

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to promulgate rules governing the quality of)	Case No. U-13013
telecommunication services.)	
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At the August 20, 2002 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

Section 202(c) of the Michigan Telecommunications Act (MTA), MCL 484.2202(c), requires the Commission to “[p]romulgate rules . . . and issue orders to establish and enforce quality standards for providing telecommunication services in this state.” The Commission promulgated rules, R 484.1 et seq., that took effect July 17, 1996 and had an expiration date of September 1, 2001. On July 11, 2001, the Commission issued an order seeking comment on proposed successor rules, and on August 16, 2001, issued an order adopting interim service quality standards to take effect September 1, 2001.

Based on the comments received following the July 11, 2001 order, the Commission revised the proposed rules. On February 6, 2002, the Commission issued an order seeking comments on the revised rules. A public hearing was held on March 14, 2002 at which Ameritech Michigan and The Iserv Company, Incorporated, (Iserv) offered comments. More than a dozen citizens and the

following businesses and organizations filed written comments by March 21, 2002: Ameritech Michigan; Association of Communications Enterprises (ASCENT); AT&T Communications of Michigan, Inc., and TCG Detroit (collectively, AT&T); Comcast Telecommunications of Michigan, LLC (Comcast); Competitive Local Exchange Carriers Association of Michigan (CLECA); MCImetro Access Transmission Services, LLC, Brooks Fiber Communications of Michigan, Inc., and MCI WorldCom Communications, Inc., (collectively, WorldCom); TDS Metrocom, Inc.; Telecommunications Association of Michigan (TAM); US Xchange of Michigan, L.L.C.; Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems (collectively, Verizon). Iserv, McLeodUSA Telecommunication Services, Inc. (McLeodUSA), Patricia Nelski, and Todd A. Gardner filed comments after the date set by the Commission's order.

In considering how to modify the revised proposed rules in response to the comments, the Commission has considered the effect of the rules on customers and incumbent and competitive providers of services, the costs and benefits of the proposed rules, how to simplify the rules where appropriate, and how to reduce the costs of implementation when possible. Although not discussed below, the Commission has adopted a number of the suggested clarifications to the proposed rules. The rules, as revised by this order, are attached as Exhibit A.

General Issues

TAM urges the Commission to adopt its proposed rules, which meld the interim standards approved on August 16, 2001 with the standards in the settlement agreement approved on December 20, 2000 in Case No. U-12571 et al. for Ameritech Michigan. It also says that the Commission has failed to consider the effect of the proposed rules on small businesses, contrary to the requirements of the Administrative Procedures Act (APA), MCL 24.201 et seq.

Ameritech Michigan agrees that the proposed rules offered by TAM should be adopted, and criticizes the Commission for not using a collaborative approach to develop the rules. It says that with competition increasing, the need to regulate service quality should be decreasing, not increasing. It also says that the Commission must revise the regulatory impact statement to reflect the company's estimate of the costs of compliance with the proposed rules--\$4 billion.

AT&T argues that the rules should apply only to incumbent local exchange carriers (ILECs) and should not apply at all to competitive local exchange carriers (CLECs). It says that competitive pressures from the ILECs and other CLECs will be sufficient to mold CLEC service quality and that if experience shows otherwise, the Commission should later consider a separate set of rules for the CLECs. On the other hand, it says that the CLECs lack sufficient market power to affect the service quality offered by the ILECs. It also says that the requirements of the rules will impose significant costs on the CLECs, which will create barriers to entry and limit customer choice as well as increasing the rates that customers must pay.

The Commission does not agree that TAM's proposed rules are preferable to the proposed rules as modified by this order. The Commission also does not agree with AT&T that competition should be relied upon at this time as an alternative to imposing minimum service quality standards on the CLECs.

The Commission does not agree with TAM that the proposed rules fail to account for the interests of small businesses. In many respects, the rules do not disproportionately affect smaller providers of telecommunication services, and in any event, service quality is as important to their customers as it is to the customers of larger providers. The rules also provide for waivers and exceptions as warranted by the circumstances of a particular provider. The Commission also does not agree with Ameritech Michigan that the regulatory impact statement must be revised. The

rules as revised by this order no longer include the requirement that Ameritech Michigan claims would have the greatest cost (rule 43).

Effective Date

The proposed rules would take effect 60 days after filing with the Secretary of State. TAM says that 60 days is not sufficient time to permit providers to hire and train new staff, to modify plant and facilities, and to obtain Commission action on any needed waivers. It therefore recommends that the rules take effect 180 days after filing. Ameritech Michigan and AT&T agree. Verizon says that the rules should take effect 180 days after the Commission issues a final, non-appealable order.

Although the Commission can agree that additional time may be useful in complying with the rules, it does not agree that 180 days is needed. All providers have been aware for more than a year that new rules were under consideration. Furthermore, they will know the final text of the rules several months before the rules are filed with the Secretary of State and can begin planning to implement the rules well before the effective date. The Commission will therefore extend the effective date to 90 days after filing with the Secretary of State.

Rule 2 - Definitions

TAM says that the definition of “customer trouble report” should be revised to refer only to basic local exchange service and that the definition of “emergency” should be revised so that providers are treated as having knowledge of an emergency only when informed of the relevant facts by the customer.

The Commission agrees that a provider should not be expected to know of emergency telephone needs unless the customer has informed the provider of the relevant facts. The definition of

an emergency has therefore been amended. On the other hand, the Commission does not agree that a customer trouble report can relate only to basic local exchange service. As provided in rule 1, the rules apply to services regulated by the Commission. As a result, the facilities need not be used solely for basic local exchange service to be subject to the rules.

Ameritech Michigan says that the definition of “facilities-based provider” should be revised so that, at most, only pure resellers are excluded from the obligations imposed on facilities-based providers. The alternative, it says, is a lack of parity between providers and unreasonably discriminatory treatment of providers and their customers. TAM agrees. CLECA says that a provider should be treated as a facilities-based provider only with respect to the network facilities that it owns and does not lease from another provider.

The Commission concludes that the rules that apply to facilities-based providers should apply to any provider to the extent that it owns or controls the facilities that it uses to provide services. The Commission has therefore amended the rule to delete the reference to the facilities not being leased and to add that control of facilities is enough to bring the provider within the scope of the rules that apply to facilities-based providers. Thus, a CLEC that leases some network elements from an ILEC but not others would be deemed to control only those elements it leases or owns. The terms of the lease will determine whether leased facilities are subject to the control of the lessee.

Ameritech Michigan says that the definition of “small business customer” should not include businesses with more than 20 access lines that do not have a contract. It says that such businesses have the bargaining power to negotiate specific installation and repair standards. AT&T agrees. It also says that the standard should be 3 or fewer access lines rather than 20 or fewer access lines.

The Commission does not agree that the definition of small business customer should be changed. The intent is that any business that does not have a contract governing installation and repair may rely upon the provisions of these rules. The focus should be on whether the customer has a contract, not on whether it might be large enough to be expected to have a contract. The Commission also does not view three access lines as an appropriate standard for applying the rules.

Rule 21 - Availability of Records

Rule 21 requires providers to make available to the Commission and the Commission Staff (Staff) information needed to show compliance with the rules and allows providers five business days to produce the information unless it is not feasible to do so in that time.

CLECA says that a CLEC may be unable to comply with the time frames required by this rule if its underlying facilities-based provider is in the possession of the data, and they also point out that a CLEC will also require time to analyze the data it obtains from the underlying provider. It recommends that the rule not apply to providers who are not facilities-based or should provide additional time for them to comply. McLeodUSA agrees that the rule does not adequately account for the CLECs' dependence on facilities-based ILECs for access to the information needed to comply with the rule.

AT&T says that the rule should not apply to CLECs because it imposes a substantially greater burden on them than on the ILECs. It says that the latter need only revise existing processes while the CLECs will have to create new processes to gather data, using resources that it says would be better directed to serving customers. It says that the Commission should rely on the CLECs' voluntary compliance with requests for data or should commence an investigation if warranted. If

the Commission disagrees, it recommends that the rule permit a provider using another provider's facilities to require the provider of the facilities to respond to the request for information.

Verizon says that providers should be allowed 10 days to make data available unless they demonstrate that the information cannot be provided within that time.

The Commission finds that the rule should not be revised. It is reasonable to expect all providers, including the CLECs, to monitor their service quality, even in the absence of rules. This rule only requires that the information needed to show compliance, which providers should be gathering anyway, be made available upon request. The rule requires that information be provided within five business days unless a longer time is necessary. It is not necessary to double the response time in all cases as Verizon suggests. The rule also provides sufficient flexibility in the time frames to address a CLEC's need to obtain data from an underlying provider.

Mr. Gardner suggests that the Commission require providers to give their customers access to records regarding outages for their telephone lines. The suggestion is beyond the scope of this rule.

Rule 23 - Reports of Service Disruptions

Rule 23 requires providers to report to the Commission and other providers service disruptions that affect a substantial number of customers and to post the information on a website.

Verizon says that the provision requiring notice to other providers is contrary to federal law, which requires that such matters be the subject of negotiation and incorporation in an interconnection agreement. It says that the rule is also unrealistic in requiring a provider to update its website within 90 minutes. Ameritech Michigan agrees that 90 minutes is not sufficient time for a provider to know the full extent of a service disruption and to post the information on its website and to contact all affected providers.

The Commission does not agree with Verizon that federal law requires that the subject of this rule be addressed only by interconnection agreements, although the parties may do so. The Commission also does not agree that providers should not be required to provide prompt notice of an interruption. Although prompt notice may require changes in how providers conduct their business, the changes are warranted by the effect of a disruption that affects a substantial number of customers.

Rule 24 - Service Measurements

Rule 24 requires providers to make measurements, upon request of the Commission or the Staff, to determine the level of their compliance with the rules.

AT&T says that the rule imposes a substantially greater burden on the CLECs than the ILECs because the ILECs need only revise existing processes while the CLECs will have to create new processes. It says that the Commission should rely on the CLECs' voluntary compliance with requests for data. If the Commission disagrees, it recommends that the rule permit a provider using another provider's facilities to require the provider of the facilities to respond to the request for information.

The Commission finds it reasonable to expect all providers, including CLECs, to measure their compliance with the rules when requested by the Commission or its Staff. It does not seem likely that all of the information that a non-facilities-based provider needs to show compliance will be in the sole possession of the provider of those facilities. On the other hand, it is reasonable for the CLEC to be able to require the provider of the facilities to provide information that is in its sole possession.

Rule 25 - Tariffs

Rule 25 requires providers to file tariffs and make them available to the public by placing on customers' bills an Internet URL address at which the tariffs may be found or a telephone number that they may call for information.

TAM says that the rule should not specify that a bill must contain a URL address or a telephone number. It says that the content of a bill is governed by rule 35 of the billing standards, R 484.335, and that this rule revises that rule without complying with the APA.

Iserv says that all providers should be required to maintain up-to-date tariffs on a website.

The Commission does not agree that it should require all providers to maintain a website, although the rule encourages the posting of tariffs on websites. The Commission also does not agree with TAM's argument, offered without citation or explanation, that the APA requires all rules related to bills to be placed in one set of rules. As long as there is no direct conflict between one set of rules and another, the Commission is free to promulgate rules authorized by statute in the format of its choice, subject to review by the Office of Regulatory Reform, the Legislative Service Bureau, and the Joint Committee on Administrative Rules.

Rule 31 - Rate and Special Charges Information

Rule 31 requires providers to make available to customers information about their recurring and nonrecurring rates and charges.

Ameritech Michigan says that its current procedures for providing information are working well. It therefore objects to any requirement that it change its procedures.

TAM says that the rule revises current billing rules without complying with the APA. It also says that providers should not be required to give an estimate of service connection charges and initial bills because its current procedures are sufficient.

Verizon says that the rule should be revised to require customers to pay \$0.25 per page plus postage for any copies of tariffs.

The Commission does not agree that the providers' belief that their current procedures are adequate is sufficient reason not to adopt this rule. The rule requires providers to furnish customers with basic but essential information. The providers' objections suggest that they are not uniformly providing that information. In particular, the Commission does not agree with TAM that customers are not be entitled to advance notice of service connection charges and an estimate of the initial bill. Also, as noted above, it does not agree with TAM that the APA prohibits the Commission from adopting this rule in this proceeding. As to Verizon's request that the Commission require customers to pay for copies of a tariff, the rule does not prohibit a charge, but it need not require payment. Finally, the Commission has deleted as unnecessary the requirement that providers furnish technical specifications upon request of a customer.

Rule 32 - Identity Verification

Rule 32 establishes procedures by which providers are to verify the identity of customers establishing residential service so as to prevent identity fraud.

TAM says that the rule should be eliminated because it is unrelated to the quality of service. In the alternative, it says that the rule should be eliminated because it is vague and will delay service to new customers while the provider gives notice to any existing customers with the same name.

Ameritech Michigan objects to the rule because it says that its current procedures are sufficient. It also says that checking records for the last 18 months will cause significant delay while an applicant is waiting on the telephone for an answer to his or her request for service. It recommends that the rule require providers to check accounts for only six months and that the rule

be clarified to apply only to residential accounts. It further objects to any requirement that it conduct face-to-face meetings to establish a customer's identity. It says that the costs of complying are neither necessary nor reasonable and will not prevent identity fraud.

ASCENT says that the requirement to use a social security number to establish the identity of an applicant for service will discourage customers from considering alternative providers. It says that this will be a barrier to entry and should be replaced by a provision giving providers flexibility in verifying the identity of an applicant for service.

Verizon says that its current procedures are working, that customers should be permitted to provide identification by fax or other electronic means, that the rule is more appropriately addressed as a billing rule, and that the need for and manner of verifying a customer's identity is a management decision beyond the Commission's jurisdiction.

AT&T says that customers should be permitted to mail proof of identify.

Ms. Nelski says that the rule should require proof of identify as well as residency.

The Commission does not agree that this rule should not be addressed in this proceeding or that it is beyond the Commission's jurisdiction. It is an appropriate subject for this rulemaking, and the Commission has jurisdiction to take steps to prevent providers from seeking to collect charges and to damage the credit of people in connection with disputes about accounts for which they are not the customer. The Commission does not agree that a decision to seek to collect charges and to damage the credit of a person who is not responsible for the account is a matter left by law to the discretion of the provider's management. As claims that this rule is not needed because existing procedures are working, the rule was proposed only because it became apparent from complaints brought to the Commission and comments filed in this proceeding that existing procedures are not working.

The rule establishes reasonable, basic procedures that can prevent or at least significantly reduce identity fraud. It does not require a provider to check more than the records that are available to it. A provider need not seek access to information held by other providers, for example. The Commission remains persuaded that checking records for 18 months is appropriate. In particular, a six-month period is too short. Finally, the rule grants providers flexibility in deciding how a person will be permitted to establish his or her identity for purposes of establishing a claim of identity fraud, but no longer requires providers to rely upon social security numbers.

Rule 33 - Disputed Credit Information

Rule 33 establishes procedures to be followed when a customer and provider have a dispute about credit information related to the provider's services.

AT&T says that the rule should be considered in a rulemaking commenced to review the billing rules, not in this rulemaking.

Verizon says that credit reporting procedures are beyond the Commission's jurisdiction because they are the subject of federal law and are within the management prerogatives of providers.

Ameritech Michigan agrees that the rule is preempted by federal law, and says, in any event, that its current procedures are adequate. It also says that all investigations cannot be completed in 30 days as required by the rule.

WorldCom says that providers should be required to take action only upon notification by a credit reporting agency that information about a customer or applicant is in dispute.

The Commission does not agree that this rule should not be addressed in this proceeding or that it is beyond the Commission's jurisdiction. Although it could be addressed elsewhere, it is an appropriate subject for this rulemaking. The rule is not inconsistent with federal law, and thus is

not preempted. Likewise, the Commission does not agree that current procedures are adequate. The rule therefore establishes reasonable, basic procedures for addressing credit disputes.

Rule 34 - Public Information

Rule 34 requires providers to make available information about local calling areas and service availability and how to contact the provider about questions and disputes.

Ameritech Michigan says that its current procedures for providing information to customers are working well. It therefore objects to any requirement that it change its procedures, particularly any change that might require it to distribute to customers what it characterizes as a limitless list of items.

TAM says that it will be expensive for providers to create and maintain maps of sufficient size and detail to permit customer locations to be determined.

Iserv says that providers should be required to notify customers if dialing 10-digit numbers as well as 7-digit numbers may result in toll charges.

Verizon says that the costs of compliance would be substantial and customers can obtain information from the Commission's website, Verizon's website, and telephone books.

US Xchange says that providers should be permitted to charge for providing copies.

The Commission has revised the rule to clarify and reduce the information that must be provided to customers and to place greater reliance on Internet websites. The rule as revised requires providers to furnish basic information to which all customers are entitled, including whether the dialing of 7 or 10 digits may result in toll charges. To the extent that any provider is furnishing less information, it is reasonable to require that it change its procedures. The Commission has reduced the requirement with respect to maps, and the rule does not prohibit charging for copies that are provided.

Rule 35 - Business Offices

Rule 35 requires providers to maintain business offices staffed by personnel capable of assisting customers, to answer calls to those offices in a monthly average of 60 seconds, and to make reasonable arrangements to assist those who do not speak English.

Ameritech Michigan says that the average answer time should be three minutes because of the cost of a shorter answer time. US Xchange agrees that three minutes should be the minimum. Ameritech Michigan also says that the requirement with respect to those who do not speak English is vague and costly with little benefit. WorldCom and TAM agree that it is unreasonable to expect providers to have interpreters conversant in every language. Verizon says that the decision about how to interact with non-English speaking customers is a matter of management discretion beyond the Commission's jurisdiction.

Mr. Gardner recommends that the Commission require any provider serving more than 250,000 customers to maintain a 24-hour business office to handle customer problems.

Ms. Nelski says that providers should maintain business offices in each county to facilitate identity verification or should at least provide an address at which mail, including certified mail, will be accepted.

The Commission concludes that the decision about how to interact with non-English speaking customers should be left to the discretion of providers because of the significant burden of being prepared to assist customers in numerous languages. The Commission also concludes that the average answer time should be increased to two minutes. One minute may be unrealistic at this time, while an average of more than two minutes still requires a significant wait for some customers before a person is able to assist them. The Commission does not conclude that the costs and benefits support a requirement that providers maintain a business office in each county or that

those offices remain open 24 hours per day. The issue of addressing identity fraud in the absence of a local business office is addressed by rule 32.

Rule 38 - Advertising

Rule 38 requires advertising about regulated services to clearly disclose any limits on the availability of those services.

Verizon says that truth-in-advertising is governed by state and federal law. It says that a rule governing the subject is unneeded, will be confusing, and is beyond the Commission's expertise. The Commission does not agree that a rule that defines one potential manner of violating Section 502 of the MTA, MCL 484.2502, is beyond the Commission's expertise or jurisdiction.

Rule 40 - Directory Errors and Omissions

Rule 40 requires providers to intercept calls to a number listed in a directory if the directory is in error or the number has been changed since the directory was published.

TAM says that the duty to intercept calls to a customer whose number has been changed should continue to be conditioned on equipment limitations, the customer's permission, and payment of the tariffed charge. AT&T agrees that providers should be permitted to charge for intercept services when the customer has requested a change in telephone number.

Verizon says that if the Commission intends the rule to apply whenever a telephone number changes, the Commission lacks jurisdiction over unregulated mechanized intercept service. It suggests that the rule be clarified to apply only to changes due to directory errors or omissions.

The Commission does not agree that the rule should be as narrow as Verizon proposes. The subsections of the rule specify their applicability. As TAM suggests, the rule also specifies limitations that the Commission finds reasonable to the duty to provide intercept service, including

the permission of the customer who requested the change in number. The rule does not prevent providers from charging pursuant to tariff for intercept services provided at the request of the customer.

Rule 40a - Directory Assistance and Intercept Calls

Rule 40a requires providers of directory assistance to provide up to two numbers per call to directory assistance and prohibits charging for providing incorrect numbers.

AT&T says that the rule should not establish a minimum quality of operator services provided by competitive providers. It says that such matters should be left to the competitive market. The Commission finds it appropriate to set minimum standards that providers are free to exceed to the extent that they find doing so in their competitive interests. The Commission does not agree that the matter should be entirely unregulated at this time. On the other hand, pursuant to rule 71(4), the rules on directory assistance will not apply once the Commission finds the service to be competitive.

Rule 40b - Operator Services

Rule 40b requires a provider of operator services to answer calls within a monthly average of 10 seconds.

TAM says that, to comply with the APA, the rule should be considered only in the context of amending the current rules that govern operator services.

AT&T says that, like rule 40a, rule 40b should not apply to competitive providers.

As discussed above, the Commission finds it appropriate to set minimum standards that providers are free to exceed. Also as discussed above, the Commission does not agree that the APA prohibits the Commission from addressing the subject in this rulemaking proceeding.

Rule 40c - Complaints and Appeals

Rule 40c specifies minimum procedures that providers must follow in handling complaints from customers.

WorldCom says that there should not be a time limit for providers to resolve complaints and that providers should not be required to place the resolution of a complaint in writing because that would require additional time and expense. It says that requiring contact with the customer in every case within a short time will divert resources from resolving other more serious matters, that contact is not always required such as when a simple bill credit will resolve the matter, and that requiring a final response in 10 days will not provide sufficient time to resolve the matter. It also says that it is not reasonable to determine that a complaint is valid merely because the provider failed to respond within 30 days.

ASCENT says that that the rule should allow for an extension of time in responding to a complaint from a customer as well as from the Commission or the Staff.

TAM says that portions of the rule will result in the implicit amendment of rule 61 of the billing standards, R 484.361, without compliance with the APA. It says that the requirement to provide a telephone number to which customers may direct a complaint duplicates R 484.335(i). It also says that it is arbitrary and unfair to impose penalties that are unrelated to the complaint simply because the provider failed to respond to the complaint within 30 days. AT&T agrees.

Ameritech Michigan criticizes the proposed rule as a significant intrusion into the relationship between providers and their customers that has no counterpart in rules that govern the interaction between gas and electric utilities and their customers. It says that it is impossible to investigate and respond to all complaints in 10 days and that it is not enough that the rule permits the Staff to grant additional time. It says that the rule must be revised to permit providers to give a number to

which customers can direct inquiries, including complaints. It says that the rule must be revised to clarify that a customer may request to speak to a supervisor rather than to require that providers' employees always inform callers that they may speak to a supervisor instead of the front-line employee. Finally, it says that treating a complaint as valid if the provider does not respond in 30 days violates due process and will be unworkable. Verizon agrees that the provision is a violation of due process as well as vague.

The Commission has made many of the revisions suggested by the parties, including extending the time to respond, not requiring that first-line employees suggest that customers may talk to supervisors, providing that contacting the customer should be done as necessary, and extending the time for contacting customers. The Commission has also substantially modified the rule to provide that a provider's failure to respond in a timely manner will create only a presumption that the complaint is valid. The provider remains free to establish that a complaint is not valid, notwithstanding its failure to respond in a timely manner. In other respects, the Commission finds that the rule should not be revised. Ameritech Michigan in particular seems not to understand that a significant impetus for this rulemaking is the number of complaints that its customers have brought the Commission, unlike the number of complaints involving gas and electric utilities. It is beyond dispute that its procedures have not adequately addressed its customers' concerns and complaints. The rule therefore imposes a required level of performance in the handling of all complaints.

Rule 41 - Construction

Rule 41 requires providers to construct facilities in compliance with generally accepted industry standards and the National Electrical Safety Code and to design their facilities to avoid interference with electric and natural gas utility facilities.

WorldCom says that the rule should apply only to facilities-based providers. AT&T agrees.

The Commission concludes that the purpose of the rule requires that it apply to any provider to the extent that it constructs facilities.

Rule 42 - General Practices

Rule 42 requires providers to build sufficient facilities to meet demand.

WorldCom says that the rule should apply only to facilities-based providers. AT&T agrees.

TAM says that it is contrary to industry engineering standards and prohibitively expensive to require a call failure rate of no more than 1%. Ameritech Michigan says that the requirement is unworkably vague.

Iserv recommends a new standard practice that would require all toll calls to be dialed with a “1” and would prohibit the imposition of toll charges on any call that was not dialed with a “1.”

The Commission has deleted the provision on the call failure rate as not warranted considering the cost. With that provision deleted, the Commission concludes that the purpose of the rule requires that it apply to any provider to the extent that it constructs facilities. The Commission declines to require that “1” be dialed as a toll charge indicator. Such a rule is likely to be difficult and expensive to implement. Rule 34 requires that customers be given information from which they can determine which of their calls will result in toll charges.

Rule 43 - Customer Line Transmission Requirements

Rule 43 sets minimum technical specifications for the performance of all customer loops.

Verizon, Ameritech Michigan, WorldCom, TAM, Comcast, and McLeodUSA agree that providers cannot or should not be required to offer a data rate of 56 kilobits per second. Iserv

supports a lower speed, although because broadband access will not be the choice of all customers, it recommends that the Commission set a minimum data rate for dial-up access.

The Commission concludes that the data speed standard should be deleted in light of the recent broadband legislation, 2002 PA 48, 49, and 50, which will improve the data speed of the network without the need for a mandate. It declines to set a dial-up data speed at this time in light of the concerns raised by the comments of the providers.

Verizon says that some of the remaining standards are not based on generally accepted industry standards and one is inconsistent with generally accepted industry standards. It suggests that those provisions be modified to correspond to the industry norm.

AT&T says that the rule should not apply to services provided by the CLECs or at least should apply only to facilities-based providers.

The Commission concludes that the rule should adopt generally accepted industry standards, as Verizon proposes. As discussed above, the Commission concludes that the purpose of the rule requires that it apply to any provider to the extent that it constructs facilities.

Rule 44 - IntraLATA Trunk Transmission Requirements

Rule 44 sets minimum technical standards for the performance of intraLATA trunks.

Iserv says that all tandem trunking should be SS7 signaling or better.

The Commission does not agree that such a standard is appropriate at this time.

Rule 46 - Emergency Operation

Rule 46 establishes standards for providers to follow in dealing with emergency power interruptions, unusual and prolonged increases in traffic, and fires and other emergencies.

WorldCom says that the rule should require only facilities-based providers to have procedures for restoring service.

The Commission does not agree that only facilities-based providers should be required to have a plan for restoring service, even if the plans of other providers only establish how they will work with their underlying providers to restore service.

Part 5 - Repair and Installation

Part 5 deals generally with how providers are to install and repair service for their customers, including setting time frames and granting credits to customers.

CLECA says that all of part 5 should apply only to facilities-based providers because the providers who rely upon those facilities must depend upon those providers for repairs and installation. McLeodUSA agrees. It also says that providers who rely upon the facilities of others will need time to comply in addition to the time that the underlying providers require.

AT&T says that the service credit provisions should not apply to any CLEC because such credits will increase costs and dampen competition and the handling of credits will require operation support systems that may not exist.

Verizon says that the penalty provisions of the rules are contrary to the MTA. It says that the Commission can impose penalties only for violations of the MTA, only after making customer-specific findings following notice and a hearing, and only in the amount of a customer's economic loss. Further, it says that automatic penalties are arbitrary, capricious, and unfair because they apply even if the provider meets a monthly average standard and even if the cause is beyond its control. It says that any rule that requires a provider to meet a monthly average should not require the automatic payment of a credit to affected customers. Instead, it proposes that the provider be required to file a remedial plan if it fails to meet the required standards for three consecutive

months. Further, it says that rather than rely on penalties, the Commission should provide incentives for enhanced performance or at least should permit providers to earn credits for superior service that can offset penalties that might later be due if service falls below the required standards for a short period.

The Commission rejects Verizon's argument that the rules cannot impose penalties for poor service. The statutory mandate is that the Commission is required to "establish and enforce quality standards." MCL 484.2202 (emphasis added). The credit provisions of the rules are reasonable provisions that seek to compensate customers for the difficult to measure costs of poor service and to create an incentive for providers to meet minimum levels of performance. The Commission also rejects the suggestion that the CLECs should not be subject to part 5. The Commission concludes that it should not leave the CLECs' service quality to the competitive forces of the market at this time. To the extent that the CLECs are required to pay credits because their underlying providers fail to perform, the recourse provisions of rule 81 are designed protect them.

Rule 53 - Customer Repair Requests

Rule 53 requires providers to answer customer repair calls within a monthly average of 25 seconds and to be able to accept calls at all times about trouble reports for 9-1-1 service. It also prohibits the marketing of new services to customers calling to request repairs.

WorldCom says that a 25-second answer time is not reasonable and that smaller providers should be permitted to use pagers during non-business hours. It says that for 9-1-1 service in the UNE-P environment, the CLECs are not listed as the underlying carrier. US Xchange says that three minutes should be the minimum answer time.

AT&T agrees that 25 seconds is not reasonable, and supports a requirement to answer calls within 3 minutes.

Verizon says that customers and providers benefit when providers are free to market new services when a customer calls to report a service problem because a new service may provide the solution to the problem or reduce the cost of resolving the problem. Ameritech Michigan agrees. Verizon also says that the rule is beyond the Commission's jurisdiction because it intrudes on management prerogatives.

Mr. Gardner recommends that the rule require a provider to make available to each customer a record of repair requests for the life of the customer's line or circuit.

The Commission does not agree that the response time for repair calls should be lengthened or that providers should be permitted to market services that will not assist the customer in resolving the problem. The Commission also does not agree that it would be reasonable to expect providers to retain or make available repair requests for the life of a line. The focus should be on repairing the line.

Rule 54 - Emergency Repairs

Rule 54 requires providers to repair, with a few exceptions, all emergency out-of-service trouble (requests related to health and public safety, among other things) within four hours and to expedite repair requests from customers with a medical emergency.

TAM says that the rule encourages customer fraud by providing that a customer can obtain expedited service merely by claiming a medical emergency. WorldCom questions how an ILEC is supposed to know that a CLEC customer falls within the definition of an emergency.

The Commission does not see a solution to the issue raised by TAM except to place the health of people at risk. If TAM has another solution, it should have offered it. As to WorldCom's concern, no provider is expected to know of a medical emergency until it is informed of the facts.

Rules 55 and 56 - Out-of-Service Repairs and Other Repairs

Rule 55 requires providers to clear non-emergency out-of-service trouble reports within a monthly average of 36 hours, to repair within 8 hours repeat trouble reported within 45 days, and to give credits to customers for the time they are without service. Rule 56 requires providers to clear trouble that does not involve an emergency or an out-of-service condition within a monthly average of 36 hours.

WorldCom says that the rule should apply only to facilities-based providers and that the credits should be limited to no more than the monthly service fee.

US Xchange says that if a CLEC is dependent on an underlying provider and the underlying provider is given 36 hours to complete a repair, the CLEC will not be able to meet the 36 hour requirement because it will also need time for an initial diagnosis and time for final testing and customer notification.

AT&T says that the CLECs should have a choice between clearing trouble reports in an average of 36 hours or always within 48 hours.

TAM says that the system enhancements required to track repeat trouble will range as high as \$500,000.

Verizon says that it is unreasonable to require that repeat trouble be repaired within 8 hours. It also says that it reports repeat trouble on a 30-day interval in all of its jurisdictions and most repeat trouble occurs in less than 10 days of the initial report. Further, it says that the Commission cannot have intended that a repeat trouble be given a higher priority than an initial out-of-service report.

Ameritech Michigan says that it tracks repeat trouble within 30 days as required by the Federal Communications Commission (FCC) and that an absolute 8-hour requirement would be

unworkable and expensive. It suggests that the rule provide a longer time to complete the repair and that the time be stated as an average. It also says that the rule should be clarified to apply only when the same cause of service trouble occurs. It says that the \$10.00 credit for repeat trouble is not reasonable when there are unrelated but similar service problems within 45 days or when the provider fixes the problem within the time required by the rule.

The Commission agrees that, for consistency with current practices, repeat trouble should be tracked for 30, not 45, days, and also agrees that providers should have additional time to complete the repairs. The time should not be stated as an average, which would grant providers too much flexibility in repairing a reported trouble that has already inconvenienced the customer in the prior 30 days. The rule otherwise permits providers to decide the priority of repairs so as to best comply with the standards for responding to the different kinds of trouble reports.

The Commission does not agree that the rule should apply only to facilities-based providers. The rule serves the function of compensating customers and focusing the providers' attention on completing repairs. If non-facilities-based providers need additional time, they may raise that in a request for a waiver or exception. Likewise, claims of excessive costs in developing a tracking system can be addressed in a request for a waiver or exception. Finally, the Commission does not agree that the credit is too much or that the credit should be capped at the customer's monthly charge. It is clear from complaints to the Commission that customers do not view a pro rata reduction in their monthly bills to be adequate compensation for extended or repeated outages.

Rule 57 - Repair Appointments and Commitments

Rule 57 requires providers to make and honor repair commitments and requires a credit to the customer for a missed commitment.

Ameritech Michigan says that it cannot guarantee that the cause of trouble will be isolated and repaired within a 4-hour or 24-hour period. It says that the rule should require a provider to keep an appointment within those periods but not necessarily to complete the repair. It also says that it is not always possible to contact the customer 24 hours in advance to reschedule a commitment and that the \$25.00 credit is not reasonable.

TAM says that the system enhancements required to track the dates and times of appointments will range as high as \$500,000. It also says that compliance with the rule will require providers not to schedule appointments for the day a customer calls because, if the provider must cancel, it will be unable to provide the required 24 hours' notice.

WorldCom says that the rule should apply only to facilities-based providers and that it is difficult to prove that the rule was violated, i.e., customers will say that they were home and field technicians will say that they could not get anyone to come to the door.

Mr. Gardner says a \$25.00 credit is too low considering the value of lost wages.

The Commission agrees that the rule should not require that all repairs be completed within 4 or 24 hours, only that the repairs commence within that time. It also agrees that 24-hour notice should not be required for repair commitments that are made less than 48 hours in advance. The Commission concludes that, as with similar rules discussed above, the rule should apply to all providers. Claims of excessive costs in developing a tracking system can be addressed in a request for a waiver or exception. The Commission also finds the credit for a missed commitment to be a reasonable first step in enforcing repair commitments. Potential difficulties in proving a violation of the rule are not a sufficient reason to eliminate the requirement of a credit for a missed commitment.

Rule 58 - Installation Commitments

Rule 58 requires providers to install service within a monthly average of 5 working days of the request for service and to migrate service within a monthly average of 10 days, and requires a credit to the customer for a missed commitment.

Ameritech Michigan says that a requirement to complete a migration within 10 days is not workable because the customer's provider must release the customer and CLECs often do not respond for weeks. It also says that the rule should require the CLECs to release customers within the same time frames that apply to it and that it should have recourse against a provider who causes it to pay a credit. It says that the credits for delayed installations should be capped at 100% of the installation charge.

WorldCom says that there should be no interval for migrations.

TAM says that weather and obtaining access to non-governmental rights-of-way should also be recognized as factors excusing delay in meeting installation commitments.

The Commission has revised the rule to account for the need for a provider to release a customer before a migration can be processed and to obtain access to rights-of-way. The Commission has clarified the rule to provide that performance is to be measured in business days. The Commission agrees with Ameritech Michigan that there should be a time frame for a provider to release a customer who wants to change providers and that a provider causing delays should be liable to the other provider for any missed deadline or credits paid. The Commission does not agree with WorldCom that migrations can be processed instantaneously. Finally, the Commission does not see a need to cap the credits, which are entirely under the control of the provider, who can complete the installation and end the accumulation of the credit.

Rule 59 - Return Calls

Rule 59 requires providers to return a call to a customer if the provider's representative tells the customer to expect a return call, and requires a credit to the customer for failing to return a call.

Verizon says that it has procedures in place governing return calls and that it is beyond the Commission's jurisdiction to intrude on its management decisions in this regard. Ameritech Michigan also says that it has adequate procedures governing return calls, and says that the rule is likely to discourage providers from offering return calls while encouraging fraudulent claims by customers. It says that the rule also fails to recognize that it is not always possible to return a call within 24 hours.

The Commission has eliminated the requirement to pay a credit because it is likely to be difficult to enforce, principally due to disagreements and misunderstandings about whether a customer was told to expect a return call. The Commission does not agree that it is beyond its jurisdiction to require that providers return calls to customers.

Rule 60 - Planned Service Interruptions

Rule 60 requires providers to give notice of service interruptions that will last more than 15 minutes.

TAM says that the rule will require providers to hire additional staff to provide notice and, to provide time for notice, will delay repairs that otherwise would have been done immediately.

The rule does not state an absolute requirement that repairs may not be done without providing notice. It states the reasonable expectation that providers will attempt to give notice.

Rule 61 - Key Measures of Performance

Rule 61 requires providers to compile information on six key measures of compliance with the rules and to file a report and remedial plan when they fail to meet any of those measures for two consecutive months.

WorldCom says that just assembling the information would be costly and time-consuming. Further, it says that some of the information is not maintained on a state-specific basis and thus would require an extraordinary amount of manual processing. AT&T agrees that the rule should not apply to the CLECs because it would impose a significant record keeping burden. It says that the Commission should rely on the CLECs' voluntary compliance with requests for data or its investigative powers. It also says that the measures related to repair standards should apply only to facilities-based providers.

ASCENT says that providers serving fewer than 5,000 customers should be exempt from the requirement to produce monthly service quality reports. It says that reports for small companies will provide information of negligible value while imposing a significant burden on providers. It says that if the circumstances warrant, on a case-by-case basis, the Commission could require a provider to file a report or a remedial plan.

Verizon says that reports should be due when a provider fails to comply with a measure for three consecutive months because that is more representative of actual performance and is consistent with its internal reporting process.

The Commission concludes that it is entirely reasonable to expect that providers will track their compliance with the service quality rules. The rule requires no more than that. If there are unique problems for individual providers, they may raise those issues in a request for a waiver or exception.

Rule 71 - Waivers and Exceptions

Rule 71 permits providers to seek waivers from the rules when compliance would be impossible or unduly economically burdensome or technologically infeasible. The rule also excuses providers from the repair and installation standards and associated credits when compliance is prevented by events such as a tornado or ice storm.

CLECA says that a CLEC that requests a waiver will be at a competitive disadvantage if potential customers are aware of the request because customers will not know or care about the justification for the request. It therefore proposes that the Commission encourage competition by granting a broad, automatic waiver to any CLEC that serves fewer than 20,000 customers. It also proposes that a provider be exempt from the credit requirements of rules 55, 57, 58, and 59 if the outage is caused by the underlying facilities-based provider. It says that the indemnification provided by rule 81 is not sufficient because it is not automatic. McLeodUSA agrees that customers' knowledge of a request for a waiver will place a CLEC at a competitive disadvantage.

TDS Metrocom proposes that the rule create a presumption that all requests for waivers and exceptions filed by providers who use the services or facilities of an ILEC will be granted unless the Commission finds, after providing the opportunity for a hearing, that the public interest requires a denial and that a denial will not impair the development of competition. It says that the CLECs and ILECs are not in the same position and should not be treated the same. It also says that the rules place an undue burden on the CLECs and will constitute a barrier to entry.

Iserv recommends that the reference to flooding as an act of God be clarified to exclude small localized flooding, the effects of which could be avoided by relocating facilities a short distance. Verizon suggests that miscellaneous events that are beyond the control of the provider be added to the list of excuses for non-performance and the payment of credits.

Mr. Gardner would not excuse the payment of service credits or minimum repair times for major failures. He says the problem can be addressed by the addition of more service technicians.

The Commission is not prepared to release all of the CLECs from the service quality rules. As for the competitive effects of requesting waivers and exceptions, the Commission doubts that the CLECs are in a better position if customers know that they advocated that the service quality rules not apply to them at all. This rule is intended to provide relief from compliance with one or more of the rules when appropriate, and the burden of justifying the waiver should be on the individual provider requesting the waiver or exception. The Commission therefore rejects the suggestion that there be a presumption that all waiver requests will be granted unless good reason is shown at a hearing for denying the request. That would require a more formal and time-consuming process than the Commission envisions for handling requests for waivers and exceptions. If the recourse provisions of rule 81 are not sufficient to protect the CLECs, they can seek waivers of one or more of the rules requiring that they pay credits to their customers. Finally, the Commission finds that the list of events that excuse nonperformance is sufficient for now.

Rule 81 - Recourse

Rule 81 requires the underlying provider of facilities to reimburse a customer's provider for any credits granted or charges waived as a result of the underlying provider's failure to provide service in conformity with the rules.

Ameritech Michigan says that the rule is unnecessary because of interconnection agreements and is vague. It says that the rule must also require other providers to indemnify it for any credits that it pays as a result of the conduct of those providers.

TDS Metrocom says that recourse payments are not sufficient to protect the CLECs because those payments do not fully compensate for the damage caused by an ILEC's failure to comply

with the rules, such as the time and expense of administering the payments to customers and the loss of goodwill. If the Commission does not approve waivers for the CLECs, it suggests that the rule on recourse be strengthened. McLeodUSA agrees that the rule does not adequately compensate the CLECs.

AT&T suggests that the rule be made clear that credits to a customer's account are appropriate.

Verizon says that the federal law governing interconnection agreements requires that the issue of recourse be resolved by negotiation and arbitration. It also says that the rule may result in double recovery for the CLECs that have interconnection agreements that provide performance measure penalties.

The Commission recognizes that the recourse provisions may not fully reimburse the CLECs for all of the direct and indirect costs of an underlying provider's failure to perform, but the CLECs have not offered an alternative except to excuse them from the service quality rules. The Commission has modified the rule to recognize that credits may be granted as an offset to a bill. The Commission does not agree that the federal law governing the negotiation and arbitration of interconnection agreements bars any rule requiring compensation from an ILEC to a CLEC for service quality failures. On the other hand, CLECs may seek to negotiate or arbitrate an interconnection agreement with recourse provisions that are stronger than those provided by this rule.

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 AACS, R 460.17101 et seq.

b. Adequate notice and opportunity for participation by interested persons have been provided as required by the APA.

c. The rules governing the quality of telecommunication services are reasonable and in the public interest, and should be adopted.

d. The rules should be submitted to the Legislative Service Bureau and the Office of Regulatory Reform for their approval.

e. If the Legislative Service Bureau and the Office of Regulatory Reform formally approve these rules, they should be submitted to the Joint Committee on Administrative Rules.

THEREFORE, IT IS ORDERED that:

A. The administrative rules governing the quality of telecommunication services, attached to this order as Exhibit A, are approved and shall be submitted to the Legislative Service Bureau and the Office of Regulatory Reform for their approval.

B. Upon approval of the administrative rules by the Legislative Service Bureau and the Office of Regulatory Reform, the rules shall be transmitted to the Joint Committee on Administrative Rules.

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.

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 August 20, 2002.

/s/ Dorothy Wideman
Its Executive Secretary

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.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of August 20, 2002.

Its Executive Secretary

In the matter, on the Commission's own motion,)
to promulgate rules governing the quality of)
telecommunication services.)
_____)

Case No. U-13013

Suggested Minute:

“Adopt and issue order dated August 20, 2002 adopting rules governing the quality of telecommunication services, as set forth in the order.”

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

PUBLIC SERVICE COMMISSION

TELECOMMUNICATION SERVICES

Filed with the Secretary of State on
These rules take effect 90 days after filing with the
Secretary of State

(By authority conferred on the public service commission by
sections 202 and 213 of 1991 PA 179, MCL 484.2202 and
484.2213)

PART 1. GENERAL PROVISIONS

R 484.401 Applicability.

Rule 1. These rules apply to telecommunication
services regulated by the commission.

R 484.402 Definitions.

Rule 2. (1) As used in these rules:

(a) "Act" means 1991 PA 179, MCL 484.2101 et seq.

(b) "Answer" means that a provider's representative,
voice response unit, or automated operator system is ready
to render assistance or ready to accept information
necessary to process a call.

(c) "Average busy season, busy hour traffic" means the
average traffic volume for the busy season, busy hour.

(d) "Business day" means those days on which the
provider's offices are open for business.

(e) "Busy hour" means the hour when a telecommunication
switching system carries the greatest volume of traffic
(typically the busiest hour of the busiest day of a normal
week).

(f) "Busy season" means the period of the year during
which a telecommunication switching system carries the
greatest volume of traffic.

(g) "Call" means the action by a customer to obtain a
telephone connection whether the connection is completed or
not.

(h) "Central office" means a switching unit in a
telecommunication system which provides service to the

general public, and which has the necessary equipment and operating arrangements for terminating and interconnecting customer lines and trunks or trunks only.

(i) "Commission" means the Michigan public service commission.

(j) "Customer" means any person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency using regulated telecommunication services furnished by a provider.

(k) "Customer trouble report" means any oral or written report from a customer relating to a physical defect, difficulty, or dissatisfaction with the operation or facilities of a provider.

(l) "Emergency" means the loss of service to any of the following entities:

(i) A hospital, medical care facility, or any other facility providing health or public safety services.

(ii) An employee of a public safety, emergency medical, or professional trade who is on call during the service loss and has so advised the provider.

(iii) A person who has a medical need that is life-threatening and has so advised the provider.

(iv) A school while in regular class session.

(v) An adult care facility.

(vi) A child care facility during business hours.

(m) "Facilities-based provider" means a telecommunication provider that provides basic local exchange service to end user customers by means of network facilities that it owns or controls. Where the term facilities-based provider is used throughout these rules, the rule shall only apply to a provider to the extent that the rule applies to the network facilities that the provider user owns or controls and uses to provision service to the affected end-user.

(n) "Installation" means the provision of service to the provider's interface device or equivalent equipment.

(o) "Out of service" means a condition of a customer's telecommunication service that prevents the customer from either making or receiving calls.

(p) "Provider" means a person, firm, partnership, corporation, or other entity that provides basic local exchange service as defined by section 102(b) of the act.

(q) "Small business customer" means a business which has 20 or fewer access lines or any business which does not have a contract, tariff, or agreement covering service installation and repair terms and conditions.

(r) "Tariff" means the compilation of all rates, charges, classifications, and rules adopted by a provider and filed with the commission.

(s) "Traffic" means telephone call volume, based on the number and duration of messages.

(2) A term defined in the act has the same meaning when used in these rules.

PART 2. RECORDS, REPORTS, AND TARIFFS

R 484.421 Availability of records.

Rule 21. (1) A provider shall make available to the commission or its staff, upon request, all records, reports, and other information required to determine compliance with these rules and to permit the commission and its staff to investigate and resolve quality of service issues related to regulated telecommunication services.

(2) A provider shall make records, reports, and other information available to the commission or its staff in 5 business days, preferably in an electronic format which is available through the internet and which is accessible with standard browser software, identification, and password, or as soon thereafter as feasible.

(3) Records constituting or incorporating trade secrets or commercial or financial information that are made available to the commission or its staff may be made exempt from disclosure pursuant to section 210 of the act.

R 484.422 Retention of records.

Rule 22. A provider shall preserve, in detail, all records required by these rules for the immediate past 12 months, and shall preserve, in summary form, all records for not less than 3 years, unless otherwise ordered by the commission.

R 484.423 Reports of service disruptions.

Rule 23. (1) A facilities-based provider shall report promptly to the commission any specific occurrence on its network that disrupts service to a substantial number of customers or that may impair its ability to furnish service to a substantial number of customers. A facilities-based provider shall report all disruptions that affect the lesser of 25% or 2,000 of the access lines in any exchange for 1 hour or more. It shall notify the commission and post the disruption information on the provider's internet website, if the provider has an internet website, within 90 minutes of becoming aware of the disruption during normal

business hours, or, if the disruption occurs during the evening or a weekend, within 90 minutes of the commencement of the next business day. The facilities-based provider shall also notify other providers dependent on the facilities-based provider's network within 90 minutes of becoming aware of the occurrence, unless interconnection agreements specify other notice requirements.

(2) A facilities-based provider shall file a final report with the commission in electronic form within 30 days of any service disruption subject to subrule (1) of this rule. The report shall contain all of the following information:

- (a) The reason for the disruption.
- (b) The geographic area affected.
- (c) The number of customers affected.
- (d) The type of services affected.
- (e) The effect upon the provider.
- (f) Whether the service disruption was avoidable.
- (g) An explanation of the provider's remedy for the service disruption.
- (h) A description of the actions that the provider has taken or could take to avoid similar disruptions in the future.

R 484.424 Service measurements.

Rule 24. Upon request of the commission or its staff, a provider shall make measurements to determine the level of its compliance with these rules.

R 484.425 Tariffs.

Rule 25. A provider shall file its tariff with the commission in accordance with applicable laws and commission orders governing the filing of tariffs. A provider's bills and telephone directories shall prominently display an internet URL address at which its tariff is available or a phone number to call for information.

PART 3. CUSTOMER RELATIONS

R 484.431 Rate and special charges information.

Rule 31. (1) Upon the request of a customer or an applicant for service, a provider shall explain the rates, charges, and provisions under which it provides service and shall provide a copy of the applicable tariff section or pages for the regulated telecommunication services. This requirement may be satisfied by referring a customer to an

internet website containing tariffs if the customer states he or she has access.

(2) A provider shall furnish reasonable access to information and assistance necessary to enable the customer or applicant to obtain the most economical service available to meet the customer's or applicant's stated needs, including state or federal "lifeline" programs that may be available. The provider shall advise the customer or applicant about any of the provider's alternative services that are available to meet those needs. The information may include printed explanations of alternative services and rates.

(3) Before changing or installing a service, a provider shall furnish the customer or applicant with an estimate of the amount of any service connection charges and an estimate of the initial bill for basic monthly service and any other applicable charges.

(4) Upon request, a provider shall furnish the customer or applicant with a written, detailed estimate of any special charges not specifically set forth in the provider's tariff. Special charges include any of the following:

(a) Extraordinary construction, maintenance, and replacement costs.

(b) Expenses for overtime work at the customer's or applicant's request.

(c) Special installations, equipment, and assemblies.

R 484.432 Identity verification for residential customers.

Rule 32. (1) A provider shall require proof of identity or residency, or both, from a person requesting residential telephone service, except that a carrier is not required to obtain proof of identity or residency under any of the following circumstances:

(a) The services requested are totally prepaid by the customer.

(b) The customer is transferring existing service to another provider.

(c) A customer is moving from one address to another address.

(d) The customer is adding an additional access line to his or her present location.

(e) The customer is attempting to restore service after the service has been disconnected.

(2) A provider shall attempt to verify the applicant's identity through information available from a credit reporting agency or other source.

(3) A provider shall check all available customer account records to verify that there is not an account open in the applicant's name or address and that there is not a prior outstanding balance in the applicant's name or address in the last 18 months for any other telephone number or at any other location. If there is an open account or prior outstanding balance, then the provider shall notify the customer that a new account has been requested.

(4) If a person asserts an identity fraud dispute, then the provider shall investigate promptly and completely. A provider shall give a person asserting identity fraud the opportunity to furnish identification in person, at a convenient business location, by appointment at the customer's premises, or at a mutually agreed upon location. If the person provides evidence creating a reasonable doubt that the account was established by the customer, then the provider shall cease all attempts to collect from the customer, shall not provide information related to the account to credit reporting agencies, and shall correct any information already provided unless the provider establishes that the account was opened by the customer.

R 484.433 Disputed credit information.

Rule 33. If a provider receives documented notice from a customer, applicant, or credit reporting agency that credit information for the customer or applicant related to the provider or its services is in dispute, then the provider shall do all of the following, within 30 days of first receiving documented notice of the dispute:

- (a) Conduct an investigation of the disputed information.
- (b) Advise the customer or applicant, in writing, of the results of the investigation.
- (c) If the investigation finds that information provided to the credit reporting agency is incomplete or inaccurate, take remedial action with all credit reporting agencies to which the provider furnished the information.

R 484.434 Public information.

Rule 34. (1) A provider shall make available to a customer or applicant all of the following information on a website or shall provide copies upon request:

- (a) Maps or npa-nxx data showing local calling areas and zone boundaries.
- (b) Publicly announced information as to the availability of specific classes of service at a customer's or applicant's location.

(c) Publicly announced information concerning plans for major service changes at a customer's or applicant's location.

(2) A provider shall advise a customer if the customer is located in an area in which the dialing of a 7 or 10 digit number may result in toll charges.

(3) A provider shall prominently display on its bills and other messages to its customers the provider's phone numbers to be used for customer inquiries, disputes, repairs, and other contacts.

R 484.435 Business offices.

Rule 35. (1) A provider shall maintain business offices that are adequately staffed with qualified persons to do all of the following:

(a) Provide information relating to its services and rates.

(b) Accept and process applications for service.

(c) Explain charges on bills.

(d) Adjust erroneous charges.

(e) Enter into payment arrangements.

(f) Act as a representative of the provider.

(2) A provider shall maintain a local or toll-free telephone number by which all customers served by a business office may call that office at no charge.

(3) A provider shall maintain sufficient staffing to ensure that customers and others who call a business office are permitted to talk to a person who is able to provide assistance within a monthly average of 120 seconds of calling the office during normal business hours.

(4) A provider shall ensure that all information provided to customers and others is accurate and in compliance with commission rules and the provider's tariff. A provider shall not make a statement to a customer that the provider knows to be untrue.

R 484.438 Advertising.

Rule 38. If a regulated service is not generally available, then a provider's advertising of that service without clearly disclosing the limits on its availability is false, misleading, or deceptive within the meaning of section 502(1)(a) of the act.

R 484.439 Directories.

Rule 39. (1) A provider shall furnish to new customers and annually to existing customers, at no additional charge, an up-to-date telephone directory for the

customer's area unless the provider and customer agree otherwise.

(2) If it publishes a directory, a provider shall furnish a copy to the commission.

(3) The front cover of each directory shall indicate the area included in the directory and the month and year of issue. The front portion of the directory shall conspicuously feature information about placing calls to emergency services, police and fire departments, 9-1-1 service, 2-1-1 service, and dual party relay service.

(4) Each directory shall contain instructions concerning all of the following:

(a) Placing of local and long distance calls.

(b) Obtaining repair and directory assistance services.

(c) The locations and telephone numbers of the provider's business office or offices for the area served by the directory.

(d) The means to determine which numbers are in the local calling area.

R 484.440 Directory errors, omissions, and changes.

Rule 40. (1) If an error in the listed number of a customer occurs, which resides in the provider's switch, then the provider shall intercept all calls to the listed number for the remaining life of the directory, if the existing central office equipment permits it to do so and the number is not in service for another customer.

(2) If an error or omission in the name listing of a customer occurs, then the provider shall include the customer's correct name and telephone number in the files of the directory assistance and intercept operators.

(3) If a customer's telephone number is changed, then the provider shall intercept all calls to the previous number for a minimum of 3 months and give the calling party the new number unless the previous number has been reassigned, the customer has denied permission, or equipment limitations prevent the intercept.

(4) If additions or changes to plant or any other operations necessitate changing telephone numbers assigned to a group of customers, then a provider shall give reasonable notice to all customers affected, even though the change in numbers may coincide with the issuance of a directory.

R 484.440a Directory assistance and intercept calls.

Rule 40a. (1) Directory assistance operators shall have access to all telephone numbers for the area for which they are responsible for furnishing directory assistance service, except telephone numbers not listed or published at the customer's request.

(2) If a provider's directory assistance operator provides an incorrect number, then the provider shall not bill for the call or shall give a credit equal to the charge and the provider shall not count the call against the customer's monthly call allowance.

(3) A provider shall furnish a customer up to 2 numbers per call to directory assistance.

R 484.440b Operator services.

Rule 40b. A provider shall assure that operators answer calls within a monthly average of 10 seconds. An acknowledgment that the customer is waiting on the line is not an answer.

R 484.440c Complaints and appeals.

Rule 40c. (1) Within 10 business days after receiving an oral or written complaint from a customer or applicant, a provider shall investigate and respond fully and promptly unless an extension of time is requested and granted by the complainant. A provider shall notify the customer or applicant of its proposed disposition of the complaint after having made a good faith attempt to resolve the complaint. Upon request by the customer or applicant, a provider shall furnish its proposed disposition of the complaint in writing.

(2) A provider shall prominently include, on all of its bills and in each telephone directory, the telephone number to which a customer or applicant can make inquiries and direct a complaint. A mailing address shall be provided upon request and shall include a distinctive entity or person designated by the company to receive written complaints.

(3) A provider shall require its personnel to provide upon request any complaint escalation procedures and the name, address, and telephone number of the commission for further review of an unresolved problem.

(4) Upon receipt of a complaint, whether oral or written, from the commission or its staff, a provider shall do all of the following:

(a) If necessary, attempt to contact the affected customer within 2 business days.

(b) Promptly investigate the complaint and report the results of its investigation.

(c) Provide a final response to the commission or its staff within 10 business days, unless an extension is requested and granted by the commission staff.

(6) Failure to respond to a customer, applicant, commission, or commission staff within 30 days of a complaint, unless an extension is granted, will create a presumption that the complaint is valid.

PART 4. ENGINEERING AND PLANNING

R 484.441 Construction.

Rule 41. (1) A provider shall design, engineer, construct, maintain, and operate its telecommunication plant and facilities in accordance with generally accepted industry standards and R 460.813, except as may be modified by the commission. A provider shall comply with these requirements in the manner that best accommodates the public and prevents, to the extent practical, interference with and from services furnished by other telecommunication service providers and public utilities.

(2) A provider shall design its telecommunication plant in accordance with industry standards to prevent electromagnetic interference from alternating current power systems. A provider shall engage in prior coordination with an electric utility before placing new plant or making major changes in existing plant likely to be affected by the electric utility's facilities.

(3) To minimize the occurrence of voltage and grounding problems, a provider shall consult and coordinate with existing electric and natural gas utilities in the general vicinity of planned telecommunication plant construction before construction.

(4) A provider shall comply with the provisions of 1974 PA 53, MCL 460.701 et seq.

R 484.442 General practices.

Rule 42. (1) A provider shall employ prudent management and engineering practices, including the use of reliable procedures for forecasting future demand for services. It shall conduct studies and maintain records to determine whether regulated telecommunication services will comply with these rules.

(2) A provider shall make traffic studies and maintain records as required to determine if sufficient equipment

and an adequate operating force are provided at all times, including the average busy hour, busy season.

(3) A provider shall install sufficient central office capacity and equipment to permit customers to obtain dial tone within 3 seconds 98.5% of the time and complete not less than 99% of dialed calls without encountering an equipment blockage or irregularity.

(4) A provider shall engineer, construct, and maintain the trunk and related switching components in the provider's network that connect to the switched access network so that not less than 99% of properly dialed switched access calls (outgoing trunks) during the average busy season do not encounter equipment blockage or irregularity.

R 484.443 Customer line transmission requirements.

Rule 43. A provider shall comply with all of the following standards for all customer loops, at the network interface device:

(a) A circuit loss of less than 10.5 decibels measured to a milliwatt reference.

(b) A circuit current of 20 milliamperes or more.

(c) A circuit noise level of less than 30 decibels-reference noise calibration.

(d) A power influence level of less than 90 decibels-reference noise calibration.

R 484.444 IntraLATA trunk transmission requirements.

Rule 44. A facilities-based provider shall comply with both of the following standards for all intraLATA trunks:

(a) Interoffice trunks shall have an objective of +/- 3.6 decibels of the engineered measured loss.

(b) End office to end office testing shall have an objective of +/- 3.6 decibels per switched leg of the engineered measured loss.

R 484.445 Inspections and tests.

Rule 45. (1) A facilities-based provider shall adopt and implement a written program, including, but not limited to, periodic and routine testing and inspection of all of the following:

(a) Interoffice trunking, before and after being placed in service.

(b) Central office switching equipment connections.

(c) A sample of customer loops in each exchange.

(2) The written program shall be developed so as to achieve an efficient operation of the provider's system and

the rendering of safe, adequate, and continuous service for both routine testing and inspection activities and for the testing and inspection of trouble locations.

(3) A facilities-based provider shall maintain, or have access to, test facilities enabling it to determine the operating and transmission capabilities of all equipment and facilities specified in subrule (1) of this rule.

R 484.446 Emergency operation.

Rule 46. (1) A facilities-based provider shall make reasonable provision to provide service notwithstanding emergency power interruptions, unusual and prolonged increases in traffic, illness of its personnel, and fires, storms, or other emergencies. It shall inform its employees of the procedures to be followed for an emergency to prevent or minimize interruption and impairment of telecommunication service.

(2) A facilities-based provider shall equip each central office, remote switch, remote line unit, and interexchange toll switching office or access tandem with a minimum of 3 hours of peak load battery reserve, if permanent auxiliary power is installed, and 5 hours of battery reserve, if permanent emergency power is not installed, or 8 hours of battery reserve if the central office is in a remote location. It shall have available a mobile power unit to be delivered and connected to central offices, remote switches, and remote line units within 8 hours.

(3) A provider shall maintain current, written emergency procedures that are directed to the prompt restoration of telecommunication service during abnormal conditions.

(4) A 9-1-1 service supplier shall provide 24-hour, 7-day-a-week data base access so as to permit information to be acquired or corrected.

(5) A provider, 9-1-1 service supplier, public safety answering point, or any entity providing or maintaining 9-1-1 data base information shall correct each error in the 9-1-1 system or data base within 1 business day.

PART 5. REPAIR AND INSTALLATION

R 484.451 Maintenance of plant and equipment.

Rule 51. (1) A facilities-based provider shall adopt and implement a maintenance program designed to achieve efficient operation of its system consistent with the rendering of safe, adequate, and continuous service in compliance with applicable codes.

(2) A facilities-based provider shall test, as needed, and maintain all plant and equipment up to and including the network interface device at the customer's location in safe and serviceable repair at no charge to the customer beyond the normal monthly charge for basic local exchange service. A facilities-based provider shall do at least all of the following:

(a) Repair or replace broken, damaged, or deteriorated parts.

(b) Readjust adjustable apparatus and equipment when found to be in unsatisfactory operating condition.

(c) Correct electrical faults, such as leakage or poor insulation, noise induction, cross talk, or poor transmission characteristics.

R 484.452 Customer trouble reports.

Rule 52. A facilities-based provider shall maintain service so that the average monthly rate of all customer trouble reports does not exceed 4 per 100 access lines, excluding reports concerning interexchange calls and trouble found in equipment other than the provider's equipment, such as inside wiring and customer premises equipment.

R 484.453 Customer repair requests.

Rule 53. (1) A provider shall make provision for the receipt of customer repair requests at all hours. A provider shall maintain adequate personnel to answer customer repair calls within a monthly average of 25 seconds after the customer opts out of any automated response system. An acknowledgment that the customer is waiting on the line is not an answer.

(2) A provider shall arrange to have a representative available at all times to accept calls from providers and users of 9-1-1 and emergency services to report trouble with its telecommunication services to those providers.

(3) A provider shall make a full and prompt investigation of all repair requests and shall render reasonable assistance to the customer to identify a cause for the outage that may be corrected by the customer.

(4) A provider shall maintain an accurate record of repair requests by telephone number or circuit number, as appropriate. The record shall include all of the following information:

(a) The customer or service affected.

(b) The time, date, and nature of the repair request.

(c) The action taken to clear the repair request or satisfy the complaint.

(d) The date and time the repair was completed or the request was otherwise closed.

(5) A provider shall not attempt to market new services to a customer calling to report a repair request, unless such services would assist in resolving the problem.

(6) If access to a customer's premises is necessary to complete the repair and the customer is not available, then a tag shall be left on the customer's door indicating the date, an explanation of the repair problem necessitating entry into the customer's premises, and the technician's name and signature.

R 484.454 Emergency repairs.

Rule 54. (1) A provider shall attempt to clear all emergency out-of-service trouble within 4 hours after being reported to or found by the provider, except in any of the following situations:

(a) The safety of the provider's personnel would be at risk.

(b) Access to the customer's premises is required but not available.

(c) The repair is necessitated by an unavoidable occurrence affecting a large number of customers.

(d) The repair is technically infeasible to accomplish.

(2) A provider shall expedite a repair for a customer who has a medical emergency. Unless it has a specific, identifiable reason to doubt a customer's claim, a provider shall accept the customer's statement there is a medical condition requiring expedited restoration of service.

R 484.455 Out-of-service repairs.

Rule 55. (1) A provider shall arrange to clear all out-of-service trouble of a nonemergency nature within the following time frames, unless the customer agrees to alternative arrangements:

(a) Out-of-service trouble shall be cleared within a monthly average of 36 hours after being reported to or found by the provider.

(b) The same repeat out-of-service trouble reported or found within 30 days of a prior repair shall be repaired the same or next business day after being reported to or found by the provider and identified as a repeat trouble.

(2) For the second and third days of an out-of-service incident, a provider shall give a residential or small business customer a credit equal to 1/30 of the customer's

monthly charge for basic local exchange service for each day or portion thereof, commencing when the out-of-service trouble is reported to or found by the provider, until service is restored. After the third day, a provider shall give the customer a credit of \$10.00 per day for the fourth and succeeding days until service is restored.

(3) For the same repeat trouble within 30 days of the first occurrence, a provider shall give a residential or small business customer a credit of \$10.00 for each day or portion thereof, commencing when the repeat trouble is reported to or found by the provider, until service is restored.

R 484.456 Other repairs.

Rule 56. A provider shall arrange to clear trouble that does not involve an emergency or out-of-service condition within a monthly average of 36 hours after being reported to or found by the provider.

R 484.457 Repair appointments and commitments.

Rule 57. (1) For all repair requests requiring a customer to be present, a provider shall give a residential or small business customer a 4-hour time period within which the repair will commence. Otherwise, the commitments will specify a 24-hour period.

(2) For appointments scheduled at least 48 hours in advance, a provider shall keep all repair commitments unless it contacts the customer not less than 24 hours in advance and reschedules the appointment or commitment. If unusual repairs are required or other factors preclude completing repairs promptly, then a provider shall make reasonable efforts to notify the customer.

(3) If a provider misses a time commitment and subsection (2) does not apply, then it shall give the customer a credit of \$25.00 for each missed commitment.

R 484.458 Installation commitments.

Rule 58. (1) A provider shall install service for a residential or small business customer or applicant within a monthly average of 5 business days of the installation request, or a monthly average of 10 business days after a customer is released for a migration, unless a later date is requested or agreed to by the customer or applicant, the customer or applicant misses the appointment, or government permits or right of way access are required before installation.

(2) For basic local exchange service, a provider shall release the loop facilities and telephone number serving its customer within a monthly average of 5 business days after a request is made by a customer or on behalf of a customer to change local service providers.

(3) To the extent that a provider fails to complete retail customer installations within the timeframe stated in this rule, or is required to pay any installation-related credits to retail customers as required by this rule, it shall have recourse against any provider whose failure to release customers within a timely manner caused such non-compliance or credits to be paid.

(4) A provider shall keep records of all installations not completed by the commitment date.

(5) If a provider does not complete an installation by the fifth day (tenth day for a migration) or commitment date, then the provider shall give the customer or applicant a credit of \$10.00 for each day or portion thereof beyond the commitment date until service is installed and shall waive the installation fee, unless the customer or applicant misses the appointment.

(6) A provider shall provide for the reclassification of service at the request of a customer not later than the date mutually agreed to between the provider and the customer. A provider shall report to the commission orders for reclassification of service being held more than 60 days.

R 484.459 Return calls.

Rule 59. A provider shall return a call to a customer if the provider's representative tells the customer to expect a return phone call.

R 484.460 Planned service interruptions.

Rule 60. If a provider must interrupt service to work on lines or equipment, then it shall arrange to do the work in a manner that will cause minimal inconvenience to its customers. When the provider reasonably expects that service will be interrupted for more than 15 minutes, the provider shall attempt to notify each affected customer, including wholesale customers, in advance of the interruption. It shall make emergency service available, as required, for the duration of the interruption.

PART 6. MONITORING

R 484.461 Key measures of performance.

Rule 61. (1) A provider shall compile information on all of the following performance measures:

(a) Completing the investigation and contacting the customer within a monthly average of 10 days of the receipt of a complaint.

(b) Restoring service in a monthly average of 36 hours of the receipt of a trouble report.

(c) Answering calls to a business office in a monthly average of 120 seconds.

(d) Answering calls to a repair office in a monthly average of 25 seconds.

(e) Meeting new installation commitments within a monthly average of 5 business days.

(f) An average monthly rate of customer trouble reports of more than 4%.

(2) If a provider fails to meet any of the measures specified in subrule (1) of this rule for 2 consecutive months, then the provider shall file a performance measure report and a remedial plan with the commission.

(3) The format of the report shall be developed in consultation with the commission staff.

PART 7. WAIVERS AND EXCEPTIONS

R 484.471 Waivers and exceptions.

Rule 71. (1) A provider may petition for a permanent or temporary waiver or exception from these rules when specific circumstances beyond the control of the provider render compliance impossible or when compliance would be unduly economically burdensome or technologically infeasible.

(2) A provider may request a temporary waiver in order to have sufficient time to implement procedures and systems to comply with these rules.

(3) A provider may request a waiver or exception from some or all of these rules if it has obtained a competitive service classification from the commission pursuant to section 208 of the act.

(4) A provider shall be exempt from the provisions of these rules related to directory assistance to the extent the commission determines that the service is competitive under section 207 of the act.

(5) A provider need not meet the standards or grant the credits required by R 484.455, R 484.457, R 484.458, or R 484.459 under any of the following circumstances:

(a) The problem is or was caused by the customer.

(b) The problem is or was attributable to an "act of God." The term "act of God" shall include events such as any of the following:

- (i) Flood.
- (ii) Lightning.
- (iii) Tornado.
- (iv) Earthquake.
- (v) Fire.
- (vi) Blizzard.
- (vii) Ice storm.
- (viii) Other unusual natural or man-made disasters.

(c) There is a work stoppage or other work action by the provider's (or underlying provider's) employees, beyond the control of the provider, that causes or caused a significant reduction in employee hours worked.

(d) The problem occurs or occurred during a major failure. A "major failure" is a single event or occurrence that is not the direct result of action taken by the provider and that generates out-of-service reports affecting 100 or more access lines.

(6) The provider shall notify the commission, in writing, within 10 business days of its intent to invoke the occurrence of an event described in subrule (5) of this rule. The notification to the commission shall include all of the following information:

- (a) Specific description of the event and general impact.
- (b) Date or dates of the event.
- (c) Location affected (exchanges, wire centers, etc.).
- (d) Estimated number of customers affected.

The commission staff shall have 10 business days following the notification to advise the provider, in writing, if it disputes the validity of the invocation of an event described in subrule (5) of this rule and the reasons for such dispute. If the dispute cannot be resolved within 10 business days of the commission staff's advice, then the provider shall file an application with the commission within 10 business days thereafter for resolution of the dispute.

PART 8. RECOURSE

R 484.481 Recourse.

Rule 81. Unless the terms of a written agreement between 2 providers specifically state otherwise, in any situation where an underlying provider has contracted to

provide a service to a customer's provider, if the failure of the underlying provider to support the service results in the customer's provider granting any credit, including an offset to the customer's bill, or waiving any charges to comply with R 484.454 through R 484.459, then the customer's provider shall have recourse against the underlying provider for the amount of any credits or charges that were waived.