

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)	
DOBSON CELLULAR SYSTEMS, INC. , for)	
issuance of an order directing the Michigan)	
Exchange Carriers Association, Inc., to show)	Case No. U-15111
cause why its Tariff MPSC No. 24R should not)	
be void and cancelled under federal law.)	
_____)	

In the matter, on the Commission’s own motion,)	
to determine whether the Michigan Exchange)	Case No. U-15187
Carrier Association, Inc.’s Tariff MPSC No. 24R)	
is unlawful and should be canceled.)	
_____)	

At the January 30, 2007 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

On October 23, 2006, Dobson Cellular Systems, Inc. (Dobson), filed an application pursuant to Sections 101, 201, 305a, and 359 of the Michigan Telecommunications Act (MTA), 1991 PA 179, as amended, MCL 484.2101 *et seq.*; and Sections 24 and 25 of 1909 PA 300, MCL 462.24 and 462.25, requesting that the Commission order the Michigan Exchange Carriers Association, Inc. (MECA), to show cause why its Tariff MPSC No. 24R – CMRS¹ End Office Termination Service Regulations, Rates, and Charges (Tariff 24R) should not be declared void and

¹ CMRS is the acronym for Commercial Mobile Radio Service.

unenforceable under federal law and to show cause why Tariff 24R should not be suspended and canceled. Among other things, Dobson's application stated that on September 8, 2005, Baraga Telephone Company, Chippewa County Telephone Company, Hiawatha Telephone Company, Kaleva Telephone Company, Midway Telephone Company, Ontonagon County Telephone Company, and Pigeon Telephone Company filed a complaint in the 11th Judicial Circuit for the County of Alger seeking compensation from Dobson and American Cellular Systems, Inc., for the transport and termination of telecommunications pursuant to the Tariff 24R.

On November 21, 2006, the Commission issued an order dismissing the application without prejudice to Dobson's or MECA's filing an application seeking arbitration of an interconnection agreement(s) between Dobson and the MECA companies regarding future dealings or a request from the 11th Judicial Circuit Court for assistance in the civil litigation pending before it. The Commission declined to enter into the dispute pending in that court at the request of only one party.

On December 21, 2006, Dobson filed a request for rehearing of the Commission's November 21, 2006 order, arguing that the Commission misapprehended the difference between the civil litigation and Dobson's October 23, 2006 application. It states that the civil litigation noted in the application does not cover all MECA providers using Tariff 24R, nor does it relate to the same time periods listed in the application. Further, Dobson argues that arbitration is not a reasonable alternative, because it will not cure the illegality of the tariff as it stands, and any resulting agreement will not relate to periods prior to Commission approval. Dobson reiterates its arguments that federal law prohibits imposition of a tariff on CMRS providers for transport and termination of non-access traffic. Finally, Dobson renews its request that the Commission declare Tariff 24R void and unenforceable.

After reviewing and considering the issues and arguments Dobson presents in its petition for rehearing, the Commission finds that, in lieu of granting Dobson's petition for rehearing, the Commission should commence a proceeding to determine the validity and lawfulness of Tariff 24R. To that end, the Commission establishes Case No. U-15187 and directs MECA to show cause why MECA's Tariff 24R should not be found unlawful and cancelled in light of the Federal Communications Commission's decision in the February 24, 2005 Declaratory Ruling and Report and Order,² and 47 CFR 20.11(d).³

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, 1999 AC, R 460.17101 *et seq.*

b. In lieu of granting Dobson's request for rehearing, the Commission should commence Case No. U-15187 and direct MECA to show cause why its Tariff 24R should not be found unlawful and canceled.

THEREFORE, IT IS ORDERED that:

A. The petition for rehearing filed by Dobson Cellular Systems, Inc., is denied.

B. No later than March 2, 2007, the Michigan Exchange Carriers Association, Inc., shall show cause why Michigan Exchange Carrier Association, Inc.'s Tariff MPSC No. 24R – CMRS End

² *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, FCC 05-42, 20 FCC Rcd. 4855 (2005).

³ 47 CFR 20.11(d) provides: "Local exchange carriers may not impose compensation obligations for traffic not subject to access charges upon commercial mobile radio service providers pursuant to tariffs."

Office Termination Service Regulations, Rates, and Charges should not be declared unlawful and canceled.

C. Interested parties shall file petitions to intervene and grounds therefore no later than March 12, 2007.

D. A hearing in the nature of a prehearing conference will be held on March 20, 2007 at 9:00 a.m. in the Commission's Lansing offices at 6545 Mercantile Way, Lansing, Michigan, 48917. At that time, the ALJ will set an appropriate schedule for completion of this case in consultation with the parties.

E. All documents filed in this case shall be submitted electronically through the MPSC Electronic Case Filings Web site at: <https://efile.mpsc.cis.state.mi.us/cgi-bin/efile/login.pl>. Requirements and instructions for filing electronic documents can be found in the Electronic Case Filings Users Manual at: <http://efile.mpsc.cis.state.mi.us/efile/pdfs/usersmanual.pdf>. An application for account and letter of assurance, required of all first-time users, are located at: <http://efile.mpsc.cis.state.mi.us/efile/pdfs/assurance.pdf>. If you require assistance prior to e-filing, contact Commission staff at 517-241-6170 or by e-mail at: mpscfilecases@michigan.gov.

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

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the Michigan Court of Appeals within 30 days of the issuance of this order, pursuant to MCL 484.2203(12).

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 January 30, 2007.

/s/ Mary Jo Kunkle

Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

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By its action of January 30, 2007.

Its Executive Secretary