

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application and complaint of)	
AT&T COMMUNICATIONS OF MICHIGAN, INC.,)	
against MICHIGAN BELL TELEPHONE COMPANY,)	Case No. U-13082
d/b/a AMERITECH MICHIGAN, for modification)	
and clarification of the Mi2A amendment approved)	
by the Michigan Public Service Commission.)	
_____)	

At the October 2, 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

ORDER AND NOTICE OF HEARING

On September 7, 2001, AT&T Communications of Michigan, Inc., (AT&T) filed an application and complaint and request for emergency relief, pursuant to Section 203(2) of the Michigan Telecommunications Act (MTA), MCL 484.2203(2), on a narrow issue that arose as a result of the January 4, 2001 and March 19, 2001 orders in Case No. U-12320. In those orders, the Commission had addressed Ameritech Michigan's proposed offering, for purposes of complying with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996, 47 USC 271, of unbundled network element combinations pursuant to an amendment to its interconnection agreements (the Mi2A amendment). AT&T requests that the Commission clarify "that it did not intend by its March 19, 2001 Order on Rehearing [in Case U-12320] to require AT&T . . . to waive the right to challenge the sufficiency of the Mi2A under relevant legal

standards, and that the Order on Rehearing is not to be so construed . . .” Complaint, Prayer For Relief, ¶ A. AT&T says that the complaint was necessitated by Ameritech Michigan’s inclusion of Section 6.2 in the Mi2A, which requires AT&T (and any other competitive local exchange carrier that signs the Mi2A) to waive its right to challenge the Mi2A’s terms and conditions in any judicial, dispute resolution, or regulatory proceeding as being inconsistent with Section 271.

On September 14, 2001, Ameritech Michigan filed a response to the request for an emergency order and a motion to dismiss the application and complaint. In the response, Ameritech Michigan argues that the request for emergency relief must be denied because AT&T has failed to satisfy any of the four criteria required for an emergency relief order. In its motion to dismiss, Ameritech Michigan argues that AT&T’s complaint is an impermissible and untimely collateral attack on the March 19, 2001 order on rehearing and seeks relief that is inconsistent with federal law.

On September 21, 2001, AT&T filed a response to Ameritech Michigan’s motion to dismiss.

The MTA requires that the Commission “review the complaint, the request for emergency relief, the response, and all supporting materials and determine whether to deny the request for emergency relief or to conduct an initial evidentiary hearing.” MCL 484.2203(2). Having done so, the Commission concludes that the request for emergency relief should be set for hearing.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission’s Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.
- b. The request for emergency relief should be set for hearing.

THEREFORE, IT IS ORDERED that:

A. A hearing on the request of AT&T Communications of Michigan, Inc., for emergency relief shall be held at 9:00 a.m. on October 8, 2001. A prehearing conference on the application and complaint filed by AT&T Communications of Michigan, Inc., shall be held on the same date at a time set by the Administrative Law Judge assigned to the case.

B. The Administrative Law Judge assigned to the case shall set an expedited schedule for the request for emergency relief.

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

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of October 2, 2001.

/s/ Dorothy Wideman
Its Executive Secretary

THEREFORE, IT IS ORDERED that:

A. A hearing on the request of AT&T Communications of Michigan, Inc., for emergency relief shall be held at 9:00 a.m. on October 8, 2001. A prehearing conference on the application and complaint filed by AT&T Communications of Michigan, Inc., shall be held on the same date at a time set by the Administrative Law Judge assigned to the case.

B. The Administrative Law Judge assigned to the case shall set an expedited schedule for the request for emergency relief.

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

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of October 2, 2001.

Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated October 2, 2001 setting a hearing on the request of AT&T Communications of Michigan, Inc., for emergency relief with respect to the waiver of rights under the Mi2A, as set forth in the order.”