

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the petition of	)	
<b>ACCUTEL OF TEXAS, INC., d/b/a</b>	)	
<b>1-800-4-A-PHONE's</b> petition for arbitration pursuant	)	
to Section 252(b) of the Telecommunications	)	Case No. U-13352
Act of 1996 to resolve open issues for an	)	
interconnection agreement with Ameritech	)	
Michigan.	)	
_____	)	

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**

On July 23, 2002, the Commission issued an order in this case adopting, with modification, the Decision of the Arbitration Panel and directing AccuTel of Texas, Inc., d/b/a 1-800-4-A-PHONE, (AccuTel) and Ameritech Michigan to file a signed interconnection agreement in compliance with the order. The parties had submitted four issues to arbitration, all of which concerned nonrecurring charges (NRCs) for UNE-P.<sup>1</sup>

On August 12, 2002, Ameritech Michigan filed a petition for clarification of the July 23 order, stating that the parties cannot conform the agreement to the order because they are not clear about what the Commission has ordered them to do. It states that the parties need clarification

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<sup>1</sup> UNE-P refers to the unbundled network element platform, which permits the purchasing local exchange carrier to provide basic local exchange service using a combination of UNEs.

concerning the approved NRCs for currently combined and new UNE-P. Ameritech Michigan takes the position that the migration charge of \$0.35 applies when there is a currently working pre-existing UNE-P. It imposes a different NRC for what it terms a “currently combined” UNE-P, when there is a pre-existing combination of elements, but no current working service on the line. Ameritech Michigan states that the NRC for a currently combined UNE-P includes two elements, a charge for a basic port installation service order and the charge for a basic line port installation. Finally, for what Ameritech Michigan calls a “new” UNE-P, one for which the elements that make up the UNE-P are not already physically connected, it states that the charges are the same as those for whatever loop and port elements the competitive local exchange carrier (CLEC) requests as part of the new combination. For plain old telephone service, Ameritech Michigan states that the charges include the loop initial service order charge, the loop connection charge, the basic line port install service order charge, and the port connection charge. It states that the issues presented here are also before the Commission in Case No. U-12320.

Ameritech Michigan asserts that it has applied these charges to carriers that purchase products and services from its tariffs and now incorporates them into interconnection agreements through the Mi2A Amendment approved in Case No. U-12320. It states that the Commission has approved many Mi2A Amendments containing these charges.

AccuTel responds that Ameritech Michigan’s term “pre-existing migration” does not make sense. It argues that the UNE combination might be pre-existing, but a migration is an action that does not pre-exist. It argues that the Commission stated in the August 31, 2000 order in Case No. U-11831 that “the migration cost determined in the prior order applies and that charge is the only nonrecurring charge for the migration” and that “the nonrecurring charge for one individual UNE is appropriate for the newly installed UNE combination.” *Id.*, p. 10. Thus, AccuTel argues the

Commission has established two levels of nonrecurring charges, one for migrations and one for new installations.

The Commission concludes that neither Ameritech Michigan's nor AccuTel's positions are completely consistent with the Commission's orders in Ameritech Michigan's cost cases. In an order issued today in Case No. U-12320, the Commission reiterated that Ameritech Michigan may assess only a migration charge (\$0.35) for a migration, but could assess the NRCs for one of the underlying UNEs for a new combination. The Commission further found that "[d]espite Ameritech Michigan's creative argument concerning what the Commission must have meant in Case No. U-11831, the simple fact is that the Commission used the term 'new' in the usual manner." *Id.*, p. 13. Ameritech Michigan is not permitted to impose the NRC charges for each UNE when installing a new combination. Rather it is limited to assessing the NRC for one of the underlying UNEs. A new interconnection agreement should be submitted that reflects this understanding.

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.; the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC 151 et seq.

b. Within 10 days of the date of this order, the parties should submit a signed interconnection agreement that complies with the July 23, 2002 order.

THEREFORE, IT IS ORDERED that, within 10 days of the date of this order, Ameritech Michigan and AccuTel of Texas, Inc., d/b/a 1-800-4-A-PHONE, shall submit a signed interconnection agreement that complies with the July 23, 2002 order.

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 November 7, 2002.

/s/ Dorothy Wideman

Its Executive Secretary

THEREFORE, IT IS ORDERED that, within 10 days of the date of this order, Ameritech Michigan and AccuTel of Texas, Inc., d/b/a 1-800-4-A-PHONE, shall submit a signed interconnection agreement that complies with the July 23, 2002 order.

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Case No. U-13352

Suggested Minute:

“Adopt and issue order dated November 7, 2002 directing Ameritech Michigan and AccuTel of Texas, Inc., d/b/a 1-800-4-A-PHONE, to submit a signed interconnection agreement in compliance with the July 23, 2002 order, as set forth in the order.”