

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
CENTENNIAL CELLULAR CORPORATION) Case No. U-11620
against **AMERITECH MICHIGAN.**)
_____)

In the matter of the application of)
CENTURY CELLUNET, INC., against)
AMERITECH CORPORATION et al. regarding) Case No. U-11630
Ameritech's unilateral termination of Type 2A)
interconnection with CMRS providers.)
_____)

At the October 26, 1998 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

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

ORDER DENYING REHEARING

On January 9, 1998, Centennial Cellular Corporation filed a complaint in Case No. U-11620 challenging Ameritech Michigan's decision to withdraw reverse billing. Reverse billing is an arrangement that permits a land line telephone customer to place a call to a cellular customer without paying local or toll charges. Instead, the commercial mobile radio service provider pays Ameritech Michigan an access-like charge. The alternative is standard billing, under which Ameritech Michigan charges the land line calling party the customary local or toll charges. On February 6, 1998, CenturyTel Wireless, Inc., filed a similar complaint in Case No. U-11630. Thumb

Cellular, AirTouch Cellular Inc., Trillium Cellular Corporation, and RFB Cellular, Inc., participated as intervenors.

On August 5, 1998, the Commission issued an order dismissing the complaints with prejudice. The Commission concluded that reverse billing is a part of interconnection and, as such, subject to regulation, but declined to decide whether the withdrawal of reverse billing would be adverse to the public interest within the meaning of Section 205 of the Michigan Telecommunications Act (MTA), MCL 484.2205; MSA 22.1469(205). Rather, the Commission concluded that, consistent with the MTA and the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC 151 et seq., issues related to reverse billing, like other aspects of interconnection, should be resolved first by negotiation and then by arbitration if necessary. The Commission also concluded that because Ameritech Michigan had decided to offer reverse billing until the expiration of the last interconnection agreement that provides for reverse billing, the Commission need not decide whether the withdrawal of reverse billing would violate the interconnection agreements. The Commission rejected arguments that the settlement agreement in Case No. U-9269, which was approved on March 9, 1989 and resulted in reverse billing first being offered, remains in full force despite the passage of time and the enactment of the MTA and that a contested case is a prerequisite to a change in the reverse billing tariff.

On September 4, 1998, the complainants and intervenors filed five petitions for rehearing. On September 25, 1998, Ameritech Michigan filed a reply.

The complainants and intervenors raise essentially seven issues on rehearing: (1) Contrary to the conclusion of the order, the last interconnection agreement that provides for reverse billing expires September 15, 2000, not April 9, 1999. (2) There is too little time remaining to negotiate new interconnection agreements by April 9, 1999, and the current agreements should remain in effect

until replacement agreements have been approved. (3) Ameritech Michigan is in breach of the interconnection agreements by its failure to provide reverse billing for new NXX codes. (4) Contrary to the conclusion of the order, there is a need for the Commission to rule on whether the withdrawal of reverse billing is contrary to the public interest within the meaning of Section 205 of the MTA. (5) The settlement agreement in Case No. U-9269 is still in force despite the passage of the MTA. (6) The Commission should rule that the terms of the interconnection agreements prevail over any inconsistent tariff provisions. (7) Ameritech Michigan may not withdraw reverse billing except upon compliance with Section 313 of the Michigan Telecommunications Act, MCL 484.2313; MSA 22.1469(313).

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACCS, R 460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

To the extent that the petitions for rehearing merely reargue issues that the Commission already decided, the petitions do not meet the standard for granting rehearing. The remaining issues raised by the petitions for rehearing are matters that the complainants and intervenors could have, and should have, raised earlier. The Commission will not address those issues now, although a clarification may be useful. The Commission understood Ameritech Michigan's concession that it would offer reverse billing until April 9, 1999 to include the provision of reverse billing in new NXX codes when required by the terms of a particular interconnection agreement. To the extent that

Ameritech Michigan fails to honor that commitment, it would be in breach of the interconnection agreement with the requesting provider.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; MSA 22.1469(101) 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 AACCS, R 460.17101 et seq.
- b. The petitions for rehearing should be denied.

THEREFORE, IT IS ORDERED that the petitions for rehearing are denied.

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/ John G. Strand
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

By its action of October 26, 1998.

/s/ Dorothy Wideman
Its Executive Secretary

Ameritech Michigan fails to honor that commitment, it would be in breach of the interconnection agreement with the requesting provider.

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MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

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Suggested Minute:

“Adopt and issue order dated October 26, 1998 denying the petitions for rehearing of the August 5, 1998 order that dismissed complaints regarding Ameritech Michigan’s withdrawal of reverse billing, as set forth in the order.”