

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the request for Commission)	
approval of an interconnection agreement between)	Case No. U-13138
EAGLENET, INC., and AMERITECH MICHIGAN.)	
_____)	

At the January 8, 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

ORDER

On October 10, 2001, EagleNet, Inc., and Ameritech Michigan filed a joint application for approval of an interconnection agreement. Pursuant to Section 252(i) of the federal Telecommunications Act of 1996, 47 USC 252(i) (Section 252), EagleNet requested the adoption of the terms and conditions of the interconnection agreement (including Appendix DSL for line sharing) between Ameritech Michigan and Coast to Coast Telecommunications, Inc., (Coast) that was approved on October 24, 2000 in Case No. U-12382. The agreement establishes comprehensive financial and operational terms for the following: the physical interconnection between Ameritech Michigan's and EagleNet's networks, mutual and reciprocal compensation for the exchange of traffic originated on their respective networks, unbundled access to Ameritech Michigan's network elements, physical collocation, number portability, resale, access to databases, and a variety of other business relationships.

On November 9, 2001, EagleNet filed a statement of clarification concerning the relief it seeks. In that statement, EagleNet notes that, in the joint application, Ameritech Michigan states that it intends to submit to EagleNet an amendment to the agreement to incorporate the rates and the rate structure previously approved by the Commission in Cases Nos. U-11831 and U-12696. EagleNet states that Ameritech Michigan has not submitted any amendments for its consideration or agreement, and no amendments to the contract approved by the Commission's October 24, 2000 order are submitted for approval in this proceeding.

On November 16, 2001, Ameritech Michigan filed a response to EagleNet's statement of clarification in which it requests the Commission to approve the joint application and agreement, as submitted, including the revised pricing schedules.

Section 252 of the federal Telecommunications Act of 1996, 47 USC 252, requires that any interconnection agreement that is adopted by negotiation be submitted to the Commission for approval. 47 USC 252(e) provides in part:

- (2) The State commission may only reject
 - (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) of this section if it finds that--
 - (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
 - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; . . .
- (3) Notwithstanding paragraph (2), but subject to section 253 of this title, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

47 USC 252(e)(2) and (3).

The Commission rejects Ameritech Michigan's request to approve the interconnection agreement with the revised pricing schedule. As the Commission found in the September 27, 2001

orders in Case No. U-13005 and Case No. U-13006, the April 3, 2001 pricing schedule is not part of the agreement approved by the Commission on October 24, 2000 in Case No. U-12382.

Ameritech Michigan has not yet obtained Commission approval of any such amendment, contrary to the requirements of Section 252. Consequently, when EagleNet invoked its right under federal law to adopt the Coast agreement, it could lawfully adopt only the agreement as last approved.

The Commission concludes after reviewing the application and the agreement that EagleNet seeks to adopt, that it should approve the interconnection agreement, without amendment to the pricing schedule or rate structures. The Commission finds that the agreement is consistent with federal and state law and is in the public interest. Under 47 USC 252(i) and MCL 484.2359(2), the services provided under the agreement must be made available to other telecommunications carriers upon the same terms and conditions.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC 151 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 agreement should be approved.

THEREFORE, IT IS ORDERED that:

A. The interconnection agreement between EagleNet, Inc., and Ameritech Michigan, which results from the adoption of the agreement between Ameritech Michigan and Coast to Coast Telecommunications, Inc., that was approved on October 24, 2000 in Case No. U-12382, is approved.

B. Approval of the agreement does not alter the duty of EagleNet, Inc., and Ameritech Michigan to comply with relevant federal and state law and past and future Commission orders and rules.

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

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle

Chairman

(S E A L)

/s/ David A. Svanda

Commissioner

/s/ Robert B. Nelson

Commissioner

By its action of January 8, 2002.

/s/ Dorothy Wideman

Its Executive Secretary

B. Approval of the agreement does not alter the duty of EagleNet, Inc., and Ameritech Michigan to comply with relevant federal and state law and past and future Commission orders and rules.

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

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of January 8, 2002.

Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated January 8, 2002 approving an interconnection agreement between EagleNet, Inc. and Ameritech Michigan, as set forth in the order.”