

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
AMERITECH MICHIGAN for approval of)
cost studies and resolution of disputed issues)
related to certain UNE offerings.)
_____)

Case No. U-12540

At the March 7, 2001 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

Background

On August 9, 2000, Ameritech Michigan filed an application seeking approval of cost studies related to several unbundled network element (UNE) offerings. Ameritech Michigan also asked the Commission to resolve certain issues that had not been resolved in the collaborative sessions conducted in the context of Case No. U-12320.¹ Ameritech Michigan represented that its proposed UNE offerings satisfy the requirements of the Federal Communications Commission’s (FCC) Third Report and Order and Fourth Further Notice of Proposed Rulemaking, In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC

¹Case No. U-12320 is the docket established to examine Ameritech Michigan’s compliance with Section 271 of the federal Telecommunications Act of 1996, 47 USC 271, which specifies the conditions for Ameritech Michigan to obtain authority to provide in-region interLATA service.

Docket No. 96-98, FCC 99-238 (released November 5, 1999) (UNE Remand Order) and the Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98, In the matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, FCC 99-355 (released December 9, 1999) (Line Sharing Order).

On August 18, 2000, Administrative Law Judge (ALJ) Barbara A. Stump presided over a prehearing conference and granted petitions for leave to intervene filed by Attorney General Jennifer M. Granholm (Attorney General); the Competitive Local Exchange Carriers Association of Michigan; Rhythms Links Inc. (Rhythms); Sprint Communications Company L.P. (Sprint); CoreComm Michigan, Inc., DSLnet Communications, LLC, and Vectris Telecom, Inc. (collectively, the Coalition); Long Distance of Michigan, Inc. (LDMI); MCI WorldCom Communications, Inc., Brooks Fiber Communications of Michigan, Inc., and MCImetro Access Transmission Services, Inc. (collectively, WorldCom); Covad Communications Company (Covad); New Edge Network, Inc. (New Edge); Birch Telecom of the Great Lakes, Inc. (Birch); AT&T Communications of Michigan, Inc., and TCG Detroit (collectively, AT&T); KMC Telecom II, Inc., and KMC Telecom III, Inc.; NextLink Michigan, Inc.; JATO Operating Two Corp.; Z-Tel Communications, Inc.; and Focal Communications Corporation of Michigan. The Commission Staff (Staff) also participated in the case.

Cross-examination of the witnesses occurred on October 23, 24, 26, and 27, 2000. The record consists of 2,127 pages of transcript and 54 exhibits. Ameritech Michigan, the Staff, WorldCom, the Coalition, AT&T, and Rhythms filed briefs on November 15, 2000. Ameritech Michigan, the Attorney General, WorldCom, AT&T, and Rhythms filed reply briefs on November 29, 2000.

Because the Commission agreed to read the record, the ALJ did not prepare a proposal for decision.

Line Sharing

Line sharing is an arrangement in which Ameritech Michigan, as the incumbent local exchange carrier (ILEC), uses the low-frequency portion of the loop to provide voice service to a customer while a data competitive local exchange carrier (data CLEC) uses the high-frequency portion of the loop to provide high-speed data services such as digital subscriber line (DSL) service to the same customer. Ameritech Michigan concedes that federal law requires it to permit line sharing over all-copper loops. On the other hand, Ameritech Michigan takes the position that it is not required to provide line sharing over loops that include fiber facilities. The issue is important primarily with regard to facilities installed as part of Project Pronto, which involves the installation by SBC Communications, Inc. (SBC), Ameritech Michigan's parent corporation, of 25,000 neighborhood gateways with fiber-based next generation digital loop carrier (DLC) technology. Older DLC technologies, which also use fiber facilities, are often not compatible with DSL service.

The Commission concludes that Ameritech Michigan must offer line sharing even if a portion of the loop uses fiber facilities unless it is not technically feasible to do so. A recent FCC order clarifies "that the requirement to provide line sharing applies to the entire loop, even where the incumbent has deployed fiber in the loop" In the matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, FCC 01-26 (released January 19, 2001)

(Reconsideration Order), para 10.² The FCC's rules do not distinguish between fiber and nonfiber facilities in specifying an ILEC's obligation to unbundle. Similarly, access to a copper loop for purposes of line sharing is required at any technically feasible point. Therefore, ILECs are obligated to offer line sharing even when a portion of the loop is fiber and they must enable CLECs to transmit data traffic from the copper facility to the central office. In order to do this, the FCC has indicated in its recent Reconsideration Order that the ILEC can fulfill its obligation "at a minimum, by leasing access to the dark fiber element or by leasing access to the subloop element." Reconsideration Order, para 12. In addition, the FCC has adopted Ameritech Michigan's commitment to provide other alternatives to CLECs in association with the Project Pronto architecture. In the matter of Ameritech Corp., Transferrer and SBC Communications, Inc., Transferee For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission's Rules, FCC 00-336 (released September 8, 2000) (Project Pronto Order). Specifically, Ameritech Michigan has committed to "provide all carriers (including its Advanced Services Affiliate) access to its Broadband Offering, alone and in combination with a voice offering . . . priced in accordance with the methodology applicable to unbundled network elements under sections 251 and 252 [of the federal Telecommunications Act of 1996 (FTA)]." Project Pronto Order, para 6. The FCC found that, in this manner, CLECs will be provided "with an

²On February 2, 2001, Rhythms made a filing citing the FCC's order as further support for its positions in this case. On February 20, 2001, Ameritech Michigan filed a response asserting that its position is fully consistent with the requirements of the FCC's order. On February 23, 2001, Rhythms filed a response to Ameritech Michigan. On February 27, 2001, WorldCom filed a response to Ameritech Michigan. The Commission was already aware of the FCC's order, and nothing contained in the filings is necessary to resolving the issues in this case.

immediate opportunity to compete against SBC in the mass market.” Project Pronto Order, para 23.

As a group, the CLECs contend that Ameritech Michigan must offer the components of the Project Pronto architecture as separate UNEs and must offer those UNEs to support line sharing. In particular, the CLECs argue that the limitations on Ameritech Michigan’s broadband and combined voice and data service offerings will limit their ability to deploy the alternative DSL architectures that some have chosen to deploy. WorldCom argues that the Commission should require Ameritech Michigan to provide unbundled access to the entire loop, including the fiber subloop. The Coalition says that the alternatives to unbundled access to Project Pronto facilities are onerous and not cost-effective and that access to the facilities on a wholesale basis would not be the equivalent of access on an unbundled basis.

At this time, the Commission will not require the unbundling of Project Pronto. The Commission concludes that Ameritech Michigan’s broadband and combined voice and data service offerings will provide immediate opportunities for the provision of DSL services by Ameritech Michigan’s separate affiliate and CLECs alike. The Commission will require that these offerings be made available pursuant to tariff and interconnection agreement amendments, to be approved pursuant to Section 252 of the FTA, 47 USC 252, and priced according to the UNE methodology. Such offerings must also be made available as part of Ameritech Michigan’s unbundled network element platform (UNE-P) offering as well. The Commission notes that Ameritech Michigan is also obligated to transition a Project Pronto customer back to existing copper pairs if a CLEC “wins” that customer and desires to offer service using other types of DSL service. Project Pronto Order, para 40. The Commission additionally recognizes that the FCC is further investigating issues related to access to the high frequency portion of the loop when an ILEC has deployed fiber

facilities. Reconsideration Order, para 55. It is also investigating issues related to collocation and access to remote terminals. In the matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, FCC 00-297 (released August 10, 2000). Further unbundling obligations for Ameritech Michigan may result from either of these proceedings. Similarly, this Commission may review these matters at any time to determine whether Ameritech Michigan's obligations in this regard should be expanded. For now, the Commission concludes that the obligations imposed by this order will provide an immediate opportunity to move forward in the provisioning of DSL services.

Line Splitting

Line splitting, as opposed to line sharing, is an arrangement in which a CLEC, rather than Ameritech Michigan, provides voice service over the low-frequency portion of the loop while a data CLEC (which may also be the voice service CLEC) provides data services over the high-frequency portion of the loop. Ameritech Michigan concedes that CLECs may engage in line splitting when they purchase an unbundled loop (if they do all of the necessary work without its assistance), but asserts that it is not required to permit or facilitate line splitting over the UNE-P.

Ameritech Michigan justifies its refusal to permit line splitting over the UNE-P by arguing that the FCC does not currently require line splitting, and cites paragraphs 72 and 73 of the Line Sharing Order in support. It says that the FCC has also been clear that it need not permit line splitting by CLECs purchasing the UNE-P, a view that it says was reaffirmed in the FCC's order addressing SBC's request to provide long distance service in Texas. In the matter of the application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern

Bell Communications Services, Inc., d/b/a/ Southwestern Bell Long Distance, Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas, CC Docket No. 00-65, FCC 00-238 (released June 30, 2000) (Texas 271 Order), para 323-325. It says that this prohibition on line splitting is necessary to avoid improperly burdening it with coordinating maintenance activities for multiple carriers. It says that the CLECs can purchase the UNEs needed to provide service to their customers but must combine the necessary splitter and digital subscriber line access multiplexer (DSLAM) and obtain any needed collocation services.

The Staff asserts that line splitting is a practical way to introduce effective competition by eliminating unnecessary costs and burdens, such as collocation services or a second unbundled loop, to accomplish what is technically feasible with line splitting over the UNE-P without collocation.

The Commission concludes that Ameritech Michigan must permit line splitting over the UNE-P, at least when the CLECs provide the splitter, as the FCC has now ruled. Reconsideration Order, para 16, 18, and 19. Likewise, based on the discussion in the previous section, the Commission concludes that Ameritech Michigan must permit line splitting even when the loop includes fiber facilities.

Splitters

Both line sharing and line splitting require a device called a splitter to divide the low- and high-frequency portions of the loop. Ameritech Michigan asserts that the FCC has ruled that it cannot be required to provide the splitter, although it has offered, in the context of line sharing, to provide the splitter if requested to do so. When it does so, it proposes to provision splitters on a line-at-a-time basis because it says that the shelf-at-a-time alternative would exhaust the capacity

of its main distribution frames (MDFs). It also says that it will provide the cross-connect between the MDF and the CLEC collocation and will modify its operations support systems (OSS) as necessary to permit line sharing.

Rhythms says that a full array of splitter options should be available, including Ameritech Michigan-owned and CLEC-owned splitters on both a line-at-a-time and shelf-at-a-time basis. It says that the record does not support Ameritech Michigan's fear that the shelf-at-a-time option will exhaust the capacity of the MDFs, particularly because integrated DLC technology and Project Pronto should free up space on the MDFs.

The Coalition says that CLECs should have a choice of configurations: (1) an ILEC-owned splitter located on the MDF, (2) an ILEC- or CLEC-owned splitter located as close to the DS0 termination or MDF as possible, and (3) a CLEC-owned splitter in the CLEC's physical collocation arrangement. It says that the Commission should require Ameritech Michigan to offer splitters on a shelf-at-a-time basis as well as a line-at-a-time basis. The Coalition concedes that the Texas 271 Order did not require ILECs to provide the splitters, but, citing paragraph 328 of the order, argues that the decision does not reflect a decision that an ILEC could not be obligated to do so. Furthermore, it says that line splitting is legally indistinguishable from line sharing and therefore, because Ameritech Michigan has agreed to provide splitters for line sharing, it must do the same for line splitting.

AT&T says that Ameritech Michigan should be required to offer splitters on a line-at-a-time basis, as it now does for data CLECs, without requiring collocation. It says that this reflects good engineering practices while minimizing cost. AT&T says that the addition of a splitter is analogous to adding or removing other loop electronics, a service that ILECs routinely provide and

are legally obligated to provide. It agrees with the Coalition that it is discriminatory for Ameritech Michigan to provide the splitter for line sharing while not doing so for line splitting.

WorldCom says that the Commission should require Ameritech Michigan to provide splitters on a line-at-a-time basis rather than relying on the company's voluntary offer to do so and should require it to install them. It says that a UNE-P configuration with the added electronics necessary for line splitting remains a UNE-P configuration and that there is no technical reason why CLECs providing voice service through the use of the UNE-P need any different technical setup than Ameritech Michigan uses for line sharing. It asks the Commission to make clear that Ameritech Michigan may not break apart combinations of network elements when customers migrate from line sharing (with Ameritech Michigan as the voice service provider) to line splitting (with a CLEC as the voice service provider) and may not require the CLEC to use collocation to provide service.

The Staff says that if line sharing and line splitting are to be effective, Ameritech Michigan must be required to provide splitters at a price that is tariffed and set by the Commission. The Staff agrees with the CLECs that splitters should be considered a part of the loop or a loop enhancement, but does not agree that Ameritech Michigan should be required to buy the splitter designated by the CLEC. The Staff recommends that the Commission allow Ameritech Michigan to provide splitters as it sees fit until a CLEC brings a dispute to the Commission, although the Staff also recommends that the CLECs should be permitted to purchase the splitters of their choice. Because splitters might not be placed in a collocation space, the Staff says that Ameritech Michigan should be required to install and maintain all splitters located outside collocation spaces, and the Staff recommends that Ameritech Michigan be required to place all splitters in the most

convenient space available near the MDF. The Staff supports, at least for now, Ameritech Michigan's proposal to provide splitters on a line-at-a-time basis.

The Commission concludes that Ameritech Michigan should be required to offer splitters as it has offered to do, although it should be required to do so pursuant to tariff and for all line sharing arrangements (i.e., even if fiber facilities are present). The Commission agrees with the Staff that splitters should be provided on a line-at-a-time basis and that if a CLEC wants a splitter other than those offered by Ameritech Michigan, it should have the option of purchasing the splitter and having Ameritech Michigan install it. However, the cost of installing and maintaining shall be paid by the CLEC.

The Commission also agrees with the Staff and the CLECs that splitters should be placed as near the MDF as possible, which is reflected in the pricing discussed below. The Commission does not agree with the CLECs that Ameritech Michigan should be required to provide splitters when it is not the voice service provider. This conclusion is consistent with the FCC's view. Texas 271 Order, para 323-329; Line Sharing Order, para 146. The CLECs have the ability to provide splitters in those circumstances and must do so. The Commission recognizes that the FCC is further investigating issues related to whether the splitter should be considered part of the loop, which may change Ameritech Michigan's obligations in this regard.

Splitter-Related Costs

Ameritech Michigan proposes a recurring charge of \$1.09 per month for a splitter and \$0.46 per month for a cross-connect. It proposes nonrecurring charges for a cross-connect installation and disconnection of an ILEC-owned splitter totaling approximately \$70.

The Coalition recommends a recurring charge of \$0.89 for line-at-a-time splitters owned by Ameritech Michigan. The Coalition says that the recurring cross-connect charge should be zero and the nonrecurring cross-connect charge should be \$10. It says that Ameritech Michigan's recurring cross-connect charge is based on an inefficient network design and that the nonrecurring charge is also based on inefficient operations and double counting, as well as being inconsistent with the \$10 rate that it has offered Covad.

Rhythms says that Ameritech Michigan's proposed cross-connect charges are inflated and unreasonable. It says that the charges should be based on placing splitters in the most efficient location. Instead, it says, Ameritech Michigan proposes a location that increases costs to the CLECs. It argues that if Ameritech Michigan requires the inefficient placement of splitters, Ameritech Michigan should pay the additional cost of its chosen network design. It argues the cost studies also reflect other improper assumptions that increase the costs.

The Commission approves a rate of \$0.89 for splitters that Ameritech Michigan provides on a line-at-a-time basis. The Commission rejects Ameritech Michigan's proposed costs for cross-connects. The costs must be based on an efficient location for the splitters, regardless of where Ameritech Michigan chooses to place the splitters. The FCC expects that the cross-connects will be within the MDF or close enough that the cost of the cross-connect will not be much higher. Line Sharing Order, para 145. The recurring cross-connect charge for UNEs and the UNE-P is \$0.13 per month. The Commission will therefore approve a rate for the line sharing cross-connect of up to \$0.15. Ameritech Michigan has not offered any reasonable basis for concluding that a nonrecurring charge of approximately \$70 is appropriate when it has agreed to charge Covad \$10 for the installation and disconnection of a cross-connect. 11 Tr. 841. The Commission will therefore approve a nonrecurring charge of \$10 for the cross-connect.

Price for the High-Frequency Portion of the Loop

Ameritech Michigan proposes that the monthly rate for line sharing be 50% of the monthly recurring unbundled loop rate, which it says is consistent with paragraph 138 of the Line Sharing Order. The resulting rates would be \$5.13, \$5.65, and \$7.09 for access areas A, B, and C, respectively. It says that this division of the rate is reasonable because virtually all loop costs are common when the line is used for both voice and data services, and it is therefore logical to allocate 50% of the cost to each use.

The Staff sees some merit in allocating the cost as Ameritech Michigan proposes because, if a CLEC were to purchase a UNE loop capable of providing both voice and data services, it would expect to incur some cost for the loop. On the other hand, the Staff says that the Commission has decided in previous cases (e.g., Cases Nos. U-11831 and U-11996) that loop costs should not be specifically allocated to services and instead should be offset by revenues from services that use the loop. The Staff notes that Ameritech Michigan has indicated that its current rates fully recover its costs. The Staff recommends that the Commission follow precedent and not allocate any portion of the loop cost to the high-frequency use of the loop. The Staff suggests that there are two options: First, the Commission could set the price for the high-frequency portion at zero. Second, the Commission could allow Ameritech Michigan to charge the data CLECs up to half the cost of the loop if Ameritech Michigan will credit the voice customer with an equal amount.

The Attorney General is not opposed to the principle of allocating the cost of the loop between the voice and data uses. She is opposed to permitting Ameritech Michigan to continue recovering the full cost of the loop through basic local exchange rates while recovering another 50% from the CLEC that uses the high-frequency portion of the loop.

Rhythms and the Coalition say that the FCC requires that the total element long run incremental cost methodology be extended to line sharing. Because the incremental cost of the high-frequency portion of the loop is zero, they argue that the rate must be zero. Rhythms says that a zero rate achieves the proper result for customers without the needless administrative cost and delay of the Staff's credit proposal. The Coalition says that a non-zero rate would subsidize Ameritech Michigan's voice service as well as being discriminatory.

Ameritech Michigan responds that the Staff's credit proposal would result in basic local exchange service being priced below total service long run incremental cost (TSLRIC), in violation of the MTA. As to the zero rate proposal, Ameritech Michigan counters that the CLECs would surely not agree to allocate all of the cost of the loop to the high-frequency use of the loop and none to the voice service. It also says that it is not competitively neutral to price the high-frequency portion of the loop at zero because no CLEC would be able to match that rate when trying to find a data CLEC to use the same line.

The Commission concludes that it must reject Ameritech Michigan's proposal to price the use of the high-frequency portion of the loop at 50% of the unbundled loop rate. Although all or virtually all of the costs are common, as Ameritech Michigan says, it does not follow that the cost should be allocated evenly between the two uses of the loop. The Commission has previously rejected the argument that loop costs should be allocated to specific uses of the loop. Instead, it has taken the view that loop costs should be offset by revenues from the services that use the loop. The Commission finds that the Staff's proposal is reasonable. Ameritech Michigan shall set the recurring charge for the high frequency portion of the loop at zero or may set it at up to one-half of the unbundled loop rate if it credits an equal amount to line sharing customers (i.e., if Ameritech Michigan charges a data CLEC \$5.00, Ameritech Michigan must credit the voice customer \$5.00).

The option that it selects must apply to all line sharing customers, and the second option, if chosen, must be implemented without an allowance for the minimal administrative costs. Ameritech Michigan shall indicate, in the tariff filing required by this order, which option it elects.

Loop Qualification

Loop qualification is the process of obtaining information about the characteristics of a loop to determine whether the loop can be used to provide high speed data services. Ameritech Michigan has identified 45 loop qualification elements that it will provide to CLECs. That information is usually available electronically, and Ameritech Michigan proposes to charge \$0.10 for each electronic database “dip.” If the information is not available electronically or the CLEC wants information beyond the 45 elements, Ameritech Michigan proposes to charge \$141.38 to cover the cost of manually looking up the information or conducting an on-site visit to collect the information.

The Staff says that, essentially, Ameritech Michigan proposes to charge CLECs for the costs of updating its electronic files. The Staff argues that Ameritech Michigan should be required to keep accurate information, at its own cost, and that the CLECs should be required to pay only the charge for access to the electronic database. The Staff also recommends that if inaccurate information is provided, a refund be made, with a waiver of any cancellation or change service charges necessitated by the incorrect information. The Staff does not object to Ameritech Michigan’s proposal to charge for loop qualification information beyond the 45 elements.

Rhythms says that Ameritech Michigan should be keeping its loop qualification information in its databases and the cost to retrieve that information should be zero or nearly so. It says that Ameritech Michigan should not be rewarded for failing to keep the information in that manner and, in any event, has failed to justify the costs it proposes. It further argues that Ameritech

Michigan must provide direct access to all information to which any of its employees have access, whether in databases or back-end systems or records. The Coalition argues that it is not consistent with proper pricing principles to allow any recovery of loop qualification costs.

The Commission concludes that Ameritech Michigan should not be permitted to impose more than the nominal dip charge for the 45 elements that Ameritech Michigan has identified as relevant to loop qualification. The TSLRIC studies are, or should be, based on a network for which such information is available electronically. The CLECs should not have to pay Ameritech Michigan to update or correct its records or to convert the data to an electronic format. The CLECs should also not be penalized if Ameritech Michigan provides inaccurate information. The Commission therefore adopts the Staff's proposed remedy. Finally, if a CLEC requests additional information or requests a manual loop qualification, it must pay the cost of its request.

Loop Conditioning

Loop conditioning is the process of removing from existing loop facilities devices such as bridge taps and load coils that impair or prevent the provisioning of high speed data services on the loop. Ameritech Michigan has agreed not to charge for any conditioning of loops under 12,000 feet in length. For longer loops, it proposes a variety of nonrecurring charges depending on the device being removed and the length of the loop, but the charges to remove a bridge tap and a load coil, for example, total nearly \$750 for a single loop. Ameritech Michigan says that the UNE Remand Order, at paragraph 193, authorizes it to recover the cost of conditioning lines.

The Staff says that Ameritech Michigan's network benefits from the conditioning of loops. Consequently, the Staff concludes that Ameritech Michigan is improperly trying to force the CLECs to pay for adding value to Ameritech Michigan's network. The Staff notes that, in the case

of integrated services digital network (ISDN) services, Ameritech Michigan does not require customers to pay a nonrecurring charge for line conditioning. 13 Tr. 1459. Instead, the cost of line conditioning is reflected in the recurring charge. The Staff says that if Ameritech Michigan converted the nonrecurring charge for loop conditioning for line sharing into a recurring charge, such as it does for ISDN, and spread the cost over all lines that will be shared or split during a reasonable period of time, the resulting increase would be minimal.

The Staff also argues that Ameritech Michigan's approved TSLRIC studies reflect the cost of loops that are already conditioned. 12 Tr. 1123. The Staff acknowledges that the FCC has said that the CLECs must compensate the ILECs for the costs of conditioning, but maintains that, with prices for loops at or above TSLRIC, the CLECs are already compensating Ameritech Michigan for loop conditioning.

AT&T and WorldCom agree that Ameritech Michigan should not be permitted to impose a charge for line conditioning. They say that Ameritech Michigan now seeks to charge for activities that Ameritech Michigan has been or should have been performing for the past 20 years and to charge for removing impediments that should never have been installed. WorldCom adds that, in Case No. U-11735, the Commission required Ameritech Michigan to establish loop conditioning charges in Case No. U-11831, which the company did not do, and therefore should not be permitted to do now.

Rhythms argues that Ameritech Michigan's conditioning charges inappropriately assume a different network architecture than that used to establish the recurring charges. It says that Ameritech Michigan is required to maintain its physical plant in conformity with generally accepted industry standards, which it says Ameritech Michigan has not done for years. It also argues that removing impediments and transitioning older plant to more current design standards is

part of ongoing plant maintenance and is included as such in the recurring price of the loop. The Coalition agrees.

The Attorney General says that it is unreasonable and unfair to allow Ameritech Michigan to impose a charge for conditioning that adds value to the loops that Ameritech Michigan owns. Further, she argues that the TSLRIC studies are based on DSL-capable loops, which means that the costs of loop conditioning are already being recovered.

Ameritech Michigan responds that the devices it removes during loop conditioning were previously installed to improve voice service and were fully consistent with engineering standards when installed. It denies that their presence in the network can be viewed as a “defect” that must be remedied. It also disputes the view that conditioning improves the network. Finally, it says that its cost studies do not reflect the costs of conditioning.

The Commission concludes that Ameritech Michigan should be permitted to impose loop conditioning charges, although its proposed charges are excessive. As the FCC has ruled, ILECs are entitled to recover the costs associated with loop conditioning. Therefore, Ameritech Michigan is entitled to recover the costs of loop conditioning, but the cost studies that it offered to support those charges assume excessive labor times and assume that lines are conditioned one at a time rather than in binder groups of 25 lines. Ameritech Michigan shall use the time estimates offered by Rhythms’ witness and shall assume that conditioning is done for 25 pairs at a time (rather than the 50 that Rhythms’ witness assumed). Those modifications adjust for Ameritech Michigan’s failure to account for the work that should be done as a part of routine maintenance and for the economies of doing loop conditioning on a bulk basis. It shall use the cost inputs, such as labor rates, approved in Case No. U-11831.

Access to OSS

WorldCom says that the Commission must require Ameritech Michigan to modify its OSS to accommodate line splitting and require it to process manual orders until the system is ready.

Rhythms says that the CLECs should have direct electronic access to the OSS. AT&T and the Coalition agree.

The Commission agrees with the CLECs that Ameritech Michigan must make the OSS modifications needed to support line sharing and line splitting. Reconsideration Order, para 20. It also agrees that until that system is fully operational, Ameritech Michigan must process the orders manually.

Ameritech Michigan proposes, as consistent with paragraph 144 of the Line Sharing Order, a recurring rate of \$0.77 per line to recover the OSS development costs, with that rate to be applied for three years or until it recovers the costs.

Rhythms argues that the Commission should not approve any rate at this time because Ameritech Michigan has failed to provide complete documentation, including a showing of the extent to which the OSS changes benefit its own operations. It also disputes Ameritech Michigan's assumed usage volumes and three-year recovery period. The Coalition agrees.

The Commission concludes that it should not approve the proposed OSS development charge. The amortization period is too short. Ameritech Michigan shall use six years as was used in Case No. U-11280, a prior TSLRIC proceeding. See, July 14, 1997 order, Case No. U-11280, p. 21. Further, the assumed number of lines over which Ameritech Michigan proposes to spread the cost is not adequately supported. Ameritech Michigan shall use its most recent projection for line sharing, including the projection for its affiliate, Ameritech Advanced Data Services, and shall add a reasonable projection for line splitting that is now required.

Intervals for Provisioning Line Sharing

Rhythms, the Coalition, and AT&T propose various intervals for Ameritech Michigan to complete tasks associated with line sharing. Ameritech Michigan responds that these issues are pending in the collaborative process in Cases Nos. U-11830 and U-12320 and should not be addressed in this docket.

The Commission notes that a number of performance measures related to line sharing were proposed by the collaborative group and adopted by the Commission in the February 22, 2001 order in Case No. U-11830. The Commission agrees that the parties should address further issues in the collaborative process.

Dark Fiber

Dark fiber is fiber not currently in use that does not have electronics connected to it. CLECs are entitled to obtain the use of that fiber to meet their needs. The Staff says that Ameritech Michigan's proposal as revised during the course of this case is reasonable. The Staff disagrees with the CLECs' position that they should be able to dictate where Ameritech Michigan places additional fiber routes. Ameritech Michigan has indicated that it will consider CLEC input in making its decision on where to place fiber. The Staff believes that is enough.

The Coalition argues that the price of interoffice and loop dark fiber should be computed without capacity-related costs to reflect how dark fiber is provided to the CLECs.

The Commission agrees with the Staff that Ameritech Michigan's proposal is reasonable, except with respect to the recapture of dark fiber and the price. The terms and conditions for the recapture of dark fiber from CLECs are addressed by the parties' stipulation filed on January 12,

2001. The Commission finds that the stipulation is reasonable and should be approved. The price of dark fiber should be computed without capacity-related costs, as the Coalition argues.

Subloop Unbundling

The Staff says that Ameritech Michigan's nonrecurring cost of \$139.73 for subloop unbundling installation is unreasonably high compared to the approved rates for other loops. The Staff notes that the Commission has been very critical of Ameritech Michigan's approach to determining nonrecurring costs in both of Ameritech Michigan's TSLRIC proceedings, Cases Nos. U-11280 and U-11831. The Staff recommends that Ameritech Michigan's nonrecurring cost for subloops, when added together to make a total loop, should not be permitted to be more than 10% higher than the nonrecurring charges for a total loop. Also, consistent with the Staff's support of Rhythms' proposal regarding fiber loops, the Staff recommends that DSL-compatible loops should take into account fiber and copper loops instead of the more expensive copper loops. Rhythms and the Coalition agree that the cost study is flawed.

The Commission agrees with the Staff that Ameritech Michigan has not computed the subloop costs correctly. There is no reasonable basis for concluding that the costs for unbundled subloops should be so much higher than for other loops. In total, the nonrecurring charges for subloops should not exceed the \$17.82 installation charge for the entire loop.

The Coalition recommends a rate of zero for the service order charge because Ameritech Michigan's rate is unsupported and the service order should be easier to process than the initial loop order.

The Commission approves a rate of \$3.16 for the service order charge, the same as for other loops. There is no apparent reason for the cost to be different when the work should be no different whether the CLEC orders a loop or subloop.

Access to Databases

WorldCom says that the Commission should require Ameritech Michigan to allow it full access to the calling name database rather than being restricted to access on a per-dip basis. It wants to download the entire database so that it can actively use it in providing Caller ID with name service.

The Commission agrees with WorldCom that the CLECs should have access to the database for use in providing service to their customers. There is no apparent reason for Ameritech Michigan not to implement that proposal.

Redlined Tariffs

WorldCom and Rhythms offered redlined versions of Ameritech Michigan's tariffs to implement their proposed changes. The Staff says that the Commission should consider adopting the intervenors' proposed tariffs only after Ameritech Michigan has been given a chance to revise its tariffs and has failed to make the necessary changes.

WorldCom says that it and Rhythms went to great effort to offer tariff language in this proceeding. It says that Ameritech Michigan did not file testimony to address the redlined tariffs, has not claimed that it could not implement those changes, and did not raise any objections in its brief. It says that adopting its language would be consistent with the "baseball" style arbitration used for interconnection agreements, which would be particularly appropriate because the

November 20, 2000 order in Case No. U-12465 deferred issues from that arbitration proceeding to this case.

The Commission concludes that Ameritech Michigan should not be required to use the tariff language offered by WorldCom and Rhythms. The Commission concludes that it is preferable, if possible, not to have multiple parties drafting tariff language. Therefore, Ameritech Michigan should be given the opportunity to modify its tariffs to comply with this order. If it fails to do so, the Commission will reevaluate its decision not to adopt the tariff language offered by others.

Request to Take Notice of Record from Case No. U-12465

AT&T requests that the Commission take notice of the full record in Case No. U-12465, its interconnection arbitration proceeding with Ameritech Michigan. It says that because the Commission deferred issues from Case No U-12465 to this case, the Commission must approve language for its interconnection agreement as well as language for the tariffs. It says that if the Commission adopts its position in this case, it should require Ameritech Michigan to incorporate all relevant contract language into the interconnection agreement, as recommended by the arbitration panel in Case No. U-12465.

The Commission concludes that incorporating the record from Case No. U-12465 is not necessary to resolve the issues in this case. Furthermore, the Commission has agreed to read the lengthy record in this case, and declines to add to that burden with the incorporation of a lengthy record from another docket, only part of which is relevant. On the other hand, the Commission agrees that it is necessary to resolve the contract language for the interconnection agreement at issue in Case No. U-12465. Therefore, the parties should include language in their interconnection agreement that is consistent with the Commission's findings and conclusions in this order. If the

parties are unable to reach agreement, they should each submit, in Case No. U-12465, their last best offer to the Commission, which will pick the language that most closely reflects the holdings in this case.

Tariff Changes

The Staff takes the position that Ameritech Michigan should not be entirely free to amend tariffs that the Commission has approved. It says that it is unreasonable to suggest that Ameritech Michigan may file a tariff as required by a Commission order and then submit another tariff the next day that reverses the implementation of the Commission's order. It says that Ameritech Michigan should update its tariffs to conform with the final order entered in this case and must not be allowed to change those tariffs without prior Commission approval.

WorldCom says that the Staff's proposal is an improvement over the status quo, but is not enough to prohibit the uncompetitive consequences of allowing Ameritech Michigan to change tariffs and forcing the CLEC to pursue protracted litigation. It prefers its approach, as shown on Exhibit I-1, which it says allows the carriers to focus on resolving disputes and conducting their business rather than focusing on litigation.

The Commission agrees with the Staff that Ameritech Michigan is not free to reverse a Commission order by filing nonconforming tariffs the day after filing conforming tariffs. The Commission adopts the Staff's proposal. Ameritech Michigan must file tariffs that comply with this order. Once it has done so, it must provide notice to all affected customers 30 days prior to the effective date of any proposed change in the rates, terms, and conditions of the tariffs. Customers may file objections within 14 days. After reviewing the objections, if any, the Commission may begin collaborative discussions, initiate a contested case, issue emergency relief orders, or decide

not to take any action. Nonconforming tariffs will not be effective during the pendency of a collaborative discussion or contested case. The Commission does not find it necessary to go beyond that to adopt WorldCom's proposal.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACRS, R 460.17101 et seq.

b. Ameritech Michigan's application is approved except as modified by this order.

THEREFORE, IT IS ORDERED that, within 30 days, Ameritech Michigan shall file the revised cost studies and tariffs needed to comply with this order.

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; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of March 7, 2001.

/s/ Dorothy Wideman
Its Executive Secretary

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; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of March 7, 2001.

Its Executive Secretary

In the matter of the application of)
AMERITECH MICHIGAN for approval of)
cost studies and resolution of disputed issues)
related to certain UNE offerings.)
_____)

Case No. U-12540

Suggested Minute:

“Adopt and issue order dated March 7, 2001 establishing rates, terms, and conditions for Ameritech Michigan to offer line sharing and line splitting, among other services, as set forth in the order.”