

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter of the petition of	)	
<b>BARAGA TELEPHONE COMPANY</b> for arbitration	)	
of interconnection rates, terms, conditions, and	)	
related arrangements with <b>MICHIGAN BELL</b>	)	Case No. U-13383
<b>TELEPHONE COMPANY, d/b/a AMERITECH</b>	)	
<b>MICHIGAN.</b>	)	
_____	)	

At the August 20, 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 ADOPTING DECISION OF THE ARBITRATION PANEL**

On April 26, 2002, Baraga Telephone Company (Baraga) filed a petition requesting arbitration of an interconnection agreement with Michigan Bell Telephone Company, d/b/a Ameritech Michigan (Ameritech Michigan), pursuant to Section 252(b) of the federal Telecommunications Act of 1996, 47 USC 252(b). The petition identified 16 open issues.

An arbitration panel was assigned, consisting of Administrative Law Judge Barbara A. Stump and Commission Staff members Thomas Saghy and David Flees.

On May 22, 2002, Ameritech Michigan filed a response to the petition, in which it raised an additional issue for arbitration. Ameritech Michigan noted that the Commission had resolved Issues 1, 3, 13, and 16 in previous arbitration orders in a manner contrary to Ameritech Michigan's position. Ameritech Michigan did not seek to arbitrate those issues again in this case, but rather

desired to preserve its rights with regard to those provisions to which it had not voluntarily agreed.<sup>1</sup> Further, it stated that it continues to disagree with the Commission's holding regarding the definition of a local call (Issue 1). It urged the Commission to open a separate docket to address this issue.

On June 6, 2002, the parties submitted a joint statement of issues, which indicated that the parties had resolved all but five remaining issues.

On June 11, 2002, the parties each filed a Proposed Decision of the Arbitration Panel (PDAP). Subsequently, the parties agreed that one of the five issues had been resolved.

On June 26, 2002, the arbitration panel issued its Decision of the Arbitration Panel (DAP), in which it concluded, among other things, that it had no authority to deviate from the Commission's prior decisions regarding the definition of a local call or to urge the Commission to open a separate docket to reconsider its previous conclusions. It further concluded that Baraga should be permitted to charge reciprocal compensation rates based on its individual cost study, approved by the Commission in the March 21, 2002 order in Case No. U-13238, despite Ameritech Michigan's pending petition for rehearing in that case. The arbitration panel found Ameritech Michigan's position on the latter issue frivolous.

On July 8, 2002, Ameritech Michigan filed its exceptions to the DAP in which it argues that the panel improperly permitted Baraga to use its tariffed rates for reciprocal compensation rather than mirroring Ameritech Michigan's rates. Ameritech Michigan acknowledges that if its petition for rehearing in Case No. U-13238 is denied, Baraga is entitled to use its tariffed reciprocal compensation rates.

---

<sup>1</sup> Ameritech Michigan asserts that because it has not voluntarily agreed to the resolution required by the Commission's previous orders, the provisions will not be available outside Michigan.

The Commission notes that in the July 23, 2002 order in Case No. U-13238, the Commission rejected Ameritech Michigan's petition for rehearing. Thus, there is no dispute that Baraga has a valid cost study, which, pursuant to 47 CFR 51.711(b), permits Baraga to use its tariffed reciprocal compensation rates. The Commission finds that Ameritech Michigan's position that Baraga did not have an approved cost study pending the Commission's order on rehearing is without merit. No official action had been taken to stay the effectiveness of the March 21, 2002 order in Case No. U-13238. Thus, the order was controlling at the time that the arbitration panel issued its decision. The Commission declines to rule on whether Ameritech Michigan's position on this issue was so devoid of arguable legal merit as to be frivolous. Such a determination is not necessary to the resolution of this case.

Ameritech Michigan next objects to the arbitration panel's declining to request the Commission to conduct a generic case in which it would examine its prior conclusions with regard to the definition of a local call for purposes of reciprocal compensation and access charges. Ameritech Michigan urges the Commission to conduct a generic review of its prior decisions on this issue.

The Commission is not persuaded that it should initiate a generic docket on this issue at this time.

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 results of the DAP should be adopted.

THEREFORE, IT IS ORDERED that the results of the Decision of the Arbitration Panel are adopted. Within 30 days of the date of this order, the parties shall submit a signed interconnection agreement consistent with the Decision of the Arbitration Panel.

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 August 20, 2002.

/s/ Dorothy Wideman

Its Executive Secretary

THEREFORE, IT IS ORDERED that the results of the Decision of the Arbitration Panel are adopted. Within 30 days of the date of this order, the parties shall submit a signed interconnection agreement consistent with the Decision of the Arbitration Panel.

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

MICHIGAN PUBLIC SERVICE COMMISSION

---

Chairman

---

Commissioner

---

Commissioner

By its action of August 20, 2002.

---

Its Executive Secretary

In the matter of the petition of )  
**BARAGA TELEPHONE COMPANY** for arbitration )  
of interconnection rates, terms, conditions, and )  
related arrangements with **MICHIGAN BELL** )  
**TELEPHONE COMPANY, d/b/a AMERITECH** )  
**MICHIGAN.** )  
\_\_\_\_\_ )

Case No. U-13383

Suggested Minute:

“Adopt and issue order dated August 20, 2002 adopting the results of the Decision of the Arbitration Panel and directing Baraga Telephone Company and Ameritech Michigan to submit a signed interconnection agreement, as set forth in the order.”