

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the petition of CLIMAX TELE-)
PHONE COMPANY, d/b/a CTS TELECOM, INC.,)
for arbitration of interconnection rates, terms, con-)
ditions, and related arrangements with MICHIGAN)
BELL TELEPHONE COMPANY, d/b/a AMERITECH)
MICHIGAN.)
_____)

Case No. U-11340

At the June 25, 1997 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. John C. Shea, Commissioner
Hon. David A. Svanda, Commissioner

ORDER ADOPTING ARBITRATION AGREEMENT

I.

HISTORY OF PROCEEDINGS

On March 10, 1997, Climax Telephone Company, d/b/a, CTS Telecom, Inc., (Climax) filed a petition for arbitration regarding the pricing, terms, and conditions for interconnection with Ameritech Michigan, pursuant to Section 252(b) of the federal Telecommunications Act of 1996 (the FTA), 47 USC 252(b). In accordance with the procedures adopted in the Commission's July 16, 1996 order in Case No. U-11134, Climax filed testimony, exhibits, and a proposed contract with its petition. On March 17, 1997, Administrative Law Judge James N. Rigas, Elizabeth Durbin, and Margaret Wallin were appointed to the arbitration panel.

On April 4, 1997, Ameritech Michigan filed its response to Climax's petition, along with a double-redlined interconnection agreement containing agreed-upon contract terms and alternate proposed language for disputed terms. Ameritech Michigan also filed testimony of four witnesses.

On April 11, 1997, at the direction of the arbitration panel, the parties submitted a joint status report, which set out in summary form the parties' respective positions on eight disputed issues. On April 25, 1997, the parties submitted proposed decisions of the arbitration panel. On May 1, 1997, the parties presented their respective positions before the arbitration panel.

On May 21, 1997, the arbitration panel issued its decision, noting that of the eight issues presented in the status report, only five remained in dispute.¹ For each of the disputed issues, the panel stated its decision, the rationale underlying that decision, and the language adopted as a result, if any.

On June 2, 1997, Ameritech Michigan and Climax filed objections to the decision of the arbitration panel. Those filings reflect that the parties have no objections to the arbitration panel's resolution of Issues 6 and 8. Those portions of the arbitration agreement to which the parties have not objected are properly and finally resolved for the reasons set forth in the arbitration panel's May 21, 1997 decision. The issues that continue in dispute are discussed below.

¹The parties had notified the panel that they had resolved Issues 4, 5, and 7.

II.
DISCUSSION

Toll and Local Access Charges

Climax desires to offer local calling to a geographic area that encompasses more than one Ameritech Michigan local calling area. Because of the differing exchange boundaries, a dispute arises concerning the appropriate compensation to Ameritech Michigan when the call originates with a Climax Metro Exchange customer and terminates with an Ameritech Michigan customer located within the Metro Exchange area, but which call would be a toll call if it were between two Ameritech Michigan customers because it crosses Ameritech Michigan's exchange boundaries that do not have extended area service (EAS).

Toll access charges are currently higher than local call termination charges. Climax has offered to pay 1.5¢ per minute for local call termination, the rate set in Case No. U-10640 and reaffirmed in Case No. U-10860 until the Commission could better examine cost evidence.²

Toll access on the other hand is priced at 2.299¢ per minute.

The arbitration panel adopted Climax's position on this issue. It concluded that when a call (1) originates and terminates in the Metro Exchange, (2) is not routed over any Ameritech Michigan toll facilities or through Ameritech Michigan toll tandems, (3) is routed exclusively over facilities provided by Climax, and (4) is classified as local pursuant to Climax's tariffs, Climax should pay the local call termination rate.

²That rate may change when the Commission issues its final order in Case No. U-11280, in which the Commission is examining the long run incremental costs of various components of the network for purposes of interconnection.

Ameritech Michigan objects to the arbitration panel's determination and argues that the panel's conclusion has allowed Climax to unilaterally restructure the call compensation relationship between Climax and Ameritech Michigan, contrary to state and federal law and Commission orders.

Ameritech Michigan argues that the panel misinterpreted the Commission's October 7, 1996 order in Case No. U-11143, in which the Commission granted Climax's request to expand its basic local exchange license to include the geographic area served by Ameritech Michigan's Kalamazoo, Galesburg, Scotts, and Battle Creek exchanges. Contrary to the arbitration panel's conclusion, Ameritech Michigan argues, the Commission did not expressly approve the Metro Exchange boundaries as a local calling area for call compensation purposes. Thus, argues Ameritech Michigan, the Metro Exchange is not a local calling area as that term is defined in MCL 484.2102(p); MSA 22.1469(102)(p), which requires Commission approval. Moreover, Ameritech Michigan states, the Federal Communications Commission (FCC) in its order in In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 96-325, released August 8, 1996 (FCC Order), interpreted the reciprocal compensation provisions of the FTA, 47 USC 251(b)(5), to leave to state commissions the responsibility to define local service areas "consistent with historical practice." FCC Order, ¶ 1035. Ameritech Michigan argues that the arbitration panel failed to adequately address how its decision complies with the FCC Order, even though that decision creates a local calling area that is not consistent with historical practice (i.e., Ameritech Michigan's current exchange boundaries).

Ameritech Michigan points out that the Commission has limited the scope of licensing proceedings to issues related to whether the applicant has met the statutory requirements for obtaining or enlarging a license. To that end, Ameritech Michigan asserts, the Commission has rejected other parties' attempts to intervene to raise additional issues. Ameritech Michigan argues that any attempt by it to intervene in Climax's licensing case to raise local calling area issues would have met with rejection.

Moreover, Ameritech Michigan argues, even if the Commission's order granting Climax an expanded license is read to approve the Climax Metro Exchange as a local calling area, such approval applies only to the relationship between Climax and its customers, not between Climax and Ameritech Michigan. It argues that the Commission did not need to resolve how Climax's proposed local calling area might affect the classification of local and toll calls placed by customers within the Metro Exchange in the licensing case. Ameritech Michigan asserts that the Commission order granting a license could not resolve an issue never placed before the Commission.

Ameritech Michigan further points to portions of the FCC Order and the FTA that suggest that Congress never intended to eliminate the FCC's existing access charge rules and requirements. In fact, Ameritech Michigan argues, Congress directed that until the FCC promulgates new regulations and establishes new rates for access, such access must be provided on the terms that applied before the effective date of the FTA. See, 47 USC 251(g) [Section 251(g)].

Additionally, Ameritech Michigan argues, the arbitration panel failed to explain why it believed that other competing providers could not declare even larger geographical areas, per-

haps an entire LATA³, as a local calling area to avoid paying toll access rates. Ameritech Michigan submits that such a result would conflict with Section 251(g) and would alter the Commission's long-standing policy of mirroring interstate access charges for intrastate toll purposes.

Ameritech Michigan argues that the panel's decision does not promote competition as the panel apparently believed. Ameritech Michigan asserts that adopting its position would not prevent Climax from offering unique rate plans to its customers pursuant to which Climax would charge local or zone rates for calling any other party within the new, larger exchange. However, Ameritech Michigan argues, the tariffs Climax proposed in its licensing case reflect that Climax does not intend that its Metro Exchange customers be charged one flat, untimed rate for all calls within the exchange. Rather, Ameritech Michigan argues, those tariffs reflect an intent to use time and mileage sensitive rates that are more characteristic of toll service than of local service.

Ameritech Michigan goes on to argue that adopting Climax's position on this issue will not put competitors in a position of being able to compete equally in the local and long distance markets. It argues that adopting Climax's position will give it an advantage over other competitors because it will avoid paying terminating access rates by classifying calls that are billed as toll for all other local exchange companies (LECs) as local calls. Further, Ameritech Michigan argues, the reduction in access charges that is likely to result from proceedings now pending with the FCC will mitigate any disadvantage Climax claims will result from adopting Ameritech Michigan's position.

³LATA is an acronym for local access and transport area.

Finally, Ameritech Michigan points to decisions in Ohio and Wisconsin as persuasive authority for the Commission to continue to define local calling areas in accordance with those approved for the incumbent LEC, rather than allowing competitive LECs to redefine those areas for purposes of interconnection compensation.

The Commission finds that Ameritech Michigan's objections should be rejected. In the Commission's view, the question being addressed here is whether Ameritech Michigan's historic boundaries for local calling should dictate what constitutes a local calling area for all competing providers. The Commission finds that the public interest will best be served if that question is answered in the negative and the decision of the arbitration panel is affirmed. Further, the Commission finds the result reached by the arbitration panel is consistent with the FTA, the FCC Order, and other applicable law.

The FTA leaves to the state commissions the task of defining local calling areas. Pursuant to the statutory definition in MCL 484.2102(p); MSA 22.1469(102)(p), a local calling area "means a geographic area encompassing 1 or more local communities as described in maps, tariffs, or rate schedules filed with and approved by the commission." At the time that Climax received its license, the Commission approved its proposed Metro Exchange, within which the company seeks to provide basic local exchange service.

The Commission is not persuaded that the FCC Order dictates a different result. The cited paragraph reflects the FCC's acknowledgment that state commissions have historically determined the appropriate boundaries for local calling areas. It does not require that the Commission maintain those local exchange boundaries that the incumbent LECs proposed and the

Commission approved prior to competition developing. Neither the FTA nor the FCC Order require that local calling area boundaries be the same for all providers within the state.

The Commission is also not persuaded that the limited scope of a licensing proceeding requires a different result than the arbitration panel reached. The statutory requirements for granting a license to provide basic local exchange service include a finding that a grant of the license is not contrary to the public interest. Thus, if the size or configuration of the geographic area proposed to be served as one exchange is contrary to the public interest, the Commission may deny the application or require alteration of the proposed boundaries before granting the license.

As to Ameritech Michigan's argument concerning the tariffs that Climax submitted with its application, Climax represented in its oral presentation that it intends to offer local calling throughout the proposed exchange and does not intend to use the tariff sheets it provided as an exhibit to its application.

The Commission finds that Climax's proposal to define a larger local calling area is consistent with the public interest and should be encouraged because it provides a new service configuration that may be competitive in price, terms, and other conditions of service. As long as Climax treats the Metro Exchange as a local calling area, and bills its customers for local calling, it should pay local termination charges rather than toll access charges when connecting its Metro Exchange customer to an Ameritech customer within the geographic boundaries of the exchange.

Finally, the Commission finds the decisions of the Ohio and Wisconsin commissions unpersuasive on this issue for lack of demonstration that the applicable state statutes and rules are the same as those in Michigan.

Traffic Measurement Method

The parties did not agree on the method to be used to measure local traffic for purposes of reciprocal compensation between the Climax Metro Exchange and the four Ameritech Michigan exchanges that cover the same geographic area. Climax proposed to use a periodic study method, while Ameritech Michigan proposed that the parties measure terminating calls by recording the actual minutes of use on an ongoing basis. The arbitration panel adopted Climax's position on this issue.

Ameritech Michigan objects to the arbitration panel's determination and asserts that both parties and the panel agree that the most accurate method to determine the traffic volumes between the Metro Exchange and Ameritech Michigan's exchanges is full measurement as proposed by Ameritech Michigan. Ameritech Michigan argues that full measurement is fully consistent with the Commission's orders in Case No. U-10860, in which the Commission directed the parties to install capabilities that could fully measure and bill local traffic termination. It asserts that there is no reason to reach a different result here.

Ameritech Michigan charges that the panel erroneously relied on Ameritech Michigan's preliminary agreement to use the periodic study method on an interim basis for EAS traffic between the Climax Exchange and the neighboring Ameritech Michigan exchanges. Ameritech Michigan argues that, unlike the Climax Exchange EAS traffic, the Metro Exchange traffic is not well-established and stable and there is no history upon which to base estimates of traffic. Because usage with the Metro Exchange is expected to grow, Ameritech Michigan states that the traffic will be in a "state of constant flux, with the result that traffic flow pattern estimates taken one month will not reflect traffic patterns in even the next month, and certainly not in subse-

quent months." Ameritech Michigan's objections, p. 15. Therefore, Ameritech Michigan argues, a periodic study method is not proper for measuring the Metro Exchange local traffic and only a full, ongoing traffic measurement plan will be adequate. Ameritech Michigan further represents that all other competitive LECs have accepted and implemented the full measurement method for reciprocal compensation. In Ameritech Michigan's view, Climax should also be required to deploy full measurement.

Ameritech Michigan complains that the arbitration panel erroneously relied upon Climax's claim that it will furnish accurate, auditable billing records if allowed to combine Climax Exchange and Metro Exchange traffic on a single trunk group. Ameritech Michigan states that Climax uses Feature Group C trunks for intraLATA traffic, which do not make terminating access recordings available. According to Ameritech Michigan, that fact distinguishes this case from the arbitration proceedings involving Sprint Communications Company, L.P., (Sprint) and Ameritech Michigan in Case No. U-10203. Ameritech Michigan states that Sprint uses Feature Group D trunks, which have the ability to create records suitable for billing purposes.

Ameritech Michigan argues that Climax traffic studies cannot satisfy the requirement for accurate, auditable billing records because the proposed traffic study method is neither accurate nor auditable in any meaningful sense. Ameritech Michigan explains that a study provides a snapshot of the traffic patterns and there is no method for verifying whether actual usage is accurately predicted by the study.

Moreover, Ameritech Michigan insists that the burden on Climax created by the need to implement actual measurement is not significant enough to support adoption of Climax's position on this issue. Ameritech Michigan charges that the panel erred when it found that requiring

full measurement would impose additional, unnecessary costs on Climax. Ameritech Michigan points out that it agreed to bear the burden of full measurement of local Metro Exchange traffic terminated by Ameritech Michigan. It objects to what it views as a prohibition on measuring, at its own expense, local traffic terminated from the Metro Exchange merely because Climax is unwilling to do so for the local traffic terminated from Ameritech Michigan's exchanges.

The Commission concludes that, to best promote competition, the arbitration panel's decision should be affirmed. Although the periodic study method is not the most accurate method available for measuring traffic, it has been used successfully in EAS arrangements. The Commission has previously determined that EAS traffic is local calling. See, the Commission's June 5, 1997 order in Case No. U-10860.

Climax and Ameritech Michigan have already agreed to use a study methodology to measure local traffic in the Climax exchange. If Climax is required to use a different measurement method for the Metro Exchange, it will lose the efficiency otherwise available to it by combining trunk groups for local and toll traffic, a problem not resolved by Ameritech Michigan's offer to measure the traffic at its own expense. Ameritech Michigan has not persuaded the Commission that the Metro Exchange should be treated differently from the Climax exchange for purposes of measuring local traffic termination. The Commission notes that, like Sprint, Climax has committed to provide accurate, auditable records so that traffic may be identified and properly billed. Should Climax not be able to do as it has committed, it will be required to move to actual measurement immediately.

Climax objects to language in the arbitration panel's decision suggesting that Climax should be required to move to actual measurement for local termination if the Commission determines

in Case No. U-11298 that it must use actual measurement for intraLATA toll traffic. Climax argues that a Commission determination concerning actual measurement of toll access does not resolve the problem of treating the Climax and Metro exchanges differently with respect to measuring local traffic. If actual measurement is not needed in the Climax Exchange for local (EAS) traffic, Climax argues, then it should not be required for local termination in an exchange in which Climax is in competition with Ameritech Michigan. Climax requests that the Commission clarify that its decision in Case No. U-11298 will not affect measurement of local traffic.

The Commission declines to grant Climax's request for clarification. One of the reasons for allowing Climax to use a study method of measurement is to allow it to combine traffic on existing trunks. If Climax must use actual measurement for intraLATA toll, it should likewise use actual measurement for local traffic termination.⁴

Ameritech Michigan objects to the arbitration panel's adoption of Climax's proposed language for Section 5.7.3. In Ameritech Michigan's view, Climax did not rebut Ameritech Michigan's prefiled testimony that Climax had not established why the risk of inability to identify which carrier initiated a toll call should be shifted to Ameritech Michigan when Climax will receive the benefit of terminating access charges in most instances. Ameritech Michigan requests that the Commission reverse this portion of the panel's decision.

The Commission finds that the decision of the arbitration panel should be affirmed. The language to which Ameritech Michigan objects is intended to require the party that accepts intra-LATA toll traffic for delivery to the other party to bear the responsibility for failing to identify

⁴The Commission notes that the parties to Case No. U-11298 have reached a settlement agreement, which provides for use of new study methods for measuring traffic. That settlement does not require altering the arbitration panel's conclusion.

the originating carrier. Ameritech Michigan's objections are without merit. Climax cannot bill the originating carrier if it does not have the identification information that it requires. The delivering carrier is in a superior position to identify the originating carrier.

Combining Traffic on Trunk Groups

Ameritech Michigan objects to the arbitration panel's conclusion that Climax should be allowed to combine traffic from the Climax and Metro Exchanges on the same trunk groups. It acknowledges that the result of this issue is essentially dictated by the results of the issue concerning actual measurement, which is discussed earlier in this order. Ameritech Michigan asserts that the additional cost to Climax is small in that the company need provide only three additional trunk groups.

The Commission has already affirmed the result reached by the arbitration panel related to measurement and, accordingly, affirms the result the arbitration panel reached on this issue. There is no significant distinction between the combining of traffic on trunk groups in this instance and that decided in Case No. U-11203, in which the Commission found that Sprint should be allowed to combine traffic on the same trunk groups for efficient use of the installed network.

IntraLATA Toll Service

Ameritech Michigan objects to the arbitration panel's conclusion that the Commission should require Ameritech Michigan to provide intraLATA toll service to the Metro Exchange. Ameritech Michigan argues that the panel based its decision on its erroneous impression of certain contracts entered into between Ameritech Michigan and various customers for the provi-

sion of intraLATA toll service. Ameritech Michigan further argues that this issue was not raised in the petition for arbitration and is therefore not properly arbitrable, being barred by 47 USC 252 and the Commission's July 16, 1996 order in Case No. U-11134, which require that the petition for arbitration state all issues that are in dispute. Finally, Ameritech Michigan argues that adoption of the panel's decision would require expanding the historical primary exchange carrier/secondary exchange carrier relationship into new geographic areas and might require the company to offer service at a loss.

Ameritech Michigan argues that the arbitration panel's decision rests on its belief that Ameritech Michigan merely seeks to put Climax at a competitive disadvantage by its refusal to provide intraLATA toll service to the Metro Exchange. Ameritech Michigan insists that the sole consideration for its decision not to provide intraLATA toll to the Metro Exchange is economics. It asserts that the costs of providing intraLATA toll service to the Metro Exchange may exceed what Ameritech Michigan currently charges residential customers for intraLATA toll service. Ameritech Michigan states that the access and terminating costs for an intraLATA toll call from the Metro Exchange to another Michigan Exchange Carriers Association (MECA) member company will total \$0.13 per minute. Because Ameritech Michigan charges residential customers only \$0.15 per minute for intraLATA toll calls, it projects that it would offer the service at a loss if required to do so. This, Ameritech Michigan argues, would amount to an unconstitutional taking of property without just compensation.

Moreover, Ameritech Michigan argues, when a competitive LEC ventures beyond its historic territory, it should not be allowed to take refuge in the primary exchange carrier system

that was developed to protect small telephone companies that had neither the desire nor the capability to provide toll service.

Additionally, Ameritech Michigan argues, MCL 484.2306; MSA 22.1469(306) [Section 306], relied upon by the arbitration panel, does not require that Ameritech Michigan provide intraLATA toll service in the Metro Exchange. Ameritech Michigan states that Section 306 was not intended to address situations in which an incumbent LEC competes in other exchanges with another incumbent LEC. Ameritech Michigan argues that the Commission would violate the provisions of that section if it requires Ameritech Michigan to provide service at a cost above the price it charges.

Further, Ameritech Michigan argues, even if Section 306 could be found applicable to the present case, it would not require Ameritech Michigan to provide the service. It asserts that other providers would be more logical candidates for providing intraLATA toll service. Because certain providers have committed to providing toll service throughout Michigan, Ameritech Michigan argues, refusing to require Ameritech Michigan to provide intraLATA toll service for the Metro Exchange will not leave Metro Exchange customers without a toll provider.

The Commission finds that the arbitration panel properly addressed and resolved this issue. Climax raised the issue in its petition for arbitration as a part of its argument concerning Ameritech Michigan's demand that Climax utilize separate trunk groups for the two exchanges. See Climax's petition, pp. 18-19. The additional arguments did not raise wholly new questions, but merely supported the position set out in Climax's petition.

The Commission further finds that Ameritech Michigan's objection to the arbitration panel's decision on this issue should be rejected. Ameritech Michigan provides intraLATA toll service in the geographic area of the Metro Exchange to its own customers, but desires to withhold that service from Metro Exchange customers. The arbitration panel determined that failure to require Ameritech Michigan to provide intraLATA toll service in the Metro Exchange would constitute a substantial road block for Climax's entry into the local exchange service market, in part based on contracts that Ameritech Michigan has negotiated with its own customers for the provision of intraLATA toll. If Ameritech Michigan is allowed to refuse to provide toll service in the Metro Exchange, customers located within the Metro Exchange area that signed long term contracts for intraLATA toll service with Ameritech Michigan are precluded from switching basic local exchange providers without incurring a penalty. Ameritech Michigan created a situation in which it would be inequitable to allow it to withhold intraLATA toll service from the competing Metro Exchange.

The Commission agrees with the arbitration panel that the present circumstances justify requiring Ameritech Michigan to provide intraLATA toll service pursuant to Sections 306, which grants the Commission authority to require interconnection between a toll provider and a basic local exchange provider that does not offer toll or have interconnection with a toll provider. In the present case, Climax does not and will not provide intraLATA toll service, it is not interconnected with another provider for that service, and it has not received bona fide requests for 1+ dialing parity.

The Commission finds that Ameritech Michigan has not demonstrated that it cannot provide this service without incurring a loss. Although it complains that the access and termination

charges are high for Climax and other MECA companies, it did not establish its own costs with regard to providing the service. Moreover, Ameritech Michigan is not without resources for altering the rates it charges customers for intraLATA toll service, or for seeking alterations in the access charges about which it complains. Therefore, the Commission finds Ameritech Michigan's constitutional arguments are without merit.

The Commission further finds that it would be contrary to the public interest and the antidiscrimination provisions of the Michigan Telecommunications Act, MCL 484.2101 et seq.; MSA 22.1469 (101) et seq., and the FTA to allow Ameritech Michigan to withhold intraLATA toll service to customers located within a geographic area in which Ameritech Michigan provides intraLATA toll service to its own basic local exchange customers.

III.

CONCLUSION

The Commission finds that the objections raised by Ameritech Michigan and Climax to the decision of the arbitration panel should be rejected. Therefore, the Commission finds that the decision of the arbitration panel should be adopted for purposes of approving an interconnection agreement between Ameritech Michigan and Climax.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended by 1995 PA 216, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC 151 et seq.; 1969 PA 306, as amended, MCL 24.201

et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACRS, R 460.17101 et seq.

b. The interconnection agreement, as adopted by the arbitration panel, should be approved.

THEREFORE, IT IS ORDERED that:

A. The interconnection agreement, as adopted by the arbitration panel, is approved.

B. A complete copy of the interconnection agreement, as adopted by the arbitration panel, shall be filed within ten days of the issuance of this order.

C. Ameritech Michigan shall interconnect with Climax Telephone Company to provide intraLATA toll service to the Climax Metro Exchange.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

(S E A L)

/s/ John G. Strand
Chairman

By its action of June 25, 1997.

/s/ John C. Shea
Commissioner, dissenting in a separate opinion.

/s/ Dorothy Wideman
Its Executive Secretary

/s/ David A. Svanda
Commissioner

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the petition of CLIMAX TELE-)
PHONE COMPANY, d/b/a CTS TELECOM, INC.)
for arbitration of interconnection rates, terms, con-)
ditions, and related arrangements with MICHIGAN BELL)
TELEPHONE COMPANY, d/b/a AMERITECH)
MICHIGAN.)
_____)

Case No. U-11340


DISSENTING OPINION OF COMMISSIONER JOHN C. SHEA

(Submitted on June 25, 1997 concerning order issued on same date.)

I am not able to join in the approval of the accompanying order. As I have stated previously, see, November 1, 1996 Dissenting Opinion in Case No. U-11138, the means to reach the result embodied in the accompanying order cannot, as the majority states, arise under federal law. Rather, the Michigan Telecommunications Act, 1991 PA 179, as amended by 1995 PA 216, MCL 484.2101 et seq.; MSA 22.1469(101) et seq., (the "MTA") is the only authority that should control this proceeding.

Based on this reasoning, questions about this Commission's authority and jurisdiction have not been resolved for me. Accordingly, I dissent.

MICHIGAN PUBLIC SERVICE COMMISSION



John C. Shea, Commissioner