



FEATURES |

MPSC Chairman Isiogu Confirmed by Senate

The Michigan Senate unanimously confirmed Governor Jennifer Granholm's appointment of Orjiakor N. Isiogu as chairman of the Michigan Public Service Commission ("Commission") on October 16, 2007. Senator Alan L. Cropsey moved that the Senate advise and consent to the appointment.

Isiogu previously was the director of the Commission's Telecommunications Division. Prior to that he served as an Assistant Attorney General in the Attorney General's Special Litigation Division, representing the state, state agencies, and . . .

Continued on page 2

IN THIS ISSUE:

- 1 Features
 - ♦ MPSC Chairman Isiogu Confirmed by Senate
- 2 Pending Legislation
- 8 Public Acts of 2007
- 8 Orders issued by MPSC
- 11 Proposals for Decision
- 14 Applications & Complaints
- 15 Opportunities to Comment
- 16 Notices of Hearings
- 17 MPSC Hearings Schedule
- 17 MPSC Consumer Forums
- 18 MPSC Meetings
- 19 *MTR* Subscriptions

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INDEX OF HIGHLIGHTED CASES |

ORDERS |

- U-13569 AT&T Michigan and Talk America, Inc. d/b/a Cavalier Telephone (ica)
- U-14045 AT&T Michigan and United Telecom, Inc. (ica)
- U-14768 AT&T Michigan and Osirus Communications, Inc. (ica)
- U-14781 Michigan Exchange Carrier Companies, including Ace Telephone, Barry County Telephone, Deerfield Farmers' Telephone, Kaleva Telephone, Lennon Telephone, Ogden Telephone, Pigeon Telephone, Upper Peninsula Telephone, and Waldron Telephone Companies (tslirc)
- U-15035 Michigan Exchange Carrier Companies, including Bloomingdale Telephone Company, Chippewa County Telephone Company, Hiawatha Telephone Company, Midway Telephone Company, Ontonagon Telephone Company, Winn Telephone Company, Baraga Telephone Company, Chapin Telephone Company, Sand Creek Telephone Company, Springport Telephone Company and Westphalia Telephone Company (tslirc)
- U-15297 David Taivalkoski v. MCI WorldCom Communications, Inc. (consumer complaint: billing dispute)
- U-15355 TouchTone Communications, Inc. (license)
- U-15356 Osirus Communications, Inc. (license)
- U-15392 Wholesale Carrier Services, Inc. (license)

Continued on page 2

INDEX | CONTINUED FROM PAGE 1

ORDERS | Continued from Page 1

- U-15418 Verizon North Inc. and Contel of the South, Inc. d/b/a Verizon North Systems and Southwest Michigan Communications, Inc. (ica)
U-15421 Verizon North Inc. and Contel of the South, Inc. d/b/a Verizon North Systems and Telrite Corporation (ica)

PROPOSALS FOR DECISION |

- U-15230 Neutral Tandem, Inc. v Level 3, Inc.

APPLICATIONS AND COMPLAINTS |

- U-13580 AT&T Michigan and Sprint Communications Company L.P (ica)
U-15435 Markur Communications, Inc. (license)
U-15436 David Schulte v. MCI (consumer complaint: quality of service)
U-15437 TCO Network, Inc. (license)
U-15441 John C. Hawkins v. Cavalier Telephone, LLC (consumer complaint: billing dispute)

FEATURES | CONTINUED FROM PAGE 1

MPSC Chairman Isiogu Confirmed by Senate | continued from Page 1

. . . consumer interests in proceedings involving utilities such as natural gas, electric and telecommunications.

Isiogu is designated as a Democrat on the Commission. He replaces Republican Laura Chapelle, who resigned in June. Isiogu's term expires on July 2, 2013.

Also serving on the Commission are Democrat Monica Martinez, whose term expires on July 2, 2011, and Independent Steven A. Transeth, whose term expires on July 2, 2009.

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 # Primary Sponsor	Date Introduced	Description	Status (revisions in bold)
SB 002 Hardiman	01/10/2007	Campaign finance; public disclosure; disclosure of committees that employ and registration of persons who make “robocalls” in campaigns; require. Amends sec. 6 of 1976 PA 388 (MCL 169.206) & adds sec. 48.	Referred to Senate Committee on Campaign and Election Oversight.
SB 003 Hardiman	01/10/2007	Elections; campaign practices; do-not-call list for automated political telephone calls; provide for.	04/04/2007 Referred to Senate Committee of the Whole with Substitute S-3.
SB 004 Hardiman	01/10/2007	Communications; cellular telephone; customer consent to list numbers in a cell phone directory; require. Amends 1991 PA 179 (MCL 484.2101 <i>et seq.</i>) by adding sec. 360a.	Referred to Senate Committee on Homeland Security and Emerging Technologies.
SB 058 Stamas	01/24/2007	Campaign finance; campaign practices; telephonic communications; require disclosure stating who is paying for call and whether authorized by candidate.	Referred to Senate Committee on Campaign and Election Oversight.
SB 108 Basham	01/30/2007	Communications; telecommunications; eligibility date to opt into METRO funds; revise. Amends sec. 13 of 2002 PA 48 (MCL 484.3113).	Referred to Senate Committee on Energy Policy.
SB 131 Cherry	01/31/2007	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.	Referred to Senate Committee on Energy Policy.
SB 143 Brown	01/31/2007	Criminal procedure; sentencing guidelines; sentencing guidelines for crime of installing spyware on another person’s computer without consent; enact. Amends sec. 17c, ch. XVII of 1927 PA 175 (MCL 777.17c). Tie Bar with SB 144.	Referred to Senate Committee on Judiciary.
SB 144 Brown	01/31/2007	Crimes; computer; installing spyware on another person’s computer without consent; prohibit, and provide penalties. Amends sec. 7 of 1979 PA 53 (MCL 752.797) & adds sec. 5b.	Referred to Senate Committee on Judiciary.
SB 145 Brown	01/31/2007	Civil procedure; civil actions; installing spyware or adware onto another individual’s computer without consent; prohibit and provide remedies for. Creates new act.	Referred to Senate Committee on Judiciary.

Senate Bill # Primary Sponsor	Date Introduced	Description	Status (revisions in bold)
SB 284 Richardville	02/27/2007	Campaign finance; campaign practices; telephonic communications; require disclosure stating who is paying for call and whether authorized by candidate. Amends 1976 PA 388 (MCL 169.201 - 169.282) by adding sec. 48.	04/19/2007 Substitute S-2 passed Senate, 38 Yeas, 0 Nays. Referred to House Committee on Ethics and Elections.
SB 410 Brown	04/18/2007	Communications; telecommunications; funding system for the emergency telephone service enabling act; modify. Amends title & secs. 101, 102, 201, 202, 203, 205, 301, 302, 303, 306, 307, 308, 312, 319, 320 & 401 of 1986 PA 32 (MCL 484.1101 <i>et seq.</i>) & adds secs. 401a, 401b & 401c. Tie Bar with SB 411.	09/14/2007, Substitute H-3 reported from House Committee on Appropriations. Referred to second reading.
SB 411 Brown	04/18/2007	Communications; telecommunications; funding system for the emergency telephone service enabling act; modify. Amends secs. 402, 403, 404, 405, 406, 407, 408, 410, 412, 413, 502, 504, 506, 601, 602, 605, 712, 714, 716 & 717 of 1986 PA 32 (MCL 484.1402 <i>et seq.</i>) & repeals. Tie Bar with SB 410.	09/14/2007, Substitute H-4 reported from House Committee on Appropriations. Referred to second reading.
SB 449 Kahn	04/26/2007	Transportation; school vehicles; use of cellular telephone while operating a school bus; prohibit, and provide penalties. Amends 1990 PA 187 (MCL 257.1801 - 257.1877) by adding sec. 58.	Referred to Senate Committee on Education.
SB 585 Patterson	06/12/2007	Public utilities; restructuring; oversight of proposed mergers, sales, or acquisitions of public utilities; clarify. Amends 1939 PA 3 (MCL 460.1 - 460.10cc) by adding sec. 6r.	Referred to Senate Committee on Energy Policy and Public Utilities.
SB 636 Thomas	07/17/2007	Communications; other; video service provider; clarify public, education, and government access fee. Amends sec. 6 of 2006 PA 480 (MCL 484.3306).	Referred to Senate Committee on Energy Policy and Public Utilities.
SB 637 Thomas	07/17/2007	Communications; other; video service provider; clarify. Amends sec. 10 of 2006 PA 480 (MCL 484.3310).	Referred to Senate Committee on Energy Policy and Public Utilities.
SB 679 Patterson	08/22/2007	Communications; telecommunications; sunset on 9-1-1 emergency service district; extend. Amends sec. 717 of 1986 PA 32 (MCL 484.1717).	Referred to Senate Committee on Energy Policy and Public Utilities.

Senate Bill # Primary Sponsor	Date Introduced	Description	Status (revisions in bold)
SB 783 Thomas	09/18/2007	Traffic control; violations; operation of a vehicle while using certain electronic devices; prohibit. Amends sec. 320a of 1949 PA 300 (MCL 257.320a) & adds sec. 602b.	Referred to Senate Committee on Energy Policy and Public Utilities.
SB 815 Patterson	09/25/2007	Communications; telecommunications; technical and operational charge for emergency telephone service enabling act; extend sunset. Amends sec. 401 of 1986 PA 32 (MCL 484.1401).	Referred to Senate Committee on Energy Policy and Public Utilities.
SB 819 Garcia	10/04/2007	Communications; cellular telephone; active duty military personnel; allow to cancel cellular telephone contract without penalties. Amends 1991 PA 179 (MCL 484.2101 - 484.2604) by adding sec. 304b.	Referred to Senate Committee on Senior Citizens and Veterans Affairs.

House Bill # Primary Sponsor	Date Introduced	Description	Status (revisions in bold)
HB 4041 Lemmons	01/22/2007	Corrections; state facilities; telephone system for state correctional facilities; impose requirements.	Referred to House Committee on Judiciary.
HB 4057 Nofs	01/22/2007	Campaign finance; public disclosure; telephone or electronic campaigning; require message to include payer's identification and whether approved by candidate, and revise identifying statement for radio or television campaign ads.	Referred to House Committee on Ethics and Elections.
HB 4239 Sak	03/14/2007	Campaign finance; public disclosure; telephone or electronic campaigning; require message to include payer's identification and whether approved by candidate, and revise identifying statement for radio or television campaign ads.	Substitute H-1 Passed House, 107 Yeas, 0 Nays; referred to Senate Committee on Campaign and Election Oversight.
HB 4293 Miller	02/20/2007	Law enforcement; investigations; use of eavesdropping devices in hostage or other emergency situations; allow. Amends secs. 539a & 539g of 1931 PA 328 (MCL 750.539a & 750.539g) & adds sec. 539l.	Referred to House Judiciary Committee.

House Bill # Primary Sponsor	Date Introduced	Description	Status (revisions in bold)
HB 4333 Wenke	02/27/2007	Campaign finance; public disclosure; disclosure of persons who make automated telephone calls related to candidates or elections; require.	Referred to House Committee on Ethics and Elections.
HB 4461 Rocca	03/15/2007	Transportation; school vehicles; use of cellular telephone while operating a school bus; prohibit. Amends 1990 PA 187 (MCL 257.1801 - 257.1877) by adding sec. 58.	Referred to House Committee on Transportation.
HB 4581 Condino	04/05/2007	Communications; telecommunications; tax on satellite television sales; provide for at same rate as cable franchise agreements. Amends secs. 1 & 2 of 1933 PA 167 (MCL 205.51 & 205.52).	Referred to House Committee on Tax Policy.
HB 4717 Opsommer	05/08/2007	Campaign finance; public disclosure; telephone or electronic campaigning; require message to include payer's identification and whether approved by candidate, and revise identifying statement for radio or television campaign ads. Amends sec. 47 of 1976 PA 388 (MCL 169.247) & adds sec. 48.	Referred to House Committee on Oversight and Investigations.
HB 4726 Cushingberry	05/08/2007	Communications; telecommunications; amendments to the emergency telephone service enabling act; provide for. Amends sec. 102 of 1986 PA 32 (MCL 484.1102) & adds sec. 408a.	Referred to House Committee on Appropriations.
HB 4852 Cushingberry	05/24/2007	Communications; telecommunications; public safety charge; provide for. Amends 1986 PA 32 (MCL 484.1101 - 484.1717) by adding sec. 408a.	Referred to House Committee on Appropriations.
HB 4892 Polidori	06/27/2007	Traffic control; violations; use of mobile phones while operating a motor vehicle; prohibit. Amends sec. 320a of 1949 PA 300 (MCL 257.320a) & adds sec. 602b.	Referred to House Committee on Transportation.
HB 5047 Johnson	07/24/2007	Communications; other; video service provider; clarify public, education, and government access fee. Amends sec. 6 of 2006 PA 480 (MCL 484.3306).	Referred to House Committee on Energy and Technology.
HB 5048 Accavitta	07/24/2007	Communications; other; video service provider; clarify. Amends sec. 10 of 2006 PA 480 (MCL 484.3310).	Referred to House Committee on Energy and Technology.

House Bill # Primary Sponsor	Date Introduced	Description	Status (revisions in bold)
HB 5090 Stakoe	08/08/2007	Civil rights; public records; access to home address and telephone number of a public employee; exclude from freedom of information act. Amends sec. 13 of 1976 PA 442 (MCL 15.243).	Referred to House Committee on Government Relations.
HB 5112 Robertson	08/21/2007	Crimes; telecommunications; malicious use of service provided by telecommunications service provider; provide for increased penalty under certain circumstances. Amends sec. 540e of 1931 PA 328 (MCL 750.540e).	Referred to House Committee on Judiciary.
HB 5113 Robertson	08/21/2007	Criminal procedure; sentencing guidelines; sentencing guidelines for crime of malicious use of service provided by telecommunications service provider; enact. Amends sec. 16z, ch. XVII of 1927 PA 175 (MCL 777.16z). TIE BAR WITH: HB 5112'07	Referred to House Committee on Judiciary.
HB 5117 Bieda	08/21/2007	Traffic control; violations; penalties for operating a motor vehicle while reading, manually writing, or sending a message on an electronic wireless device; provide for. Amends 1949 PA 300 (MCL 257.1 - 257.923) by adding sec. 602b.	Referred to House Committee on Transportation.
HB 5131 Dean	08/22/2007	Criminal procedure; sex offender registration; registered sex offenders to provide certain information regarding their internet service; require.	Referred to House Committee on Judiciary.
HB 5133 Law	08/22/2007	Criminal procedure; sex offender registration; reporting requirements; expand to include a valid electronic mail address and user name. Amends sec. 7 of 1994 PA 295 (MCL 28.727).	Referred to House Committee on Judiciary.
HB 5134 Law	08/22/2007	Crimes; criminal sexual conduct; access to commercial social networking websites by certain sex offenders; restrict. Amends 1931 PA 328 (MCL 750.1 - 750.568) by adding sec. 411u.	Referred to House Committee on Judiciary.
HB 5150 A. Smith	08/30/2007	Crimes; other; knowing an individual needs emergency help; require to call 9-1-1. Amends 1931 PA 328 (MCL 750.1 - 750.568) by adding sec. 499.	Referred to House Committee on Judiciary.

House Bill # Primary Sponsor	Date Introduced	Description	Status (revisions in bold)
HB 5240 Garfield	09/18/2007	Communications; internet; Michigan broadband authority; eliminate. Repeals 2002 PA 49 (MCL 484.3201 - 484.3225).	Referred to House Committee on New Economy and Quality of Life.

PUBLIC ACTS OF 2007 |

Listed below are Public Acts related to telecommunications that have been passed during the current legislative session (2007-2008). Copies of 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. Acts passed since the previous edition of the *Michigan Telecommunications Report* are in bold.

*To date, no telecommunications legislation
has been enacted during the 2007-2008 Legislative Sessions.*

ORDERS ISSUED BY MPSC |

The Michigan Public Service Commission issued the following Orders at its regularly scheduled meeting held on October 9, 2007 at 1:30 p.m.:¹

Case No. U-13569 Interconnection Agreement
 AT&T Michigan and Talk America, Inc., d/b/a Cavalier Telephone
<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=13569>
 Application filed September 27, 2007 for approval of a Sixth Amendment to an Interconnection Agreement (replaces one way trunking with two way).

Case No. U-14045 Interconnection Agreement
 AT&T Michigan and United Telecom, Inc.
<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=14045>
 Application filed September 19, 2007 for approval of a Sixth Amendment to an Interconnection Agreement (extends contract term to January 1, 2010).

Case No. U-14768 Interconnection Agreement
 AT&T Michigan and Osirus Communications, Inc.
<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=14768>
 Application filed September 19, 2007 for approval of a Tenth Amendment to an Interconnection Agreement (extends contract term to January 1, 2010).

¹ The October 9, 2007 meeting was originally scheduled for October 11, 2007.

Case No. U-15418

Interconnection Agreement

Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems, and Southwest Michigan Communications, Inc.

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=15418>

Application filed September 14, 2007 for approval of an Interconnection Agreement (adoption pursuant to 47 USC 252(i) of the Interconnection Agreement approved on July 23, 2003 in Case No. U-13791 between Verizon North Systems and Winn Telephone Company).

Case No. U-15421

Interconnection Agreement

Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems, and Telrite Corporation

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=15421>

Application filed September 18, 2007 for approval of an Interconnection Agreement.

On October 9, 2007, the Michigan Public Service Commission (“Commission”) issued an Order approving the Interconnection Agreements and Amendments listed above.

Case No. U-14781

TSLRIC

Michigan Exchange Carriers Association Companies, including Ace Telephone, Barry County Telephone, Deerfield Farmers' Telephone, Kaleva Telephone, Lennon Telephone, Ogden Telephone, Pigeon Telephone, Upper Peninsula Telephone, and Waldron Telephone Companies

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=14781>

Case No. U-15035

TSLRIC

Michigan Exchange Carriers Association Companies, including Bloomingdale Telephone Company, Chippewa County Telephone Company, Hiawatha Telephone Company, Midway Telephone Company, Ontonagon Telephone Company, Winn Telephone Company, Baraga Telephone Company, Chapin Telephone Company, Sand Creek Telephone Company, Springport Telephone Company and Westphalia Telephone Company

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=15035>

On October 9, 2007, the Michigan Public Service Commission (“Commission”) issued an Order extending to October 19, 2007 the date for Ace Telephone, Barry County Telephone, Deerfield Farmers' Telephone, Kaleva Telephone, Lennon Telephone, Ogden Telephone, Pigeon Telephone, and Waldron Telephone Companies to file their cost studies in MPSC Case No. U-14781; and extending to November 2, 2007 the date for Bloomingdale Telephone Company, Chippewa County Telephone Company, Hiawatha Telephone Company, Midway Telephone Company, Ontonagon Telephone Company, Winn Telephone Company, Baraga Telephone Company, Chapin Telephone Company, Sand Creek Telephone Company, Springport Telephone Company and Westphalia Telephone Company to file their cost studies in MPSC Case No. U-15035.

On October 3, 2007, the date the cost studies in MPSC Case No. U-14781 were supposed to be filed, the Michigan Exchange Carriers Association (“MECA”) filed a motion, captioned in both MPSC Case No. U-14781 and U-15035, seeking an extension of time in which to file the cost studies. Commission Staff explicitly declined to oppose the extension. While the Commission granted the extension, the Commission issued the following strongly worded caution to the MECA Companies:

“However, the Commission views with disfavor the circumstances of these motions. First, the motions were not filed until the due date for the filings. Second, the motions do not make an overwhelming case for

granting them. Third, these cases are especially important for those that are interconnected with these MECA companies. There have been allegations that these companies are overrecovering their costs for items that must be provided at total element long run incremental costs.”

The Commission also specifically stated that it will not tolerate any further delays and will not grant any further extensions.

Case No. U-15297

Consumer Complaint: Billing Dispute

David Taivalkoski v. MCI Worldcom Communications, Inc.

On October 9, 2007, the Michigan Public Service Commission (“Commission) issued an Order dismissing the May 2, 2007 formal Complaint of David Taivalkoski against MCI WorldCom Communications, Inc., alleging a billing dispute. On September 21, 2007, Mr. Taivalkoski filed a request to withdraw the complaint with prejudice.

Case No. U-15355

License

TouchTone Communications, Inc.

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=15355>

On October 9, 2007, the Michigan Public Service Commission (“Commission) issued an Opinion and Order granting to TouchTone Communications, Inc. a license to provide basic local exchange service throughout the state of Michigan in the zone and exchange areas in which Verizon North Inc., Contel of the South, Inc., d/b/a Verizon North Systems, and AT&T Michigan are the incumbent local exchange carriers.

Case No. U-15356

License

Osirus Communications, Inc.

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=15356>

On October 9, 2007, the Michigan Public Service Commission (“Commission) issued an Opinion and Order granting to Osirus Communications, Inc. an expansion of its license to provide basic local exchange service to include eight currently unserved areas in Gladwin, Presque Isle, Montmorency, Oscoda, Cheboygan, Ogemaw, and Alcona counties in the lower peninsula of Michigan. This license expansion replaces a temporary license expansion granted by the Commission on September 18, 2007. Osirus Communications, Inc. was previously granted a license to provide basic local exchange service in Case No. U-14494 on August 1, 2005.

Case No. U-15392

License

Wholesale Carrier Services, Inc.

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=15355>

On October 9, 2007, the Michigan Public Service Commission (“Commission) issued an Opinion and Order granting to Wholesale Carrier Services, Inc. a temporary license to provide basic local exchange service throughout the state of Michigan in the zone and exchange areas in which Verizon North Inc., Contel of the South, Inc., d/b/a Verizon North Systems, and AT&T Michigan are the incumbent local exchange carriers. The temporary license shall expire upon issuance of the final order granting or denying Wholesale Carrier Services’ Application for a permanent license.

PROPOSALS FOR DECISION |

Case No. U-15230

Interconnection Dispute

Neutral Tandem, Inc. v. Level 3, Inc.

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=15230>

On October 8, 2007, Michigan Public Service Commission (“Commission”) Administrative Law Judge Sharon L. Feldman (“ALJ”) issued a Proposal for Decision in the matter of the March 1, 2007 Complaint and Request for Emergency Relief of Neutral Tandem, Inc. against Level 3, Inc. The Complaint alleged that Level 3 had informed Neutral Tandem that it was terminating contracts that enabled Neutral Tandem to deliver transit traffic to Level 3 because, according to the complaint, “Level 3 did not believe terms of those contracts were sufficiently advantageous to Level 3.” The Complaint seeks a Commission Order for Emergency Relief “requiring Level 3 not to discontinue existing interconnections pursuant to which Neutral Tandem currently delivers tandem transit traffic from third party carriers to Level 3 pending resolution of this Complaint.” The Complaint also requests that the Commission establish terms and conditions for one-way interconnection between Neutral Tandem and Level 3 to allow Neutral Tandem to continue delivering tandem transit traffic from third party carriers to Level 3.

Specifically Neutral Tandem sought a Commission Order requiring that:

Level 3 shall maintain direct connections with Neutral Tandem for the sole purpose of delivering traffic from carriers that have chosen Neutral Tandem to deliver their originating traffic to Level 3;

Level 3 shall not require Neutral Tandem to pay any fee or other compensation, either on a per-minute basis or otherwise, for transit traffic delivered to Level 3 by Neutral Tandem;

Level 3 and Neutral Tandem shall interconnect on terms and conditions no less favorable to Neutral Tandem than the terms and conditions that Level 3 currently offers to the ILEC tandem transit provider for delivery of transit traffic to Level 3;

Neutral Tandem shall provide all the necessary caller identification information regarding the originating carrier to Level 3, as required by MTA Section 305a, to enable Level 3 to collect reciprocal compensation payments from those originating carriers; and,

If Neutral Tandem and Level 3 cannot agree on non-discriminatory terms and conditions within 45 days of the Commission’s decision, the parties shall report the same to the Commission which shall take appropriate action at that time.

Among the issues Level 3 asserted in this proceeding was that the duty imposed on it under Section 251(a)(1) of the Federal Telecommunications Act of 1996 (the “Act”), 47 U.S.C. § 251(a)(1), to interconnect “directly or indirectly” gives it a federal right to interconnect only indirectly, that cannot be modified by state law. Neutral Tandem disputed this characterization, concluding that state regulation of interconnection between competitive local exchange carriers (“CLECs”) is not

preempted by the Act. Commission Staff agreed with Neutral Tandem and also found that Commission authority to regulate CLEC to CLEC interconnection is preempted. The ALJ agreed with Staff and Neutral Tandem's analysis on this preemption question, finding that Level 3 was unable to establish that Section 251(d)(3) created a federal "right" to be free of all other interconnection requirements. Rather the ALJ found that "on its face, the preemption savings language of the Act makes clear congressional intent only to preempt state regulation that is inconsistent with the Act or frustrates a purpose of the Act. A state law is not inconsistent with the Act merely because it imposes additional obligations on a CLEC. Level 3 has not shown that freeing it and other CLECs from any obligation to interconnect directly with another CLEC under any circumstance is an integral or important part of the federal regulatory scheme."

Level 3 also argued that the Michigan Telecommunications Act ("MTA") does not authorize the Commission to provide the requested relief, further contending that "indirect" interconnection through the ILEC tandem satisfies all of Level 3's obligations under the MTA. Neutral Tandem on the other hand alleged that Level 3 violated Section 305 of the MTA, which provides:

If 2 or more telecommunication providers are unable to agree on a matter relating to a regulated telecommunication service or a matter prohibited by Section 305, then either telecommunication provider may file with the commission an application for resolution of the matter.

Level 3 further argued that Neutral Tandem cannot use the MTA to compel interconnection because Level 3 lawfully terminated the Interconnection Agreement providing for Neutral Tandem to terminate its customers' Level 3-bound traffic. Level 3 also argued that the Interconnection Agreement was a commercially negotiated agreement and was not subject to state or federal regulatory approval, and was not filed with the Commission or with the FCC. Rather than challenge the termination of the Interconnection Agreement, Neutral Tandem sought to compel Level 3 to retain its connection with Neutral Tandem only for the purpose of receiving incoming traffic from Neutral Tandem's customers. Level 3 argued that Neutral Tandem had waived this claim by allowing Level 3 to terminate the Interconnection Agreement. Without determining whether Neutral Tandem had the ability to waive any of the protections afforded under the MTA, the ALJ found that Neutral Tandem had not done so in this case. "Its agreement to a contract with a termination provision does not constitute a waiver of the protections contained in Section 305."

Level 3 acknowledged that some form of "interconnection" is required under Section 305, but argued that the interconnection required may be "direct" or "indirect". While Neutral Tandem did not directly address Level 3's argument, it asserted that the statutory language is clear. The MTA does not contain the terms "direct" or "indirect" in the context of interconnection or access service. Instead, Section 102(l) defines interconnection as "the technical arrangements and other elements necessary to permit the connection between the switched networks of 2 or more providers to enable a telecommunication service originating on the network of 1 provider to terminate on the network of another provider." "Access service" is defined in Section 102(a) as "access to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication services within the local exchange." The ALJ concluded that Level 3's proffered interpretation of Section 305 to require "direct or indirect" interconnection is not consistent with the statute. Thus "nothing in an interpretation of Section 305 that permits CLECs to request direct interconnection turns Section 305 into a requirement that all CLECs interconnect directly."

The ALJ also addressed the alleged increased costs that Level 3 would incur through a direct interconnection. The ALJ noted that "given the history of the dispute between the parties, and the fact

that Level 3 should be in the best position as between the parties to have knowledge of its own costs, Level 3 has failed to support its contention that it is justified in refusing to retain the direct interconnection with Neutral Tandem because of uncompensated costs. Instead, on this record, [Neutral Tandem's witness,] Dr. Saboo's testimony is persuasive that Neutral Tandem pays 'virtually all' costs of interconnection.

The ALJ concluded that basic local exchange service providers do have a duty under Section 305 of the MTA to interconnect with telecommunication providers seeking to terminate telecommunications services, and such obligations are not preempted by federal law, or precluded by Section 356 of the MTA. The ALJ found that providing a competitive tandem transit provider such as Neutral Tandem only "indirect interconnection" when the Incumbent Local Exchange Carrier tandem transit provider has a direct connection also constitutes providing an inferior connection under Section 305(b) of the MTA. In the ALJ's opinion, competitive tandem transit service brings benefits to telecommunications providers and provides redundancy to the PSTN. Level 3 did not establish a cost-based or other justification for denying Neutral Tandem interconnection.

Based on her findings, the ALJ recommends that the Commission order the following:

Level 3 shall maintain direct connections with Neutral Tandem for the sole purpose of delivering traffic from carriers that have chosen Neutral Tandem to deliver their originating traffic to Level 3;

Level 3 shall not require Neutral Tandem to pay any fee or other compensation, either on a per-minute basis or otherwise, designed to recover termination costs recoverable as reciprocal compensation from originating carriers, or to impose a "market rate" that is not cost-based;

Neutral Tandem shall provide all the necessary caller identification information regarding the originating carrier to Level 3, as required by MTA Section 305a, to enable Level 3 to collect reciprocal compensation payments from those originating carriers;

If Neutral Tandem and Level 3 cannot agree on non-discriminatory terms and conditions within 45 days of the Commission's decision, the parties shall report the same to the Commission.

The ALJ was also called upon to determine whether or not Neutral Tandem had violated the Commission's Mediation procedures. Pursuant to Section 203a of the MTA, this proceeding was previously sent to mediation. Under the Commission's procedures for such, the Mediator's recommendation is to remain confidential. On May 25, 2007, Level 3 filed an emergency motion for a cease and desist order, seeking to stop Neutral Tandem from distributing the mediator's recommended settlement to commissions in other states. At a hearing, the ALJ concluded that she lacked authority to grant the requested relief, but cautioned Neutral Tandem that disclosure to other Commissions could result in disclosure to the Commission. In her PFD, the ALJ reiterated the fact that she had determined that she lacked authority to grant Level 3's request and that she did not believe it would be appropriate for her to make any recommendation on that portion of Level 3's request for relief in the PFD.

Exceptions to the PFD are due on Friday, October 19, 2007. Replies to Exceptions are due on Monday, October 29, 2007.

APPLICATIONS AND COMPLAINTS |

Case No. U-13580

Interconnection Agreement

AT&T Michigan and Sprint Communications Company L.P.

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=13580>

On October 9, 2007, AT&T Michigan and Sprint Communications Company L.P. jointly filed an Application with the Michigan Public Service Commission (“Commission”) for approval of the Ninth Amendment to their Interconnection Agreement. According to the Application, the Ninth Amendment adds a negotiated Physical Collocation Appendix into the Interconnection Agreement.

Case No. U-15435

License

Markur Communications, LLC

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=15435>

On October 9, 2007, Markur Communications, LLC (“Markur”) filed an Application with the Michigan Public Service Commission (“Commission”) for a license to provide basic local exchange service throughout the State of Michigan, including the zone and exchange areas served by AT&T Michigan, Verizon North Incorporated, Contel of the South, Inc., d/b/a Verizon North Systems, and other local exchange carriers. According to the Application, Markur is a Michigan limited liability company headquartered in Cadillac, Michigan.

Case No. U-15436

Consumer Complaint: Quality of Service

Dan Schulte v. MCI

On October 9, 2007, Dan Schulte, of Grosse Pointe Shores, filed a formal complaint with the Michigan Public Service Commission (“Commission”) against MCI, alleging that he has no dial tone for long periods of time. Mr. Schulte seeks fines and reimbursement of his economic loss of \$20,000.

Case No. U-15437

License

TCO Network, Inc.

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=15437>

On October 10, 2007, TCO Network, Inc. filed an Application with the Michigan Public Service Commission (“Commission”) for a license to provide basic local exchange service throughout the State of Michigan in the zone and exchange areas in which AT&T Michigan, Verizon North Incorporated, Contel of the South, Inc., d/b/a Verizon North Systems are the incumbent local exchange carriers. According to the Application, TCO Network, Inc. is a Wisconsin corporation headquartered in Elm Grove, Wisconsin.

Case No. U-15441

Consumer Complaint: Billing Dispute

John C. Hawkins v. Cavalier Telephone LLC

On October 17, 2007, John Cleve Hawkins, of Novi, filed a formal complaint with the Michigan Public Service Commission (“Commission”) against Cavalier Telephone LLC, alleging that Cavalier Telephone LLC is charging him for unmade directory assistance and operator service calls and is failing to blocking such calls from his line, in violation of a settlement of a previous Commission complaint, in Case No. U-14870. Mr. Schulte asks that the Commission order Cavalier Telephone LLC to pay him \$10,000 as a penalty for charging him for unmade directory assistance and

operator service calls and asks that the Commission order Cavalier Telephone LLC to block directory assistance and operator service calls made from his telephone line.

NOTICES OF OPPORTUNITIES TO COMMENT |

The following Notices of Opportunity to Comment have been issued by the Michigan Public Service Commission's Executive Secretary. Any interested person may submit comments on the application by sending written comments to the Commission by mail to: Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, Michigan 48909. Electronic comments may be e-mailed to: <mpscefilecases@michigan.gov>. Any comments should reference the applicable docket number.

Case No. U-15385

License

Allband Communications Cooperative

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=15385>

Comments Due: October 29, 2007

The Michigan Public Service Commission ("Commission") has invited interested parties to file comments on the August 31, 2007 Application of Allband Communications Cooperative for an amendment to the geographic scope of its license to provide basic local exchange service throughout the State of Michigan. Allband requests authority to serve seven unserved areas in the lower peninsula of Michigan. Comments may be filed with the Commission and must be received no later than 5:00 p.m. on **Monday, October 29, 2007**.

Case No. U-15389

License

Sprint Communications Company L.P.

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=15389>

Comments Due: November 1, 2007

The Michigan Public Service Commission ("Commission") has invited interested parties to file comments on the September 5, 2007 Application of Sprint Communications Company L.P. for an amendment to the geographic scope of its license to provide basic local exchange service throughout the State of Michigan. Sprint Communications Company L.P. requests authority to serve in the zone and exchange areas in which CenturyTel Midwest-Michigan, Inc., Frontier Communications of Michigan, Inc., Shiawassee Telephone Company, and Westphalia Telephone Company are the incumbent providers. Comments may be filed with the Commission and must be received no later than 5:00 p.m. on **Thursday, November 1, 2007**.

Case No. U-15425

License

Buckeye Telesystem, Inc.

<http://efile.mpsc.cis.state.mi.us/efile/viewcase.php?casenum=15425>

Comments Due: November 15, 2007

The Michigan Public Service Commission ("Commission") has invited interested parties to file comments on the September 17, 2007 Application of Buckeye Telesystem, Inc. for an amendment to the geographic scope of its license to provide basic local exchange service throughout the State of Michigan. Buckeye requests authority to serve portions of the Erie exchange currently served by Verizon North Incorporated. Comments may be filed with the Commission and must be received no later than 5:00 p.m. on **Thursday, November 15, 2007**.

NOTICES OF HEARINGS |

The following notices of hearing have been issued by the Michigan Public Service Commission's Executive Secretary. 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-15368 License
Winn Restructuring, Inc.
<http://efile.mpssc.cis.state.mi.us/efile/viewcase.php?casenum=15368>
Evidentiary Hearing: November 6, 2007, at 9:00 a.m.

The August 13, 2007 application of Winn Restructuring, Inc., for the issuance of a temporary and permanent license to provide basic local exchange service and for related authorizations, is set for an evidentiary hearing at 9:00 a.m. on **Tuesday, November 6, 2007**, at the offices of the Michigan Public Service Commission, 6545 Mercantile Way, Suite 7, Lansing, Michigan before Administrative Law Judge Barbara A. Stump. Parties wishing to intervene in this matter must do so by **Friday, November 2, 2007**.

Case No. U-15379 License
Global Capacity Group, Inc.
<http://efile.mpssc.cis.state.mi.us/efile/viewcase.php?casenum=15379>
Evidentiary Hearing: October 23, 2007, at 9:00 a.m.

The August 27, 2007 application of Global Capacity Group, Inc., for a license to provide basic local exchange service throughout the State of Michigan in the zone and exchange areas served by Verizon North Inc., Contel of the South, Inc., d/b/a Verizon North Systems, and AT&T Michigan, is set for an evidentiary hearing at 9:00 a.m. on **Tuesday, October 23, 2007**, at the offices of the Michigan Public Service Commission, 6545 Mercantile Way, Suite 7, Lansing, Michigan before Administrative Law Judge Mark D. Eyster. Parties wishing to intervene in this matter must do so by **Friday, October 19, 2007**.

Case No. U-15392 License
Wholesale Carrier Services, Inc.
<http://efile.mpssc.cis.state.mi.us/efile/viewcase.php?casenum=15392>
Evidentiary Hearing: October 23, 2007, at 10:00 a.m.

The September 6, 2007 application of Wholesale Carrier Services, Inc., for a license to provide basic local exchange service throughout the State of Michigan in the zone and exchange areas served by Verizon North Inc., Contel of the South, Inc., d/b/a Verizon North Systems, and AT&T Michigan, is set for an evidentiary hearing at 10:00 a.m. on **Tuesday, October 23, 2007**, at the offices of the Michigan Public Service Commission, 6545 Mercantile Way, Suite 7, Lansing, Michigan before Administrative Law Judge Mark D. Eyster. Parties wishing to intervene in this matter must do so by **Friday, October 19, 2007**.

The Michigan Public Service Commission will consider the September 17, 2007 formal Complaint of Clear Rate Communications, Inc. against Local Exchange Carriers of Michigan, Inc. and Internet 123, Inc., for alleged violations of the Michigan Telecommunications Act. The matter is set for a prehearing conference at 9:00 a.m. on **Wednesday, October 24, 2007**, at the offices of the Michigan Public Service Commission, 6545 Mercantile Way, Suite 7, Lansing, Michigan before Administrative Law Judge Barbara A. Stump.

MPSC HEARINGS SCHEDULE |

Note: Unless indicated otherwise, hearings are held in the offices of the Commission, 6545 Mercantile Way, Suite 7, Lansing, Michigan. Hearing dates and times are subject to change or cancellation. Please check with the Commission's Executive Secretary at (517) 241-6160 to confirm that a hearing will be taking place.

KNOWN TELECOM HEARINGS SCHEDULED FOR THE NEXT FORTNIGHT (OCTOBER 22, 2007 THROUGH NOVEMBER 2, 2007)

October 23, 2007, 9:00 a.m.
Case No. U-15379/evidentiary hearing
Global Capacity Group, Inc. (license)

October 23, 2007, 9:00 a.m.
Case No. U-15424/prehearing conference
Clear Rate Communications, Inc. v. Internet 123,
Inc. and Local Exchange Carriers of Michigan, Inc.
(dispute between carriers)

October 23, 2007, 9:00 a.m.
Case No. U-15392/evidentiary hearing
Wholesale Carrier Services, Inc. (license)

FUTURE TELECOM HEARINGS SCHEDULED

November 6, 2007, 9:00 a.m.
Case No. U-15368/evidentiary hearing
Winn Restructuring, Inc. (license)

November 13, 2007, 9:00 a.m.
Case No. U-15391/evidentiary hearing
Quick Communications, Inc. v. AT&T Michigan
(ica dispute)

November 13, 2007, 9:00 a.m.
Case No. U-15381/evidentiary hearing
Quick Communications, Inc. v. AT&T Michigan
(ica dispute)

MPSC CONSUMER FORUMS |

The Michigan Public Service Commission ("Commission") has announced that it will host a series of consumer forums around Michigan in October and November. The forums are designed to give consumers the latest information on electric and natural gas rates for the winter and the status of local and long distance telephone service.

One of the MPSC's three Commissioners - Chairman Isiogu, Commissioner Monica Martinez, or Commissioner Steven A. Transeth - will be available at each forum to discuss these issues, explain how the Commission makes decisions, and listen to questions and comments regarding utility service.

An American Sign Language interpreter will be available at the Detroit and Dearborn forums for those in attendance who are deaf or hard of hearing.

Following is information on each upcoming consumer forum:

Mt. Pleasant
Tuesday, October 23, at 6 p.m.
City Hall - Commission Chambers
401 North Main Street

Detroit
Thursday, November 1 at 6 p.m.
UAW Local 7 Union Hall
2600 Conner Street

Dearborn
Thursday, October 25 at 6 p.m.
Henry Ford Centennial Library – Auditorium
16301 Michigan Avenue

Gaylord
Monday, November 5 at 6 p.m.
City-County Building - Room 100
225 West Main Street

Battle Creek
Tuesday, October 30 at 2 p.m.
City Hall - Commission Chambers (3rd Floor)
10 North Division Street

Ludington
Thursday, November 8 at 6 p.m.
Municipal Office Building - Community Room
400 South Harrison Street

2007 REGULAR MPSC MEETING DATES* |

<u>Month & Date</u>	<u>Day</u>	<u>Time</u>
October 25	Thursday	1:30 p.m.
November 6	Tuesday	1:30 p.m.
December 4	Tuesday	1:30 p.m.
December 18	Tuesday	1:30 p.m.

* Additional Special Meetings may be scheduled, as needed, on 18-hours notice as permitted by Section 5(4) of the Michigan Open Meetings Act, MCL 15.265(4). Agendas for all Regular and Special Meetings will be posted on 18 hours notice. A posted agenda is subject to Amendment as determined by the Commission. Any person with a question about a Regular or a Special Meeting of the Michigan Public Service Commission may make an inquiry by calling the Commission's Executive Secretary at (517) 241-6160

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