

M ICHIGAN **T** ELECOMMUNICATIONS **R** EPORT™

A CLARK HILL PLC Publication, Roderick S. Coy*, Editor

Vol. 21, No. 11, June 3, 2005

In this issue . . .

page no. 2

- **MPSC issues annual report on status of Michigan telecom competition**
- **FCC issues telephone subscriber report**
- **FCC releases reference book**

- 4 Pending Legislation
- 7 Public Acts of 2005
- 7 Orders
- 7 Notices of Hearing
- 8 PSC Hearings Schedule
- 8 Applications and Complaints
- 10 Opportunities for Comment
- 11 PSC Meetings
- 11 MTR Subscription Information

MICHIGAN TELECOMMUNICATIONS REPORT (ISSN 08980357) is published every other week by Clark Hill PLC., 212 East Grand River Avenue, Lansing, Michigan 48906-4328. Although considerable care is exercised in reporting critical information (filing and hearing dates, etc.), such information should be confirmed with the original source. This newsletter should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Editor, Roderick S. Coy; Assistant Editor, Kristine M. Clements; Contributors, Haran C. Rashes and Leland R. Rosier; Annual Subscription \$400.00 (US).

*** MR. COY IS A MEMBER
IN THE CLARK HILL PLC LAW FIRM
DETROIT • BIRMINGHAM • LANSING**

COPYRIGHT © 2005

INDEX OF CASES HIGHLIGHTED

ORDERS:

No orders have been issued. The next regular MPSC meeting is scheduled for 6/7/05 at 1:00 pm

APPLICATIONS:

- U-13569 – Talk America/SBC: ICA
- U-14029 – Essex Acquisition/SBC: ICA
- U-14176 – Cinergy Communications/SBC: ICA
- U-14470 – Matrix Telecom: license
- U-14533 – Kotz, Sangster, Wysocki and Berg PC v SBC: improper disconnection
- U-14536 – BellSouth Long Distance: license
- U-14539 – Myers v United Telecom: failure to provide service
- U-14540 – Vota Telephone: license

**CLARK HILL PLC
212 EAST GRAND RIVER AVENUE
LANSING, MI 48906-4328
(517) 318-3100 - phone
(517) 318-3900 – fax**

FEATURES

MPSC Releases Report on Status of Telecommunications Competition in Michigan, State Remains a National Leader

Note: The MPSC issued this press release on June 1, 2005

The Michigan Public Service Commission (MPSC) today released its fifth annual report on the status of telecommunications competition in Michigan. The report, required by the Michigan Telecommunications Act of 2000, primarily examines the state of competition in the toll and local exchange service markets in Michigan.

Michigan continues to be a leader in the nation in offering telecommunications choices to customers," said MPSC Chairman J. Peter Lark. "As telephone competition has grown, customers have benefited greatly.";

This year's report, however, does show that the increase in competition is the smallest since the Commission has issued its annual report. My fellow commissioners and I will carefully watch what happens to Michigan's competitive local exchange market in 2005 and beyond. The full effect of the Federal Communications Commission's order that no longer requires local providers to offer competitors the use of a platform of their facilities at regulated rates after March 11, 2006 is not yet known. The MPSC will continue to work to preserve competition in Michigan during this transitional time and thereafter.";

Highlights of the report include:

The actual number of competitive providers and lines in Michigan has grown over the last six years from a 4 percent share to a

27.5 percent share at the end of 2004, with the total number of lines decreasing.

Competitive providers' market share is approximately 32.6 percent of SBC lines.

The number of licensed competitive telecommunications providers in Michigan has grown from 120 in 1999 to 202 in 2004, a slight increase from 2003.

The total number of phone lines in Michigan has fallen from 6,726,971 in 1999 to 6,103,250 in 2004, reflecting a loss to wireless and Internet telephony.

While the MPSC does not regulate wireless providers, information gathered by the Federal Communications Commission (FCC) indicates that the number of wireless subscribers in Michigan increased 11 percent from 2003 through June 2004 to 5,430,637. The FCC's report notes that Michigan has 13 wireless carriers with over 10,000 subscribers each.

The entire report is available on the MPSC Web site at: [michigan.gov/mpsc](http://www.michigan.gov/mpsc) (<http://www.michigan.gov/mpsc>). The MPSC is an agency within the Department of Labor & Economic Growth.

FCC RELEASES NEW TELEPHONE SUBSCRIBERSHIP REPORT

May 25, 2005.C. – The Federal Communications Commission (FCC) today released its latest report on telephone subscribership levels in the United States. The report presents subscribership statistics based on the Current Population Survey (CPS) conducted by the Census Bureau in March 2005. The report also shows subscribership levels by state, income level, race, age, household size, and employment status.

Statistical Summary

In March 2005:

- The telephone subscribership penetration rate in the U.S. was 92.4%.
- The telephone penetration rate was 80.4% for households with annual incomes below \$5,000, while the rate for households with incomes over \$75,000 was 96.9%.
- By state, the penetration rates ranged from a low of 86.7% in Mississippi to a high of 96.9% in Utah and Washington.
- Households headed by whites had a penetration rate of 93.2%, while those headed by blacks had a rate of 87.7% and those headed by Hispanics had a rate of 88.2%.
- By age, penetration rates ranged from 85.5% for households headed by a person under 25 to 94.8% for households headed by a person between 65 and 69.
- Households with one person had a penetration rate of 89.0%, compared to a rate of 94.5% for households with four or five persons.
- The penetration rate for unemployed adults was 90.1%, while the rate for employed adults was 93.7%.

This report is updated three times a year and is available in the FCC's Reference Information Center, Courtyard Level, 445 12th Street SW, Washington, DC 20554. Call Best Copy and Printing, Inc. at (202) 488-5300 to purchase a copy. This report can also be downloaded from the FCC-State Link Internet site at <http://www.fcc.gov/wcb/iatd/stats.html>.

FCC Releases Reference Book

Washington, D.C. – Today, the Federal Communications Commission (FCC) released its annual report, *Reference Book of Rates, Price Indices, and Household Expenditures for Telephone Service*. The report contains

information on local and long distance rates paid by residential and business consumers, household expenditures, and price indices. Highlights include the following:

Toll Service Rates

- During 2004, the consumer price index for interstate toll service fell 8.7% and the consumer price index for intrastate toll service fell 6.6%, while the overall consumer price index rose 3.3%.
- The average revenue per minute of long distance calling, which reflects rates paid by residential and business consumers, has fallen from 15 cents in 1992, when discount and promotional long distance plans were introduced, to 7 cents in 2003, a decrease of 53%.

Rates for Local Service

- The average rate paid by residential customers for unlimited touch-tone calling was \$24.31 in 2004, compared to \$24.52 in 2003, a decrease of 0.9%. Connection charges for residential customers rose from \$42.54 to \$42.59 during the same period, an increase of 0.1%.
- The Lifeline universal service program subsidizes the monthly phone charges for low-income households, while the Link-Up program subsidizes charges for the connection of a phone line. Based on a sample of cities, Lifeline conferred an average monthly benefit of \$13.82, and Link-Up conferred an average benefit of \$28.51.
- The average rate paid by business customers for a single phone line was \$43.75 in 2004, compared to \$41.96 in 2003, an increase of 4.3%. Connection charges for single-line business customers fell from \$74.18 in 2003 to \$74.17 in 2004, a decrease of 0.01%.

Consumer Expenditures for Telephone Service

- According to Bureau of Labor Statistics (BLS) surveys, telephone service continues to comprise approximately 2% of household expenditures. Monthly expenditures for telephone service by households with telephone service fell from \$79.75 in 2002 to \$79.67 in 2003, a decrease of 0.1%.
- Also, according to BLS surveys, urban households continue to spend more on telephone service than rural households. During 2003, annual expenditures for urban households were \$967, as compared to \$875 for rural households.
- According to data for the year 2003 provided by TNS Telecoms, households annually spent \$441 on local service (compared to \$436 in 2002), \$122 on long distance service (compared to \$149 in 2002), and \$492 on wireless service

(compared to \$417 in 2002), for a total annual expenditure of \$1,055 on telephone services (compared to \$1,001 in 2002).

This report is available for reference in the FCC's Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, DC 20554. Copies may be purchased by calling Best Copy and Printing, Inc., Portals II, 445 12th Street S.W., Room CY-B402, Washington, DC 20554, (202) 488-5300, or by e-mail at fcc@bcpiweb.com. The report can be downloaded from the **FCC-State Link** Internet site at www.fcc.gov/wcb/stats. For further information, contact Paul Zimmerman of the Industry Analysis and Technology Division, Wireline Competition Bureau, at (202) 418-0940, or for users of TTY equipment, call 202-418-0484.

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 48 Johnson	1/25/05	State; authorities; issuance of bonds for equipment associated with telecommunications on the campuses of Michigan institutions of higher education with lease options back to the institutions and the state; provide for. Amends sec. 7 of 1964 PA 183 (MCL 830.417).	To Senate Committee on Appropriations

SB 58 Cherry	1/25/05	Communications; telecommunications; 9-1-1 system to pinpoint caller location; provide for. Amends 1986 PA 32 (MCL 484.1101 – 484.1717) by adding sec. 408a	To Senate Committee on Technology and Energy
SB 127 Hardiman	2/1/05	Communications; cellular telephone; customer consent to list numbers in a cell phone directory; require. Amends 1991 PA 179 (MCL 484.2101 - 484.2701) by adding sec. 360a.	To Senate Committee on Technology and Energy
SB 221 McManus	2/17/05	Income tax; credit; tax credit for placement of a cell phone tower on an individual's property located in an underserved area; provide for. Amends 1967 PA 281 (MCL 206.1 - 206.532) by adding sec. 262.	To Senate Committee on Agriculture, Forestry, and Tourism
SB 222 Barcia	2/17/05	Single business tax; credit; tax credit for companies that construct cell phone towers in rural areas; establish. Amends 1975 PA 228 (MCL 208.1 - 208.145) by adding sec. 35c.	To Senate Committee on Agriculture, Forestry, and Tourism
SB 224 Van Woerkom	2/17/05	Communications; telecommunications; broadband development authority; require to designate a certain amount of financial assistance to rural underserved areas. Amends sec. 7 of 2002 PA 49 (MCL 484.3207).	6/2/05 placed on order of third reading with Substitute S-2
SB 528 Johnson	5/24/05	Communications; telecommunications; regulation of telecommunications industry; eliminate. Creates new act.	To Senate Committee on Technology and Energy
SCR 0021 Patterson	5/18/05	A concurrent resolution to urge the Federal Communications Commission (FCC) to use its authority post haste to require that Voice Over Internet Protocol (VOIP) service providers make enhanced 9-1-1 emergency call services available to all customers.	To Senate Committee on Technology and Energy

House Bill # Representative	Date Introduced	Description	Status
HB 4050 Lemmons III	1/27/05	Corrections; state facilities; telephone system for state correctional facilities; impose requirements. Amends 1953 PA 232, entitled "Corrections code of 1953," (MCL 791.201 to 791.283) by adding section 69b.	To House Committee on Judiciary

House Bill # Representative	Date Introduced	Description	Status
HB 4052 Lemmons III	1/27/05	Trade; consumer goods and services; sale of cellular telephones and pagers to a minor; require written parental consent. A bill to prohibit the sale of cellular telephones and pagers to certain minors without written parental consent; and to prescribe civil sanctions.	To House Committee on Judiciary
HB 4067 Schuitmaker	1/27/05	Communications; telecommunications; requirement for timely transfer of customers from 1 provider to another; provide for. A bill to amend 1991 PA 179, entitled "Michigan telecommunications act," (MCL 484.2101 to 484.2701) by adding section 364.	To House Committee on Energy and Technology
HB 4397 Sak	2/23/05	Communications; telecommunications; cell phone numbers listed with directory assistance; provide for. Amends sec. 309 of 1991 PA 179 (MCL 484.2309).	To House Committee on Energy and Technology
HB 4423 Wojno	3/1/05	Prohibits telemarketers from leaving certain messages requesting consumers to return call. Am. Sec. 1c, PA 227, 1971 (MCL 445.111c) as added by PA 612, 2002.	To House Committee on Energy and Technology
HB 4563 Garfield	3/24/05	A bill to repeal 2002 PA 49, entitled "Michigan broadband development authority act," (MCL 484.3201 to 484.3225).	To House Committee on Energy and Technology
HB 4600 Drolet	4/13/05	Communications; telecommunications; regulation of telecommunications industry; eliminate. Creates new act entitled the "communications act" to be effective 01/01/06. A bill to promote deployment of and investment in communications services in this state; and to prescribe the powers and duties of certain state agencies and officials.	To House Committee on Energy and Technology

PUBLIC ACTS OF 2005

There are currently no Public Acts related to telecommunications that have been passed during the current legislative session (2005-2006). Copies of past public acts 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.

ORDERS

No telecommunications orders have been issued during the last two-week period.

* * *

NOTICES OF HEARING

Unless otherwise noted, all hearings are held at the offices of the Michigan Public Service Commission, 6545 Mercantile Way, Suite 7, Lansing, Michigan

Case No. U-14478

Bright House Networks Information Services (Michigan) LLC (license)

The April 4, 2005 application of Bright House Networks Information Services (Michigan) LLC for a license to provide basic local exchange service in the territory where SBC Michigan, Verizon North Inc., and Verizon North Systems are the incumbent carriers, is set for an evidentiary hearing at **9:00 a.m. on June 14, 2005**. Staff testimony, if any, shall be filed with the Commission on or before May 31, 2005. Rebuttal testimony shall be filed with the Commission on or before June 7, 2005. The Michigan Public Service Commission directs Bright House Networks Information Services (Michigan) LLC to issue a notice of hearing in accordance with 1991 PA 179, as amended. Interventions are due on or before **June 10, 2005**.

Case No. U-14479

IBFA Acquisition Co (license)

The April 4, 2005 application of IBFA Acquisition Company for a license to provide local exchange services in the LATA exchanges currently served by SBC Michigan, Verizon North Inc., and Verizon North Systems, is set for an evidentiary hearing at **9:00 a.m. on June 21, 2005**. Staff testimony, if any, shall be filed with the Commission on or before June 7, 2005. Rebuttal testimony shall be filed with the Commission **on or before June 14, 2005**. The Michigan Public Service Commission directs IBFA Acquisition Company to issue a notice of hearing in accordance with 1991 PA 179, as amended. Interventions are due on or before **June 17, 2005**.

Case No. U-14517
Clarence Hucul v Comcast Phone of Michigan
(consumer complaint: unauthorized charges)

The Michigan Public Service Commission will consider the complaint of Clarence Hucul (“Complainant”) against Comcast Phone of Michigan, (“Comcast”) for violations of the Michigan Telecommunications Act. A public hearing in this matter will be held at 9:00 a.m. on June 8, 2005. On March 30, 2005, Complainant filed a formal complaint against Comcast alleging that Comcast is in violation of Sections 505 and 507 of the Michigan Telecommunications Act (MTA) for unauthorized and erroneous billing computations. Complainant is asking for relief, including, but not limited to reimbursement totaling \$1,276.00.

* * *

PSC HEARINGS SCHEDULE

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

Hearings Scheduled for Last Week (May 23- 27, 2005)

May 24, 2005, 9:00 a.m. Case No. U-14473/evidentiary hearing CenturyTel Acquisition LLC (license)	May 25, 2005, 9:00 a.m. Case No. U-14518/prehearing United Telecom (termination of CenturyTel’s rural exemption)
---	--

Hearings Scheduled for This Week (May30 – June 3, 2005)

June 2, 2005, 9:00 a.m. Case No. U-14485/evidentiary hearing Douglas Debassige v EBS Telecom (unauthorized charges)	June 2, 2005, 9:00 a.m. Case No. U-14490/prehearing conference Michigan Manufactured Housing, RV and Campground Association v BullsEye Telecom (false, misleading, deceptive information)
	June 3, 2005, 9:00 a.m. Case No. U-14426/evidentiary hearing Donald Koyl v Verizon North (unauthorized charges)

Future Hearings Scheduled

June 8, 2005, 9:00 a.m.
Case No. U-14517/evidentiary hearing
Clarence Hucul v Comcast Phone of Michigan
(unauthorized charges)

APPLICATIONS AND COMPLAINTS

Case No. U-13569
Talk America Inc and SBC Michigan
(interconnection agreement)

On May 26, 2005 Talk America, Inc. and SBC Michigan jointly applied to the Michigan Public Service Commission for approval of the Fourth Amendment to their Interconnection Agreement, which add the Appendix “All Day Hot Cut Process” into the Agreement.

Case No. U-14029
Essex Acquisition Corp and SBC Michigan
(interconnection agreement)

On May 26, 2005 Essex Acquisition Corporation and SBC Michigan jointly applied to the Michigan Public Service Commission for approval of the Second Amendment to their Interconnection Agreement, reflecting new costs for unbundled network elements (UNEs) as ordered by the Commission in its January 25, 2005 Order in Case No. U-13531.

Case No. U-14176
Cinergy Communications Co and SBC Michigan
(interconnection agreement)

On May 27, 2005 Cinergy Communications Company and SBC Michigan jointly applied to the Michigan Public Service Commission for approval of the Second Amendment to their Interconnection Agreement, reflecting new costs for unbundled network elements (UNEs) as ordered by the Commission in its January 25, 2005 Order in Case No. U-13531.

Case No. U-14470
Matrix Telecom Inc
(license: revised application)

On May 23, 2005 Matrix Telecom, Inc. filed with the Michigan Public Service Commission a revised application, which includes a request for a temporary license to provide basic local exchange service, as well as a permanent license, which was requested on March 28, 2005. Matrix, Inc. has increased the proposed geographic area of its license to include those zone and exchange areas in the entire state of Michigan (not only the Grand Rapids LATA) in which Verizon North Inc, Contel of the South, Inc., d/b/a Verizon North Systems, and SBC Michigan are the incumbent providers. Matrix states that it intends to provide basic local exchange service, on a reseller basis. Matrix, Inc. states that it is a Texas corporation headquartered in Oklahoma City, Oklahoma.

Case No. U-14533
Kotz, Sangster, Wysocki and Berg PC v SBC Michigan
(improper disconnection)

On May 23, 2005 the law firm of Kotz, Sangster, Wysocki and Berg, PC (“Complainant”), of Detroit, filed a complaint with the Michigan Public Service Commission (“Commission”) against SBC Michigan for improperly disconnecting their telephone service, including DSL service. After waiting several days before service was restored, Complainant states that it was billed by SBC Michigan for line connection charge, installation service call charge, and installation labor charge. Complainant requests that the Commission order SBC to pay a fine to the State of Michigan, to pay \$25,000 in damages and for violations of the MTA to Complainant, and to reimburse Complainant for the reconnection services which were wrongfully incurred.

Case No. U-14536
BellSouth Long Distance Inc
(license)

On May 26, 2005 BellSouth Long Distance, Inc. (“BSLD”) applied to the Michigan Public Service Commission for a license to provide basic local exchange service, on both a resale and facilities-based basis, in the zones and exchanges served by Verizon North Inc., Verizon North Systems and SBC Michigan. BSLD states that it is a Delaware corporation headquartered in Atlanta, Georgia.

Case No. U-14539
Ronald W. Myers v United Telecom Inc.
(consumer complaint: failure to provide service)

On May 26, 2005 Ronald W. Myers (“Complainant”), of Cheboygan, filed a formal complaint with the Michigan Public Service Commission against United Telecom, Inc. alleging that United Telecom failed to provide telephone and DSL service within three months of his order. Further, Complainant states that upon receiving notice that he canceled his order, United Telecom billed him in excess of \$2,300.00, \$1,739.72 of which represented an early termination fee.

Case No. U-14540
Vota Telephone d/b/a Votatel
(license)

On May 31, 2005 Vota Telephone, d/b/a Votatel (“Votatel”), applied to the Michigan Public Service Commission for a license to provide residential non-facilities-based, resold basic local exchange service in the zone and exchange areas in which Verizon North Inc., SBC Michigan, CenturyTel of Michigan, Inc., CenturyTel Midwest Michigan, Inc., CenturyTel of Upper Michigan, Inc., CenturyTel of Northern Michigan, Inc., Island Telephone Company, Shiawassee Telephone Company, Chatham Telephone Company, Wolverine Telephone Company, Communication Corporation of Michigan, and Frontier Communications of Michigan, Inc. are the incumbent carriers. Votatel states that it is an Ohio limited liability company headquartered in Batavia, Ohio.

* * *

PSC NOTICES OF OPPORTUNITY FOR COMMENT

Case No. U-14499,
Sprint Communications Company L.P.
(rate increases)

On May 4, 2005, Sprint Communications Company L.P. filed an application with the Michigan Public Service Commission (“Commission”) for approval of certain rate increases for basic local exchange service. The Commission now directs Sprint Communications Company L.P. to issue a notice of opportunity to comment in accordance with the Michigan Telecommunications Act, 1991 PA 179, as amended. Written and electronic comments may be filed with the Commission and must be received no later than **5:00 p.m. on July 1, 2005.**

* * *

2005 REGULAR COMMISSION MEETING DATES*

Month & Date	Day	Time
June 7	Tuesday	1:00 p.m.
June 30	Thursday	1:30 p.m.
July 19	Tuesday	1:30 p.m.
August 16	Tuesday	1:30 p.m.
September 20	Tuesday	1:30 p.m.
October 18	Tuesday	1:30 p.m.
November 3	Thursday	1:30 p.m.
December 20	Tuesday	1:30 p.m.

*Special meetings may be scheduled, as needed, on 18 hours notice.

SUBSCRIPTION INFORMATION

Annual subscription rates (U.S. currency): single subscription: \$400; each additional subscription within the same firm: \$175. Please make checks payable to Clark Hill PLC and mail orders to Circulation Mgr., Clark Hill, PLC, 212 E. Grand River Avenue, Lansing, MI 48906-4328, or fax to (517) 318-3099. You can reach us by phone at (517) 318-3100.

Name: _____

Title: _____

Company: _____

Address: _____

City, State, Zip: _____

Phone number: _____

E-mail address _____