

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
<b>CARR TELEPHONE COMPANY</b> for authority	)	
to offer expanded local calling and to adjust rates	)	Case No. U-13760
for basic local exchange service.	)	
_____	)	

At the September 30, 2003 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chair  
Hon. Robert B. Nelson, Commissioner

**OPINION AND ORDER**

On August 4, 2003, Carr Telephone Company (Carr) filed a petition for rehearing, pursuant to Rule 403 of the Commission’s Rules of Practice and Procedure, R 460.17403, requesting a rehearing of the Commission’s July 8, 2003 order, which dismissed Carr’s April 10, 2003 application for expanded local calling services and attendant rate adjustments.

No one filed an answer to Carr’s petition for rehearing.<sup>1</sup>

**History of Proceedings**

On April 10, 2003, Carr filed an application requesting authority to offer expanded local calling from its Carr exchange to all adjacent exchanges and to 11 non-adjacent exchanges. The

<sup>1</sup>On August 11, 2003, two additional comments in support of Carr’s application were filed, and on August 20, 2003, an additional comment in opposition to the application was filed. These comments were submitted by customers who had previously filed similar comments during the comment period, which ended June 12, 2003.

application also requested authority to: (1) implement associated monthly rate increases of \$4.42 to its residential one-party line rates and \$5.30 to its business rates; (2) block 1+ originating toll calling from the Carr exchange to the expanded local calling area; and (3) treat new local calls to the expanded local calling area as local, rather than toll calls.

Pursuant to Commission directive, Carr published a notice of opportunity to comment that requested interested persons to submit written or electronic comments to the Commission by June 12, 2003. Eleven individual residential customers sent in comments supporting the application. Another 15 customers joined in signing a petition expressing their support for the application. Four residential customers opposed the application. The Commission Staff (Staff), SBC Michigan (SBC), and the Iserv Company (Iserv) also submitted comments.

On June 24, 2003, Carr filed a motion for leave to file supplemental testimony, pursuant to R 460.17335, to address a new development regarding the network configuration and call routing to be used to implement its proposed local calling expansion plan. When Carr contacted Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems, (Verizon) to address how toll calls could be routed from the Carr exchange to the five Verizon exchanges included in the expanded local calling area, Verizon informed Carr that Verizon would not allow Carr access to Verizon's Muskegon tandem switch for local call termination. On July 7, 2003, Carr submitted a request to withdraw its June 24, 2003 supplemental filing.

On July 8, 2003, the Commission, citing the rigid requirements of Section 203 of the Michigan Telecommunications Act (MTA), 1991 PA 179, as amended, MCL 484.2101 et seq., which places strict filing requirements and time constraints on the processing of applications, dismissed Carr's application due to uncertainty regarding Carr's disagreement with Verizon regarding call routing.

## Carr's Application

Carr is requesting authority to expand its local calling from its current Carr exchange to all adjacent exchanges and to 11 non-adjacent exchanges. Currently, Carr customers may place local calls only within the Carr exchange. If Carr's application is granted, its customers could place local calls to an additional 16 exchanges, including the SBC exchanges of Baldwin, Big Rapids, Fountain, Freesoil, Irons, Luther, Manistee, Reed City, Scottville, and White Cloud; the Verizon exchanges of Hart, Hesperia, Ludington, Pentwater, and Shelby; and the Dublin exchange of the Kaleva Telephone Company (Kaleva). Currently, SBC customers in the Baldwin, Fountain, Irons, and Scottville exchanges and Verizon customers in the Hart exchange can call customers in the Carr exchange as a local call. Carr asserted that the proposed plan is in the public interest and will benefit its customers with a greatly expanded local calling area.

In addition, Carr's application requested rate increases of \$4.42 to its residential one-party line monthly rates and \$5.30 to its business rates. Under this rate structure, customers would receive a monthly 2000-minute calling allowance for calls placed to the added exchanges, with additional minutes in excess of the monthly allowance charged at 4-cents a minute. Local calls occurring entirely within the Carr exchange would not count against the 2000-minute allowance. The proposed rates include the intrastate end user common line service charge, touchtone, and dialing parity services.

Further, Carr sought to block 1+ originating toll calling from the Carr exchange to the expanded local calling area.

Finally, Carr requested confirmation that the new local calls to the expanded local calling area would be considered local rather than toll and treated as local termination for intercarrier compensation paid to SBC, Verizon, and Kaleva.

## Comments

The Staff generally supported the application, which offers Carr's customers the benefit of a greatly expanded local calling area in exchange for a reasonable rate increase. However, the Staff noted that Carr currently has a MTA §304 exemption, which should be forfeited if the application is approved.

The Staff also noted that this is the first application that specifically requests the Commission to block all 1+ calls to the newly expanded local calling area. The Staff supported the request because it is necessary to implement the expanded local calling plan. According to the Staff, calling to these expanded areas can either be local or toll, but not some combination of both. Citing Section 304(1) of the MTA, which, states, in part, "a call made to a local calling area adjacent to the caller's local calling area shall be considered a local call and shall be billed as a local call," the Staff contended that all calls within the new local calling area must be considered local calling whether the calls are included with the 2000-minute cap or are charged at the 4-cents per minute rate.

Finally, the Staff noted that it would not be necessary for the Commission to make an affirmative statement that Carr would be entitled to pay local access for terminating these calls for its new local calling area rather than toll access charges, because the Commission's June 25, 1997 order in Case No. U-11340 found that calls within a local calling area should be compensated with local termination rates and not toll access charges.

Although SBC did not oppose expansion of Carr's local calling area, SBC stated that Carr's application raised significant competitive concerns that could disrupt current intercarrier compensation policies. SBC maintained that Carr has not provided any justification for expanding its local calling into non-adjacent exchanges, other than it would give Carr's customers a substantially

larger local calling area. SBC questioned whether the proposal would benefit a majority of Carr's customers or simply the highest toll users. Therefore, SBC urged the Commission to deny Carr's request to expand its local calling area to its non-adjacent Big Rapids, Freesoil, Luther, Manistee, Reed City, and White Cloud exchanges.

Iserv argued that the application should be rejected because of Carr's proposal to have a 2000-minute rate cap, a 4-cent per minute rate for usage over the 2000-minute calling allowance, and the 1+ dialing prohibition. Iserv stated that the 2000-minute calling allowance could harm the customers by artificially preventing them from subscribing to Internet service providers outside their exchange. With regard to the 4-cent per minute charge above the 2000-minute calling allowance, Iserv believed there are cheaper alternatives to the 4-cent per minute charge above the 2000-minute cap. Finally, Iserv believed that blocking 1+ dialing to the new calling area is unacceptable, because Iserv's customers should be able to "dial around" the local provider to avoid local route trunk failures, to access cheaper plans from other providers, and to promote competition.

### Discussion

Rule 403 of the Commission's Rules of Practice and Procedure 1999 AC, R 460.17403, provides that an application 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. An application 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.

The Commission finds that Carr's application for rehearing should be granted because it now appears that Carr has resolved its differences with Verizon over the cost and routing of calls. Further, the Commission finds that approval of Carr's application for an expanded local calling area is in the public interest because it offers Carr's customers the benefits of a greatly expanded local calling area with a reasonable rate increase. Indeed, the Commission finds that SBC's expression of concern over the effect that granting the application might have on Carr's customers is not persuasive in light of the degree of support given the application by the customers who filed comments in this proceeding. Moreover, arguments similar to those raised by SBC in this case were previously rejected by the Commission's October 3, 2002 order in Case No. U-13489.

The Commission also finds that all of Iserv's concerns should be rejected. Specifically, the Commission finds that the 2000-minute calling allowance proposed by Carr is reasonable. The Commission has approved a 2000-minute calling allowance for other providers. See, the December 6, 2002 order in Case No. U-13533. Further, as noted by the Staff, Carr's customers may be able to use prepaid calling cards to achieve even greater savings beyond the 4-cent per minute rate proposed by Carr.

In response to Iserv's comments regarding blocking of the 1+ dialing issue, the Commission finds that all 1+ calls to the new local calling area must be blocked to effectively implement the expanded local calling area. Calling to these expanded areas can either be local or toll, but not a combination of both. Therefore, all calls within the new local calling area shall be considered local calling whether the calls are included with the 2000-minute cap or are charged at the 4-cents per minute rate.

Finally, it is not necessary for the Commission to issue an affirmative statement that Carr is entitled to pay local access for the termination of these calls for its new local calling area. The

Commission has already decided this issue in its June 25, 1997 order in Case No. U-11340 and its February 5, 2001 order in Cases Nos. U-12515 and U-12528.<sup>2</sup>

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, 1999 AC, R 460.17101 et seq.
- b. Carr's August 4, 2003 petition for rehearing should be granted.
- c. Carr's April 10, 2003 application for authority to offer expanded local calling from its Carr exchange to all adjacent exchanges and to 11 non-adjacent exchanges is in the public interest and should be approved.
- d. Carr's proposed rate increases of \$4.42 per month to residential one-party line users and \$5.30 per month to its business users should be approved.

THEREFORE, IT IS ORDERED that:

- A. Carr Telephone Company's August 4, 2003 petition for rehearing is granted.
- B. Carr Telephone Company's April 10, 2003 application for authority to offer expanded local calling from its Carr exchange to all adjacent exchanges and to 11 non-adjacent exchanges is approved.
- C. The proposed rate increases of \$4.42 per month to Carr Telephone Company's residential one-party line users and \$5.30 per month to its business users are approved.

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<sup>2</sup>Carr is currently exempt from the requirements of Section 304 of the MTA, as recognized in the October 6, 2000 order in Case No. U-12582. As noted by the Staff, the exemption will be extinguished upon the granting of this application because of the rate increases that Carr seeks to implement. See, MCL 484.2304(1)(b).

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/ J. Peter Lark

Chair

( S E A L )

/s/ Robert B. Nelson

Commissioner

By its action of September 30, 2003.

/s/ Robert W. Kehres

Its Acting Executive Secretary

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Case No. U-13760

Suggested Minute:

“Adopt and issue order dated September 30, 2003 granting Carr Telephone Company’s August 4, 2003 request for rehearing and granting its April 10, 2003 application for authority to offer expanded local calling from its Carr exchange to all adjacent exchanges and to 11 non-adjacent exchanges, as set forth in the order.”