

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the complaint of)	
WILLIAM and SANDRA ROVAS against)	Case No. U-13079
AMERITECH MICHIGAN.)	
_____)	

At the February 25, 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

I.

HISTORY OF PROCEEDINGS

On September 5, 2001, William and Sandra Rovas (the Rovases) filed a complaint against Ameritech Michigan alleging violations of the Michigan Telecommunications Act, MCL 484.2101 et seq., (the MTA) and the Commission’s rules concerning system maintenance and service quality. Ameritech Michigan filed its answer to the complaint on October 23, 2001. On November 5 and 13, 2001, respectively, Ameritech Michigan submitted a document entitled “Offer of Relief” and the Commission Staff (Staff) filed a motion to strike that document.

Following two adjournments, an evidentiary hearing was conducted on November 26, 2001 before Administrative Law Judge Barbara A. Stump (ALJ). On that date, the ALJ also heard oral

argument on the Staff's motion, which she subsequently denied. The record consists of 174 pages of transcript and 35 exhibits, 23 of which were received into evidence.

Following the close of the proofs, briefs were filed by the Rovases, Ameritech Michigan, and the Staff, and reply briefs were filed by the Rovases and Ameritech Michigan. In addition, the Staff filed an application for leave to appeal the ALJ's November 26, 2001 ruling on its motion to strike, and Ameritech Michigan filed a response to that application.

On January 4, 2002, the ALJ issued a Proposal for Decision (PFD) in which she recommended dismissing the complaint. The Rovases and the Staff filed exceptions to the PFD on January 15, 2002. On January 25, 2002, Ameritech Michigan filed its replies to exceptions.

II.

FACTUAL BACKGROUND AND POSITIONS OF THE PARTIES

The genesis of this complaint is an intermittent service outage, as well as other line-related service problems, that the Rovases experienced at their home in Washington Township between April 3 and 13, 2001.¹

According to testimony offered by Mr. Rovas, he contacted Ameritech Michigan's automated customer complaint line on the evening of April 3, 2001 to inform the company of the loss of telephone service to his house. After working his way through several levels of the company's voice response unit (VRU)--including one level advising him that because he and his wife did not subscribe to Ameritech Michigan's "Linebacker" program, a \$71 charge would be imposed if service technicians ultimately found that the problem was caused by his home's inside

¹ The complaint initially stated that the trouble with the Rovases' phone lasted until April 14, 2001. However, the complainants subsequently concluded that, based on service records produced by Ameritech Michigan in the course of this proceeding, service was actually restored on April 13, 2001.

wiring--Mr. Rovas endeavored to leave a message describing the steps he took to determine that the problem was with the outside wiring and requesting that a technician be dispatched as soon as possible. See, Tr. 17-19. With regard to isolating the problem, Mr. Rovas continued, he sought to advise Ameritech Michigan that he had (1) “disconnected all telephone appliances inside the house,” (2) allowed the phone line to “reset,” which it did after a few minutes, (3) plugged various phones into the company’s network interface attached to the outside of his home, and (4) determined that, after the outside line had been “loaded” for a few minutes, a complete line failure would reoccur. Id. According to Mr. Rovas, his home’s telephone effectively became unusable because it would go out of service and “take anywhere from 15 minutes to an hour” to reset. Tr. 18.

Mr. Rovas went on to state that an Ameritech Michigan service technician apparently came to his house on April 4, 2001 and, because neither he nor his wife were home, left a tag on the door indicating that the problem is “inside the house” and therefore “you owe us \$71.” Tr. 19. As a result, the Rovases made two attempts to reach Ameritech Michigan that evening through use of their cellular phone. According to Mr. Rovas, the first call ended when the phone company’s VRU left him “locked in the voice loop of the voice mail,” forcing him to hang up and call again. Tr. 21. As for the second attempt, Mr. Rovas indicated that he reached an Ameritech Michigan customer service representative, advised her that his service was still out, provided yet another detailed description of the steps he had taken to isolate the problem as one arising from outside wiring, pointed out that the company’s repair technician had never even entered his house, and thus challenged the \$71 service charge. Based on their discussion, Mr. Rovas noted, the customer service representative advised him that the \$71 charge was probably a mistake and that it would be

taken off of his account. See, Tr. 22. Notes taken by the customer service representative, and received into evidence as Exhibit C-18, confirm the gist of that conversation.

Because the service to his house was still not operational by the evening of April 5, 2001, Mr. Rovas stated, he made four more attempts to contact Ameritech Michigan through use of his cellular phone. See, Tr. 23. However, Mr. Rovas continued, he again got “locked into the voice loop” on each of those attempts and was therefore unable to reach a customer service representative. Id. As with each of their previous calls to Ameritech Michigan, the Rovases’ bill from their cellular service provider (set forth as Exhibit C-12) confirms these four attempts to reach the company on April 5, 2001. Mr. Rovas went on to indicate that he and his wife finally gave up on their home phone and, instead, twice drove to their cottage in Algonac to use the cottage’s phone line to make their necessary calls and to complete several Internet-based transactions. While they were gone, another tag was left on their home’s door. This tag stated that a service technician had come to check the line on April 6, 2001 and that, based on his inspection, “No trouble can be found.” Tr. 75.

Mr. Rovas went on to testify that, after a few more days without service to his home, he called Ameritech Michigan on the afternoon of April 9, 2001. Tr. 24. As asserted by Mr. Rovas, and corroborated by his cell phone’s billing records, it took him 21 minutes to work his way through the VRU’s various levels, reach a customer service representative, and again describe the problem with his phone line. Id.; Exhibit C-12. At that time, the Rovases were advised that service to their house would be restored by April 14, 2001. Nevertheless, the Rovases were required to call Ameritech Michigan’s customer complaint line on the morning of April 12, 2001 to report a new kind of trouble. Specifically, they advised the company that although they were now able to dial

out, the number corresponding to their home phone no longer worked and they had begun receiving numerous calls for wrong numbers. Tr. 123.

Based on repair records produced by Ameritech Michigan, the Rovases determined that their service was finally restored to normal on April 13, 2001 (one day earlier than had been promised during the April 9, 2001 conversation) and that the problems with their phone were caused by flaws in Ameritech Michigan's outside wiring (as the Rovases had maintained all along). See, Tr. 24-25; Exhibit R-35.

The Rovases later received a bill from Ameritech Michigan covering the period from April 2 through May 1, 2001, which they found objectionable in at least two ways. First and foremost, the bill contained the \$71 service charge for which they repeatedly asserted that no valid basis exists. See, Exhibit C-19, p. 1. Second, the Rovases claimed that although they deserved service credits covering the entire period during which their home phone proved wholly unreliable, the company only gave them credits equal to five days of lost service. See, id., p. 2. Mr. Rovas called Ameritech Michigan to discuss these problems on May 21, 2001. Although the company informed him that it would begin taking steps to remove the \$71 service charge, Mr. Rovas asserted, it refused to provide any out-of-service credits beyond those set forth on the May 1, 2001 bill. Tr. 25-26.

As a result, the Rovases also sent Ameritech Michigan an informal letter of complaint on May 21, 2001. That letter (1) restated the Rovases' requests to remove the \$71 service charge and to issue additional out-of-service credits, (2) claimed that flaws in the company's automated customer complaint system had significantly delayed resolution of the Rovases' service problems and had required them to spend hours troubleshooting the system, repeatedly describing the problem to various Ameritech Michigan employees, and pressuring the company to fully repair its

outside line, (3) asserted that the company's practice of threatening to impose a \$71 service fee if the problem is determined to be in the customer's inside wiring, as well as imposing such a fee without even entering a customer's premises, constitutes "pure bullying, intimidation and extortion of the customer," and (4) requested a check in the amount of \$200 to compensate Mr. Rovas for "troubleshooting [Ameritech Michigan's] technical problem." Exhibit C-23. Payment in the amount of \$98.40 was enclosed with that letter, which Mr. Rovas stated was the adjusted amount due on the May 1, 2001 bill after removing the \$71 service charge and factoring in the disputed bill credits. Tr. 25.

Due to Ameritech Michigan's failure to respond to that letter of complaint, at least beyond removing the \$71 service charge, the Rovases declined to pay their June 1, 2001 phone bill. As a result, their July 2, 2001 bill totaled \$217.04, including the unpaid June balance and a \$3.47 late fee. Exhibit C-21. On July 7, 2001, Mr. Rovas again contacted Ameritech Michigan to request application of his desired bill credits and issuance of a \$200 check. Tr. 27. As before, Ameritech Michigan rejected his request. Thus, on July 23, 2001, the Rovases resubmitted their letter of complaint, albeit with a new date. On that occasion, they included a check for \$17.04, which was the difference between their total July 2, 2001 phone bill and the \$200 Mr. Rovas continued to demand for his troubleshooting efforts. See, Tr. 28-29. Once again, the Rovases received no response to their letter and, instead, they were billed a total of \$303.26 on August 1, 2001. Again, the Rovases responded to this billing by submitting another copy of their letter of complaint, as well as a partial payment (this time in the amount of \$96.51, which represents the remainder of the August 1, 2001 bill after deducting all late payment charges and making Mr. Rovas's \$200 troubleshooting adjustment). See, Exhibit C-22.

On August 22, 2001, after providing the requisite notice to the Rovases, Ameritech Michigan shut off service to both their house and cottage for failure to pay the outstanding balance. See, Exhibit C-32. Service was restored to those lines on September 13 and 14, 2001, respectively, after the Rovases filed their formal complaint with the Commission. Id. Shortly thereafter, Mr. Rovas accessed Ameritech Michigan's Internet web site and printed off language, which he claimed to be confusing, concerning the type of repair work that the company would provide to its customers at no cost. See, Tr. 31-32; Exhibit C-25.

Finally, the Rovases offered evidence outlining the economic losses that they allegedly incurred as a result of Ameritech Michigan's actions. This evidence included testimony to the effect that Mr. Rovas spent a total of 48 hours investigating the initial outage, providing detailed results of his investigation to Ameritech Michigan, traveling to and from his cottage in order to use the working phone located there, developing his presentation to the Commission, and participating in the evidentiary hearing on November 26, 2001. Tr. 40-43. In addition, Mr. Rovas testified that his wife spent eight hours traveling to and attending that hearing. Id. Mr. and Mrs. Rovas also produced pay stubs indicating that they earn \$30.50 and \$32.24 per hour, respectively. Exhibit C-30. Moreover, Mr. Rovas indicated that it was approximately a 200-mile round-trip from their house to the site of the hearing, and that the traditional reimbursement rate for travel in Michigan is 30¢ per mile. Tr. 43.

For its part, Ameritech Michigan offered testimony from four of its employees. The first of these was Karen Manrique, a process analyst who had extensive experience concerning the company's automated system for receiving and responding to service complaints. According to Ms. Manrique, all customer repair calls are initially directed to Ameritech Michigan's VRU. At that point, she noted, the customer can either rely solely on the VRU for purposes of reporting the

problem or “opt out by pressing zero to talk to one of our repair attendants.” Tr. 106. In addition to being available 24 hours a day, 7 days a week, Ms. Manrique continued, Ameritech Michigan’s computerized system can produce a record of any customer’s trouble reports and the company’s responses to them as part of its Loop Maintenance Operating System (LMOS) database. See, Tr. 106-09.

Ms. Manrique provided, as Exhibit R-35, a copy of the LMOS database setting forth the trouble reports and repair history for the Rovases’ home phone number between April 1 and November 12, 2001. By referring to that document and interpreting the rather cryptic codes of which it consists, she confirmed that the Rovases completed four trouble calls to Ameritech Michigan during that period.

Specifically, Ms. Manrique stated that the first of those calls (1) occurred on the evening of April 3, 2001, (2) reported that the dial tone was absent, and (3) indicated that the customers had agreed to pay the \$71 service charge if the problem was in their inside wiring instead of Ameritech Michigan’s outside equipment. See, Tr. 114-18. She went on to state that, according to Exhibit R-35, a service technician was dispatched at 10:45 the next morning, reported finding “trouble in from the protector” (meaning that it was the customer’s responsibility, not the company’s), and closed-out the trouble report by 11:20 a.m. Tr. 118-19.

The second service request, Ms. Manrique noted, took place on at 6:19 p.m. on April 4, 2001 and indicated that the Rovases’ line had “no dial tone at times, all phones, all calls.” Tr. 119. Repair technicians were dispatched several times and (after initially indicating that they were unable to locate the source of the trouble) ultimately concluded that the problem must be a “defective in the closure.” Tr. 121. According to Ms. Manrique, the database indicates that the suspected problem--which involves Ameritech Michigan’s outside wiring, as opposed to the

Rovases' inside wiring--was repaired, a dial tone was reestablished, and this trouble report was closed out at 2:15 p.m. on April 6, 2001. Tr. 120-21.

Ms. Manrique went on to state that the third trouble report, received from the Rovases on the afternoon of April 9, 2001, again indicated that the house had no dial tone. See, Tr. 121-22. With regard to this repair request, she noted, a technician was dispatched at 8:00 a.m. on April 11, 2001, the "underground pair" (another piece of Ameritech Michigan's outside equipment) was changed, the Rovases' problems with the lack of dial tone ceased, and the report was closed at 10:51 that morning. Tr. 122.

As for the fourth repair request referred to in the LMOS database, Ms. Manrique noted that the Rovases called Ameritech Michigan on the morning of April 12, 2001 to advise the company that their phone number was not working for incoming calls and that they were receiving lots of wrong number calls instead. She further noted that a technician visited the Rovases' house the next morning, "reran the jumper around the crossbox in order to fix the trouble" with the company's line, and closed out the trouble report at 11:00 a.m. on April 13, 2001. Tr. 123-24. From that point forward, Ms. Manrique stated, the Rovases have reported no further problems with their phone service. Tr. 124.

Ameritech Michigan next offered the testimony of Tom Dunning, the company's dispatch control manager for the area including the Rovases' home. According to Mr. Dunning, it is not uncommon for Ameritech Michigan's service technicians to attempt to determine whether a problem is caused by inside or outside wiring without entering the customer's house. This is generally accomplished, he stated, by disconnecting the customer's service wires at the network interface and protector (located in the box on the side of the house), hooking up a specialized laptop computer, and checking for a dial tone. See, Tr. 146-49. If the company's outside line is

found to be “providing dial tone to the network interface,” he continued, the technician “would assume that the trouble . . . could have been in the customer’s home.” Tr. 149.

Mr. Dunning went on to note that the problem encountered at the Rovases’ house, referred to as “swinging trouble or intermittent trouble,” is very difficult to diagnose and repair. Tr. 151. According to him, it generally results from a break somewhere in the phone line’s protective casing, which then allows the conductor to be affected by “humidity, moisture, [or] by wind swinging.” Id. As a result, the technician may find dial tone at the residence on one occasion, but not on the next.

Finally, Mr. Dunning indicated that the customer complaint and repair dispatch system used by Ameritech Michigan normally provides service technicians with such things as the results of a remote line test (automatically triggered when the service call is placed), the customer’s statement regarding the existence of dial tone, and a designation of the particular lines and other facilities through which the customer receives phone service. See, Tr. 157. However, he went on to concede that the system lacks the ability to provide any extensive description of the problem as described by the customer. He therefore doubted that the dispatch report provided to the technicians in this case contained the information that Mr. Rovas repeatedly provided to Ameritech Michigan’s customer service representatives concerning the steps he had already taken to determine that the problem was with the outside line, as well as the fact that (even after allowing it to reset) the line would go dead once it was loaded for a few minutes. See, Tr. 157-58.

The third witness to testify on behalf of Ameritech Michigan was Bruce Downey, its director of out-state installation and repair. According to Mr. Downey, the automated customer complaint system’s reference to the potential \$71 service charge is not, in his opinion, intended to intimidate customers. See, Tr. 162. Rather, he asserted, it is designed solely to provide customers with the

facts necessary to “make an informed decision [regarding] whether they would like a truck and a technician dispatched or not.” Tr. 162-63. However, he continued, if customers suspect that the problem is indeed outside of their house, they have little choice but to contact Ameritech Michigan about repair service because all outside equipment is owned by the company. See, Tr. 164-65.

The final witness called in this case was Yvette Collins, Ameritech Michigan’s regulatory issues manager for customer complaints. Ms. Collins testified that the company’s tariff on file with the Commission does not include the \$71 service charge. See, Tr. 169. This is, she continued, “because it’s an unregulated charge.” Tr. 170. Nevertheless, she went on to indicate that the tariff does impose a responsibility on Ameritech Michigan to repair, free of charge, all equipment up to the interface at the customer’s residence. See, id.

Based on their view of the facts, the Rovases contend that Ameritech Michigan violated the MTA, as well as various Commission rules and orders, in at least four ways. First, they argue that by initially declaring the problem to be with the Rovases’ inside wiring, and by imposing the \$71 service charge even after determining that the trouble lay outside the customers’ house, the company ran afoul of Sections 502(1)(a), (h), and (j), as well as Section 507(1) of the MTA, MCL 484.2502 and 484.2507. Second, the Rovases assert that Ameritech Michigan’s extensive delay in remedying the problems with their phone line constitutes a violation of Section 502(1)(i). Third, they claim that Ameritech Michigan failed to provide them with all out-of-service bill credits due pursuant to Rule 32 of the Commission’s rules concerning system maintenance and service quality, 1992 AACRS, R 484.32, and the Commission’s December 20, 2000 order in Cases Nos. U-12571, U-12598, and U-12599 (the December 20 order). Fourth and finally, the Rovases contend that the automated system used by the company to receive, process, and resolve service

complaints leads to violations of Rules 52(1)(a), (b) and (c), as well as 52(2), 1992 AACCS, R 484.52.

The Staff agrees, in substantial part, with the Rovases' contentions. As a result, it asserts that the Commission should find that Ameritech Michigan's actions in this matter constitute violations of Sections 502(1)(a) and 507(1) of the MTA, Rules 32, 52(1)(b), and 52(1)(c), and the December 20 order.

In contrast, Ameritech Michigan asserts that the facts revealed in this case fail to support any of the alleged violations. Due to the difficulty in diagnosing and correcting an intermittent service outage like that experienced by the Rovases, Ameritech Michigan contends, the fact that it initially misdiagnosed the problem constitutes insufficient justification for finding that a misrepresentation occurred in violation of Section 502(1)(a). Moreover, it claims that because the line was not out of service for the entire time between April 3 and 13, 2001, Mr. and Mrs. Rovas already received their appropriate out-of-service credits. Finally, Ameritech Michigan notes that (1) its automated complaint system was available for use by the Rovases, and was in fact used by them, on each occasion discussed in this case, (2) the company's service technicians promptly and repeatedly visited the Rovases' premises, (3) all repairs necessary to restore the customers' service were completed, and (4) the erroneous \$71 service charge was removed from their bill. As a result, the company claims, none of the other violations alleged in this case are supported by the record.

III.

DISCUSSION

In her PFD, the ALJ rejected all of the complainants' claims. The Rovases, the Staff, or (in some instances) both except to all but one of the ALJ's conclusions and recommendations, as discussed below.

Violation of Section 502(1)(a)

In addressing the first statutory violation alleged in this case, the ALJ pointed out that, according to Section 502(1)(a) of the MTA, a telecommunications service provider like Ameritech Michigan may not:

Make a statement or representation, including the omission of material information, regarding the rates, terms, or conditions of providing a telecommunications service that is false, misleading, or deceptive.

MCL 484.2502.

According to the ALJ, the only potentially false statement or representation identified by either the Rovases or the Staff is the indication on the April 4, 2001 service tag that the problem was with the home's inside wiring and that the customers thus owed Ameritech Michigan \$71 for that service call. She went on to state that this notation is "simply a diagnosis related to the source of the Complainant's trouble with their service," and not a statement regarding a rate, term, or condition of providing a telecommunications service, as prohibited by Section 502(1)(a). PFD, p. 15. Moreover, she concluded, any inaccuracy set forth on that repair tag was excusable due to the fact that intermittent trouble like that experienced on the line is extremely difficult to diagnose. She therefore recommended that the Commission reject all claims regarding the alleged violation of Section 502(1)(a) of the MTA.

The Rovases and the Staff except to that recommendation on the grounds that the ALJ construed this portion of the MTA too narrowly. According to them, the service technician's note directly asserting that "the problem is inside the house" (when it was not) and advising the Rovases that "you owe us \$71" (when they did not) clearly constitutes a false statement or representation. They further contend that, because this statement relates to Ameritech Michigan's duty to repair--free of charge--all outside line problems experienced by its customers, it relates to a

rate, term, or condition of service covered by Section 502(1)(a). As a result, the Rovases and the Staff assert, the Commission must reject the ALJ's recommendation on this issue.

In response, Ameritech Michigan argues that the ALJ was correct in concluding that a simple misdiagnosis does not constitute a misrepresentation like that barred by Section 502(1)(a). Adopting the position espoused by the Rovases and the Staff, it warns, would be comparable to holding an auto mechanic guilty of "unlawful fraud and misrepresentation" just because he failed in his initial attempt to repair one's vehicle. Replies to exceptions, p. 8. Importantly, Ameritech Michigan points out, it did not rely on its technician's initial diagnosis and refuse to further investigate the Rovases' service troubles. Rather, the company notes, it "promptly responded to all subsequent repair requests and made repair attempts" until all of the Rovases' problems were resolved. *Id.* Finally, Ameritech Michigan contends, the fact that the repair charge was removed from the Rovases' account means that its initial imposition "was no part of a misrepresentation." Replies to exceptions, p. 9.

The Commission agrees with the Rovases and the Staff, and finds that it should reject the ALJ's recommendation regarding this issue. The uncontroverted facts are as follows. First, when Mr. Rovas initially reported problems with his phone service on April 3, 2001 and asked to have a service technician dispatched, Ameritech Michigan's automated customer complaint system stated that he and his wife would be charged for the service call only if the problem was caused by their inside wiring. Tr. 17-19. Second, without so much as entering the Rovases' home on April 4, 2001, the company's service technician left a tag on their door unequivocally informing them that the problem was inside their house and that they therefore owed Ameritech Michigan \$71. *Id.* Third, the Rovases subsequently received a bill for the April 4, 2001 service call, despite the fact

that Ameritech Michigan had, in the interim, determined that the problem actually arose from the company's facilities outside the house. See, Exhibits C-19 and R-35.

Based on these facts, the company's statements to the Rovases on April 3 and 4, 2001 were false. Moreover, each directly relates to Ameritech Michigan's duty to provide free repairs to all portions of a service line located outside a customer's house. As a result, those statements clearly concern the "rates, terms, and conditions of providing a telecommunications service," as covered by the MTA. Furthermore, what occurred in this case was more than a simple misdiagnosis. Rather, at least with regard to the April 4, 2001 service tag, the dispute arose from an assertion of fact that was false at the time that it was made, and that Ameritech Michigan used as a basis for improperly imposing a \$71 charge on the complainants. The Commission therefore concludes that it should reject the ALJ's recommendation and, instead, find that the company violated Section 502(1)(a).

It should also be noted that Ameritech Michigan's general policy regarding the imposition of its \$71 service charge is at odds with its duty to inspect and repair, without cost to the customer, all facilities outside the customer's structure. Specifically, the company's propensity for assuming that the problem is with the inside wiring whenever a service technician finds a dial tone at the interface, and for assessing the \$71 charge without first verifying that the problem actually arises from within the customer's premises, can lead to repeated violations of the MTA. Thus, the Commission directs Ameritech Michigan to refrain from assessing its service charge against a customer unless and until it specifically identifies the phone line's problem, enters the customer's premises, and confirms that the problem is located within the inside wiring.

Violations of Sections 502(1)(h), (i), and (j)

As with the previously-discussed allegation, the ALJ recommended rejecting the Rovases' claims concerning violations of Sections 502(1)(h), (i), and (j), which state, in pertinent part:

(1) A provider a of telecommunication service shall not do any of the following:

* * *

- (h) Cause a probability of confusion or a misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction.
- (i) Represent or imply that the subject of a transaction will be provided promptly, or at a specified time, or within a reasonable time, if the provider knows or has reason to know it will not be so provided.
- (j) Cause coercion and duress as a result of the time and nature of a sales presentation.

MCL 484.2502(1)(h)-(j).

In making her recommendation, the ALJ found that the statement on Ameritech Michigan's web page concerning the potential \$71 service charge was not, as the Rovases professed, likely to cause confusion or misunderstanding in violation of Section 502(1)(h). She went on to hold that, because Ameritech Michigan gave the Rovases a reasonable date upon which their service problems would be remedied (namely, April 14, 2001), and because the company beat that completion target by a full day, no violation of Section 502(1)(i) took place. Finally, the ALJ stated that because Section 502(1)(j) pertains exclusively to the time and nature of a sales presentation, and because no such presentation is alleged to have occurred in this case, no violation of that subsection could be found.

The Rovases except to the ALJ's recommendation concerning these three alleged violations. With regard to subsection (h), they argue that the web page's assertion that the company will make all repairs "up to the point that the wiring connects with your home . . . at no cost to you"

(Exhibit C-25), differs greatly from their experience with Ameritech Michigan's repair work. As for subsection (i), the Rovases contend that, having made numerous calls to the company between April 3 and 9, 2001, it was unreasonable for Ameritech Michigan to provide a completion date as late as April 14, 2001. Turning to the alleged violation of subsection (j), the complainants renew their assertion that Ameritech Michigan's potential application of the \$71 service charge constitutes an improper attempt to coerce its customers into enrolling in the company's "Linebacker" service.

Ameritech Michigan responds by asserting, among other things,² that there is nothing remotely confusing about the repair policy described on its web site. Rather, it contends, the statement attacked by the Rovases clearly indicates that all outside line work will be performed free-of-charge, and that the cost of repairs to inside wiring will be borne by the customer. The company goes on to state that the duration of the Rovases' service problems was "due to their intermittent nature," and not some perceived lack of diligence on the part of its employees. Replies to exceptions, p. 2. Moreover, Ameritech Michigan contends that because the \$71 service charge pertains to a wholly unregulated service, "it can provide no basis for a violation" of the MTA. *Id.* The company therefore asserts that the Commission should adopt the ALJ's recommendation and find that no violations of Sections 502(1)(h), (i), and (j) can be supported by the record.

² With regard to the alleged violations of Sections 502(1)(h) and (j), Ameritech Michigan also argues that they must be rejected on the grounds that neither provision of the MTA was specifically cited in the complaint, thus denying the company reasonable notice and opportunity to rebut these claims. The Commission disagrees. Although those sections were not specifically cited in the complaint itself, the detailed letter attached to the complaint clearly expressed the Rovases' assertions that the \$71 service charge was being used to intimidate customers and that insufficient priority was given to the resolution of their service problems. The same is true of the alleged violations of Section 507(1) of the MTA (concerning the propriety of including the \$71 charge in the Rovases' May 1, 2001 billing) and Rule 32 (regarding the alleged failure to provide all appropriate out-of-service credits), which are addressed later in this order.

The Commission agrees with Ameritech Michigan's general assertion,³ finds that the ALJ's recommendation should be adopted, and concludes that no actionable violations have been proven with regard to Sections 502(1)(h), (i), and (j). There is nothing misleading or confusing about the assertion, set forth on the company's web page, that "if you've determined that the problem is with the outside wiring, our service team will respond promptly to calls for repairs to wiring or equipment, up to the point that the wiring connects to your home or business, at no cost to you." Exhibit C-25. Thus, no violation of Section 502(1)(h) has been shown. Moreover, nothing in the record indicates that Ameritech Michigan either represented or implied that service to the Rovases would be restored by a certain date when the company knew or had reason to know that its repair technicians could not meet that deadline. As a result, Section 502(1)(i) was not violated. Finally, although the company's statements concerning the potential imposition of its \$71 service charge constitute, at the very least, attempts to induce customers to either subscribe to its Linebacker service or to wait to see if the service trouble will pass on its own, those statements were never alleged to have occurred in the context of a sales presentation. Thus, Section 502(1)(j) is not applicable.

³ The Commission's findings are not based on Ameritech Michigan's assertion that the company's \$71 service charge is part of an unregulated service over which the Commission has no jurisdiction whatsoever. Rather, the MTA authorizes the Commission to ensure that all local exchange carriers operating in Michigan promptly investigate customer trouble complaints, and that they inspect and repair all facilities up to and including the network interface, free of charge. See, i.e., MCL 484.2202(d). As a result, any improprieties concerning the proposed or actual imposition of that service charge in cases where the service trouble originates on the company's side of the network interface fall squarely within the Commission's jurisdiction. Moreover, because Section 502 proscribes various activities by any "provider of a telecommunications service," and because Section 102(dd) specifically defines "telecommunications services" to include "regulated and unregulated services offered to customers," Ameritech Michigan's claims regarding a lack of jurisdiction are not persuasive. See, MCL 484.2102(dd) and MCL 484.2502.

Violation of Section 507(1)

The ALJ also rejected claims to the effect that imposing the \$71 service charge upon the Rovases constituted a violation of Section 507(1) of the MTA, which provides that:

A telecommunications provider shall not include or add optional services in an end-user's telecommunications service package without the express oral or written authorization of the end-user.

MCL 484.2507(1).

In reaching that conclusion, the ALJ noted that Section 507(1) "does not apply to repair charges" like those at issue in this case. PFD, p. 27. Rather, she continued, it is designed solely to prohibit the unauthorized addition of optional features (such as remote call forwarding) to the package of services provided to an end-use customer. Because the Rovases did not contend that any optional services were added to their service package with out prior approval, and because the LMOS database indicated that they had agreed to pay the \$71 service charge if the problem turned out to be with their inside wiring (as reflected on Exhibit P-35), the ALJ recommended rejecting all claims based on Section 507(1).

The Rovases except to that recommendation on two grounds. First, they contend that even after Ameritech Michigan determined that the problem was on the company's side of the network interface, it never advised the Rovases of that fact. Rather, it went so far as to include the \$71 service charge on the Rovases' May 1, 2001 bill. Second, they assert that the imposition of that charge was based entirely on the first service technician's "assumption" that the problem arose from inside the house, instead of being the result of a reasonable inspection and diagnosis following their April 3, 2001 service complaint. The Rovases' exceptions, p. 28. The Rovases therefore argue that the act of including "the erroneous \$71 charge" on their bill constitutes a violation of Section 507(1), and that the Commission should reverse the ALJ on this issue.

The Commission does not find the Rovases' arguments persuasive with regard to this issue. As noted by the ALJ, Section 507(1) is intended solely to halt the unsavory practice of adding optional (and often expensive) services to a customer's telecommunications service package without the customer's authorization. This practice, generally referred to as "cramming," differs significantly from the problems alleged by the Rovases and described on the record. Specifically, no optional services are at issue in this case. Moreover, Exhibit C-35 shows that the complainants expressly authorized the company to impose the \$71 service charge if the problem was found to be with the Rovases' inside wiring. The Commission therefore concludes that it should adopt the ALJ's recommendation and find that Ameritech Michigan's actions do not constitute a violation of Section 507(1) of the MTA.

Violations of Rule 32 and the December 20 Order

The ALJ went on to reject the Rovases' assertion that Ameritech Michigan failed to provide them with all out-of-service bill credits due pursuant to Rule 32, which states, in pertinent part:

(1) If a customer's service is reported or is found to be out of service and remains out of service for more than 24 hours, then 1 of the following adjustments shall be made to the customer's bill in the next billing period in which it is practicable to do so:

- (a) If the duration of the outage is less than 5 days of a month, then the appropriate credit shall be the prorated amount of the customer's monthly service rate.
- (b) If the duration of the outage is 5 days or longer, then the appropriate credit is the credit owed pursuant to subrule (1)(a) of this rule for the first four days of the outage plus an additional \$5.00 per day for the fifth day and each subsequent day of the outage, up to the amount of the customer's monthly service rate.

1992 AACS, R 484.32(1). Similarly, she recommended rejecting the complainants' assertion that Ameritech Michigan improperly refused to provide the higher out-of-service credits mandated by

the settlement agreement approved in the December 20 order (namely, \$35 for the sixth day of the outage, and \$10 for each day beyond the sixth). See, Exhibit A attached to the December 20 order, p. 5. The ALJ based her recommendation on the grounds that, although the Commission's service quality rules define "out of service" as "the total inability to either make or receive calls," the Rovases indicated that the problems with their home phone line were "intermittent." PFD, p. 22 (citations omitted). As a result, she concluded that the Ameritech Michigan satisfied its obligation by providing the Rovases with out-of-service credits for 5 days, rather than the 10 days now being requested.

The Rovases and the Staff except to that recommendation. According to them, the ALJ's reading of the Commission's service quality rules is far too narrow. Specifically, they contend that it makes no sense to exclude from the definition of "out of service" a phone line that only occasionally provides a dial tone, and which ceases to work in the middle of any call that a customer is fortunate enough to get connected in the first place. These parties therefore assert that the Commission should reject the ALJ's recommendation and, instead, find that Ameritech Michigan's decision to provide only out-of-service credits for only five days constitutes a violation of Rule 32 and the December 20 order.

In response, Ameritech Michigan expresses agreement with the ALJ's interpretation of Rule 32. In so doing, it points out that the Rovases' May 1, 2001 bill indicates that as many as six calls were placed from the complainants' home during the alleged 10-day service outage. As a result, the company continues, the complainants failed to prove that they experienced a total inability to make or receive calls as required by Rule 32. Ameritech Michigan goes on to contend that even if the Commission disagrees with the ALJ's reading of Rule 32 and finds that out-of-service credits should be provided for the entire 10-day period from April 3 through 13, 2001, the

appropriate award would be relatively small. Specifically, it asserts that the Rovases would only deserve out-of-service credits totaling \$93.87 (a maximum of \$18.87 pursuant to Rule 32, plus \$35 for the sixth day of the outage and \$10 per day for the final four days, as provided for by the December 20 order), less the 5-day out-of-service credit previously provided. See, Replies to exceptions, pp. 17-18.

The Commission agrees with the Rovases and the Staff, and finds that the ALJ's interpretation of Rule 32 is overly narrow. Although the Commission's service quality rules define "out of service" in terms of a customer's total inability to make or receive calls, this wording is merely intended to differentiate between being precluded from placing or receiving calls when desired, on the one hand, and situations where the line is subject to other quality-related problems (i.e., popping, echoes, overlapping conversations, etc.), on the other. While the customer should automatically receive bill credits in the first situation, the same is not necessarily true of the second. Moreover, adopting the interpretation suggested by the ALJ and supported by Ameritech Michigan would result in the illogical situation of denying bill credits to a customer despite the fact that his or her phone was fully inoperable for all but one second per day.

In the present case, the record indicates that the Rovases' home phone was wholly unreliable from April 3 through 13, 2001. For the first eight or nine days, the line would either provide no dial tone whatsoever or, if it did, it would generally go dead during the middle of the call. Tr. 18-23 and 97-98. As a result, the fact that six calls may have been initiated during this period constitutes insufficient proof that the line was providing the type of reliable basic local exchange service required by the MTA. As for the final day or two of the service outage, calls placed to the Rovases' home number were unable to go through, while the complainants received nothing but wrong numbers. Tr. 122. As a result of these problems, the Commission finds that Ameritech

Michigan should have issued out-of-service credits covering the full ten-day period. The company's failure to do so, the Commission concludes, was in violation of both Rule 32 and the December 20 order.

Violations of Rules 52(1)(a), (b), and (c)

The ALJ further denied the Rovases' assertions to the effect that Ameritech Michigan's actions constituted violations of Rules 52(1)(a), (b), and (c), which state that:

- (1) A provider shall do all of the following:
 - (a) Provide for the receipt of customer repair requests at all hours.
 - (b) Make a full and prompt investigation of all complaints.
 - (c) Render reasonable assistance to the customer to identify a cause for the outage or other trouble.

1992 AACRS, R 484.52(1)(a), (b), and (c).

According to the ALJ, evidence established that Ameritech Michigan's automated system for receiving and responding to customer complaints was available 24 hours a day, 7 days a week. As a result, she concluded that no violation of Rule 52(1)(a) occurred. With regard to Rules 52(1)(b) and (c), the ALJ held that the record did not support finding that the company "failed to make a full and prompt investigation" of the Rovases' complaints or "failed to render reasonable assistance to the Complainants to identify a cause for the trouble." PFD at 21. Instead, she stated, the evidence established that the company's personnel "promptly responded to and investigated" each of the trouble reports "despite the fact that that the trouble was difficult to isolate." *Id.* Thus, she likewise recommended that the Commission find no violation of Rules 52(1)(b) and (c).

The Rovases except to all of the ALJ's recommendations concerning Rule 52(1). For example, the complainants contend that it was often difficult to opt out of the VRU in order to

Speak directly to an Ameritech Michigan customer service representative. This, they assert, constitutes a violation of Rule 52(1)(a). The Rovases go on to claim that, notwithstanding the fact that it responded to each trouble report, Ameritech Michigan missed the big picture. Specifically, they continue, the company “failed to recognize this outage as a . . . repeat report.” The Rovases’ exceptions, p. 23. According to them, this was due to the fact that, as acknowledged by Mr. Dunning, Mr. Rovas’s troubleshooting information was “probably not” passed on to the company’s service technicians. *Id.*, citing Tr. 157. The complainants contend that this lack of coordination contributed to the length of their service outage, thus constituting a violation of Rule 52(1)(b) and (c).

The Staff agrees with the second half of that exception, supporting the complainants’ assertion that the company’s inability to pass along Mr. Rovas’s detailed description of the problem to its service technicians served to delay resolution of the problem. As a result, the Staff argues, the company failed to make a full and prompt investigation of the complaints and, likewise, failed to render reasonable assistance in identifying the source of the outage, all in violation of Rules 52(1)(b) and (c).

In response, Ameritech Michigan reasserts that its automated customer complaint system is available at all times. The company further asserts that, notwithstanding the complainants’ claim that it was difficult to cycle through the various levels of its VRU, the Rovases always succeeded in relaying their outage reports and requests for service to Ameritech Michigan. Finally, the company argues that the fact that the problem’s intermittent nature necessitated several return trips to the Rovases’ house does not, by itself, support finding any violations of Rules 52(1)(a), (b), or (c).

The Commission agrees with Ameritech Michigan concerning the alleged violation of Rule 52(1)(a). Although the company’s automated customer complaint system is not without its

flaws, particularly in situations where a customer desires to speak directly to a service representative instead of leaving a message on the VRU, the record indicates that the Rovases were always able to communicate their need for repair service. As a result, the Commission finds that Ameritech Michigan did not violate Rule 52(1)(a).

Likewise, the Commission agrees with Ameritech Michigan's assertion that no violation of Rule 52(1)(b) can be found in this case. The record indicates that Ameritech Michigan responded within a reasonable time to each of the Rovases' numerous service complaints. See, Exhibit R-35. Moreover, although dealing with a problem that was very difficult to diagnose, the company's service technicians made a host of changes to the phone line's structure in an effort to restore normal service. Id. Thus, at least in this instance, it cannot be held that Ameritech Michigan failed to fully and promptly investigate the Rovases' service complaints.

Nevertheless, it appears that the inability of Ameritech Michigan's automated complaint system to forward detailed information received by a customer service representative to the service technician dispatched to resolve the problem can lead, as it did in this case, to a violation of Rule 52(1)(c). According to the record, Mr. Rovas repeatedly provided a precise account of the steps he took in determining that the problem was with the outside wiring, as well as the fact that (even once it reset) the line would fail again after only a few minutes' use. See, Tr. 17-18, 23, and 24. Unfortunately, Exhibit R-35 indicates that the detailed information was converted to a simple designation like "no dial tone" or "no dial tone at times, all phones, all calls." Tr. 115 and 119. This, in turn, appears to have limited the initial investigation of the complainants' service requests, thus delaying the ultimate resolution of the Rovases' service problem. The Commission therefore finds that Ameritech Michigan violated Rule 52(1)(c) because the company failed to provide "reasonable assistance" in identifying the cause of the outage.

Violation of Rule 52(2)

The final violation alleged by the complainants concerns Rule 52(2), which states, in pertinent part, that:

A provider shall maintain adequate personnel to answer customers' repair calls within a monthly average of 25 seconds . . . [and] shall take corrective action and submit a written report to the commission if its monthly average rate for answering customers' repair calls exceeds 25 seconds for 3 consecutive months.

1992 AACRS, R 484.52(2).

The ALJ recommended rejecting the Rovases' assertion relating to this rule. Her recommendation was based on the fact that, in its November 11, 2000 order in Case No. U-12532, the Commission specifically held that Rule 52(2) does not support a complaint brought by an individual customer, as opposed to the Commission or the Staff.

None of the parties except to that recommendation, and the Commission finds that it should be adopted. The Commission therefore finds that no actionable violation of 52(2) has been established in this case.

Remedies

Having found that Ameritech Michigan's actions resulted in the violation of Section 502(1)(a), Rules 32 and 52(1)(c), and the December 20 order, the Commission must now determine which, if any, of the numerous remedies requested by the Rovases should be granted.

a. Fines

Section 601(a) of the MTA indicates that Ameritech Michigan could be required to "pay a fine for the first offense of not less than \$1,000.00 nor more than \$20,000.00 per day."

MCL 484.2601(a). For recurring violations, this section directs imposition of “a fine of not less than \$2,000.00 nor more than \$40,000.00 per day.” Id.

The Staff proposes assessing the maximum fine for each violation of the MTA, the Commission rules, and the December 20 order. See, Staff’s exceptions, p. 6. In contrast, Ameritech Michigan contends that imposition of the minimum remedies available would be more appropriate.

The Commission disagrees with the company and finds that substantial fines should be assessed, at least with regard to two of the violations identified earlier in this order. Specifically, it concludes that a fine in the amount of \$15,000 each should be imposed for Ameritech Michigan’s violations of Section 502(1)(a) and Rule 52(1)(c). The Commission reaches this conclusion on the grounds that both of these violations (stemming from the false statement giving rise to the \$71 service charge and the failure to render reasonable assistance in identifying the problem’s cause, respectively) arise from systemic problems requiring prompt review and revision by the company. Ameritech Michigan should be on notice that any failure by the company to resolve those problems may lead to even larger fines in future cases.

With regard to the remaining violations, both of which arise from the company’s failure to pay all appropriate out-of-service credits called for under Rule 32 and the December 20 order, the Commission concludes that no fine is warranted at this time. Absent a showing that Ameritech Michigan is repeatedly miscalculating the credits owed to its customers, the Commission finds that these two violations can best be remedied by requiring application of the correct credits, as discussed in the following section of this order.

For these reasons, the Commission concludes that fines totaling \$30,000 should be imposed in this case.

b. Out-of-Service Credits

As noted earlier, Ameritech Michigan argues that the maximum amount of out-of-service credits for which the Rovases are eligible is \$93.87. This is based on the maximum monthly charge of \$18.87 due under Rule 32(2), plus an additional \$35 for the sixth day of the outage and \$10 each for days 7 through 10, as required by the settlement approved in the December 20 order. Moreover, the company contends, this figure must be reduced by the credits already applied to the Rovases' account. In contrast, the Staff requests recovery of approximately \$20 more in out-of-service credits, based largely on its belief that outage covered 12 days, as opposed to the 10 days asserted by the company.

The Commission finds Ameritech Michigan's position preferable to that espoused by the Staff. According to the record, the outage in this case lasted 10 days, from April 3 to April 13, 2001. See, Exhibit R-35, pp. 2-4. As a result, the company should have provided out-of-service credits totaling \$93.87. Instead, the Rovases' bills reflect receipt of only \$3.27 in such credits. See, C-19, p. 2. The Commission therefore concludes that \$90.60 in additional out-of-service credits, which represents the difference between those two figures, should be reflected on the Rovases' next bill from Ameritech Michigan.

c. Economic Losses

Both the Staff and the Rovases contend that the company should pay for all reasonable expenses incurred by the complainants in pursuing their claims against Ameritech Michigan. According to the Staff, it will take \$2,039.84 to make them whole. Staff's brief, p. 10. As for the Rovases, they contend that \$3,020 is necessary to cover all of their economic losses arising from this case. Rovases' brief, pp. 4-5. In contrast, Ameritech Michigan contends that these requests

are both unrealistic and unsupported by the record. For example, the company asserts that (1) it is unclear how much time the complainants actually missed at work, (2) no basis exists for the Rovases' assertion that they should receive time-and-a-half for much of their preparation, and (3) all of the Rovases' trips to their cottage should be considered pleasure excursions, as opposed to trips prompted by the need to access a working phone line. Thus, Ameritech Michigan contends, no economic damages should be assessed in this case.

From its review of the record, the Commission finds that the Rovases have adequately substantiated \$1,782 in total economic losses for which recovery should be granted. This figure arises from the following three components. First, Mr. Rovas appears to have spent at least 48 hours troubleshooting the problem with his phone, describing the results of his work to various customer service representatives, traveling to Algonac to make use of a functional phone line, preparing to present his case on November 26, 2001, and attending the evidentiary hearing. See, Tr. 40-44. Based on pay stubs indicating that his wage is \$30.50 per hour (Exhibit C-30, p. 1), the time that Mr. Rovas invested in this proceeding and documented on the record is worth \$1,464. Second, the record indicates that Mrs. Rovas spent 8 hours attending the hearing, and that her wage is \$32.24 per hour. See, Tr. 43-44; Exhibit C-30, p. 2. Thus, her economic loss totaled approximately \$258. Third and finally, the record reflects that the Rovases drove approximately 100 miles each way to attend the November 26, 2001 hearing, and that the standard rate of 30¢ per mile should be applied to that travel. Tr. 43. Thus, an additional \$60 should be included in the cost of pursuing their complaint against Ameritech Michigan.

d. Miscellaneous Relief

The Rovases and the Staff also seek an order directing Ameritech Michigan to take a host of other actions. Although the company appears to question the necessity of such an order, it does not object to those requests with any particularity.

Of these various requests, the Commission finds that two should be granted in this case. First, Ameritech Michigan should be ordered to waive all late fees and reconnection charges imposed on the Rovases as a result of this dispute. Second, the company should be ordered to cease and desist from all further violations of the MTA, Commission rules, and the settlement agreement approved in the December 20 order.

Application for Leave to Appeal

On November 5, 2001, Ameritech Michigan submitted a document entitled “Offer of Relief,” in which it proposed stipulating to the entry of an order dismissing the complaint in exchange for its payment to the Rovases of approximately \$425. As noted by the company, its filing was styled after an “Offer of Judgment,” which is authorized under the Michigan Court Rules as a means of inducing settlement by placing the rejecting party at risk for significant sanctions if, at the conclusion of the case, the verdict reached is “more favorable to the offeror” than actual payment of the amount offered. MCR 2.405(D)(1). Those sanctions include, but are not limited to, the opposing party’s attorney fees and costs of expert witnesses.

As noted earlier, the Staff filed a motion to strike the company’s filing, but its motion was denied by the ALJ during the November 26, 2001 hearing. As a result, the Staff filed an application for leave to appeal the ALJ’s ruling, and Ameritech Michigan filed a response to that application.

Among other things, the Staff contends that the ALJ's ruling erroneously gives the Commission's imprimatur to the use of a mechanism designed solely to assist civil courts in thinning their dockets by inducing the settlement of claims for monetary damages. The Staff goes on to assert that the consequences arising from the proposed use of this mechanism, namely "the prospect of imposing Ameritech Michigan's litigation costs on a citizen complainant," will have "a chilling effect on the willingness of citizens to risk filing a complaint" against such companies. Application for leave to appeal, p. 4. The Staff thus requests that the Commission grant its application, reverse the ALJ's ruling, and strike the company's November 5, 2001 filing.

In response, Ameritech Michigan contends that the potential filing of an "Offer of Relief," like that at issue here, is expressly authorized by Rule 509 of the Commission's Rules of Practice and Procedure, 1992 AACS, R 460.17509. Moreover, the company argues, any claim that the attendant sanctions may have a chilling effect on customers' decisions to file complaints in the future is clearly premature. For these and other reasons, Ameritech Michigan contends that the Staff's application should be denied.

The Commission agrees with the Staff and finds that Ameritech Michigan's November 5, 2001 filing should have been stricken. Notwithstanding the company's assertion to the contrary, nothing in the body of Rule 509 authorizes such a filing. Rather, the phrase "Offer of Relief" merely appears in the rule's title as the result of an apparent oversight,⁴ and is not mentioned elsewhere in that or any other Commission rule. Moreover, whether designated as an "Offer of Relief" or an "Offer of Judgment," filings designed to pressure a party into settling for a specified sum are not appropriate in complaint proceedings like this. Complaints filed before the

⁴ Prior to their amendment in early 1992, the Commission's Rules of Practice and Procedure provided for the filing of an "Offer of Relief" as an alternative to filing an answer to a formal complaint. When that alternative form of pleading was discarded in 1992, the drafters simply neglected to make the corresponding revision to Rule 509's title.

Commission frequently seek (as does that filed by the Rovases) orders affecting the future actions of the respondent utility or telecommunications service provider. Thus, a significant goal of those filings is to advance the greater good of all customers. As a result, because the potential chilling effect arising from “Offers of Relief” like that submitted in this proceeding could cause considerable harm to ratepayers throughout Michigan, the Commission concludes that such filings should not be accepted. It therefore finds that the Staff’s application for leave to appeal should be granted, the ALJ’s November 26, 2001 ruling should be reversed, and Ameritech Michigan’s November 5, 2001 filing should be stricken.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission’s Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.
- b. The complaint filed by the Rovases should be granted in part and denied in part.
- c. Ameritech Michigan violated Section 502(1)(a) of the MTA, Rules 32 and 52(1)(c), and the December 20 order.
- d. The circumstances of this case warrant the imposition of fines totaling \$30,000 against Ameritech Michigan.
- e. Ameritech Michigan should, upon issuance of its next bill to the Rovases, provide \$90.60 in additional out-of-service credits, as well as credits for all late fees and reconnection charges imposed on the Rovases as a result of this dispute.
- f. Ameritech Michigan should pay restitution to the Rovases in the amount of \$1,782.
- g. Ameritech Michigan should be ordered to cease and desist from further violations of the MTA, the Commission’s rules, and the December 20 order.

h. The Staff's application for leave to appeal should be granted, the ALJ's November 26, 2001 ruling should be reversed, and Ameritech Michigan's November 5, 2001 filing should be stricken.

THEREFORE, IT IS ORDERED that:

A. The complaint filed on September 5, 2001 by William and Sandra Rovas against Ameritech Michigan is granted in part and denied in part.

B. Within 30 days of the issuance of this order, Ameritech Michigan shall pay to the State of Michigan fines totaling \$30,000 for violations of the Michigan Telecommunications Act, MCL 484.2101 et seq., the Commission's rules concerning system maintenance and service quality, and the Commission's December 20, 2000 order in Cases Nos. U-12571, U-12598, and U-12599.

C. Ameritech Michigan shall, upon issuance of its next bill to William and Sandra Rovas, provide \$90.60 in additional out-of-service credits, as well as credits for all late fees and reconnection charges imposed as a result of this dispute.

D. Within 30 days of the issuance of this order, Ameritech Michigan shall pay restitution to William and Sandra Rovas in the amount of \$1,782.

E. Ameritech Michigan shall cease and desist from further violations of the Michigan Telecommunications Act, MCL 484.2101 et seq., the Commission's rules concerning system maintenance and service quality, and the Commission's December 20, 2000 order in Cases Nos. U-12571, U-12598, and U-12599.

F. The Commission Staff's December 5, 2001 application for leave to appeal is granted, the November 26, 2001 ruling of the Administrative Law Judge is reversed, and Ameritech Michigan's November 5, 2001 filing is stricken.

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 February 25, 2002.

/s/ Dorothy Wideman
Its Executive Secretary

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

Chairman

Commissioner

Commissioner

By its action of February 25, 2002.

Its Executive Secretary

In the matter of the complaint of)
WILLIAM and SANDRA ROVAS against)
AMERITECH MICHIGAN.)
_____)

Case No. U-13079

Suggested Minute:

“Adopt and issue order dated February 25, 2002 granting in part and denying in part the complaint filed by William and Sandra Rovas against Ameritech Michigan, and ordering payment of a \$30,000 fine and restitution in the amount of \$1,782, as set forth in the order.”