

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
<b>AMERITECH MICHIGAN</b> to revise its	)	
reciprocal compensation rates and rate structure	)	Case No. U-12696
and to exempt foreign exchange service from	)	
payment of reciprocal compensation.	)	
_____	)	

At the January 23, 2001 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Laura Chappelle, Chairman  
Hon. David A. Svanda, Commissioner  
Hon. Robert B. Nelson, Commissioner

**OPINION AND ORDER**

On October 27, 2000, Ameritech Michigan filed an application for approval to revise its reciprocal compensation rates and rate structure. The application further requests that the Commission classify foreign exchange (FX) service as non-local exchange traffic and exempt it from reciprocal compensation.

In a letter to Ameritech Michigan dated November 9, 2000, the Commission's Executive Secretary directed Ameritech Michigan to issue a notice of opportunity to comment on the application to the Attorney General and all licensed local exchange carriers (LECs) operating in Michigan as of October 31, 2000. The letter set a deadline of January 4, 2001 for filing comments. On January 4, 2001, AT&T Communications of Michigan, Inc., and TCG Detroit (collectively,

AT&T), MCImetro Access Transmission Services, Inc. (WorldCom), Coast to Coast Telecommunications, Inc. (Coast), Focal Communications Corporation of Michigan (Focal), MichTel, Inc., TelNet Worldwide, Inc. (TelNet), Thumb Cellular (Thumb), and the Commission Staff (Staff) filed comments.

### Procedural Objections

AT&T and the other competitive LEC (CLEC) parties object to Ameritech Michigan's application on procedural grounds. They argue that, by proposing changes to existing interconnection agreements, Ameritech Michigan is attempting to circumvent several recent arbitration decisions, which are binding. AT&T says that, under federal law, if Ameritech Michigan cannot accept the outcome of an interconnection proceeding, its remedy is to file suit in federal court, see 47 USC 252(e)(6), and not to file an application with the Commission that seeks to relitigate prior determinations. Coast and MichTel say that if the Commission is inclined to grant Ameritech Michigan's application on its merits, it should state that the changes do not affect existing interconnection agreements.

The Staff notes that existing interconnection agreements speak for themselves regarding the appropriate rates to charge if the Commission were to modify the rate structure.

The Commission rejects the view that once it makes a determination in an interconnection proceeding, it can never reconsider that decision or make prospective changes to the rates, terms, and conditions of a particular interconnection service. As for existing interconnection agreements, the Commission agrees with the Staff that the reciprocal compensation rates and provisions of those agreements are subject to change only as provided in those agreements.

### Reciprocal Compensation Rate Structure

Ameritech Michigan filed its current tariff rates for terminating other LECs' local traffic to comply with the Commission's August 31, 2000 order in Case No. U-11831. The current rates, applied to minutes of use, are as follows:

End office local termination	\$0.001004 per minute
Tandem switching	\$0.000262 per minute
Tandem transport termination	\$0.000175 per minute
Tandem transport facility mileage	\$0.000002 per minute per mile

Under the interconnection agreements between Ameritech Michigan and some CLECs, the CLECs charge Ameritech Michigan the same rates to terminate the local traffic that Ameritech Michigan originates. In those instances, a change in Ameritech Michigan's reciprocal compensation rates could affect both the compensation those CLECs pay to have their traffic terminated by Ameritech Michigan as well as the charges they bill to Ameritech Michigan for terminating its traffic.

Ameritech Michigan claims that current rates recover costs on the basis of an assumed average holding time of 4.6 minutes per call. According to Ameritech Michigan, this assumption does not adequately account for the fact that actual call durations can vary widely and may greatly exceed the average, particularly when placed from a computer modem to an Internet service provider (ISP). Ameritech Michigan claims that Internet calls originating on its network have an average duration of 28.7 minutes.

Ameritech Michigan says that each call incurs two types of costs, setup costs and duration costs. It incurs setup costs to connect a call, and those costs, unlike duration costs, do not vary with the length of the call. Because current rates are applied to minutes of use, they overcollect the average setup costs factored into the per-minute charge whenever the call exceeds the 4.6-minute

assumed holding time of an average voice call (and, conversely, undercollect those costs on shorter calls). Ameritech Michigan claims that this rate structure gives CLECs an economic incentive to focus on providing service to ISPs with large volumes of lengthy incoming calls, so that the resulting traffic imbalance means that Ameritech Michigan pays far more in reciprocal compensation than the costs assumed in the rate structure. Ameritech Michigan claims that the average holding time of traffic for which it pays reciprocal compensation to CLECs is 24 minutes.

In this application, Ameritech Michigan proposes to modify the reciprocal compensation rate structure as a means of reflecting more accurately how it incurs the underlying costs of providing termination. Its proposed charges are as follows:

End office local termination:	
Setup charge	\$0.001885 per call
Duration charge	\$0.000605 per minute
Tandem switching:	
Setup charge	\$0.000131 per call
Duration charge	\$0.000234 per minute
Tandem transport termination:	
Setup charge	\$0.000087 per call
Duration charge	\$0.000156 per minute
Tandem transport facility mileage	\$0.000002 per minute per mile

In effect, Ameritech Michigan is proposing a bifurcated rate structure that would reduce the current charges applied to minutes of use and shift the recovery to a setup charge that applies to each call, without regard to duration. Ameritech Michigan requests that the Commission authorize it to tariff the charges and order that existing interconnection agreements providing reciprocal compensation rates based on total element long run incremental cost be modified to reflect the new charges.

Ameritech Michigan claims that the proposed charges are based on the total service long run incremental cost (TSLRIC) studies approved in Case No. U-11831 and that no new cost studies are

necessary. It says that its proposal would reduce the incentives for CLECs to achieve traffic imbalances, which, it suggests, could be further aggravated by the expansion of local calling areas in Case No. U-12528. It maintains that its proposed rate structure is consistent with, if not required by, the cost causation principles of federal and Michigan law and that other states have adopted similar reforms.

AT&T and other CLECs argue that changing the rate structure for reciprocal compensation would be contrary to the Commission's directives regarding cost study revisions in the November 17, 1999 order in Case No. U-11831. That order states that Ameritech Michigan may not file revised cost studies less than two years after its last round of cost studies unless there is a fundamental change in circumstances. It further states that any revised studies must cover the provider's entire network, unless the studies address new services. The CLECs argue that Ameritech Michigan did not propose a bifurcated rate structure in Case No. U-11831, that the order in that case precludes Ameritech Michigan from revising its cost studies on a piecemeal basis, and that any change must await appropriate cost study revisions in the future.

AT&T further contends that the proposed rates cannot be reconciled with current cost studies, as approved in Case No. U-11831. AT&T asserts that the markup over cost is more than would be permitted in the cost studies. It says that the holding time assumptions cited in the application do not appear in the studies and that AT&T's own experience suggests that an average holding time of 24 minutes for terminations to CLECs is overstated. TelNet says that the application does not provide enough information for it to verify whether the proposed rates are consistent with the cost studies.

The CLECs claim that if a bifurcated rate structure is in fact justified by calling patterns, Ameritech Michigan must apply the same type of rate structure to all other services or offerings

that use the same switching elements, e.g., access to unbundled local switching.<sup>1</sup> They say that the cost characteristics distinguishing setup and usage are true for all switching functions and that it would be unfair for Ameritech Michigan to charge a bifurcated rate structure only when it is to its financial advantage.

AT&T and WorldCom say that the Federal Communications Commission (FCC) has previously found that charging for reciprocal compensation on the basis of uniform minutes of use is just and reasonable. AT&T and MichTel suggest that it might be appropriate to defer action on these matters until after the FCC issues its anticipated declaratory ruling relating to inter-carrier compensation.

AT&T contends that the current rate structure promotes competition. It says that even if some CLECs do focus their marketing efforts on attracting ISPs and other customers with high volumes of incoming calls, those traffic patterns have compelled Ameritech Michigan to reduce its reciprocal compensation rates, which in turn benefits other CLECs with more balanced calling patterns. MichTel suggests that Ameritech Michigan's efforts to reduce its rates may have succeeded in foreclosing CLECs from recovering their actual costs of terminating the traffic.

Thumb, a commercial mobile radio service (CMRS) provider, observes that Ameritech Michigan's proposed rates are slightly higher than the TSLRICs approved in Case No. U-11831 if it is assumed, as Ameritech Michigan indicated, that the average holding time is 4.6 minutes per

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<sup>1</sup>WorldCom claims that it supports the general principle of charging nontraffic-sensitive and traffic-sensitive costs as separate rate elements and that it has promoted it as the basis for pricing unbundled local switching. It says that its objection is to Ameritech Michigan's effort to apply this approach selectively to reciprocal compensation.

call. Thumb argues that if Ameritech Michigan is to revise the rate structure for reciprocal compensation, it should also restructure the TSLRIC-based rates for transit service.<sup>2</sup>

The Staff says that the proposed rate structure is reasonable and that the rates are a reasonable reflection of the costs approved in Case No. U-11831.

The Commission finds that Ameritech Michigan's proposal for changing the rate structure for reciprocal compensation should be adopted. Ameritech Michigan's showing that a rate structure predicated upon dual charges for per-call setup and per-minute usage better reflects cost causation has not been rebutted by the other carriers. Moreover, the revenue effects are largely neutral to the extent that the traffic being exchanged does reflect the average holding time used to set the charges.<sup>3</sup> No party has provided specific documentation that would undermine the holding time assumption as applied to Ameritech Michigan's network. Because the other cost assumptions are consistent with the TSLRICs in Case No. U-11831, the Commission finds no violation of the procedures set forth in Case No. U-11831 for performing cost studies and making rates consistent with TSLRIC. In addition, the revised rate structure should blunt any incentive that may now exist to manipulate the calling patterns of the traffic exchanged with Ameritech Michigan.

If some parties believe that Ameritech Michigan's support for modifying the rate structure in light of cost differences is selective and arbitrary as applied solely to reciprocal compensation, they should pursue appropriate applications or complaints to address other services or unbundled elements that they believe require similar treatment. The Commission applied similar cost

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<sup>2</sup> According to Thumb, transiting permits an originating LEC to route a call through Ameritech Michigan's network to another LEC for termination.

<sup>3</sup> Although Thumb contends that the rate changes produce a revenue increase based on an assumed holding time of 4.6 minutes, the increase is slight and appears to be the result of rounding.

causation principles in determining that a greater proportion of unbundled local switching costs was not usage-sensitive in Ameritech Michigan's most recent cost studies. November 16, 1999 order, Case No. U-11831, at 16-17. Thumb's stated concerns related to CMRS are beyond the scope of this application.

As noted above, the changes approved in this order will affect or not affect existing interconnection agreements in accordance with the terms of those agreements. Thus, the reciprocal compensation rates and arrangements provided in an existing agreement will remain in effect for the term of the agreement, unless the agreement provides differently.

As several parties have noted, it is widely believed that the FCC is actively considering how to restructure reciprocal compensation, although it is unclear when or how it may do so. The Commission recognizes that the rate structure it approves in this order may be subject to different considerations if and when the FCC acts. After a definitive FCC order issues, the Commission will review the effect of the changes brought about by that order on reciprocal compensation arrangements in Michigan and, if appropriate, conduct new proceedings on an application or complaint or open a proceeding on its own motion.

#### Foreign Exchange

For purposes of this application, Ameritech Michigan defines FX as a service that enables an end-user in one exchange to place a call to the customer of the service, who is located in another exchange, without incurring toll charges. Ameritech Michigan says that FX service is in fact a form of interexchange service, and not basic local exchange service. Therefore, Ameritech Michigan proposes that calls routed through an FX arrangement to the connecting LEC's customer not be classified as local traffic, so that those calls would not be subject to reciprocal compensa-

tion. In practice, this would free Ameritech Michigan from making reciprocal compensation payments when its retail customers make Internet calls that use some form of FX service to connect through a CLEC to an ISP located in a distant exchange.

The CLECs say that Ameritech Michigan's attempts to distinguish FX service from the exchange of local traffic ignore technological differences relating to how incumbent LECs (ILECs) and CLECs switch and terminate their traffic. The CLECs explain that, unlike Ameritech Michigan's ubiquitous network of switches serving relatively small rate centers, a CLEC typically configures its network with a fewer number of larger switches serving larger geographic areas. AT&T says that its investment in modern technology as well as the geographical dispersion and traffic patterns of its customer base makes this network architecture more efficient than reproducing Ameritech Michigan's network. Coast agrees and adds that some CLECs, including itself, are able to provide service by installing only one switch as a point of interconnection with the ILEC's network in a given LATA.

The FX service that Ameritech Michigan traditionally offered to its customers used a dedicated line to connect the customer to callers in distant exchanges.<sup>4</sup> In contrast, a typical CLEC network enables it to terminate calls to any location within the larger area served by one of its switches, even though some of those calls may cross from one Ameritech Michigan rate center to another and would incur additional costs if terminated on the incumbent's network. Thus, the CLECs say that what Ameritech Michigan regards as a form of FX service is often the equivalent in cost of connecting a local call when performed by a CLEC. Focal notes that if the CLEC did not

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<sup>4</sup> Ameritech Michigan explains that FX service is typically provided to a customer by assigning a telephone number with an NXX that is associated with the distant exchange, so that calls placed with that number are rated as local.

exist and the called party were a customer of Ameritech Michigan, Ameritech Michigan would be required to invest in the facilities and incur the costs necessary to terminate the call. Focal suggests that adopting Ameritech Michigan's position would in turn force the CLECs to raise their retail rates (or exit the market), to the detriment of ISPs and other customers that benefit from the wider calling areas.

Focal further questions whether Ameritech Michigan's FX proposal is feasible. Because Ameritech Michigan's network segregates and bills retail calls as local or toll on the basis of the dialed NXX code assigned to the rate center, and not the actual routing of the call, Focal claims that Ameritech Michigan would not be able to identify an FX-like call placed by one of its customers to a telephone number with a local NXX code. At a minimum, Focal suggests, carriers are not equipped to segregate FX and local calling for purposes of billing reciprocal compensation and would incur administrative expense in making the necessary modifications to their billing systems.

The Staff opposes Ameritech Michigan's proposal to reclassify FX calls. It says that the proposal would withhold any recovery of the terminating costs, even though LECs do incur those costs when they terminate FX calls. The Staff also notes that reclassifying FX calls for billing purposes would be costly. The Staff says that the Commission should affirm its current treatment of these calls.

The Commission rejects the proposal to reclassify FX calls as non-local for reciprocal compensation purposes. Ameritech Michigan has not explained whether, or how, the means of routing a call placed by one LEC's customer to another LEC's point of interconnection affects the costs that the second LEC necessarily incurs to terminate the call. As a matter of historical convention, the routing of that call, i.e., whether or not it crosses exchange boundaries, has not

been equated with its rating, i.e., whether local or toll. Moreover, the discretion that CLECs exercise in designing their local calling areas is a competitive innovation that enables them to provide valuable alternatives to an ILEC's traditional service. The Commission finds no reason to change these standards, particularly if the end result would be an unnecessary restriction on the services that customers want and need. Moreover, the application does not address how the carriers would make the necessary changes to their billing systems or whether the changes would be technically feasible at an affordable cost for both Ameritech Michigan and the CLECs.

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 reciprocal compensation rates proposed in the application should be approved.
- c. The proposed reclassification of FX service for reciprocal compensation purposes should be denied.

THEREFORE, IT IS ORDERED that:

- A. The reciprocal compensation rates proposed in the application filed by Ameritech Michigan are approved, subject to the provisions of existing interconnection agreements.
- B. The request in Ameritech Michigan's application to reclassify foreign exchange service for reciprocal compensation purposes is denied.
- C. Ameritech Michigan shall file tariff sheets to implement this order within 10 days.

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/ Laura Chappelle  
Chairman, abstaining.

( S E A L )

/s/ David A. Svanda  
Commissioner

/s/ Robert B. Nelson  
Commissioner

By its action of January 23, 2001.

/s/ Dorothy Wideman  
Its Executive Secretary

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Case No. U-12696

Suggested Minute:

“Adopt and issue order dated January 23, 2001 granting the request of Ameritech Michigan to revise its reciprocal compensation rates, but denying the application in all other respects, as set forth in the order.”