

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to consider the implementation of limited number)	Case No. U-13086
pooling trials.)	
_____)	

At the February 1, 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

On August 24, 2001, the Commission received conditional authority from the Federal Communications Commission (FCC) to institute thousands-block number pooling in five area codes. In the Matter of Numbering Resource Optimization, CC Docket No. 99-200 et al., DA 01-2013 (rel. August 24, 2001). On September 7, 2001, the Commission issued an order requesting comments on how to initiate number pooling trials in Michigan. On October 11, 2001, after reviewing the comments, the Commission issued an order requiring that a number pooling trial begin in the 313 NPA no later than February 24, 2002 and in the 734 NPA no later than July 1, 2002. On November 20, 2001, the Commission issued an order addressing the issue of how providers would recover the costs of the number pooling trials.

In that order, the Commission found, among other things, that the shared industry costs should be allocated according to the local number portability (LNP) methodology. The Commission also

found that the carrier-specific costs, such as equipment upgrades and employee training, as well as the shared industry costs allocated to each carrier, should be treated as a cost of doing business. For that reason, the Commission concluded that it was consistent with the FCC's requirements not to provide a special cost recovery mechanism.

On December 20, 2001, Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems, (collectively, Verizon) and Ameritech Michigan filed petitions for rehearing.

Ameritech Michigan asks the Commission to clarify that because (1) the FCC mandates cost recovery, (2) the order rejected the concept of a special new cost recovery mechanism, but (3) the order did not reject Ameritech Michigan's suggestion that the costs be recovered through a temporary adjustment to the LNP surcharge, the order approved Ameritech Michigan's proposal. If the Commission does not agree with that interpretation of the order, Ameritech Michigan argues that the Commission must modify the order to approve a cost recovery mechanism because the FCC's order delegating authority to the Commission so requires.

Verizon argues that it was error for the order to treat number pooling costs as a cost of doing business because the FCC requires the Commission to establish a special cost recovery mechanism. It says that the costs of number pooling are new, non-routine costs of doing business that would not be incurred but for the Commission-imposed requirement that number pooling commence on a trial basis. It says that there is no evidence that any of these costs will be recovered in the absence of a special cost recovery mechanism. It says that because competitive local exchange carriers can increase their rates to recover these costs, it would be discriminatory for the Commission not to permit the incumbents also to recover their costs.

The Commission concludes that it should deny the petitions for rehearing. The FCC requires that the Commission provide a mechanism by which the companies can recover the costs of state

number pooling trials. “[T]he state commissions conducting pooling trials must develop a cost recovery mechanism for the joint and carrier-specific costs of implementing and administering pooling trials.” DA 01-2013, para. 19. “We now direct states that have exercised delegated authority and implemented thousands-block number pooling to likewise commence cost recovery procedures for these state-specific costs.” In the Matter of Numbering Resource Optimization, CC Docket No. 99-200 et al., FCC 01-362 (rel. December 28, 2001), para. 28. The Commission has complied with that requirement. It has concluded that the costs should be treated as a cost of doing business, consistent with the FCC’s determination. FCC 01-362, para. 25 and 37. The result is that the costs are recoverable in the same manner as any other cost of doing business. Ameritech Michigan and Verizon have the right to file notice of an increase in rates for basic local exchange service of not more than the increase in the Consumer Price Index less 1% pursuant to MCL 484.2304(2)(b). If the companies conclude that their costs require a larger increase, they have the right to file an application pursuant to MCL 484.2304(2)(c). The Michigan Telecommunications Act (MTA), MCL 484.2101 et seq., permits alterations in other rates as well that might permit the companies to recover the costs of number pooling trials. In fact, the provisions of the MTA may permit recovery of costs that the FCC would not permit under federal law. See FCC 01-362, para. 37-46. If the rate freeze created by Section 701, MCL 484.2701, which was stayed in federal court at the request of Ameritech Michigan and Verizon, is reinstated, the companies are free to return to the Commission to argue that the rate freeze must yield to the requirement of the FCC that they be permitted to recover the costs of number pooling trials.

The Commission rejects the argument that the FCC requires the Commission to create a mechanism that would permit the companies to increase their rates in addition to, and independent of, the provisions of the MTA. “We also conclude that many of the costs associated with

thousands-block number pooling are ordinary costs for which no additional or special recovery is appropriate.” FCC 01-362, para. 25. Ameritech Michigan and Verizon have not cited any authority for their position that they are entitled to impose a surcharge on customers’ bills to recover any amounts that they spend on number pooling without regard to the recovery of numbering resource costs that is provided by their current rates, the recovery of additional costs that they could obtain under mechanisms that are already available under the MTA, and the reduction in costs that may result from number pooling.

Finally, the Commission denies Ameritech Michigan’s request to clarify that it intended to provide recovery through an increase in the LNP surcharge. The Commission did not approve that proposal, for the reasons discussed in both the November 20, 2001 order and this order.

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. The petitions for rehearing should be denied.

THEREFORE, IT IS ORDERED that the petitions for rehearing filed by Verizon North Inc., Contel of the South, Inc., d/b/a Verizon North Systems, and Ameritech Michigan are denied.

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

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

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 1, 2002.

/s/ Dorothy Wideman
Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated February 1, 2002 denying petitions for rehearing related to recovering the costs of implementing number pooling trials, as set forth in the order.”