

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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| In the matter of the complaint of                            | ) |                  |
| <b>SBC MICHIGAN</b> against <b>LUCRE, INC.</b> , for refusal | ) |                  |
| to pay certain charges lawfully assessed and for other       | ) | Case No. U-14384 |
| violations of duties under law.                              | ) |                  |
| _____  | ) |                  |

At the July 29, 2008 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman  
Hon. Monica Martinez, Commissioner  
Hon. Steven A. Transeth, Commissioner

**ORDER APPROVING FEES AND COSTS**

On August 1, 2005, the Commission issued an order in Case No. U-14384, in which it ordered: (1) Lucre, Inc., to pay the total amount of its indebtedness to AT&T Michigan, f/k/a SBC Michigan, for all unpaid access, SS7, and 9-1-1 charges up to the date of the order; (2) Lucre to cease and desist from failing to comply with AT&T Michigan’s tariffs; and (3) both parties to provide proof of payment in full to the privately-retained mediator within ten days. On August 11, 2005, Lucre filed a petition for rehearing. On September 1, 2005, AT&T Michigan filed its answer to the petition.

On October 21, 2005, Lucre filed a bankruptcy petition that was docketed as Case No. 05-21732 in the United States Bankruptcy Court for the Western District of Michigan (GrandRapids). The matter was assigned to the Honorable Jeffery R. Hughes. The filing of a bankruptcy case under any chapter of the Bankruptcy Code triggers a stay of any action by any

creditor against the debtor or the debtor's property. *See*, 11 USC 362. Upon learning of Lucre's bankruptcy filing, the Commission issued an order on November 10, 2005 finding that further proceedings in this matter should not be undertaken until Lucre's discharge from bankruptcy or until the bankruptcy court granted a motion to lift the automatic stay, whichever occurred first.

On August 23, 2006, the Commission Staff was notified via e-mail that, on August 17, 2006, Judge Hughes had issued an order modifying the automatic stay in Case No. 05-21732 to allow the Commission to issue a decision on the petitions for rehearing. In an order dated September 12, 2006, the Commission denied the petitions for rehearing.<sup>1</sup>

On October 10, 2006, AT&T Michigan filed its bill of costs and fees under the provisions of MCL 484.2203a(5), because Lucre had rejected a mediation determination that did not differ from the result in the Commission's final order. AT&T Michigan requested costs and attorney fees totaling \$178,988.08.

On November 2, 2006, AT&T Michigan filed a motion seeking an order approving the attorney fees and costs, noting that 14 days had passed without Lucre objecting to the bill of costs and fees. Due to the pending bankruptcy proceeding, the Commission did not rule on that motion.

On June 18, 2008, AT&T Michigan filed a motion requesting that the Commission rule on AT&T Michigan's motion to approve the bill of fees and costs. In its motion, AT&T Michigan acknowledges that the lack of Commission order to this point was probably based on the pending bankruptcy proceeding. However, AT&T Michigan states that it entered into an agreement with Lucre, which, among other things, permits the Commission to rule on the outstanding motion. AT&T Michigan states that a Commission ruling on the motion is necessary so that the value of Lucre's debts will be known. The bankruptcy court issued an order approving the agreement on

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<sup>1</sup>On October 13, 2006, Lucre filed a second petition for rehearing, which the Commission denied in an order dated December 12, 2006.

May 30, 2008. AT&T Michigan argues that the Commission may approve its bill of fees and costs.

The Commission finds that the bill of fees and costs should be approved. Lucre has not challenged the listed items in the nearly 21 months that have passed since their filing. The Commission therefore, deems them unopposed and approves them as filed.

THEREFORE, IT IS ORDERED that the bill of fees and costs submitted by AT&T Michigan on October 10, 2006 is approved as filed.

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, under MCL 484.2203(12).

MICHIGAN PUBLIC SERVICE COMMISSION

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Orjiakor N. Isiogu, Chairman

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Monica Martinez, Commissioner

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Steven A. Transeth, Commissioner

By its action of July 29, 2008.

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Mary Jo Kunkle, Executive Secretary