

S T A T E O F M I C H I G A N
B E F O R E T H E M I C H I G A N P U B L I C S E R V I C E C O M M I S S I O N

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In the matter of the application of)
AMERITECH MICHIGAN to restructure)
its basic local exchange rates and services) Case No. U-11148

At the November 7, 1996 meeting of the Michigan Public Service
Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. John C. Shea, Commissioner
Hon. David A. Svanda, Commissioner

ORDER DISMISSING APPLICATION

I.

HISTORY OF PROCEEDINGS

On August 9, 1996, Ameritech Michigan filed an application pursuant to Section 304a of the Michigan Telecommunications Act, 1991 PA 179, as amended by 1995 PA 216, MCL 484.2201 et seq.; MSA 22.1469(101) et seq. (MTA), to restructure its basic local exchange rates and services.¹ At the same time, Ameritech Michigan separately submitted or identified² the studies and supporting documentation that it used to determine its total service long run incremental costs (TSLRIC) in conjunction with the restructuring application. Because the TSLRIC studies and supporting documentation

¹Ameritech Michigan's August 9, 1996 filing is its second Section 304a restructuring proceeding. In an order issued May 10, 1996 in Case No. U-11039, the Commission approved Ameritech Michigan's initial Section 304a restructuring application.

²Some of the cost studies and other documentation that Ameritech Michigan intended to rely upon in this proceeding were previously submitted to the Commission in conjunction with Case No. U-11039.

involve trade secrets and confidential information, Ameritech Michigan requested that they be exempt from disclosure pursuant to the Freedom of Information Act, MCL 15.231 et seq.; MSA 4.1801(1) et seq. (FOIA), by virtue of Section 210 of the MTA, MCL 484.2210 et seq.; MSA 22.1469(210).

On August 28, 1996, the Commission's Executive Secretary issued a notice indicating that the Commission would hold a hearing on September 30, 1996 to provide an opportunity for the public to comment on Ameritech Michigan's restructuring proposal. The notice also provided for interested parties to submit written comments regarding the application.³

On September 30, 1996, Ameritech Michigan submitted revised TSLRIC studies in support of its proposed restructuring of rates for residential Call Plan 50 and Call Plan 400, one-party Measured Business service, and PBX Trunks. Ameritech Michigan stated that its previously filed TSLRIC studies had to be reformulated to be consistent with the Commission's decision in the September 12, 1996 order in Cases Nos. U-10860, U-11155, and U-11156. According to Ameritech Michigan, while the assumptions for cost of capital and depreciation lives in the reformulated TSLRIC studies remained unchanged from its previous filing, the utilization factors were revised to reflect those currently used in TSLRIC and total element long run incremental cost studies for unbundled services. Ameritech Michigan asserted that the new utilization factors were consistent with the Federal Communications Commission's decision in the First Report and Order in

³No one appeared at the public hearing to offer comments regarding Ameritech Michigan's proposed restructuring. However, written comments in opposition to the application were filed by Attorney General Frank J. Kelley (Attorney General), the Michigan Cable Telecommunications Association, the Commission Staff, and AT&T Communications of Michigan, Inc.

CC Docket No. 96-98, FCC 96-325, which was released August 8, 1996. Finally, Ameritech Michigan pointed out that the TSLRIC studies that were filed on August 9, 1996 regarding nonrecurring line connection, line rearrangement, and miscellaneous service charges were not changed because the new utilization factors have no effect on those costs.

II.

DISCUSSION

Section 304a(4) of the MTA allows the Commission a maximum of 90 days to review a rate restructuring application to ensure that the proposed rates are not less than the TSLRIC of the services or that the rate restructuring will bring rates that are below such costs closer to the costs. If the Commission is unable to make a determination within 90 days, then the rate restructuring application is considered to have been approved.

On September 30, 1996, or 52 days after filing its rate restructuring application, Ameritech Michigan filed reformulated TSLRIC studies. In so doing, Ameritech Michigan admitted that certain aspects of the TSLRIC studies that it relied upon as support for its restructuring application had to be reformulated to be consistent with previous Commission orders regarding cost studies.

The Commission is persuaded that Ameritech Michigan's filing of reformulated TSLRIC studies constitutes an acknowledgement that its original TSLRIC studies were sufficiently flawed that they cannot provide a basis for the Commission to approve the restructuring application. Therefore, the question becomes what effect Ameritech Michigan's filing of reformulated TSLRIC studies should have on the schedule for the Commission's review of the August 9, 1996 application.

Section 203(2) of the MTA requires that applications “shall contain all information, testimony, exhibits, or other documents and information” relied upon to support the application. As of September 30, 1996, the information originally submitted by Ameritech Michigan could no longer be considered to support its application since that original information was largely replaced. Because the information relied upon by Ameritech Michigan in support of its application has now been rendered ambiguous at best, it is not possible for the Commission to proceed confidently.

Further, it is readily apparent that sufficient time must be provided for the Commission, the Staff, and others to evaluate a provider’s TSLRIC studies to determine whether the application should be approved or rejected. The Commission finds that a rational evaluation simply cannot be conducted within the time between the September 30, 1996 filing and the expiration of 90 days from the original filing. Nothing in Section 304a suggests such an outcome. For this reason, the Commission finds that it is under no obligation to review any portion of the reformulated TSLRIC studies, which leaves the disavowed TSLRIC studies as the sole support for Ameritech Michigan’s restructuring application. Given the acknowledged flaws in the originally filed TSLRIC studies, the Commission finds that Ameritech Michigan’s rate restructuring proposal should be dismissed without prejudice to the filing of a new restructuring application with appropriate supporting documentation.⁴

⁴In dismissing the restructuring application, the Commission also implicitly dismisses the September 24, 1996 application for leave to appeal that was filed by the Attorney General, but for which he subsequently filed a notice of withdrawal.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended by 1995 PA 216, 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, 1992 AACCS, R 460.17101 et seq.

b. The August 9, 1996 application filed by Ameritech Michigan for approval to restructure its basic local exchange rates and services should be dismissed without prejudice.

THEREFORE, IT IS ORDERED that the application filed on August 9, 1996 by Ameritech Michigan to restructure its basic local exchange rates and services is 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, pursuant to MCL 462.26; MSA 22.45.

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MICHIGAN PUBLIC SERVICE COMMI

(S E A L)

/s/ John G. Strand

Chairman

/s/ John C. Shea

By its action of November 7, 1996.

Commissioner

/s/ Dorothy Wideman
Its Executive Secretary

/s/ David A. Svanda
Commissioner

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Suggested Minute:

“Adopt and issue order dated November 7, 1996 dismissing the application filed by Ameritech Michigan to restructure its basic local exchange rates and services, as set forth in the order.”