

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to facilitate the implementation of the Federal)	
Communications Commission's Triennial Review)	Case No. U-13796
determinations in Michigan.)	
_____)	

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

ORDER SETTING PREHEARING CONFERENCE

On February 20, 2003, the Federal Communications Commission (FCC) announced that it was adopting rules in its Triennial Review proceeding¹ that will affect how incumbent local exchange carriers (ILECs) meet their statutory obligations under the federal Telecommunications Act of 1996 (the federal Act), 47 USC 251, to make unbundled network elements (UNEs) available to new entrants.

In an order issued on May 28, 2003, the Commission commenced this proceeding to facilitate the implementation of the FCC's anticipated Triennial Review Order (TRO) by soliciting input from stakeholders. In so doing, the Commission requested comments on certain specific issues.

¹ Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147.

On August 21, 2003, the FCC released the text of its TRO, which was published in the Federal Register on September 2, 2003 and which will become effective on October 2, 2003. In so doing, the FCC directed the states to conduct proceedings within nine months to make impairment and unbundling determinations regarding, at a minimum, DS1 loops, DS3 loops, dark fiber loops, dedicated transport, and DS0 capacity (mass market) local circuit switching.

To facilitate resolution of the issues presented by the TRO implementation process, the Commission finds that a prehearing conference should be scheduled for this proceeding on October 13, 2003 at 9:00 a.m. Any interested person wishing to participate in this proceeding shall file a notice of intent to participate by October 9, 2003.

At the prehearing conference, the administrative law judge assigned to this matter shall set a procedural schedule that shall permit the Commission Staff (Staff) and other interested persons to participate in a collaborative process aimed at narrowing the list of issues that need to be addressed through the hearing process. Parties are encouraged to resolve issues during the collaborative process and, if appropriate, through mediation or arbitration under Section 252 of the federal Act. The Commission also requests participation of intermodal providers² to assist in making its determinations on impairment.

The Commission has selected this case for participation in its Electronic Filings Program. Documents filed in this case must be submitted in both paper and electronic versions. An original and four paper copies and an electronic copy in the portable document format should be filed with the Commission. Requirements for filing electronic documents can be found in the Electronic Filings Users Manual at: <http://efile.mpsc.cis.state.mi.us/efile/usersmanual.pdf>. You may contact

² Intermodal providers use facilities or technologies other than those found in traditional telephone networks to provide competing services (e.g., cable, wireless, and power line technologies). The FCC has indicated that the existence of intermodal facilities is a factor to consider in determining whether impairment exists in a given market. TRO, at ¶ 443.

the Staff at 517.241.6170 or by e-mail at mpscefilecases@michigan.gov with any questions and to obtain access privileges prior to filing. If any residential customers seek to participate, but lack access to the computer equipment necessary to make electronic filings, they should contact the Commission's Executive Secretary to make alternative arrangements for filing comments.

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.; the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.; and 47 USC 251 and 252.

b. Any interested person wishing to participate in this proceeding should file a notice of intent to participate in this docket by October 9, 2003.

c. A prehearing conference should be scheduled in this docket for 9:00 a.m. on October 13, 2003, to facilitate resolution of the issues presented by the TRO implementation process.

d. The Staff and other interested persons, including intermodal providers, should participate in a collaborative process aimed at narrowing the list of issues that need to be addressed through the hearing process.

THEREFORE, IT IS ORDERED that:

A. Any interested person wishing to participate in this proceeding shall file a notice of intent to participate in this docket by October 9, 2003.

B. A prehearing conference shall be scheduled in this docket for 9:00 a.m. on October 13, 2003, to facilitate resolution of the issues presented by the Federal Communications Commission's Triennial Review Order implementation process.

C. The Commission Staff and other interested persons, including intermodal providers, shall participate in a collaborative process aimed at narrowing the list of issues that need to be addressed through the hearing process.

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

C. The Commission Staff and other interested persons, including intermodal providers, shall participate in a collaborative process aimed at narrowing the list of issues that need to be addressed through the hearing process.

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

Chair

Commissioner

By its action of

Its Acting Executive Secretary

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Suggested Minute:

“Adopt and issue order dated September 30, 2003 scheduling a prehearing conference and inviting interested persons, including intermodal providers, to participate in a collaborative process to resolve the issues presented by the Federal Communications Commission's Triennial Review Order, as set forth in the order.”