

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the emergency complaint )  
and request for declaratory ruling of **QUICK** )  
**COMMUNICATIONS, INC.**, and **ZENK** )  
**GROUP, LTD.**, against **AT&T MICHIGAN.** )  
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Case No. U-15653

At the December 23, 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 DISMISSING COMPLAINT**

On September 10, 2008, Quick Communications, Inc. (Quick) and Zenk Group, Ltd. (Zenk), filed a complaint alleging that among other things an emergency relief order is needed to prevent approximately 150 customers from losing service on or shortly after September 12, 2008 due to the actions of AT&T Michigan. It further alleged that complainants sought to enforce the terms of an interconnection agreement between Zenk and AT&T Michigan, which the Commission approved in its February 25, 2002 order in Case No. U-13258. On September 17, 2008, the complainants filed an amended complaint seeking emergency relief to prevent terminating services to these customers on or shortly after October 13, 2008.

The complaint notes that this matter is related to Case No. U-15517, in which the Commission granted AT&T Michigan summary disposition on its request for authority to terminate service to Zenk in an order dated July 29, 2008. The Commission found in that order that AT&T Michigan

should wait 45-days after the date of the order to permit Zenk to facilitate customer migration to other service providers without loss of service. That 45-day period expired on September 12, 2008.

On September 24, 2008, AT&T Michigan filed its response to the request for emergency relief in which it states that the request is without merit and completely ignores prior Commission orders governing the requirements for filing a request for emergency relief. It charges the complainants with filing the instant action to harass and further delay payment owed to AT&T Michigan. It argues that the complainants cannot establish even one of the four elements required before the Commission may issue an emergency relief order. Moreover, AT&T Michigan argues, any emergency is self-inflicted by the parties' failure to post adequate security or pay for the services at issue to avoid any alleged harm.

AT&T Michigan goes on to argue that Zenk and Quick essentially have filed an action in an attempt to seek rehearing of the Commission's July 29, 2008 order in Case No. U-15517, and to circumvent requirements in AT&T Michigan's access tariffs and the interconnection agreement between AT&T Michigan and Zenk. AT&T Michigan states that the circuits at issue were purchased under AT&T Michigan's tariffs, not under the interconnection agreement. Those tariffs require payment of arrearages to avoid termination of service and prohibit assignment of circuits unless and until the assignor takes responsibility for all outstanding liabilities associated with those circuits.

On October 14, 2008, AT&T Michigan filed a motion to dismiss the amended complaint.

On October 21, 2008 a prehearing conference was held before Administrative Law Judge Daniel E. Nickerson, Jr. (ALJ). After hearing arguments, the ALJ granted AT&T Michigan's

motion to dismiss the complaint. Exceptions were due November 4, 2008. No exceptions have been filed.

The Commission finds that the ALJ's determination to dismiss the complaint without prejudice was reasoned and should be adopted.

THEREFORE, IT IS ORDERED that the amended complaint, request for declaratory ruling, and request for emergency relief are dismissed without prejudice.

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

By its action of December 23, 2008.

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Monica Martinez, Commissioner

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Mary Jo Kunkle, Executive Secretary

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Steven A. Transeth, Commissioner

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Suggested Minute:

Case No. U-15653 concerns the complaint and request for emergency relief filed by Zenk Group, Ltd., and Quick Communications, Inc., against AT&T Michigan. The order before you dismisses the complaint without prejudice.