

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
<b>AMERITECH MICHIGAN</b> to restructure	)	Case No. U-11747
its basic local exchange rates and services.	)	
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At the November 5, 1998 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

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

**OPINION AND ORDER**

**I.**

**HISTORY OF PROCEEDINGS**

On August 7, 1998, Ameritech Michigan filed an application pursuant to Section 304a of the Michigan Telecommunications Act (MTA), 1991 PA 179, as amended, MCL 484.2201 et seq.; MSA 22.1469(101) et seq., (MTA), to restructure its basic local exchange rates and services. At the same time, Ameritech Michigan separately submitted cost studies that it used to determine its total service long run incremental costs (TSLRIC) and imputation studies in conjunction with the restructuring application. Because the TSLRIC studies and imputation studies involve trade secrets and other confidential information, they are exempt from disclosure under the Freedom of Information Act, MCL 15.231 et seq.; MSA 4.1801(1) et seq., by virtue of Section 210 of the MTA, MCL 484.2210; MSA 22.1469(210).

Pursuant to due notice, a public hearing was conducted on September 14, 1998 by Administrative Law Judge Daniel E. Nickerson, Jr. Representatives of Ameritech Michigan, Attorney General Frank J. Kelley (Attorney General), and the Commission Staff (Staff) entered appearances at the public hearing. In addition, on September 14, 1998, written comments were submitted by the Attorney General, the Staff, AT&T Communications of Michigan, Inc., (AT&T), MCI Telecommunications Corporation (MCI), and the Michigan Pay Telephone Association (MPTA).

## II.

### POSITIONS OF THE PARTIES

#### Ameritech Michigan

Ameritech Michigan insists that Section 304a of the MTA provides it with both a duty and an opportunity to restructure its basic local exchange service rates to eliminate subsidies and to promote competition. Specifically, Ameritech Michigan requests that the Commission approve a \$0.28 increase in the monthly rate for basic local exchange service for residential customers in Access Area C1 who subscribe to Ameritech Michigan's Call Plan 400. According to Ameritech Michigan, although customers subscribing to Call Plan 400 will see their monthly rates increase, the current rate for local calls in excess of the 400 call per month allowance embodied in that rate will not be affected.

Ameritech Michigan also requests that the Commission approve a new Centrex loop matrix that increases the rate of a loop in Access Area C by \$2.22 per loop. According to Ameritech Michigan, it will implement this rate increase for customers with term contracts only after expiration of the remaining term of the existing contracts.

Ameritech Michigan also requests that the Commission approve increases in certain nonrecurring business and residential miscellaneous service charges and its business line rearrangement charge. If approved by the Commission, Ameritech Michigan's business miscellaneous service charge will increase by \$6.02 from \$8.35 to \$14.37. The residential miscellaneous service charge will increase \$4.68 from \$8.35 to \$13.03. The business line rearrangement charge will increase \$4.04 from \$30.50 to \$34.54.

Finally, Ameritech Michigan argues that, to pass the imputation test required pursuant to Section 362(1) of the MTA<sup>1</sup>, MCL 484.2362(1); MSA 22.1469(362)(1), its basic local exchange rates should be set at levels above those required to merely cover TSLRIC. Ameritech Michigan contends that the authority to restructure rates pursuant to Section 304a includes the authority and duty to bring its rates to levels that cover both TSLRIC and imputed costs sufficient to pass the imputation test contained in Section 362(1) of the MTA. Accordingly, Ameritech Michigan requests that the Commission approve additional increases in its monthly rates for certain optional residential basic local exchange services. Specifically, Ameritech Michigan proposes increasing the rates for Call Plan 400 by an additional \$1.88 for residential customers in Access Area C1. Ameritech Michigan stresses that the additional \$1.88 is in addition to the \$0.28 increase proposed for Section 304a purposes. For Access Areas C2 through C5, the increases sought for Call Plan 400 are as follows:

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<sup>1</sup>Certain services of the basic local exchange provider are subject to the imputation test contained in the Section 362(1). As to those services, Section 362(2) requires that the rate shall exceed the sum of (a) the tariffed rates, including access, carrier common line, residual interconnection, and similar charges, for the noncompetitive service or its functional equivalent that is actually used by the provider of local exchange service, as those rates would be charged a customer for the use of the service, and (b) the TSLRIC of all other components of the provider of local exchange service.

Access Area	Amount of Increase
C2	\$1.65
C3	\$1.14
C4	\$0.63
C5	\$0.12

For Call Plan 50, Ameritech Michigan proposes an increase of \$1.43 for residential customers in Access Areas C1, C2, C3, C4, and C5. Ameritech Michigan states that it is not requesting additional increases for business services with regard to the local imputation test of Section 362 of the MTA. As an alternative to its proposed imputation test cost increases, Ameritech Michigan requests that the Commission determine that either (1) Ameritech Michigan's basic local exchange service rates pass any applicable imputation requirements on the basis of the increases associated with restructuring of residential rates in Access Area C1 or (2) are not subject to an imputation test.

Commission Staff

The Staff raises several concerns regarding Ameritech Michigan's proposal. To begin with, the Staff asserts that Ameritech Michigan's proposal is improperly based upon unapproved TSLRIC studies for nonrecurring charges. According to the Staff, although the Commission approved TSLRIC studies for Ameritech Michigan's monthly recurring charges associated with access lines, the Commission has never approved cost studies associated with Ameritech Michigan's nonrecurring charges. Citing an exchange of correspondence between Ameritech Michigan and the Staff on the subject, the Staff maintains that Ameritech Michigan was advised of the Staff's concern over the lack of an approved study regarding nonrecurring services. Accordingly, the Staff argues that it is impossible to determine the entire cost of providing basic local exchange service. The Staff asserts

that this is a significant concern because Ameritech Michigan's application included the amortization of certain nonrecurring costs as a part of its monthly recurring TSLRIC calculations. Although the Staff concedes the reasonableness of recovering certain nonrecurring costs through the combination of monthly recurring and nonrecurring charges, the Staff contends that an approved TSLRIC study for nonrecurring charges is a condition precedent for approval of Ameritech Michigan's application.

The Staff also argues that the Ameritech Michigan's proposal to restructure the miscellaneous service and business line rearrangement charges is flawed due to the lack of an approved TSLRIC study for Ameritech Michigan's nonrecurring charges. According to the Staff, the Commission cannot determine whether the rate increases proposed by Ameritech Michigan are appropriate in the absence of an approved TSLRIC study. Indeed, the Staff stresses that the July 14, 1997 order in Case No. U-11280 concluded that Ameritech Michigan's nonrecurring charges were excessive as a result of the flawed cost methodology used to calculate them. As a result, Ameritech Michigan was ordered to provide a comprehensive study of nonrecurring charges in its next biennial cost study, which is due to be filed in January 1999.

Moreover, the Staff asserts that the supporting cost documentation filed by Ameritech Michigan in conjunction with its application is premature because the Commission clearly did not intend to review Ameritech Michigan's nonrecurring costs on a piecemeal basis. According to the Staff, the Commission should not consider any of Ameritech Michigan's proposed increases in nonrecurring charges until after the filing of its biennial costs studies in January 1999.

Finally, the Staff contends that Ameritech Michigan's request to increase rates to cover imputation pursuant to Section 362 of the MTA is simply inappropriate in a Section 304a proceeding. According to the Staff, any rate increase beyond TSLRIC is inconsistent with the purpose of restructuring, which is limited to the elimination of cross subsidization.

## Attorney General

The Attorney General is also opposed to Ameritech Michigan's restructuring proposal. According to him, whereas the local exchange rates of Ameritech Corporation's<sup>2</sup> wholly-owned subsidiaries in Ohio, Indiana, and Illinois have declined in recent years, rates for basic local exchange service in Michigan have increased. The Attorney General believes that the rate reductions in other Ameritech Corporation states are in accord with productivity increases that should also be reflected in Michigan. Indeed, the Attorney General insists that the rate reductions in other states should give rise to significant scepticism regarding Ameritech Michigan's application to increase rates in Michigan. Further, the Attorney General insists that there is no support for Ameritech Michigan's contentions that it is necessary to raise local rates in order to promote competition and eliminate cross-subsidization. Finally, the Attorney General contends that Ameritech Michigan's current rates are more than sufficient to cover all of its costs. Citing confidential appendices that were filed in Case No. U-11306, the Attorney General insists that Ameritech Michigan has never provided any documentation regarding the amount of contribution that is necessary to support common costs for retail services.

## AT&T

AT&T argues that the Commission's authority to approve rate increases pursuant to Section 304a of the MTA is very limited. According to AT&T, Section 304a expressly limits the scope of the Commission's inquiry to whether Ameritech Michigan's proposals to restructure its rates will ensure that the new rate is not less than the TSLRIC of providing that service. By this

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<sup>2</sup>Ameritech Michigan is a wholly-owned subsidiary of Ameritech Corporation, which also owns the former Bell Operating companies in Illinois, Wisconsin, Indiana, and Ohio.

standard, AT&T insists that the Commission may only consider the appropriateness of Ameritech Michigan's proposals to increase (1) residential Call Plan 400 in Access Area C1 and (2) business Centrex service in Access Area C.

AT&T also contends that Ameritech Michigan did not provide a rationale for its proposal to increase its miscellaneous services and business line rearrangement charges. Therefore, AT&T argues that such increases may not be allowable pursuant to Section 304a. Further, AT&T argues that Ameritech Michigan's attempt to use a Section 304a proceeding as a vehicle to increase rates to meet the Section 362 imputation test is clearly improper.

Additionally, based on the statements made by Ameritech Michigan witnesses in other proceedings before the Commission, AT&T expresses concern that Ameritech Michigan may have improperly included certain carrier access service revenues in its calculation of whether a rate has been restructured under Section 304a. According to AT&T, the inclusion of any revenues generated from access services, such as flat rate primary interexchange carrier charges (PICC) assessed on a per line basis, would be improper because it would constitute the subsidization of one service by another service. AT&T insists that there is simply no support for the contention that toll access services should contribute to the cost of the local loop and that it would be inconsistent to suggest that flat rate PICC access charges should be included in determining whether an Ameritech Michigan basic local exchange rate is below the TSLRIC of the service.

#### MCI

MCI states that it does not have any objections to Ameritech Michigan's rate restructuring proposal. However, MCI does object to being assessed for access rate elements that ostensibly were set to provide a subsidy to various local services in an era when Ameritech Michigan's local rates meet or exceed TSLRIC. According to MCI, upon completion of the restructuring, Ameritech

Michigan's intrastate access rate elements should be eliminated as the subsidies are unnecessary for cost recovery purposes. Moreover, MCI insists that it would be harmful to the development of local market competition for Ameritech Michigan to continue collection of the intrastate PICC and carrier common line charges (CCLC) .

### MPTA

The MPTA maintains that Ameritech Michigan's restructuring proposal is flawed because it does not consider all revenue sources associated with customers who subscribe to Call Plan 400 in determining whether the rate for that service exceeds TSLRIC. The MPTA insists that Ameritech Michigan has focused on one aspect of the total package of services provided to customers in Access Area C1 without giving any consideration to revenues derived from end-user common line (EUCL) charges, the PICC, services such as Caller ID and Call-Forwarding, and access charges assessed against interexchange carriers. Citing Section 304a(3)(b), the MPTA proposes that, at a minimum, the EUCL should be attributed to the TSLRIC associated with Call Plan 400.

Additionally, the MPTA argues that if Ameritech Michigan is authorized to increase rates in rural areas, it should be required to decrease rates charged to urban customers who, by Ameritech Michigan's own admission, have been subsidizing the service to rural customers for years.

Next, the MPTA contends that Ameritech Michigan's proposal to increase rates to satisfy the imputation test of Section 362 of the MTA is flawed. Although acknowledging that it had not fully reviewed Ameritech Michigan's imputation test proposal, MPTA argued that the methodology employed by Ameritech Michigan seemed to allow for the double recovery of costs. Therefore, the MPTA requested that before the Commission authorizes Ameritech Michigan to increase rates for Call Plan 400 or Call Plan 50 based on the proposed imputation test methodology, the Commission

should investigate whether (1) Call Plan 400 and Call Plan 50 are competitive services for which imputation is required and (2) investigate Ameritech Michigan's imputation studies to ensure that Ameritech Michigan is not double recovering costs.

Finally, the MPTA stresses that a complaint was filed on August 10, 1998 in Case No. U-11756 requesting an investigation of Ameritech Michigan's provision of services to payphone providers. Due to its concern that the Commission might make a determination in this proceeding that could prejudice the MPTA's position in Case No. U-11756, the MPTA requests that any order issued in this proceeding specifically provide that nothing in this proceeding shall prejudice the issues raised by the complainants in Case No. U-11756.

### **III.**

#### **RESTRUCTURING FRAMEWORK**

The statutory framework for restructuring is set forth in Section 304a of the MTA, which provides in part:

- (1) Upon filing with and the approval of the commission, a basic local exchange provider shall restructure its rates for basic local exchange, toll, and access services to ensure that the rates are not less than the total service long run incremental cost of providing each service.
- (2) The provider may determine when each rate is restructured and may phase in the rate restructuring until January 1, 2000. After January 1, 2000, the provider's rates for basic local exchange, toll, and access services shall not be less than the total service long run incremental cost for each service.
- (3) The rate restructuring may include, but is not limited to, 1 or more of the following:

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- (c) Restructure existing basic local exchange rates to reflect the existing variations in costs to provide basic local exchange services based upon

differences in geographic areas, classes of customers, calling patterns and volumes, technology, and other factors.

MCL 484.2304a; MSA 22.1469(304a).

#### IV.

#### DISCUSSION

The Commission finds that Ameritech Michigan's attempt to use a Section 304a restructuring to raise rates to meet the imputation test set forth in Section 362 is clearly inappropriate and should be rejected. Section 304a of the MTA provides for restructuring as a means of aligning rates more closely with their costs and ensuring that any inappropriate subsidies in current rate structures are phased out. Section 304a provides the framework for restructuring and Section 304 exempts the restructuring process from the procedures that would otherwise apply to a rate change.

MCL 484.2304(1); MSA 22.1469(304)(1). The review of a restructuring proposal is not governed by the contested case provisions of the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq. Further, given the 90-day limitation on consideration of the application, it is obvious that the Legislature intended the Commission's review of restructuring applications to be limited in scope. Moreover, the Commission's April 10, 1997 order in Case No. U-11306, a prior Ameritech Michigan restructuring request, confirms that extraneous rate adjustments should not be incorporated into the restructuring process:

Section 304a provides a mechanism for realigning rates more closely to their cost as a threshold matter. By allowing the restructuring to be phased-in through 2000, Section 304a gives providers a measure of discretion to avoid the rate shock of raising below-cost rates to their TSLRIC at once. Any additional rate increases must be evaluated under the procedural safeguards of Section 304.

April 10, 1997 order, Case No. U-11306, p. 8.

Accordingly, the Commission is persuaded that Ameritech Michigan's proposal to increase rates in this proceeding for the purpose of compliance with the imputation tests contained in Section 362 of the MTA is inappropriate and should be rejected.

However, the Commission finds that the arguments raised in opposition to the remainder of Ameritech Michigan's restructuring proposal are not well taken.

The Staff argued that Ameritech Michigan's restructuring proposal should be rejected as premature. According to the Staff, because the linchpin of any restructuring review is an approved cost study, the restructuring proposal should be rejected at this time because Ameritech Michigan is due to file its next biennial TSLRIC study in January 1999. The Commission disagrees.

Ameritech Michigan's application in this proceeding indicates that it is the final stage in the restructuring of its basic local exchange rates, which commenced with the February 16, 1996 filing of Case No. U-11039. Although recognizing the importance of an approved TSLRIC study to a provider's restructuring proposal, the Commission notes that its May 10, 1996 order in Case No. U-11039 approved Ameritech Michigan's initial restructuring proposal in the absence of an approved TSLRIC study. Moreover, the Commission is aware that its April 10, 1997 order in Case No. U-11306 deferred consideration of Ameritech Michigan's January 21, 1997 restructuring application in hopes that a final determination in Case No. U-11280 regarding Ameritech Michigan's previous TSLRIC studies would provide the Commission with an adequate basis for responding to that restructuring application. The Commission is not prepared again to delay consideration of Ameritech Michigan's restructuring proposal to await a final determination regarding cost studies that have not yet been submitted for the Commission's review and approval. Accordingly, the Commission finds that the public interest requires consideration of Ameritech Michigan's restructuring proposal at this time in order to bring finality to the process of restructuring Ameritech Michi-

gan's basic local exchange rates. In light of the supporting documentation filed by Ameritech Michigan, the Commission is persuaded that the proposed rate changes ensure that Ameritech Michigan's rates are not less than the TSLRIC of providing basic local exchange service.

In reaching this decision, the Commission rejects the Attorney General's argument that Ameritech Michigan's proposed increases are unnecessary and unjustified. The Commission rejects the Attorney General's argument that increasing Ameritech Michigan's rates at this time is inappropriate in light of decreases that have occurred in other states. Our Legislature has deemed it appropriate to foster competition in this state by requiring providers of basic local exchange service to set their rates based on the TSLRIC of providing the services. The Attorney General has not provided the Commission with any reason to conclude that the rate reductions that are being experienced in other states are due to the same type of pricing mechanism that the Michigan Legislature has mandated for providers in this state.

The Commission also rejects the Attorney General's argument that Ameritech Michigan's proposed rate increases are unnecessary because its current rates already exceed TSLRIC and even make a contribution to common costs. The basis of the Attorney General's argument is his position that Ameritech Michigan's costs studies must be adjusted for loop costs that are allocated to the interstate jurisdiction and recovered from existing subscriber line charges (SLC) and the CCLC. The Commission finds that the Attorney General's argument and his references to supporting documentation are not conclusive with respect to the present application. Further, given that Ameritech Michigan has been directed to file a completely new set of TSLRIC studies in January 1999, which should contain information bearing on the issues raised by the Attorney General, the

Commission is persuaded that these issues would be better addressed in the context of that proceeding.<sup>3</sup>

MCI did not object to Ameritech Michigan's basic local exchange restructuring proposal. Rather, MCI focused its attention on issues related to the reduction of intrastate access rates and maintenance of a high cost universal service fund, which are not germane to this proceeding and need not be discussed further. Moreover, in its October 26, 1998 order in Case No. U-11660, the Commission rejected a similar argument raised by MCI.

In its comments, AT&T argues that it is important for the Commission to ensure that Ameritech Michigan's rates associated with access services are not considered in the restructuring of its basic local exchange rates. However, the Commission finds that the October 26, 1998 order in Case No. U-11660 controls the disposition of this issue. In Case No. U-11660, the Commission found that Ameritech Michigan's PICC rates were excessive. The Commission concluded that it could not accurately establish more appropriate PICC rates without additional information because it did not have sufficient cost data to determine whether these and other rates imposed by Ameritech Michigan are, in combination, just and reasonable for use in recovering the nontraffic sensitive costs of the local loop. Accordingly, the Commission required Ameritech Michigan to include, as part of its January 1999 biennial cost study, data necessary to establish, at a minimum, the TSLRIC of its access, toll, and local exchange services. The Commission remains persuaded that a determination regarding the issues raised by AT&T should await a final order in that proceeding.

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<sup>3</sup>Nothing in this order should be interpreted as diminishing Ameritech Michigan's obligation to comply with the October 26, 1998 order in Case No. U-11660 regarding the provision of all information relevant to the determination of the TSLRIC for each of, at a minimum, its access, toll, and local exchange services, which is to be filed as part of its January 1999 biennial cost studies.

In its comments, the MPTA requests that the Commission investigate the total revenue derived from the total package of services provided to Call Plan 400 customers and determine whether the total revenue is in excess of the TSLRIC. Additionally, at a minimum, the MPTA proposes that the EUCL should be attributed to the TSLRIC associated with Call Plan 400 service.

As previously noted, in its October 26, 1998 order in Case No. U-11660, the Commission directed that Ameritech Michigan's upcoming biennial cost study should include data related to the TSLRIC of Ameritech Michigan's access, toll, and local exchange services. Accordingly, the Commission finds that the investigation requested by the MPTA in this proceeding should be conducted in the context of the review of Ameritech Michigan's January 1999 biennial cost studies.

Citing Ameritech Michigan's contention that residential customers in urban areas are required to pay higher basic local exchange rates to subsidize customers in rural areas, the MPTA argues that the Commission should not authorize any increase in the rates charged to rural customers without also requiring Ameritech Michigan to decrease rates charged to urban customers. The Commission finds that the MPTA's request has no merit. The primary purposes of restructuring pursuant to Section 304a are the elimination of subsidies and the promotion of competition. Ameritech Michigan's application indicates that, with the granting of this application, all of the subsidies that concern the MPTA will have been eliminated through the restructuring of the residential basic local exchange rates. Moreover, nothing in Section 304a indicates that the restructuring of the rates of one class of customers must result in a corresponding increase or decrease in the rates of other customers. Therefore, the MPTA's request for a rate decrease for Ameritech Michigan's urban customers should be rejected.

Finally, the MPTA points out that it and 62 other parties filed a complaint against Ameritech Michigan on August 10, 1998 with regard to Ameritech Michigan's provision of services to

payphone providers. Out of concern that an order in this case may prejudice the positions taken by complainants in Case No. U-11756, the MPTA requests that the Commission indicate that nothing in the final order this proceeding should prejudice the rights of complainants in Case No. U-11756. The Commission agrees.

V.

**CONCLUSION**

The Commission has reviewed Ameritech Michigan's application to restructure its basic local exchange rates and services. In doing so, the Commission notes that its review was conducted within the 90 days as permitted by law. With the exception of Ameritech Michigan's request to increase rates to meet the imputation tests set forth in Section 362 of the MPTA, the Commission has determined that Ameritech Michigan's proposal complies with the requirements of Section 304a and that it should be approved.

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 AACSR 460.17101 et seq.
- b. As modified by this opinion and order, the August 7, 1998 application filed by Ameritech Michigan for authority to restructure its basic local exchange rates should be approved.
- c. The portion of the August 7, 1998 application filed by Ameritech Michigan for authority to increase rates to meet the imputation test required by Section 362 of the MTA should be rejected.

THEREFORE, IT IS ORDERED that:

A. As modified by this opinion and order, the application filed by Ameritech Michigan on August 7, 1998 for authority to restructure its basic local exchange rates is approved.

B. Ameritech Michigan's request to increase rates to meet the imputation test set forth in Section 362 of the Michigan Telecommunications Act, MCL 484.2362; MSA 22.1469(362), is rejected.

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/ John G. Strand

Chairman

( S E A L )

/s/ David A. Svanda

Commissioner

By its action of November 5, 1998.

/s/ Dorothy Wideman

Its Executive Secretary

THEREFORE, IT IS ORDERED that:

A. As modified by this opinion and order, the application filed by Ameritech Michigan on August 7, 1998 for authority to restructure its basic local exchange rates is approved.

B. Ameritech Michigan's request to increase rates to meet the imputation test set forth in Section 362 of the Michigan Telecommunications Act, MCL 484.2362; MSA 22.1469(362), is rejected.

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

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Chairman

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Commissioner

By its action of November 5, 1998.

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Its Executive Secretary

In the matter of the application of )  
**AMERITECH MICHIGAN** to restructure )  
its basic local exchange rates and services. )  
\_\_\_\_\_ )

Case No. U-11747

Suggested Minute:

“Adopt and issue order dated November 5, 1998 authorizing Ameritech Michigan to restructure its basic local exchange rates and services, as set forth in the order.”