

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to consider the competitive implications of)	
SBC Michigan's refusal to waive early termination)	Case No. U-13982
fees for some but not all competitive local exchange)	
carriers.)	
_____)	

At the December 20, 2005 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Laura Chappelle, Commissioner
Hon. Monica Martinez, Commissioner

ORDER CLOSING DOCKET

On December 18, 2003, the Commission issued an order dismissing the complaint in Case No. U-13886, and on its own motion, commencing this proceeding to consider the competitive implications of SBC Michigan's (SBC) refusal to waive certain early termination fees for some potential customers of competitive local exchange carriers (CLECs).¹ The Commission became concerned with this issue as a result of the recurring allegations of problems concerning the

¹The complaint in Case No. U-13886 alleged that in refusing to honor its agreements with TelNet Worldwide, Inc. (TelNet) and ACD Telecom, Inc. to waive early termination fees, SBC made false statements, engaged in deceptive practices, caused confusion regarding the legal rights of a party to a transaction, disparaged competing providers, or continued to bill for a service after it had been canceled in violation of Section 502(1)(a), (c), (e), (f), and (h) of the Michigan Telecommunications Act (MTA). MCL 484.2502. In dismissing the complaint, the Commission found that the record did not establish its jurisdiction over these contracts because they were privately negotiated agreements made without Commission participation or approval. The Commission found that these privately negotiated agreements did not fall within the scope of Section 502 of the MTA.

interpretation of the early termination fee waiver agreement between SBC and the CLECs, and sought comments from interested parties.

United Telecom, Inc., TelNet, TDS Metrocom, Inc., the Competitive Local Exchange Carriers Association of Michigan, and SBC filed comments. TelNet and SBC filed reply comments.

Subsequent to the solicitation of comments and reply comments there have been two watershed developments. First, the mutual waiver agreements at the heart of this controversy have been rescinded.² Secondly, the MTA has subsequently been drastically revised. Moreover, the Commission finds that the comments submitted in this case have done little to shed light on the ultimate competitive implications of this misunderstanding. The parties, in their submitted comments, have simply rearticulated their previous positions in Case No. U-13886, therefore this docket should be closed.

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. The docket to consider the competitive implications of SBC's refusal to waive early termination fees for certain CLECs should be closed.

²Pursuant to the terms of the agreement allowing rescission of the waivers at any time provided that 30 days notice is given, SBC terminated all mutual waiver agreements in November 2003. Therefore, no prospective misunderstandings are anticipated. Indeed, the Commission is not aware of any recurring problems since the agreements were terminated and the Commission solicited comments in this case.

THEREFORE, IT IS ORDERED that the docket to consider the competitive implications of SBC Michigan's refusal to waive early termination fees for certain competitive local exchange carriers is closed.

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
Chairman

(S E A L)

/s/ Laura Chappelle
Commissioner

/s/ Monica Martinez
Commissioner

By its action of December 20, 2005.

/s/ Mary Jo Kunkle
Its Executive Secretary

THEREFORE, IT IS ORDERED that the docket to consider the competitive implications of SBC Michigan's refusal to waive early termination fees for certain competitive local exchange carriers is closed.

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

Chairman

Commissioner

Commissioner

By its action of December 20, 2005.

Its Executive Secretary