

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the petition of)
AT&T COMMUNICATIONS OF MICHIGAN, INC.)
for arbitration to establish an interconnection) Case No. U-11165
agreement with **GTE NORTH INCORPORATED** and)
GTE SYSTEMS OF MICHIGAN.)
_____)

At the July 16, 1999 meeting of the Michigan Public Service Commission in Lansing, Michigan.

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

OPINION AND ORDER

On December 12, 1996, the Commission issued an order concluding the arbitration of the pricing, terms, and conditions of an interconnection agreement between AT&T Communications of Michigan, Inc., (AT&T) and GTE North Incorporated and GTE Systems of Michigan¹ (GTE) and directing the parties to file an agreement complying with the Commission's determinations. However, negotiations relating to the agreement continued, and AT&T and GTE were unable to agree on the wording of a complete draft until May 21, 1999. On that date, AT&T filed an agreement memorializing how the parties resolved disputes over the text of the draft. Even then, the agreement resolved some issues by

¹In various draft interconnection agreements submitted to the Commission, GTE Systems of Michigan has been more fully identified as Contel of the South, Inc., d/b/a GTE Systems of Michigan.

simply deferring them in light of expected regulatory developments. In addition, GTE indicates, both in the agreement itself and in a separate letter to the Commission dated May 20, 1999, that it does not concede certain of its objections to the principles underlying the interconnection agreement, that it reserves the right to challenge the agreement in court, and that it does not join in AT&T's request for the Commission to approve the agreement.

Section 252 of the federal Telecommunications Act of 1996, 47 USC 252, requires that any interconnection agreement that is adopted by negotiation or arbitration be submitted to the Commission for approval. 47 USC 252(e) provides in part:

- (2) The State commission may only reject
 - (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that--
 - (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
 - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; . . .

- (3) Notwithstanding paragraph (2), but subject to section 253 of this title, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

The Commission concludes, after reviewing the application and the agreement, that it should approve the interconnection agreement and the attached schedules and exhibits. Although GTE's reluctance is clear and its concurrence is hedged with various statements regarding positions that it wishes to litigate in the future, the Commission does not find the provisions of the agreement itself to be inconsistent with federal and state law or the public interest. Under 47 USC 252(i) and MCL 484.2359(2); MSA 22.1469(359)(2), the services provided under this agreement must be made available to other telecommunications carriers upon the same terms and conditions.

The Commission notes that GTE has maintained that it should not be compelled to sign any agreement, even if it concurs with the wording and form of the agreement. GTE has also asserted this view in other interconnection proceedings. AT&T and GTE agreed to resolve this issue by deleting the signature block from the body of the agreement. They apparently do not intend to sign the agreement, but would view it as implemented once the Commission approves it.

In the February 17, 1999 order in Case No. U-11551, the Commission approved an interconnection agreement between BRE Communications, L.L.C., and GTE, notwithstanding GTE's refusal to execute the agreement as explicitly required by a previous order. By providing this ending to an otherwise insoluble impasse, the Commission indicated that one party's refusal to affix a signature would not be permitted to defeat the process. However, a signature retains some value, if only to provide a means of documenting that the agreement as submitted accurately memorializes the end product of the arbitration process and the Commission's orders. Therefore, the Commission is not willing to discard the signature requirement outright. The signature block, as it appeared in the earlier draft submission (filed on December 18, 1998), should be reinstated, and both parties should sign it. If GTE remains unwilling to sign, AT&T may, after signing it itself, place a notation under GTE's signature line indicating GTE's refusal to sign and the date that its signature was requested. AT&T should then file the agreement, which will become effective without further Commission action if the agreement is otherwise identical to the draft filed on May 21, 1999.

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 should be approved, subject to the provisions in this order for signing it.

THEREFORE, IT IS ORDERED that:

A. The interconnection agreement between AT&T Communications of Michigan, Inc., and GTE North Incorporated and Contel of the South, Inc., d/b/a GTE Systems of Michigan, is approved, subject to the provisions in this order for signing it.

B. Approval of the agreement does not alter the duty of GTE North Incorporated and Contel of the South, Inc., d/b/a GTE Systems of Michigan, to comply with relevant federal and state law and past and future Commission orders.

C. The parties should file a completed copy of the interconnection agreement, signed in accordance with the provisions of this order, within ten days.

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

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of July 16, 1999.

/s/ Dorothy Wideman
Its Executive Secretary

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

MICHIGAN PUBLIC SERVICE COMMISSION

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By its action of July 16, 1999.

Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated July 16, 1999 approving an interconnection agreement between AT&T Communications of Michigan, Inc., and GTE North Incorporated and Contel of the South, Inc., d/b/a GTE Systems of Michigan, as set forth in the order.”