

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of **SBC MICHIGAN**'s request for)
classification of business local exchange service as)
competitive pursuant to Section 208 of the Michigan) Case No. U-14323
Telecommunications Act.)
_____)

In the matter of **SBC MICHIGAN**'s request for)
classification of residential local exchange service as) Case No. U-14324
competitive pursuant to Section 208 of the Michigan)
Telecommunications Act.)
_____)

At the January 6, 2005 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

OPINION AND ORDER

On October 26, 2004, SBC Michigan (SBC) filed a notice with the Commission claiming that a competitive market exists for business and residential local exchange services in all exchanges served by SBC in Access Areas A and B¹ pursuant to Section 208 of the Michigan Telecommunications Act (MTA), 1991 PA 179, as amended, MCL 484.2208. The primary effect of a

¹ The exchanges in Access Areas A and B are located in the metropolitan Detroit, Lansing, and Grand Rapids areas. They consist of SBC's Detroit, Royal Oak, Southfield, Grand Rapids, Flint, Livonia, Farmington, West Bloomfield, Lansing, Northville, Troy, Plymouth, Ann Arbor, Wayne, Birmingham, Ypsilanti, Warren, Utica, Auburn Heights, Center Line, Pontiac, Roseville, Rochester, Walled Lake, Mt. Clemens, Romulus, Drayton Plains, and Trenton exchanges.

declaration that a competitive market exists is that “the rate for the service shall be deregulated and not subject to review under” the MTA. MCL 484.2208(2).

The Commission provided an opportunity for interested persons to comment on SBC’s classification of business and residential basic local exchange service as competitive. Comments on the competitive classification were filed by the Commission Staff (Staff), the Competitive Local Exchange Carriers Association (CLECA), Talk America Inc., TDS Metrocom, LLC (TDS), the Telephone Association of Michigan (TAM), the Michigan-Based CLEC Coalition² (CLEC Coalition), Attorney General Michael A. Cox (Attorney General), and AT&T Communications of Michigan, Inc. (AT&T). Reply comments were filed by SBC, MCImetro Access Transmission Services LLC (MCImetro), LDMI Telecommunications, Inc. (LDMI), and the Staff.

Positions of the Parties

SBC

According to SBC, basic local exchange services provided to business and residential customers are competitive in SBC’s exchanges in Access Areas³ A and B. SBC stresses that such services are available from more than one unaffiliated provider in these areas. SBC also maintains that Section 208(3)(a) of the MTA is satisfied because competing telecommunications services are currently available from other providers via facilities-based competition and through competitors using SBC’s unbundled network elements (UNEs), including the unbundled network element

² The CLEC Coalition includes TelNet Worldwide, Inc., Quick Communications, Inc., d/b/a Quick Connect USA, Grid4 Communications, Inc., CMC Telecom, Inc., Zenk Group, Ltd., d/b/a Planet Access, JAS Networks, Inc., and Climax Telephone Company.

³ An Access Area is a group of exchanges or rate centers, as set forth in SBC’s tariffs, that are grouped for rate purposes based on the number of lines per square mile. The exchanges that are within Access Areas A and B are specified in SBC’s Tariff MPSC No. 20R, Part 4, Section 2, Sheets 13-34. The boundaries for each exchange are delineated in Tariff 9 MPSC No. 20R, Part 4, Section 6.

platform (UNE-P). Further, SBC insists that the existence of competition and end-user usage has been demonstrated and measured by independent and reliable methods including, but not limited to, studies undertaken by the Staff, previous findings of the Commission, and findings of the Federal Communications Commission (FCC). SBC also asserts that the rates and charges for the business and residential basic local exchange services have changed within the previous 12-month period. SBC also states that functionally equivalent services, including basic local exchange service provided by competitors, integrated access services, intermodal competition from cable providers, cellular telephone service offered by unaffiliated providers, and Voice over Internet Protocol (VoIP) services offered by unaffiliated providers are reasonably available to end users in the affected exchanges.

SBC represents that, while the percentage of total business and residential basic local exchange service lines served by these competitive providers varies, competitors currently serve a significant and growing percentage of business basic local exchange service lines and have the ability to serve all SBC business basic local exchange service customers within the relevant geographic area.

SBC notes that two of the other statutory prerequisites have been met. According to SBC, approval of its new total service long run incremental cost (TSLRIC) studies by the September 21, 2004 order in Case No. U-13531, satisfies Section 208(9) of the MTA. Moreover, SBC maintains that beginning with bills issued on the October 26, 2004 billing cycle, SBC gave the notice required by Section 208(6) of the MTA to its affected business and residential customers in Access Areas A and B through a bill page message.

For these reasons, SBC urges the Commission to permit the proposed competitive classification of business and residential basic local exchange services to take effect without a

hearing. However, in the event that the Commission requires a hearing under Section 203, SBC contends that the hearing should be scheduled on an expedited basis.

CLECA

CLECA neither supports nor opposes SBC's proposed classification. According to CLECA, the application is overly broad as to the geographic areas to which it would be applied. Further, CLECA maintains that there has not been sufficient time to analyze the material supplied, particularly the material provided under seal, which was never made available to the other interested parties. Therefore, CLECA requests that the Commission hold a hearing to review the application and its supporting documentation.

LDMI

LDMI believes that the data relied on by SBC is stale. LDMI asserts that market share of competitive local exchange carriers (CLECs) is declining, which could be verified by more recent data. LDMI contends that a "sea-change" occurred in 2004 that has not yet been detected by the data available to the Commission or the Legislature. According to LDMI, CLEC gains in market share in Michigan have suddenly come to an end, and SBC is now rapidly gaining market share back from CLECs. LDMI urges the Commission to evaluate how to use its authority to preserve the pro-competitive objectives in the telecommunications arena already achieved in Michigan. Additionally, LDMI is concerned that the problem of stale data could delay an attempt by the Commission to re-regulate the telecommunications industry. However, LDMI does not agree with the Staff's suggestion of imposing quarterly reporting obligations on all CLECs. Rather, LDMI maintains that the Commission should order SBC to produce necessary reporting, on a monthly basis, which will provide evidence of the trends, and the extent of any changes. LDMI urges the

Commission to require SBC to publicly report month-end data regarding (a) the total number of UNE-P lines, (b) the total number of UNE-L lines, (c) the total number of resold lines, and (d) the total SBC billable access lines.⁴ Finally, LDMI maintains that the Commission should set this matter for hearing to determine if the requirements of Section 208 have been met and whether the geographic area suggested by SBC is appropriate.

Talk America

Talk America urges the Commission to delay consideration of SBC's application until after the FCC's latest pronouncement on the unbundling obligations of incumbent local exchange carriers (ILECs) pursuant to Section 251 of the federal Telecommunications Act of 1996.⁵ According to Talk America, only after fully understanding the effect of the FCC ruling should the Commission broach the issue raised by SBC's application. Further, Talk America cautions the Commission to make it abundantly clear that the end of rate regulation over basic local exchange service does not mean that the Commission may not utilize its regulatory authority to protect both customers and competitors. Talk America is concerned that SBC is still the dominant provider of basic local exchange service and has control of a CLEC's access to the local loop. Additionally, Talk America believes that the Commission must ensure that SBC complies with Section 321 of the MTA, which obligates SBC to charge rates for basic local exchange service that are at least equal to its TSLRIC.

⁴ LDMI believes that this information should be reported to the Commission in the same categories as reported to the FCC on an annual basis (Residence Lifeline, Residence Non-Lifeline, Business Single Line, Business Multiline, Subject to Special Access Surcharge, and Total).

⁵ The FCC announced its ruling on December 15, 2004, but the text of its order has yet to be published.

TDS

TDS recommends that the Commission conduct a thorough investigation of SBC's assertions that the standards set forth in Section 208 have been satisfied. According to TDS, only through the safeguards of a contested case hearing will the Commission be assured that granting the relief requested in SBC's application is in the public interest. In this regard, TDS urges the Commission to carefully review the data submitted under the veil of confidentiality.

TDS is fearful that, if rate regulation is prematurely terminated in individual exchanges before competition is well-established, then customers may be subjected to abusive monopoly pricing. TDS is also concerned that SBC could use its monopoly power to raise rates in non-competitive exchanges to subsidize very low prices in those exchanges where competition may be beginning to take hold.

TDS believes that its ability to compete for customers has been harmed by developments in the regulatory environment. First, TDS is concerned that SBC and other ILECs are challenging its ability to obtain key UNEs before the FCC. Second, TDS states that SBC's recent wholesale rate increases as a result of the September 21, 2004 order in Case No. U-13531 narrow the margin of profitability to the point that TDS may need to reevaluate its ability to compete for customers in Access Area B.

Given the eventual demise of UNE-P, TDS doubts SBC's claims regarding the continued existence of a vibrant competitive market. Further, TDS maintains that SBC has wholly failed to demonstrate that price changes in the 30 exchanges where SBC seeks to eliminate rate regulation are related to competitive pressures. Citing the Proposal for Decision (PFD) in Case No. U-13796, TDS contends that there is no evidence that any form of intermodal service is "comparable in cost, quality and maturity to the incumbent switched mass market voice services." PFD at page 22.

TAM

TAM fully supports the classification of business and residence basic local exchange services as “competitive” within the meaning of Section 208 of the MTA. According to TAM, SBC’s filing shows that competition is robust in the identified areas, which eliminates the need for further rate regulation. TAM maintains that there is ample evidence that the proliferation of CLECs, wireless providers, and VoIP providers has resulted in robust competition for business and residential basic local exchange and similar services in the most densely populated areas of Michigan. TAM argues that it is beneficial to allow market forces, such as supply and demand, rather than rate regulation to determine prices for basic local exchange service. Because the providers of VoIP and wireless services are free to adjust their prices without the oversight of a regulatory body, TAM believes that ILECs and CLECs are competitively constrained by rate regulation. TAM insists that the elimination of rate regulation would even the regulatory playing field for all providers of basic local exchange service or similar services by allowing ILECs and CLECs to react quickly to changes in market conditions and costs of providing service.

CLEC Coalition

The CLEC Coalition maintains that SBC’s application should be denied in its entirety. According to the CLEC Coalition, SBC has not demonstrated that actual competition exists for all classes of customers throughout Access Areas A and B. Therefore, the CLEC Coalition argues that the end of rate regulation in those areas would negatively affect the development of competition. The CLEC Coalition also insists that SBC’s application fails to address SBC’s obligation under Section 251(c)(4) of the FTA to offer its telecommunications services for resale at wholesale rates. Additionally, the CLEC Coalition is concerned that the absence of retail rate regulation could complicate efforts by CLECs to ascertain SBC’s wholesale rates. For this reason,

the CLEC Coalition believes that if the application were to be granted, then the Commission must require SBC to post all of its retail offerings to effectuate Section 251(c)(4) of the FTA.

Citing testimony that SBC intends to increase the rates of some customers while decreasing the rates of other customers, the CLEC Coalition asserts that SBC should not be permitted to use rate deregulation to selectively target the customers of its competitors while maintaining or raising the rates of customers that do not have the knowledge, opportunity, or inclination to consider competitive options. The CLEC Coalition also insists that the Commission should require that the wholesale discount under Section 251(c)(4) of the FTA be applied to SBC's lowest retail offering.

The CLEC Coalition also maintains that SBC has not demonstrated that competitive options are available to all classes of residential and business customers within Access Areas A and B. Unless competitive options are available throughout these geographic areas to all classes of customers, the CLEC Coalition asserts that rate deregulation will leave SBC free to discriminate against those customers that do not have competitive options.

Finally, the CLEC Coalition states that SBC's case is built on stale data. According to the CLEC Coalition, competition in Michigan has begun to contract. Citing the abandonment of marketing efforts by several CLECs and the loss of market share by several of its members, the CLEC Coalition contends that the demise of UNE-P will have a significant adverse effect on competition in Michigan. Accordingly, the CLEC Coalition maintains that at a minimum, interested parties should be provided an opportunity to refute SBC's assertions regarding the direction of competition in Michigan in a full and complete contested case proceeding.

Attorney General

The Attorney General insists that SBC's application should not be considered without a hearing or without adequate consideration of the recent major determinations by the FCC. Further,

the Attorney General is concerned that the data relied on by SBC ignores information post-December 2003. Citing post-December 2003 events such as reversal of the FCC's Triennial Review Order, the FCC's interim rules, the FCC's announcement of permanent rules, and this Commission's decisions in Case No. U-13531, the Attorney General argues that it would be shortsighted for the Commission not to examine competition figures for 2004 as well as consider the effect on future competition as the result of the permanent rules from the FCC. The Attorney General observes that similar concerns regarding the effect that the demise of UNE-P might have on Michigan competition were espoused by both the Attorney General and the Commission in regards to SBC's Section 271 application. Moreover, because the majority of Michigan's CLEC customers are served over UNE-P, the Attorney General is concerned that its demise could have a significant adverse effect on competition in the affected areas. For these reasons, the Attorney General requests that the Commission delay the proceedings in this case or, in the alternative, hold a hearing under Section 203 of the MTA.

AT&T

AT&T states that it is without sufficient information at this time to comment on SBC's application. Accordingly, AT&T maintains that its comments are provisional and may change as additional information becomes available. In any event, AT&T indicates that its two principal concerns are that (1) the Commission expressly state that the imputation requirements of Section 362 of the MTA will continue to apply to SBC in the geographic areas subject to the order, and that (2) SBC not be relieved of any obligation to provide nondiscriminatory access to its network as required by federal or state law, including the obligation to provide nondiscriminatory interconnection or access to its network facilities pursuant to Section 251 of the FTA.

AT&T maintains that the imputation requirements in Section 362 were intended to prevent a provider that wields monopoly control over essential inputs from using its dominance to prevent rivals from competing effectively in the markets where those facilities are used. According to AT&T, the existence of a moderate level of competition in the downstream market does not necessarily eliminate the potential for abuse by a provider that controls facilities that are essential inputs for competitors in that market. Indeed, AT&T notes that SBC's application makes no claims regarding its control over such facilities.

AT&T also insists that a declaration that a competitive market exists for local exchange services in all exchanges served by SBC in Access Areas A and B would not relieve SBC of any obligation to provide nondiscriminatory access to its network as required by federal or state law, including SBC's obligations under Section 251 of the FTA and Section 355 of the MTA to unbundle network elements. AT&T urges the Commission to render this point absolutely clear in any final order in this case by explicitly noting that SBC continues to be bound by legal obligations imposed by these and other similar statutes.

MCImetro

MCImetro argues that freeing providers from rate regulation pursuant to Section 208 of the MTA does not mean that the tariffing system would no longer be in place in Access Areas A and B. According to MCImetro, SBC would still be bound by the tariffing requirements of Section 202(b), the TSLRIC floor pricing requirements of Section 321, the imputation requirements of Section 362, and the requirements in federal and state law to provide other carriers with nondiscriminatory access to its network. Additionally, MCImetro argues that there is no need to saddle CLECs with additional burdensome discovery or information requests in the name of monitoring competition. MCImetro contends that the Commission's existing tools are appropriate

to this task. According to MCImetro, the annual reporting of lines is sufficient. Further, MCImetro maintains that the Commission may garner information from SBC's tariffs to monitor the frequency and extent of any rate changes. Only if there is some cause for alarm, MCImetro asserts, should the Commission seek additional information from CLECs on an ad hoc basis.

Commission Staff

In its initial comments, the Staff withheld any specific recommendations, but it did offer some general observations. According to the Staff, the future of UNE-P as a method to provide unbundled access to competitors is uncertain and likely to be eliminated when the FCC issues permanent rules. The Staff maintains that the demise of UNE-P will have a particularly negative effect in Michigan because the Commission advanced competition in this state via Section 355 of the MTA. Primarily through use of UNE-P, CLECs were able to increase their lines at an average rate of 5% annually over the last five years to the point that in 2003 CLEC lines accounted for 26% of the total lines in Michigan.

The Staff observes that the results for 2004 will not be known until the providers file reports in the first quarter of 2005. However, the Staff believes that Michigan is experiencing some downward trends in its competitive market. The Staff would like to have more current data to review before making any determinations or recommendations on the current state of the competitive market in Michigan. The Staff is also concerned that 2004 data will not reflect the effect of any unbundling changes made during December 2004 by the FCC. Because of the delay associated with annual reporting, the Staff suggests that the Commission may wish to require companies to report data more frequently, which would make it easier to accurately assess the levels of competition for use in the Commission's future determinations.

After reviewing the comments, the Staff recommended that the Commission not act on SBC's application before conducting a contested case proceeding pursuant to Section 203 of the MTA. Additionally, the Staff recommended that during the contested case proceeding, the Commission allow the parties access to the confidential material SBC provided under seal. According to the Staff, SBC's concerns regarding the confidential nature of the information can be addressed through a protective order.

Discussion

Section 208 of the MTA specifies the requirements that must be met for a rate-regulated service to be classified as competitive. A service is defined as competitive under the MTA if for an identifiable class or group of customers in an exchange, group of exchanges, or other clearly defined geographical area, the service is available from more than one unaffiliated provider and three or more of the five criteria specified in Section 208(3) apply. Those criteria are:

- (a) Actual competition, including facilities-based competition, exists within the local exchange, group of exchanges, or geographic area.
- (b) Both residential and business end-users have service alternatives available from more than 1 unaffiliated provider or service reseller.
- (c) Competition and end-user usage has been demonstrated and measured by independent and reliable methods.
- (d) Rates and charges for the service have changed within the previous 12-month period.
- (e) There is a functionally equivalent service, reasonably available to end-users, from an unaffiliated provider or supplier.

SBC has filed to classify business and residential basic local exchange service as competitive in Access Areas A and B. According to SBC, in Access Areas A and B, CLECs serve approximately 35% of the business lines of which SBC is aware through a combination of UNE-P, resale, and use of their own facilities. SBC maintains that there are at least three facilities-based providers, including itself, that provide basic local exchange services in each exchange within

Access Areas A and B. According to SBC, there are 62 providers using either UNE-L, UNE-P, or resale to provide business basic local exchange service, 23 facilities-based providers using UNE-L to provide business basic local exchange service, and 25 facilities-based providers providing business basic local exchange service in Access Areas A and B.

SBC sought to bolster its interpretation of the data through reference to reports prepared by the Commission and the FCC.⁶ Citing the Staff's May 2004 report on the results of its fifth annual *Competitive Market Conditions Survey* (Staff Report), SBC states that 62% of CLEC lines in Michigan were located in the Detroit area, which comprises a majority of Access Areas A and B. SBC stresses that the Staff Report also noted that 22% of CLEC lines in Michigan were in the Grand Rapids area and 7% were in the Lansing area, which are the other two major cities making up Access Areas A and B. According to SBC, the Staff Report supports a conclusion that SBC's interpretation data regarding CLEC market share is reasonable.

With regard to the FCC's findings, SBC states that the FCC publishes its data approximately every six months and provides data on the number of access lines (both ILEC and CLEC), as well as data on how CLECs serve their end users, the quantity of mobile wireless subscribers, and the extent of competition looking at it on a zip code level. According to SBC, the most recent FCC data demonstrates that as of December 31, 2003, CLECs served approximately 1.5 million access lines, or 25% of the access lines in Michigan. SBC asserts that the FCC found that CLECs' share of the Michigan access lines grew steadily over the last five years and is consistent with the Commission's findings. Further, SBC points out that the FCC's report shows that the number of mobile wireless telephone subscribers has grown by 9% from December 2002 to December 2003.

⁶ MCL 484.2208(3)(c) provides that competition and end-user usage may be demonstrated and measured by independent and reliable methods.

Finally, SBC notes that the FCC found that 90% of Michigan's zip codes had at least one CLEC, and that 65% have four or more CLECs.

Balanced against SBC's contentions are the concerns raised by the Staff and the CLECs that the telecommunications market is currently experiencing significant upheaval and uncertainty due to regulatory changes, such as the purported demise of UNE-P, the announcement of the FCC's latest attempt to adopt ILEC unbundling rules, and the impending sunset/revision of the MTA. Additionally, the Staff and the CLECs stress that the data relied on by SBC is stale and may no longer accurately portray the status of the telecommunications market.

Weighing all of these concerns, the Commission finds that SBC's case for the desired classification is strongest for business basic local exchange service in the more densely populated areas, which are associated with Access Area A. The exhibits attached to SBC's testimony demonstrate that more fiber deployment and arguably more facilities-based competition have occurred in Access Area A compared to Access Area B. Despite the issues raised by those calling for an immediate hearing, which could delay granting SBC's request for several months, the Commission finds that SBC has made a sufficient showing as required by MCL 484.2208 to allow the Commission to take immediate action to declare business basic local exchange service provisionally competitive throughout SBC's Access Area A provided that some safeguards are put into effect and remain in place. Specifically, the Commission is persuaded that it should declare business basic local exchange service in SBC's Access Area A competitive for the purposes of a one-year trial period.⁷ During that period, the rates charged by SBC and all other providers in the business basic local exchange service market for Access Area A will be deregulated. This will enable all providers to design, price, and package their services to meet the needs of the

⁷ The trial period will be from January 7, 2005 to January 6, 2006.

competitive marketplace. However, other aspects of their services will remain subject to all other applicable regulations, including requirements pertaining to licensing, interconnection obligations, local calling areas, lifeline, E-911, dual party relay service, 976 blocking, handicapped exemptions, tariffing requirements, and other provisions of the MTA imposing specific obligations on local exchange service providers. Providers would also be subject to applicable provisions of the FTA.⁸

In addition to the one-year trial period, which will provide the Commission an opportunity to use the experience garnered during the trial period as well as to assess the effects of the FCC's phase out of UNE-P to determine whether to make the competitive declaration permanent, the Commission finds that frequent and timely monitoring of the state of competition must take place throughout the trial period. To that end, SBC and all CLECs affected by this order are directed to submit reports to the Commission on a quarterly basis⁹ on line counts and other such competitive data that is currently collected by the Staff on an annual basis. These reports, which should be submitted in a confidential manner, will be reviewed by the Staff. To facilitate the Staff's review, the data should be submitted on an access area basis.

The Commission also is persuaded that SBC's request to classify its business basic local exchange service in Access Area B and its request to classify its residential basic local exchange service in Access Areas A and B should be set for a Section 203 hearing pursuant to MCL 484.2208(8). Toward that end, the Commission has scheduled a prehearing conference in these matters for January 13, 2005 at 9:00 a.m. at the Commission's Lansing offices. All

⁸ Prior to the end of the one-year period, SBC may file an application to renew the competitive declaration, if appropriate.

⁹ The initial quarterly report should report month-end data as of March 31, 2005. The subsequent quarterly reports should be for month-end data as of June 30, September 30, and December 31, 2005.

interested persons will be permitted to participate in the proceedings without the necessity of filing notices of intent to participate or petitions to intervene. The Commission intends to complete the Section 203 hearing within 180 days.¹⁰ Further, the date of the issuance of this order, January 6, 2005, shall be deemed the commencement of the hearing process.

In making these determinations, the Commission notes that a competitive declaration under Section 208 requires a more demanding showing than a threshold number or percentage of customers being served by CLECs. It requires a qualitative evaluation of the state of actual competition. Thus, end-users must have competitive options that are not likely to dissipate with foreseeable changes in circumstances. The FCC only recently announced a decision on its permanent unbundling rules, and the comments in this case thus do not take full account of how those rules, as well as other imminent developments on the federal or state level, will affect competition. The effect of the rules should be monitored during the trial period for Access Area A business service and should be addressed during the upcoming proceedings on the other services covered by SBC's application.

There is a real question as to the permanence of those alternatives that are currently available within SBC's service territory. Facilities-based alternatives are more likely to be durable and would thus be more effective as a means of stimulating "actual" competition, as contemplated in Section 208(3)(a). Much of the CLEC service now provided in SBC's service territory is not facilities-based, but continues to rely on SBC's facilities. Voice services provided over cable television facilities, whether through VoIP or by cable companies offering voice services directly to their television customers, are promising, but they have yet to become fully developed features of the competitive landscape. Even wireless service is being provided by fewer competitors. The

¹⁰ If the principal parties agree, the deadline for issuance of a final order may be extended for up to 30 additional days. See, MCL 484.2203(11).

recently announced merger agreement between Sprint and Nextel, if approved, will leave only four major wireless providers in the United States. Of those four, the two largest, Cingular (60% owned by SBC's parent company) and Verizon Wireless, are both controlled by traditional Bell companies that provide incumbent landline service in Michigan.

In addition to segmenting telecommunications markets into their business and residential components, Section 208 requires granularity in evaluating the state of actual competition. A business or residential service is deemed competitive if it meets the Section 208 criteria "for an identifiable class or group of customers in an exchange, group of exchanges, or other clearly defined geographical area." MCL 484.2208(3), (4). It is not apparent whether, or to what extent, pockets of more competitive activity exist in the areas or market segments served by SBC, surrounded by less competitive areas. This may force the Commission to ignore discrete classes or groups of customers that continue to lack fully effective access to facilities-based alternatives.

The Commission has selected this case for participation in its Electronic Filings Program. The Commission recognizes that all filers may not have the computer equipment or access to the Internet necessary to submit documents electronically. Therefore, filers may submit documents in the traditional paper format and mail them to the: Executive Secretary, Michigan Public Service Commission, 6545 Mercantile Way, P.O. Box 30221, Lansing, Michigan 48909. Otherwise, all documents filed in this case must be submitted in both paper and electronic versions. An original and four paper copies and an electronic copy in the portable document format (PDF) should be filed with the Commission. Requirements and instructions for filing electronic documents can be found in the Electronic Filings Users Manual at:

<http://efile.mpsc.cis.state.mi.us/efile/usersmanual.pdf>. The application for account and letter of assurance are located at <http://efile.mpsc.cis.state.mi.us/efile/help>. You may contact Commission

Staff at (517) 241-6170 or by e-mail at mpscefilecases@michigan.gov with questions and to obtain access privileges prior to filing.

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 et seq.

b. SBC's business basic local exchange service in Access Area A should be declared to be competitive for the purposes of a one year trial period in accordance with the conditions set forth in this order.

c. SBC's request to classify its business basic local exchange service in Access Area B and its request to classify its residential basic local exchange service in Access Areas A and B should be set for a hearing pursuant to MCL 484.2208(8).

d. A prehearing conference in these matters should be scheduled for January 13, 2005 at 9:00 a.m. at the Commission's Lansing offices.

e. All interested persons should be permitted to participate in the proceedings.

f. SBC and all CLECs affected by this order should be directed to submit reports to the Commission on a quarterly basis on line counts and other such competitive data that is currently collected by the Staff on an annual basis. These reports, which should be submitted in a confidential manner, will be reviewed by the Staff. To facilitate the Staff's review, the data should be submitted on an access area basis. The first report should be filed April 17, 2005, with subsequent reports filed on July 15, 2005, October 17, 2005, and January 16, 2006.

THEREFORE, IT IS ORDERED that:

A. SBC Michigan's business basic local exchange service in Access Area A is declared to be competitive for the purposes of a one year trial period in accordance with the conditions set forth in this order.

B. SBC Michigan's request to classify its business basic local exchange service in Access Area B and its request to classify its residential basic local exchange service in Access Areas A and B are set for a hearing pursuant to MCL 484.2208(8).

C. A prehearing conference in these matters shall be scheduled for January 13, 2005 at 9:00 a.m. at the Commission's Lansing offices.

D. All interested persons shall be permitted to participate in the proceedings.

E. SBC Michigan and all competitive local exchange carriers affected by this order are directed to submit reports to the Commission on a quarterly basis on line counts and other such competitive data that is currently collected by the Commission Staff on an annual basis. These reports shall be submitted in a confidential manner and the data shall be reported on an access area basis. The first report shall be filed April 17, 2005, with subsequent reports filed July 15, 2005, October 17, 2005, and January 16, 2006.

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 issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chair

(S E A L)

/s/ Robert B. Nelson
Commissioner

/s/ Laura Chappelle
Commissioner

By its action of January 6, 2005.

/s/ Mary Jo Kunkle
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.

MICHIGAN PUBLIC SERVICE COMMISSION

Chair

Commissioner

Commissioner

By its action of January 6, 2005.

Its Executive Secretary