

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application and complaint of)
FOCAL COMMUNICATIONS CORPORATION)
OF MICHIGAN against **AMERITECH MICHIGAN.**) Case No. U-11936
_____)

At the April 23, 1999 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

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

ORDER

On March 15, 1999, Focal Communications Corporation of Michigan (Focal) filed an application and complaint against Ameritech Michigan. On April 5, 1999, the complainant requested to withdraw its application and complaint without prejudice.

On April 15, 1999, MCImetro Access Transmission Services, Inc., (MCImetro) filed a petition for leave to intervene and objection to the withdrawal. MCImetro says that Focal's complaint alleges that Ameritech Michigan has delayed access to and interconnection with Ameritech Michigan's local exchange network and the request to withdraw does not indicate whether Focal and Ameritech Michigan have entered into any settlement agreement or contract relating to the terms and conditions under which Focal will be permitted to interconnect. It notes that federal law, 47 USC 252(e), requires that all agreements for interconnection be submitted to the state commission for approval. It therefore asserts that any side agreements interpreting the interconnection

agreement between Focal and Ameritech Michigan and any settlement agreement related to the interconnection agreement must be publicly filed, which will help to assure that Ameritech Michigan does not discriminate among competitive local exchange carriers (CLEC) and will assist other CLECs in deciding whether to adopt Focal's interconnection agreement, as they have a right to do under 47 USC 252(i) and MCL 484.2359(2); MSA 22.1469(359)(2).

The Commission concludes that it need not grant MCImetro's petition for leave to intervene at this time, but the issue that it raises is of concern. Focal's request to withdraw the application and complaint does not offer an explanation. If Focal and Ameritech Michigan have entered into a new interconnection agreement or amended their prior agreement, the agreement or amendment must be filed for approval by the Commission. If they have agreed on an interpretation of the interconnection agreement, public disclosure is required. As noted in the April 12, 1999 order approving Focal's interconnection agreement with Ameritech Michigan, under 47 USC 252(i) and MCL 484.2359(2); MSA 22.1469(359)(2), the services provided under the agreement must be made available to other CLECs on the same terms and conditions. If there is another reason that Focal has decided not to proceed with its application and complaint, the withdrawal should state that reason. The Commission therefore denies the request to withdraw at this time.

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 request to withdraw the application and complaint should be denied at this time.

THEREFORE, IT IS ORDERED that:

A. The request to withdraw the application and complaint filed by Focal Communications Corporation of Michigan against Ameritech Michigan is denied.

B. Focal Communications Corporation of Michigan and Ameritech Michigan shall file the new interconnection agreement or amendment, or shall file affidavits stating that there are no such agreements.

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

By its action of April 23, 1999.

/s/ Dorothy Wideman

Its Executive Secretary

THEREFORE, IT IS ORDERED that:

A. The request to withdraw the application and complaint filed by Focal Communications Corporation of Michigan against Ameritech Michigan is denied.

B. Focal Communications Corporation of Michigan and Ameritech Michigan shall file the new interconnection agreement or amendment, or shall file affidavits stating that there are no such agreements.

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

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

By its action of April 23, 1999.

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Suggested Minute:

“Adopt and issue order dated April 23, 1999 denying the request of Focal Communications Corporation of Michigan to withdraw its complaint against Ameritech Michigan, as set forth in the order.”