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November 15, 2002

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
PO Box 30221
Lansing, MI 48909

Re: MPSC Case No. U-12320

Dear Ms. Wideman:

Enclosed for filing please find an original and 15 copies of the CLEC Association of Michigan's Initial Comments Regarding BearingPoint's Final Report and Ameritech Michigan's Compliance Proposal in the above-captioned proceeding. Proof of Service upon the parties of record is also enclosed.

Best regards,

Clark Hill PLC



Leland R. Rosier

LRR:pgs
Enclosure

cc: Parties of Record

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16839/078741

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)
to consider AMERITECH MICHIGAN's compliance)
with the competitive checklist in Section 271 of)
the Federal Telecommunications Act of 1996.)

Case No. U-12320

**THE CLEC ASSOCIATION OF MICHIGAN'S INITIAL COMMENTS REGARDING
BEARINGPOINT'S FINAL REPORT AND AMERITECH MICHIGAN'S
COMPLIANCE PROPOSAL**

NOW Comes the Competitive Local Exchange Carriers Association of Michigan ("Association" or "CLECA") and for its Comments Regarding BearingPoint's Final Report And SBC Ameritech Michigan's ("SBC" or "Ameritech") Compliance Proposal states as follows:

INTRODUCTION

On September 16, 2002, the Commission issued its order in this docket (the "September 16, 2002 Order") granting SBC's request to commence the final review process of the third-party OSS test managed by BearingPoint Inc. f/k/a KPMG. The Commission's order also allowed SBC to file a compliance proposal and an "audit" prepared by Ernst & Young ("E&Y").¹

When this proceeding began, the Commission, SBC, and the CLECs agreed to use BearingPoint (then KPMG) to conduct rigorous, military-style tests to assure that SBC complied with the Business Rules and the Performance Measures, so that SBC could submit three months of data showing its compliance prior to obtaining Commission endorsement of its upcoming bid for 271 approval from the FCC. Due to disputes over methodology and to SBC's failure (or unwillingness) to make its systems work properly, SBC has now concluded that BearingPoint's

¹ See CLECA's Comments Regarding E&Y Report, November 5, 2002.

approach is not fast enough generally, and that it is unlikely to obtain a passing grade from BearingPoint on several performance measures, in particular.

On October 30, 2002, BearingPoint issued its report. The report confirms SBC's fears about not being able to obtain a passing grade. Indeed, not only has SBC not passed all the tests; SBC is not even close to a passing grade. The Commission should stop the review process and require SBC to pass the agreed-to tests prior to taking any further action.

The September 16, 2002 Order also allowed SBC to file a compliance plan. However, such a plan presumes that SBC has been brought into compliance in the first place, which the BearingPoint report completely debunks. In addition, there are other problems with the compliance plan. The Commission should reject the compliance plan, order SBC to fix its systems and other problems before it seeks further review of its 271 request, and direct SBC to sit down ~~at~~ collaboratives with CLECs present to work out an acceptable compliance plan to implement once current compliance is established.

SBC HAS FLUNKED THE BEARINGPOINT REPORT. THE COMMISSION SHOULD THEREFORE END THE REVIEW PROCESS UNTIL SBC CAN DEMONSTRATE FULL COMPLIANCE

In issuing its September 16, 2002 Order, the Commission recognized that SBC had not yet passed the OSS test and stated:

Further, because Ameritech Michigan has asked to depart from the previously approved procedures, it should understand that the Commission may terminate this review at any time if it concludes on the information provided up to that date that Ameritech Michigan is unlikely to be able to show successful operation of its OSS and compliance with the performance measurements.²

² September 16, 2002 Order, Case No. U-12320, p. 3.

That time is now. By any standard at all, SBC has flunked the test as demonstrated by the BearingPoint report.

There really is not much to talk about. The report speaks for itself. At page 13 of the report, the results are summarized.³ These results are damning. On performance metrics reporting, only 30 evaluation criteria were satisfied, while 136 were not satisfied and 108 were indeterminate. This means only a little over 10% of the applicable criteria were satisfied, and nearly 90% of the criteria were not satisfied or indeterminate in this category. Under transaction verification and validation, nearly 15% of the applicable criteria were not satisfied or indeterminate. SBC only did well in one of the three categories of the test families, and even there had some not satisfied and indeterminate findings.

The Association's position is clear. As stated in the its comments to the E&Y report, it is CLECA's position that SBC should not be given a passing grade until it actually passes the agreed-to tests. SBC has not done so, and no favorable recommendation should be forthcoming until SBC has complied with the agreed-to tests.

SBC'S PROPOSED COMPLIANCE PLAN SHOULD BE REJECTED

As part of its request of September 5, 2002, which began this farcical review, SBC proposed a compliance process in the form of a compliance audit plan. On October 30, 2002, SBC filed its proposed compliance plans. These plans were not developed as part of the collaborative process, as was the Master Test Plan and the performance measures. Nor does SBC propose to have a collaborative on the compliance plans. Instead, SBC's self-selected

³ A copy of page 13 is attached for convenience.

auditor is to develop an audit plan that will be reviewed by the Staff. CLECs are presumably left entirely out of the process.

Problems with the SBC approach abound. First and foremost, as indicated in the previous argument, the process makes no sense when SBC cannot even begin to establish compliance now with the measures and tests that it previously agreed to. As with the presentation of the E&Y report, this smacks of trying to change the rules halfway through a game because SBC is losing under the previously agreed-to rules. If SBC is allowed to swap BearingPoint for E&Y to get approval, then allowed to unilaterally select yet another auditor for compliance, it seems quite likely that SBC will continue to try to rewrite the rules and “backslide” after it obtains 271 approval. As with the E&Y gambit, the Commission should reject SBC’s attempt at bypassing the tests it already agreed to, and require successful completion of all tests under the Master Test Plan before recommending 271 approval.

Second, as previously indicated, there is no provision for CLEC input. Apparently, SBC has concluded that its problems with BearingPoint are due in part to the presence of CLEC voices pointing out where SBC’s OSS is deficient. If the CLECs are left out of the process, SBC apparently reasons its chances of skating an audit improve. Consequently, the Commission should reject this approach and require a compliance plan to be developed within a collaborative process.

Third, the plans themselves cannot be evaluated in any meaningful sense because they are incomplete. As SBC acknowledges, the plans do not propose any compliance plans for any open BearingPoint exceptions or for any performance metric review. As these are key points, the plan cannot be addressed without these areas being addressed. This is further evidence of the need for a collaborative process to establish compliance plans.

CONCLUSION

Once again SBC strikes out. The E&Y report previously found material noncompliance, and now the BearingPoint report shows a dismal failure on behalf of SBC's OSS systems to meet the agreed-upon standards. Yet, SBC plows ahead, apparently hoping that the passage of time will get it what its own incompetence has failed to obtain: 271 approval. And, indeed, if SBC can go forward with this record and get approval, and get its unconscionable price increases as well,⁴ SBC will have obtained the elusive unregulated monopoly it has long sought.

The Commission should call a halt to these review proceedings, as it has previously indicated it reserved the authority to do, and send SBC back to the testing grounds to abide by the testing plan to which it agreed until SBC can get it right and stop wasting everyone's time and money.

Respectfully submitted,

CLARK HILL PLC



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Attorneys for CLEC Association of Michigan

Dated: November 15, 2002

⁴ See Case No. U-13518. Although that case has been dismissed, it appears SBC intends to file what amounts to the same price increases in the near future.

B. HIGH-LEVEL TEST RESULTS

The results for 785 individual evaluation criteria are presented in this report. The following summary of results spans all test families and domains.

Test Family	Number of Evaluation Criteria				Total
	Satisfied	Not Satisfied	Indeterminate	Not Applicable	
Performance Metrics Reporting (5 tests)	30	136	108	29	303
Processes and Procedures Review (16 tests)	299	1	3	10	313
Transaction Verification and Validation (9 tests)	166	24	5	2	197
TOTAL	495	161	116	41	813

The results by domain area are shown below. Note that the 303 PMR evaluation criteria are excluded from this summary, since each of the PMR tests span all functional domains.

Domain	Number of Evaluation Criteria				Total
	Satisfied	Not Satisfied	Indeterminate	Not Applicable	
Pre-Ordering / Ordering	87	18	0	0	105
Provisioning	78	2	4	0	84
Billing	93	1	1	5	100
Maintenance & Repair	76	4	1	0	81
Relationship Management	131	0	2	7	140
TOTAL	465	25	8	12	510

As stated previously, BearingPoint has been directed to continue its evaluation activities. Consequently, the results shown above are subject to change.

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In the matter, on the Commission's own motion,)
to consider AMERITECH MICHIGAN's compliance)
with the competitive checklist in Section 271 of)
the Federal Telecommunications Act of 1996.)

Case No. U-12320

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS:
COUNTY OF INGHAM)

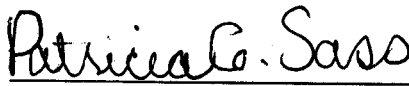
Patricia A. Morrison, being duly sworn, deposes and says that she is an employee of Clark Hill P.L.C., and that on November 15, 2002, a copy of the CLEC Association of Michigan's Initial Comments Regarding BearingPoint's Final Report and Ameritech Michigan's Compliance Proposal was served upon:

See attached service list

Except as otherwise noted on the attached list, service was accomplished via e-mail and by depositing same in a regular mail depository, enclosed in envelopes bearing postage fully prepaid and addressed properly and via electronic mail.


Patricia A. Morrison

Subscribed and sworn to before me
this 15th day of November, 2002.


Patricia G. Sass, Notary Public
Ingham County, Michigan
My Commission Expires: September 8, 2006

SERVICE LIST
CASE NO. U-12320

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SERVICE LIST
CASE NO. U-12320

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SERVICE LIST
CASE NO. U-12320

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