

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,	)	
to promulgate rules governing the quality of	)	Case No. U-14435
telecommunications services.	)	
_____	)	

At the August 1, 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 DENYING REHEARING**

On May 17, 2005, the Commission issued an order approving administrative rules governing the quality of telecommunications services. On June 16, 2005, Verizon North Inc. and Contel of the South, Inc., d/b/a/ Verizon North Systems (Verizon), and TDS Metrocom, LLC (TDS), filed petitions for rehearing. No answers to these petitions were filed.

Rule 403 of the Commission's Rules of Practice and Procedure, 1999 AC, R 460.17403, provides that a petition 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. A petition 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.

In seeking rehearing, TDS reiterates the substance of its written comments submitted to the Commission on April 22, 2005. On rehearing, TDS again asserts that the proposed rules should not be applicable to competitive providers because the rules are inconsistent with the Michigan Telecommunications Act (MTA), MCL 484.2101 *et seq.* TDS states that the purpose of the MTA is to foster competition in the telecommunications industry and that the service quality rules are inconsistent with that purpose. TDS also claims that the 25-second standard for answering repair calls under R 484.553(1) and R 484.561(d) should be modified because the standard imposes significant and unreasonable costs on the provider without commensurate benefit to the customer. Furthermore, TDS asserts that the adoption of R 484.553(1) and R 484.561(d) are inconsistent with the Commission's rationale for establishing minimum quality standards and that the decision limiting response time to 25 seconds (rather than 60 as proposed by TDS) was arbitrary and capricious.

In its petition for rehearing, Verizon reasserts its claim that R 484.555(2), 484.555(3), 484.557(3), and 484.558(3), which automatically require credits to be paid to customers for certain out-of-service repair delays and for missed repair appointments, are invalid because they are "automatic penalties." Further, Verizon contends that the MTA does not authorize the Commission to establish automatic penalties without notice and an opportunity to be heard, that the rules are contrary to the legislative intent of the MTA, and that the penalties imposed by the rules are arbitrary and violate due process guarantees.

The Commission addressed TDS's objections in its May 17, 2005 order. Specifically, the Commission noted that while the telecommunications industry has become increasingly competitive, there is nevertheless a demonstrated need for at least a minimum level of service quality standards. *See*, May 17, 2005 order in Case No. U-14435, pp. 8-9. Furthermore, the

Commission was not persuaded that the 25-second average speed of answer requirement under R 484.553(1) and R 484.561(d) would pose an undue hardship on telecommunications providers. *Id.*, pp. 10-11.

In regard to Verizon's objections to R 484.555(2), R 484.555(3), R 484.557(3), and R 484.558(4), the Commission found "inherent in its ability to adopt service quality rules is the ability to adopt sanctions for violation of those rules." *Id.*, pp. 13-14. Further, the Commission agreed that the billing credits provided for under the rules should bear a reasonable relationship to the amount paid for the service. Accordingly, certain billing credits provided for by the rules were reduced to allow providers sufficient incentive to comply with the rules and eliminate any concern that the credits were punitive.

Because the petitioners' arguments are essentially the same as those raised in their comments and addressed in the May 17, order, the Commission finds that TDS and Verizon's petitions for rehearing do not meet the standard set forth in Rule 403.

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.

b. The petitions for rehearing should be denied.

THEREFORE IT IS ORDERED that the petitions for rehearing filed by TDS Metrocom, LLC, and Verizon North Inc. and Contel of the South, Inc., d/b/a/ Verizon North Systems, are denied.

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 August 1, 2005.

/s/ Mary Jo Kunkle  
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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Chairman

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Commissioner

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Commissioner

By its action of August 1, 2005.

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Its Executive Secretary