

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
PIGEON TELEPHONE COMPANY)
to restructure its rates.)
_____)

Case No. U-11846

At the May 27, 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

ORDER

On November 24, 1998, Pigeon Telephone Company (Pigeon) filed an application for approval to restructure its rates pursuant to Section 304a of the Michigan Telecommunications Act, MCL 484.2304a; MSA 22.1469(304a). On February 17, 1999, the Commission issued an order denying the application because Pigeon's rates are above total service long run incremental cost (TSLRIC), the standard for restructuring under Section 304a. On March 17, 1999, Pigeon filed a petition for rehearing. On April 7, 1999, the Commission Staff (Staff) filed a response.

Pigeon argues that the Commission's conclusion that its rates are above TSLRIC is in error because the Commission failed to remove common costs from the offset calculation. It says that the cost of basic local exchange service is determined by the cost of the unbundled network elements (UNEs) used to provide the service, including shared but not common costs. Then, because the

same UNEs are used to provide other services, an offset calculation is made, which subtracts the rates for those other services from the TSLRIC of basic local exchange service. The error, according to Pigeon, is that the offset calculation failed to exclude the common cost portion of the revenues received from services that use the same UNEs.

The Staff responds that it is unnecessary and inappropriate to remove common costs as Pigeon proposes.

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACS, 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.

The Commission is not persuaded that the order is in error. A rate restructuring pursuant to Section 304a is not an opportunity to adjust the recovery of common costs from regulated and unregulated services. A rate restructuring is designed solely to ensure that the rates for basic local exchange service are not less than TSLRIC as of January 1, 2000. The Commission's order was consistent with that purpose in concluding that Pigeon's rates are already above TSLRIC and do not require restructuring. If Pigeon believes that there is a need to adjust the rates for one or more of its services to recover more or less of its common costs, the Michigan Telecommunications Act provides a mechanism for doing so outside the context of a rate restructuring. Likewise, a rate restructuring is not an opportunity to adjust the rates for individual services, such as the service

order charge, without a showing that basic local exchange rates as a whole do not recover those costs.

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 AACRS, R 460.17101 et seq.

b. The petition for rehearing should be denied.

THEREFORE, IT IS ORDERED that the petition for rehearing filed by Pigeon Telephone Company is 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

/s/ Robert B. Nelson
Commissioner

By its action of May 27, 1999.

/s/ Dorothy Wideman
Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated May 27, 1999 denying the petition for rehearing filed by Pigeon Telephone Company, as set forth in the order.”