance of this order through the date of the issuance of a permit to MFN in full compliance with the MTA, or the lawful denial of the request for a permit. The Commission states that the fine will be \$2,000.00 per day for the first 10 days, and \$4,000.00 per day thereafter. The Commission also ordered the City to cease and desist from further violations of the MTA.

**Case No. U-12832**  
**eVoice Telecom Inc**  
**(license)**

On August 16, 2001 the Michigan Public Service Commission issued an order rescinding the license of eVoice Telecom, Inc. ("eVoice"). On July 2, 2001 eVoice indicated its intent to surrender the license.

**Case No. U-12848**  
**American Veterinary Laboratory Inc v Ameritech Michigan**  
**(consumer complaint: quality of service)**

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the

complaint of American Veterinary Laboratory, Inc. (“Complainant”) against Ameritech Michigan alleging delays in the installation of facilities. On April 10, 2001 Complainant filed a request to withdraw the complaint without prejudice.

**Case No. U-12853**

**Barbara Ware v McLeodUSA Telecommunications Inc  
(consumer complaint: billing dispute)**

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Barbara Ware (“Complainant”) against McLeodUSA Telecommunications, Inc. involving a billing dispute. On July 20, 2001 Complainant filed a request to withdraw the complaint with prejudice.

**Case No. U-12884**

**Shannon Spitzer v Ameritech Michigan  
(consumer complaint: unauthorized charges)**

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Shannon Spitzer (“Complainant”) against Ameritech Michigan alleging unauthorized charges. On June 14, 2001 Complainant filed a request to withdraw the complaint with prejudice.

**Case No. U-12895**

**RVP Fiber Company LLC  
(license)**

On August 16, 2001 the Michigan Public Service Commission granted to RVP Fiber Company, L.L.C. 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-12909**

**Shannon Elizabeth Thompson v Ameritech Michigan  
(consumer complaint: unauthorized charges)**

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Shannon Elizabeth Thompson (“Complainant”) against Ameritech Michigan alleging unauthorized charges. On June 14, 2001 the complainant filed a request to withdraw the complaint with prejudice.

**Case No. U-12911**  
**B & S Telecom Inc**  
**(license)**

On August 16, 2001 the Michigan Public Service Commission (“Commission”) issued an order granting to B & S Telecom (“B & S”) a license to provide basic local exchange service in all exchanges currently served by Ameritech Michigan. The Commission granted B & S a temporary license on May 15, 2001.

**Case No. U-12912**  
**Frederick L. and M. Elaine Lamb v**  
**AT&T Communications of Michigan Inc**  
**(consumer complaint: slamming)**

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Frederick L. and M. Elaine Lamb (“Complainants”) against AT&T Communications of Michigan, Inc. alleging an unauthorized switch in service providers. On June 22, 2001 Complainants filed a request to withdraw the complaint with prejudice.

**Case No. U-12913**  
**Joseph M. DeLisa v AT&T Communications of Michigan Inc**  
**(consumer complaint: slamming)**

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Joseph M. DeLisa (“Complainant”) against AT&T Communications of Michigan, Inc. alleging an unauthorized switch of service providers. On June 22, Complainant filed a request to withdraw the complaint with prejudice.

**Case No. U-12920**  
**Enkido Inc**  
**(license)**

On August 16, 2001 the Michigan Public Service Commission issued an order granting to Enkido, 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-12928**  
**United Telecom Inc**  
**(license)**

On August 16, 2001 the Michigan Public Service Commission issued an order granting to

United Telecom, Inc. a license to provide basic local exchange service in the zone and exchange areas served by Ameritech Michigan, Verizon North Inc., Verizon North Systems, CenturyTel of Michigan, Inc., CenturyTel of Northern Michigan, Inc., CenturyTel Midwest, Inc., and CenturyTel of the Upper Peninsula, Inc.

**Case No. U-12930**

**Taylor Door & Builders Inc v Ameritech Michigan  
(consumer complaint: disconnection of service)**

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Taylor Door & Builders, Inc. (“Complainant”) against Ameritech Michigan regarding a disconnection of service. On July 25, 2001 Complainant filed a request to withdraw the complaint with prejudice.

**Case No. U-12937**

**Larry D. Henry v AT-N Corporation  
(consumer complaint slamming)**

On August 16, 2001 the Michigan Public Service Commission (“Commission”) adopted the recommendations of Administrative Law Judge Barbara A. Stump (“ALJ”) and issued an order finding that AT-N Corporation (“AT-N”) switched the long distance telephone service of Larry D. Henry (“Complainant”) without his authorization and ordered AT-N to pay a fine of \$20,000.00 for violating Section 505(1) of the Michigan Telecommunications Act. Fifty percent of the fine is payable to the State of Michigan and the remaining fifty percent is payable to the Complainant. AT-N was also ordered to make restitution to Complainant in the amount of \$1,226.38. All payments must be made within 30 days. AT-N failed to respond to the complaint, failed to appear at the public hearing, and failed to respond to the ALJ’s Proposal for Decision.

**Case No. U-12941**

**RACC Enterprises LLC  
(license)**

On August 16, 2001 the Michigan Public Service Commission issued granted to RACC Enterprises, LLC a license to provide basic local exchange service in all exchanges currently served by Ameritech Michigan, Verizon North Inc., Contel of the South, Inc., d/b/a Verizon North Systems, CenturyTel of Michigan, Inc., CenturyTel of Northern Michigan, Inc., CenturyTel Midwest, Inc., and CenturyTel of the Upper Peninsula, Inc.

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

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Max's Service ("Complainant") against American Phone Service Corp. alleging an unauthorized switch in service providers. On June 10, 2001, Complainant filed a request to withdraw the complaint without prejudice.

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

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Paula J. Marchewka ("Complainant") against AT-N Corporation regarding an unauthorized switch of service providers. On July 25, 2001 Complainant filed a request to withdraw the complaint without prejudice.

**Case No. U-12960**  
**Nancy Ott v Direct One Inc**  
**(consumer complaint: unauthorized charges)**

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Nancy Ott ("Complainant") against Direct One, Inc. regarding unauthorized charges. On July 25, 2001 Complainant filed a request to withdraw the complaint without prejudice.

**Case No. U-12971**  
**Angie M. Hoolsema v MCI WorldCom Communications Inc**  
**(consumer complaint: slamming)**

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Angie M. Hoolsema ("Complainant") against MCI WorldCom Communications, Inc. regarding an unauthorized switch of service providers. On July 18, 2001 Complainant filed a request to withdraw the complaint with prejudice.

**Case No. U-12976**  
**Karen Randall v Z-Tel Communications**  
**(consumer complaint: slamming)**

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Karen Randall ("Complainant") against Z-Tel Communications alleging an

unauthorized switch of service providers. On June 28, 2001 Complainant filed a request to withdraw the complaint with prejudice.

**Case No. U-12963**

**Dale and Dorothy Bernath v MCI WorldCom Communications Inc**  
(consumer complaint: billing dispute)

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Dale and Dorothy Bernath (“Complainants”) against MCI WorldCom Communications, Inc. regarding a billing dispute. On July 17, 2001 Complainants filed a request to withdraw the complaint with prejudice.

**Case No. U-12978**

**John Keglovitz v Ameritech Michigan**  
(consumer complaint: quality of service)

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of John Keglovitz (“Complainant”) against Ameritech Michigan regarding out-of-service bill credits. On July 25, 2001 Complainant filed a request to withdraw the complaint with prejudice.

**Case No. U-12986**

**Rukeya Y. Rupert v Ameritech Michigan**  
(consumer complaint: billing dispute)

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Rukeya Y. Rupert (“Complainant”) against Ameritech Michigan regarding a billing dispute. On July 9, 2001 Complainant filed a request to withdraw the complaint with prejudice.

**Case No. U-12984**

**Michael and Jennifer Traub v MCI WorldCom Communications Inc**  
(consumer complaint: billing dispute)

On August 16, 2001 the Michigan Public Service Commission issued an order dismissing the complaint of Michael and Jennifer Traub (“Complainants”) against MCI WorldCom Communications Inc. regarding a billing dispute. On July 10, 2001 Complainants filed a request to withdraw the complaint with prejudice.

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

On August 16, 2001 the Michigan Public Service Commission issued an order adopting as interim telecommunication service quality rules to take effective September 1, 2001. The interim rules are the same substantive provisions as are currently in effect. "Rather than permit the current rules to lapse without new rules being in effect, the Commission concludes that it should exercise its statutory authority by adopting interim standards, to be in effect until the Commission completes the promulgation of new service quality rules in this docket or issues another order." The Commission also notes that "[i]n light of the comments provided at the hearing and in subsequent filings, the Commission will be revising the proposed rules. A hearing on the proposed rules was held August 8, 2001 on the proposed rules and written comments were due on August 15, 2001.

**Case No. U-13017**  
**RFB Cellular Inc and Ameritech Michigan**  
**(interconnection agreement)**

On August 16, 2001 the Michigan Public Service Commission issued an order approving the Interconnection Agreement ("Agreement") between RFB Cellular, Inc. ("RFB") and Ameritech Michigan. The Agreement results from the decision of RFB to adopt the terms and conditions of the interconnection agreement between CenturyTel Wireless, Inc. and Ameritech, that was approved on January 10, 2000 in Case No. U-11989.

**Case No. U-13022**  
**United Telecom Inc and Ameritech Michigan**  
**(interconnection agreement)**

On August 16, 2001 the Michigan Public Service Commission issued an order approving the resale agreement between United Telecom, Inc. and various SBC Communications, Inc. owned companies, including Ameritech Michigan.

**Case No. U-13028**  
**NOS Communications Inc and Ameritech Michigan**  
**(interconnection agreement)**

On August 16, 2001 the Michigan Public Service Commission issued an order approving the Interconnection Agreement between NOS Communications, Inc. and various SBC Communications, Inc. owned companies, including Ameritech Michigan.

**Case No. U-13033**  
**Superior Technologies Inc, d/b/a Superior Communications, and**  
**Ameritech Michigan**  
**(interconnection agreement)**

On August 16, 2001 the Michigan Public Service Commission issued an order approving the Interconnection Agreement (“Agreement”) between Superior Technologies, Inc., d/b/a Superior Communications, (“Superior”) and Ameritech Michigan. The Agreement results from the decision of Superior to adopt the terms and conditions of the interconnection agreement between Ameritech Michigan and Coast to Coast Telecommunications, Inc. (including Appendix DSL for line sharing) that was approved on October 24, 2000 in Case No. U-12382.

\* \* \*

**DECISION OF ARBITRATION PANEL**

**Case No. U-12592**  
**TDS Metrocom Inc**  
**(arbitration of interconnection agreement with Ameritech Michigan)**

On August 6, 2001, an Arbitration Panel (“Panel”), consisting of Administrative Law Judge George Schankler and Michigan Public Service Commission (“Commission”) Staff members, Margaret Wallin and Lewis R. Passariello, issued a decision in the matter of the petition of TDS Metrocom, Inc. (“TDS”) for arbitration to establish an Interconnection Agreement (“Agreement”) with Ameritech Michigan. Among the 38 issues the Panel addressed, were the following:

Escrow of disputed amounts: the Panel rejected Ameritech’s proposed language that would have required TDS to escrow disputed amounts pending resolution of the dispute.

Notice of tariff changes: the Panel adopted TDS’ language requiring Ameritech to give TDS two weeks notice of tariff filings, which would affect the Agreement.

Provision of unbundled network elements: the Panel rejected Ameritech’s proposed language that would have limited the provision of unbundled network elements (“UNEs”) to UNEs where Ameritech has facilities and equipment available, and that have been specifically defined by the Commission or the Federal Communications Commission. The Panel also rejected Ameritech’s proposed language that would have allowed it to determine how TDS may use UNE combinations.

Collocation: the Panel adopted language that allows TDS to obtain adjacent offsite

collocation access, pursuant to Ameritech's tariff. The Panel specifically found that Ameritech's representation that offsite adjacent collocation was available only in California was a false representation in light of similar provisions in Ameritech's tariff. Therefore, the Panel found that "it would be unreasonable and not in the public interest to reward Ameritech for its bad faith by accepting Ameritech's position" on that issue. The Panel rejected Ameritech's proposed language that would have shifted the burden of proving that each piece of collocation equipment meets the requirement of the Federal Telecommunications Act to TDS; such a burden was, therefore, placed on Ameritech. The Panel accepted Ameritech's proposed language granting Ameritech 180 days to fulfill collocation requests when power is unavailable in the collocation area. The Panel rejected Ameritech's language that "would have absolved it of liability 'regardless of the degree of culpability of ...SBC-Ameritech'" if TDS' collocated equipment were damaged.

Reciprocal compensation rates: the Panel and Ameritech noted that TDS has a tariff on file that includes rates for terminating switched access and intraLATA toll services. The Panel rejected Ameritech's challenge to these rates and found that an arbitration proceeding is not the proper proceeding for challenging tariffed rates.

Operator services: the Panel adopted the language proposed by TDS that will allow it to terminate the operator services appendix, upon reasonable notice, if it chooses to receive operator services from another provider.

DSL capable loops: the Panel rejected language proposed by Ameritech that it need not provision new loops for DSL to serve TDS customers in Ameritech's service territory when those loops do not currently exist. The Panel further required that language proposed by TDS be included in the Agreement requiring Ameritech to condition a line to confirm that a loop is represented to be DSL capable and in fact does have that capability.

The parties have been given until August 16, 2001 to file any written objections to the Decision of the Arbitration Panel.

\* \* \*

### **NOTICES OF HEARING**

**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 at 9:00 a.m. on August 20, 2001. Interventions are due on or before August 16, 2001.

**Case No. U-12993**  
**Ernest Communications Inc**  
**(license)**

The June 26, 2001 application of Ernest Communications, Inc. for a license to provide telecommunication services in the exchange areas presently served by Ameritech Michigan, Verizon North, Inc., Verizon North Systems, CenturyTel of Michigan, Inc., CenturyTel of Northern Michigan, Inc., CenturyTel Midwest, Inc. and CenturyTel of the Upper Peninsula, Inc. is set for an evidentiary hearing at 9:00 a.m. on September 11, 2001. Interventions are due on or before September 7, 2001.

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

The July 6, 2001 application of Ameritech Michigan for a determination that directory assistance services provided to end-users are competitive services is set for a prehearing conference at 9:00 a.m. on August 22, 2001. Interventions are due on or before August 15, 2001.

**Case No. U-13008**  
**TruComm Corporation**  
**(license)**

The July 9, 2001 application of TruComm Corporation for a license to provide telecommunications services in the exchange areas presently served by Ameritech Michigan is set for a evidentiary hearing at 9:00 a.m. on September 12, 2001. Interventions are due on or before September 10, 2001.

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

The July 16, 2001 application of Dominion Telecom, Inc. for a license to provide local exchanges services in the exchanges currently served by Ameritech Michigan, Verizon North, Inc. and Verizon North Systems is set for an evidentiary hearing at 9:00 a.m. on October 9, 2001. Interventions are due on or before October 5, 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 August 6 - 10, 2001)**

August 8, 2001, 9:00 a.m.  
Case No. U-13013/public hearing  
Commission's Own Motion (quality of service rules)

August 9, 2001, 9:00 a.m.  
Case No. U-12981/motion hearing  
East Lansing Orthopedic Assn v MCI WorldCom  
(quality of service)

### **Hearings Scheduled for This Week (August 13 - 17, 2001)**

August 16, 2001, 9:00 a.m.  
Case No. U-12968/evidentiary hearing  
Aquino v Ameritech (billing dispute/ID fraud)

August 16, 2001, 9:00 a.m.  
Case No. U-12989/evidentiary hearing  
Ludington 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.*

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

September 12, 2001, 9:00 a.m.  
Case No. U-13008/evidentiary hearing  
TruComm Corporation (license)

August 22, 2001, 9:00 a.m.  
Case No. U-13007/prehearing conference  
Ameritech Michigan (directory assistance services)

October 9, 2001, 9:00 a.m.  
Case No. U-13021/evidentiary hearing  
Dominion Telecom (license)

September 11, 2001, 9:00 a.m.  
Case No. U-12993/evidentiary hearing  
Ernest Communications (license)

## **APPLICATIONS AND COMPLAINTS**

### **Case No. U-11725**

#### **Rhythms Links Inc**

##### **(discontinuance of service)**

On August 10, 2001 Rhythms Links, Inc. (“Rhythms”) filed with the Michigan Public Service Commission its notice of discontinuance of telecommunications services. Rhythms states it received a license to provide basic local exchange services in Michigan on September 23, 1998 in docket U-11725, but “severe financial difficulties” have forced the company to seek protection under Chapter 11 of the Bankruptcy Code.

### **Case No. U-11839**

#### **NEXTLINK Michigan Inc, d/b/a XO Michigan Inc and Ameritech Michigan**

##### **(interconnection agreement)**

On August 6, 2001 NEXTLINK Michigan, Inc., d/b/a XO Michigan, Inc., (“XO”) and Ameritech jointly applied to the Michigan Public Service Commission (“Commission”) for approval of the Mi2A Amendment to their Interconnection Agreement approved by the Commission on April 12, 1999. The application states that as part of the Section 271 collaborative process in Michigan, Ameritech will make available and XO has elected to purchase certain new combinations of unbundled network elements at the terms and conditions set forth in the Mi2A Amendment, as approved by the Commission in Case No. U-12320.

### **Case No. U-12705**

#### **SCC Communications Corp.**

##### **(license)**

On July 18, 2001 SCC Communications Corp. (“SCC”) and its wholly-owned subsidiary, Intrado Communications Inc. notified the Michigan Public Service Commission of an internal corporate restructuring and name change, whereby SCC’s name is changed to Intrado Inc., and that SCC’s license will be transferred to a newly created, wholly-owned subsidiary of Intrado, Intrado Communications. SCC states that these changes “will neither result in any changes in the terms and conditions of its current services, nor result in any changes in the management and technical expertise, operation and control, and financial qualifications to provide service” that were previously approved by the Commission

**Case No. U-12963**  
**Dale and Dorothy Bernath v MCI WorldCom**  
**(consumer complaint: billing dispute)**

On July 17, 2001 Dale and Dorothy Bernath requested that the Michigan Public Service Commission dismiss with prejudice their complaint alleging that MCI WorldCom had improperly billed them for long distances calls made from a phone number that is not theirs.

**Case No. U-12971**  
**Angie M. Hoolsema v MCI WorldCom**  
**(consumer complaint: slamming)**

On July 18, 2001 Angie M. Hoolsema (“Complainant”) requested that the Michigan Public Service Commission dismiss with prejudice her complaint alleging that MCI WorldCom slammed her telephone service.

**Case No. U-12975**  
**MagnaCare Group Inc v MCI WorldCom**  
**(consumer complaint: slamming)**

On August 9, 2001, MagnaCare Group, Inc. (“Complainant”) requested that the Michigan Public Service Commission dismiss with prejudice its complaint alleging that MCI WorldCom slammed its telephone service. Complainant states that a settlement has been reached.

**Case No. U-12987**  
**Allegiance Telecom of Michigan and Ameritech Michigan**  
**(interconnection agreement)**

On August 8, 2001 Ameritech Michigan filed with the Michigan Public Service Commission several pages of the revised pricing schedules that were missing from the Interconnection Agreement which was jointly filed by Ameritech and Allegiance Telecom of Michigan, Inc. on June 21, 2001.

**Case No. U-12988**  
**ACD Telecom Inc and Ameritech Michigan**  
**(interconnection agreement)**

On August 2, 2001 Ameritech Michigan filed with the Michigan Public Service Commission several pages of the revised pricing schedules that were missing from the Interconnection Agreement which was jointly filed by Ameritech and ACD Telecom, Inc. on June 21, 2001.

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

On August 15, 2001 Joyce Marhofer (“Complainant”) filed a request with the Michigan Public Service Commission to withdraw with prejudice her complaint against Ameritech Michigan alleging unauthorized charges. Complainant states that a settlement agreement has been negotiated.

**Case No. U-13030**  
**Mark Lawburgh v MCI WorldCom**  
**(consumer complaint: billing dispute)**

On August 14, 2001 Mark Lawburgh (“Complainant”) filed with the Michigan Public Service Commission a stipulation to dismiss with prejudice his complaint against MCI WorldCom regarding a billing dispute.

**Case No. U-13033**  
**US Xchange of Michigan LLC and Ameritech Michigan**  
**(interconnection agreement)**

On August 8, 2001 Ameritech Michigan filed with the Michigan Public Service Commission several pages of the revised pricing schedules that were missing from the Interconnection Agreement which was jointly filed by Ameritech and US Xchange of Michigan, LLC on July 2, 2001.

**Case No. U-13042**  
**Therese Blick v MCI WorldCom**  
**(consumer complaint: slamming)**

On August 2, 2001 Therese Blick (“Complainant”), of Canton, filed a formal complaint with the Michigan Public Service Commission alleging that MCI WorldCom switched her telephone service without authorization. Complainant seeks reimbursement of out-of-pocket expenses, the imposition of fines and the entry of a cease and desist order against MCI WorldCom.

**Case No. U-13044**  
**Ameritech Michigan**  
**(amended license)**

On August 3, 2001, Ameritech Michigan applied to the Michigan Public Service Commission (“Commission”) for authority to alter the geographic area of its license to provide basic local exchange service by extending the boundaries of Ameritech’s Lansing Exchange to include certain territory from Verizon North Inc.’s Grand Ledge Exchange in order to provide potential customers

with desired service. Ameritech requests that the Commission issue an order without hearing.

**Case No. U-13045**

**Lindell J. LaMothe v Ameritech**  
**(consumer complaint: quality of service)**

On August 2, 2001 Lindell J. LaMothe, of Ferndale, filed a formal complaint with the Michigan Public Service Commission (“Commission”) alleging that Ameritech Michigan failed to repair his telephone service for over one month, and refuses to provide him with adequate relief as set forth in the settlement agreement approved by the Commission in Case No. U-12598 on December 20, 2000.

**Case No. U-13046**

**Joshua Roberson v AT&T**  
**(consumer complaint: slamming)**

On August 2, 2001 Joshua Roberson (“Complainant”), of Livonia, filed a formal complaint with the Michigan Public Service Commission alleging that AT&T switched his long distance service without his authorization. Complainant seeks reimbursement for out-of-pocket expenses, the imposition of fines and the entry of a cease and desist order against AT&T.

**Case No. U-13047**

**IG2 Inc and SBC Advanced Solutions, Inc. on behalf of**  
**Ameritech Advanced Data Services of Michigan Inc, et al.**  
**(interconnection agreement)**

On August 6, 2001 IG2, Inc. (“IG2”) and SBC Advanced Solutions, Inc. (“SBC-ASI”) , on behalf of Ameritech Advanced Data Services of Michigan, Inc., jointly applied to the Michigan Public Service Commission (“Commission”) for approval of the Interconnection Agreement. The application states that IG2 (formerly known as Computer Business Services, Inc.) is a Delaware Corporation with offices located in Kew Gardens, New York. The Agreement has an initial one-year term with an effective date ten (10) days after approval by the Commission.

**Case No. U-13048**

**Oliver L. Johnston v AT&T**  
**(consumer complaint: billing dispute)**

On August 7, 2001 Oliver L. Johnston (“Complainant”), of Bloomingdale, filed a formal complaint with the Michigan Public Service Commission alleging that an AT&T operator misrepresented the per minute charge for a collect call from the Philippines. Complainant states he accepted the call based upon the estimated rate of 48 cents per minute, but was then billed by AT&T

at ten times that rate. Complainant requests that the billed rate be reduced to 48 cents per minute and his account be credited to reflect same.

**Case No. U-13049**

**Alpine PCS Inc and Ameritech Michigan  
(interconnection agreement)**

On August 8, 2001 Alpine PCS, Inc. (“Alpine PCS”), a CMRS provider, and Ameritech Michigan jointly applied to the Michigan Public Service Commission (“Commission”) for approval of their Interconnection Agreement executed as of July 2, 2001 (“Agreement”). The Agreement results from the decision of Alpine PCS to adopt the terms and conditions of the interconnection agreement between Ameritech Michigan and CenturyTel Wireless, Inc. 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-13051**

**United Communications Systems Inc, d/b/a Call One  
(license)**

On August 9, 2001 United Communications Systems, Inc., d/b/a Call One, (“Call One”) applied to the Michigan Public Service Commission for a license to provide basic local exchange service to all of the geographic areas currently served by Ameritech Michigan, Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems. Call One states that it is an Illinois corporation located in Chicago, and that it is a current provider of basic local exchange, long distance, Internet and data services in Illinois.

**Case No. U-13056**

**Cricket Communications Inc and Ameritech Michigan  
(interconnection agreement)**

On August 14, 2001 Cricket Communications, Inc. and various SBC Communications Inc. owned companies, including Ameritech Michigan jointly applied to the Michigan Public Service Commission for approval of their multi-state Cellular/PCS Interconnection Agreement executed as of July 13, 2001 (“Agreement”). The Agreement has an initial term that expires on June 1, 2002.

\* \* \*

**PSC NOTICES OF OPPORTUNITY FOR COMMENT**

**Case No. U-13020  
Winn Telephone Company  
(amended license)**

On July 25, 2001 Winn Telephone Company (“Winn”) filed an application with the Michigan Public Service Commission (“Commission”) to amend the geographic service area of its license to provide basic local exchange service to certain Ameritech Michigan and Verizon North Inc. exchanges. On August 2, 2001 the Commission directed Winn to issue a notice of opportunity to comment to cover the proposed service area by August 22, 2001. Written comments are due on or before September 12, 2001.

\* \* \*

**SCHEDULED MPSC MEETINGS FOR SEPTEMBER 2001**

September 7, 2001	Friday	10:00 a.m.
September 27, 2001	Thursday	10:00 a.m.

\* \* \*

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