

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint of the **COMPETITIVE** )  
**LOCAL EXCHANGE CARRIERS ASSOCIATION** )  
**OF MICHIGAN, CMC TELECOM, INC., LONG** )  
**DISTANCE OF MICHIGAN, INC., MCLEODUSA** )  
**TELECOMMUNICATIONS, INC., MICHTEL, INC.,** )  
and the **ASSOCIATION OF COMMUNICATIONS** )  
**ENTERPRISES** against **SBC AMERITECH** )  
**MICHIGAN** for anti-competitive acts and acts )  
violating the Michigan Telecommunications Act. )  
\_\_\_\_\_)

Case No. U-13193

At the November 7, 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 DENYING REHEARING**

On June 6, 2002, the Commission issued an order granting relief in part on a complaint filed by the Competitive Local Exchange Carriers Association of Michigan, CMC Telecom, Inc., Long Distance of Michigan, Inc., McLeodUSA Telecommunications, Inc., MichTel, Inc., and the Association of Communications Enterprises (complainants) against Ameritech Michigan. One item of relief granted in the order was to require Ameritech Michigan to reform its migration procedures, so that customers subscribing to both digital subscriber line (DSL) data service and Ameritech Michigan's voice service could change their voice service to a competitive local exchange carrier without experiencing a disruption in either type of service. On July 3, 2002,

Ameritech Michigan filed a petition for rehearing to challenge aspects of this ruling. On July 24, 2002, the complainants filed an answer.

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACS, R 460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

Ameritech Michigan requests clarification that the June 6, 2002 order did not establish the low frequency portion of the loop (LFPL) as a separate unbundled network element. (The LFPL accommodates voice telephone service in a configuration of a single loop to provide both voice and DSL services.) Ameritech Michigan says that the Commission mistakenly addressed the LFPL in the context of a complaint alleging improper disconnections of service when a customer attempts to change the voice service provided to it over lines that are separate from the DSL lines. It says that issues related to a line-sharing to line-splitting conversion are being briefed in Case No. U-12320 and that the Commission should resolve them in that docket.

The Commission finds that the petition for rehearing should be denied. Count IV of the complaint contains "the specific allegations necessary to reasonably inform the respondent of the nature of the claims the respondent is called upon to defend," to wit, that Ameritech Michigan was impairing competition by mishandling requests for migrations of DSL customers' voice service. R 460.17505(1)(d). Recasting the claim to refer only to a subset of situations in which the voice

and DSL services are being provided over separate lines does not follow from a fair reading of the complaint itself. The record supports the Commission's determinations on these issues.

Ameritech Michigan is correct to say that it and others discussed the line-sharing to line-splitting conversion and similar issues in detail in Case No. U-12320. In the October 3, 2002 order in Case No. U-12320, at 15, the Commission reaffirmed and elaborated on its determinations in the June 6, 2002 order in this case, described deficiencies in Ameritech Michigan's existing migration procedures, and prescribed procedures for Ameritech Michigan to follow in the future. The order in Case No. U-12320 provides a comprehensive, definitive roadmap for resolving, not only the migration issues raised in the complaint, but also others occurring in a variety of scenarios. There is no need for the Commission to reconsider the prospective relief it granted in this case and reaffirmed in Case No. U-12320.

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 petition for rehearing should be denied.

THEREFORE, IT IS ORDERED that the petition for rehearing filed by Ameritech Michigan is 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 November 7, 2002.

/s/ Dorothy Wideman  
Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated November 7, 2002 denying the petition for rehearing filed by Ameritech Michigan, as set forth in the order.”