

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of **AMERITECH MICHIGAN's** )  
submission on performance measures, reporting, )  
and benchmarks, pursuant to the October 2, 1998 )  
order in Case No. U-11654. )  
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Case No. U-11830

At the February 9, 2000 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 DENYING MOTION FOR CLARIFICATION**

On November 19, 1999, Ameritech Michigan filed a motion for clarification of the portion of the May 27, 1999 order in this proceeding that pertains to the scope of the annual audits of its processes and data underlying the monthly performance measurement reports that it was ordered to prepare for use in determining whether it is providing nondiscriminatory service to competing local exchange carriers (CLECs). On December 9, 1999, MCI WorldCom, Inc., (MCI) filed a response to Ameritech Michigan's motion. On December 16, 1999, Ameritech Michigan filed a supplemental pleading requesting that the Commission consider comments filed by it on December 14, 1999 in Cases Nos. U-11104 and U-12143 as further support for its motion for clarification. On December 17, 1999, the Commission Staff (Staff), AT&T Communications of Michigan, Inc., (AT&T), BRE Communications, LLC, d/b/a McLeodUSA, (BRE), Coast to Coast Telecommuni-

cations, Inc., (Coast), MediaOne Telecommunications of Michigan, Inc., (MediaOne), and Sprint Communications Company LP (Sprint) filed responses in opposition to Ameritech Michigan's motion for clarification.

### Background

Pages 10-12 of the May 27, 1999 order in this proceeding concern Ameritech Michigan's proposal to subject the data underlying its monthly reports to an annual audit by an independent third-party auditor. The Commission concluded that Ameritech Michigan's proposal for an annual audit of the processes and data was reasonable and should be adopted, with certain modifications.

In doing so, the Commission stated:

“The audit should cover not only the measurements of service provided to the CLECs, but should include all those items for which the ILEC must measure its performance for itself or any affiliated CLEC. Additionally, the audit should include a review of whether Ameritech Michigan has implemented the measures as ordered by the Commission. The results of the audit should be available to the Commission and all CLECs purchasing service from Ameritech Michigan. The initial audit should occur at the conclusion of calendar year 1999, at which time both implementation procedures and the initial months' operating results may be reviewed.

Proper design of procedures for the audit will be important in assuring the affected carriers that the information Ameritech Michigan has produced is accurate. Therefore, the Commission finds that Ameritech Michigan should meet with interested CLECs and the Staff to establish a consensus on clear objectives for the auditor. Further, the agreed upon objectives and resultant procedures designed by the independent auditor should be explicitly revealed in the audit report. Underlying data should be retained for a minimum of 24 months after the conclusion of the year in which the data was collected or 12 months after the issuance of the audit report, whichever is later.

May 27, 1999 order, Case No. U-11830, p. 11.

On June 28, 1999, Ameritech Michigan filed a petition for rehearing and clarification of the May 27, 1999 order. In response to Ameritech Michigan's petition, the Commission issued

another order on September 3, 1999. In that order, the Commission refused Ameritech Michigan's request to defer implementation of the May 27, 1999 order. Additionally, the Commission expressed concern that, although the May 27, 1999 order required Ameritech Michigan to meet with CLECs and the Staff regarding the proper design of procedures for the audit, those meetings had not taken place. Accordingly, the Commission directed Ameritech Michigan to commence discussions with the Staff and CLECs within 30 days.

### Positions of the Parties

In its motion for clarification, Ameritech Michigan states that on October 22, 1999, representatives of Ameritech Michigan, the Staff, and interested CLECs met in an effort to establish a consensus regarding the audit procedures. However, Ameritech Michigan reports that its efforts in this regard were thwarted by an attempt on the part of MCI to expand the audit beyond the scope intended by the Commission. Specifically, Ameritech Michigan argues that MCI sought to expand the audit process to include a third-party test of Ameritech Michigan's operations support systems (OSS). According to Ameritech Michigan, the parties could not agree on whether the Commission's May 29 and September 3, 1999 orders intended to require Ameritech Michigan to include a third-party test of its OSS as part of the audit process. Accordingly, Ameritech Michigan requests that the Commission issue another order in this proceeding to clarify that such testing is not part of the audit process.

In its response, MCI maintains that Ameritech Michigan is presenting an inaccurate description of the status of the collaborative process. MCI insists that, contrary to Ameritech Michigan's assertions, MCI was not the lone advocate of including third-party testing of Ameritech Michigan's OSS in conjunction with the audit conducted pursuant to the May 27 and September 3, 1999

orders in Case No. U-11830. Rather, MCI contends that Ameritech Michigan alone opposed including third-party testing in the collaborative process ordered by the Commission.

MCI also maintains that New York-style OSS testing is important to the opening of the Michigan local market to competition. According to MCI, New York-style OSS testing provides independent expertise, removes barriers to effective competition, evaluates and stress tests all systems and support processes, and ensures that real CLEC marketing and provisioning needs are addressed so that local competition may develop. MCI maintains that Ameritech Michigan's interpretation of the Commission's prior orders in this proceeding is grounded in Ameritech Michigan's desire to thwart the growth of local competition. Moreover, MCI insists that the Commission has authority pursuant to the Michigan Telecommunication Act (MTA), MCL 484.2101 et seq.; MSA 22.1469(101) et seq., to require third-party OSS testing to encourage competition in the local telecommunications market.

The comments filed by AT&T, Sprint, Coast, BRE, and MediaOne echo MCI's contentions. According to them, Ameritech Michigan's efforts to delay implementation of third-party OSS testing should be rejected. They insist that the only way to seriously explore discrimination issues is through use of third-party OSS testing. Because Ameritech Michigan's proposal for an annual audit for its processes and data was approved "with certain modifications" in the May 27th order and because the Commission strongly urged the parties to focus their discussion on the establishment of New York-style testing in its September 3, 1999 order, AT&T, Sprint, BRE, Coast, and MediaOne contend that Ameritech Michigan's efforts to thwart the development of third-party OSS testing should be rejected.

In its comments, the Staff states that the Commission clearly has jurisdiction pursuant to the MTA to require OSS availability as well as to impose third-party testing to assure the nondiscrimi-

natory operation of Ameritech Michigan's OSS. Moreover, the Staff maintains that the Commission's prior orders in this proceeding establish that third-party OSS testing should be part of the audit process. However, the Staff also suggests that because third-party OSS testing will be an integral element in Ameritech Michigan's effort to obtain approval pursuant to Section 271 of the federal Telecommunication Act of 1996 (FTA), 47 USC 151 et seq., to enter the interLATA market, it would be appropriate to separate third-party OSS testing from the annual performance measurements audit. In any event, the Staff maintains that Ameritech Michigan should be required to resume discussions with the Staff and the CLECs on these issues.

The December 14, 1999 comments filed in Cases No. U-11104 and U-12143, which were also filed in this docket, indicate that Ameritech Michigan has rethought its position with respect to third-party OSS testing. In so doing, Ameritech Michigan now states that it is in agreement "with many of the fundamental principles urged by MCI and other parties in this proceeding on OSS testing." Ameritech Michigan's comments, p. 3. Moreover, Ameritech Michigan also acknowledges "the need for a comprehensive and independent assessment of its OSS systems." Ameritech Michigan's comments, p. 3. In so doing, Ameritech Michigan stresses that its prior opposition to third-party OSS testing was prompted by its fear of competitive gamesmanship and regulatory delay. Further, Ameritech Michigan states its intention to propose a competitive test plan for OSS that would be submitted to the Staff for review and consultation in January 2000. Indeed, by letter dated January 28, 2000, Ameritech Michigan submitted to the Staff a proposal regarding its next Section 271 application. A key aspect of its January 28, 2000 submission involves an initial proposal for OSS testing that will be subject to collaborative evaluation and refinement in conjunction with the Staff and CLECs. Ameritech Michigan's initial position provides for a

regional test by an independent third-party consultant modeled on the best aspects of the Telcordia Texas and the KPMG Florida Master Test Plans.

### Discussion

In an order issued today in Case No. U-12320, the Commission opened a new docket for consideration of Ameritech Michigan's next Section 271 application. In so doing, the Commission directed that Ameritech Michigan serve on all interested parties a copy of its current position on third-party testing to serve as a starting point for a collaborative process aimed at reaching a consensus for comprehensive third-party testing of Ameritech Michigan's OSS. Because the Commission is persuaded that Ameritech Michigan's motion for clarification has been superseded by its recent proposal for regional OSS testing by an independent third-party consultant, the Commission finds that Ameritech Michigan's motion for clarification should be denied. Ameritech Michigan should proceed with the more limited purpose audit as provided for in the May 27, 1999 order.

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. Ameritech Michigan's motion for clarification of the May 27, 1999 order in this proceeding should be denied.

THEREFORE, IT IS ORDERED that Ameritech Michigan's motion for clarification of the May 27, 1999 order 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 February 9, 2000.

/s/ Dorothy Wideman  
Its Executive Secretary

THEREFORE, IT IS ORDERED that Ameritech Michigan's motion for clarification of the May 27, 1999 order 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

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Suggested Minute:

“Adopt and issue order dated February 9, 2000 denying the motion for clarification filed by Ameritech Michigan, as set forth in the order.”