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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions in the Telecommunications Act	)	
of 1996	)	

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COMMENTS OF THE MICHIGAN PUBLIC SERVICE COMMISSION STAFF

I. Introduction and Summary of Substantive Arguments:

On April 19, 1996, the Federal Communications Commission (FCC) issued a Notice of Proposed Rulemaking (NPRM) requesting comment on proposed rules to implement Section 251 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (1996 Act). In that NPRM, it was requested that comments responding to questions on the matters of dialing parity, number administration, public notice of technical changes, and access to rights of way be filed separately from comments responding to other portions of the NPRM. In compliance with the NPRM, the Michigan Public Service Commission Staff (Michigan Staff) herein responds to questions raised on the issues of dialing parity, number administration and access to rights of way. As discussed in its earlier comments on other issues in the subject NPRM, Michigan Staff strongly supports FCC specification of only a broad set of rules that must, at a minimum, be incorporated in dialing parity, number administration and right of way access requirements which will assure compliance with the 1996 Act. Where a number of alternatives would be acceptable under the 1996 Act, Michigan Staff would support FCC designation of a recommended solution, or at a minimum, a discussion of the advantages and disadvantages of each. However, selection

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of an alternative as the required solution, when a number of alternatives would be clearly permissible under the 1995 Act, should be rejected. As required in its NPRM (¶ 291),[1] Michigan Staff summarizes its arguments by reiterating the position raised in comments filed last week in this docket. Many states have proceeded to take action to introduce competition into the intraLATA toll and local marketplace. Michigan's actions in this regard, and those of many other states, are in compliance with the 1996 Act. The Michigan Staff supports adoption by the FCC of broad parameters outlining the actions which must occur in order to implement the 1996 Act. However, it is unnecessary and would be counter productive to attempt to specify only one set of actions which would be acceptable under the 1996 Act. Many alternatives are fully supportive of a competitive marketplace while taking account of other public interest considerations within a particular locale. Actions of this nature must proceed if competition is to take an immediate stronghold in the telecommunications marketplace.

I. Dialing Parity (¶ 202)

In its NPRM, the FCC has requested comments on definitions of dialing parity (¶ 206). Its proposal that dialing parity encompass international as well as interstate and intrastate, local and toll services is not inconsistent with Michigan law nor Michigan

[1]As required by the NPRM, ¶ Numbers contained in parenthesis refer to paragraph numbers of the FCC Notice to which Michigan Staff is responding.

Commission orders. Intrastate toll dialing parity is required by both Michigan law[2] and Michigan Commission orders.[3] Likewise, local interconnection requirements adopted by the Michigan Commission in 1995[4] included no provision for the use of access codes when dialing a local call to a competitor as opposed to an incumbent.

The Michigan Commission has also addressed the issue of presubscription (¶ 209). For the purposes of intraLATA toll dialing parity and for the purposes of implementation of local competition, reballoting of exchanges already balloted for interLATA presubscription purposes was rejected by the Michigan Commission. Where interLATA equal access has not occurred, balloting was required to occur simultaneously for both inter and intraLATA calls. Where balloting had yet to occur, the Michigan Commission adopted FCC interLATA balloting procedures[5] for intraLATA purposes as well. Where offices had already converted to interLATA equal access, the Michigan Commission required that notice be provided to end-users and interexchange carriers of impending conversion to intraLATA dialing parity capabilities, that neutral material describing the conversion to intraLATA toll dialing parity

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[2]Attachment 1 is Michigan's 1991 Public Act 179 as amended by 1995 Public Act 216 (Act 179). Toll dialing parity requirements are specified in Sec. 312(a) and (b).

[3]A number of orders issued during 1993, 1994 and 1995 by the Michigan Commission in Case No. U-10138 require the implementation of toll dialing parity under conditions specified in those orders. The last of these orders, issued on March 10, 1995, delineates the specifics of toll dialing parity requirements and is included herein as Attachment 2.

[4]Interconnection standards were adopted on February 23, 1995 in Case No. U-10647 in response to an application by City Signal, Inc. to establish interconnection arrangements with Ameritech Michigan.

[5]These balloting guidelines were found in FCC Dockets 83-1145 and 91-64.

be submitted to Staff for review, that end-users be notified twice of the availability of intraLATA dialing parity and that no charges for carrier selection be made if selection occurs within the 90-day notice period.[6] Balloting for intraLATA toll dialing parity was rejected by the Michigan Commission due to its potential to create customer confusion and the imposition of additional cost. In its local interconnection proceedings, the Michigan Commission rejected balloting for local service as well for the further reason that since new providers are being licensed to offer local service in various markets continuously, reballoting every time a new entrant is admitted into the market would not only be very costly, it would lead to even more customer confusion.

Michigan's presubscription process requires the use of a "two-PIC" option (¶ 210). Under this alternative, a subscriber may presubscribe to separate toll providers for intraLATA and interLATA toll service without limitation.[7]

Timetables for the implementation of intraLATA toll dialing parity are also addressed in both Michigan law and Michigan Commission order (¶ 212). Although the Michigan Commission order required implementation of intraLATA toll dialing parity on January 1, 1996,[8] Michigan law delayed the implementation schedule somewhat.[9] A motion is now

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[6]See pages 29-33 of Attachment 2 for discussion of presubscription procedures.

[7]See pages 8-13 of Attachment 2 for discussion of this issue.

[8]See Attachment 2, pages 13-22 for discussion of an implementation schedule for dialing parity including exceptions for conversion of certain older technology switches.

[9]See Sec. 312(a) and (b) of Act 179, Attachment 1.

pending before the Michigan Commission to determine whether intraLATA toll dialing parity for Ameritech may continue to be delayed at this point in time or whether it must immediately proceed. However, since GTE has been released from interLATA toll prohibitions by the terms of the 1996 Act, the Michigan Commission has ordered GTE to proceed to implement intraLATA toll dialing parity immediately according to the terms of Michigan law[10] and prior Commission orders. At this point in time, the remainder of Michigan's licensed local exchange carriers (LECs) are not bound on a mandatory basis to offer intraLATA toll dialing parity, although they were urged to comply with Commission orders on a voluntary basis.[11]

Finally, the Michigan Commission has addressed the issue of recovery of dialing parity costs (¶ 219). Specifically, the Michigan Commission required the following:

> "The costs of implementing intraLATA dialing parity shall be recovered in the form of an Equal Access Recovery Charge on a per intraLATA presubscribed access line basis. Specifically, those costs are switch translation modifications; operational support system modifications; customer education and interexchange carrier notification; balloting expenses; primary interexchange carrier changes; and software, generic, or feature package upgrades if directly and solely attributable to intraLATA equal access."[12]

Michigan Staff concludes its discussion of the dialing parity issue by reiterating two

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[10]Sec. 312b(2) of Act 179, Attachment 1.

[11]Page 40 of Attachment 2.

[12]Page 45 of Attachment 2. See also pages 22-29 of Attachment 2 for elaboration and further discussion of this issue.

principles. First, as discussed above, Michigan has proceeded in a number of arenas over a number of years to begin the implementation of intraLATA toll dialing parity and competitive access to local competition. None of the actions that have been taken conflict with the 1996 Act and should therefore be permitted to proceed. Secondly, a number of other reasonable alternatives to this subject have been adopted by other states, many of which also comply with the 1996 Act. The FCC should not cause delay in this implementation by requiring a "one answer serves all" approach to these issues. Competition would be served a serious blow if any action of this type is taken by the FCC.

II. Number Administration (¶ 250)

In its NPRM the FCC has tentatively concluded that "the Commission should retain its authority to set policy with respect to all facets of numbering administration..."(¶ 254). Once again, Michigan Staff believes this is unnecessary for implementation of the 1996 Act. This is particularly the case in regard to the implementation of number portability. Michigan law defines this term as follows:

> "'(N)umber portability' means the capability for a local exchange customer at a particular location to change providers of basic local exchange service without any change in the local exchange customer's telephone number, while preserving the full range of functionality that the customer could obtain by changing telephone numbers."[13]

This definition corresponds to so-called "provider" number portability. Further, Michigan

[13]Sec. 358 of Act 179, Attachment 1.

law requires that number portability be implemented no later than January 1, 1999 and earlier if the Commission determines it to be feasible.[14] Extensive evidence has been gathered on this issue in the second local interconnection proceeding which is nearing completion in Michigan.[15] Among other issues addressed in that proceeding, the Michigan Staff has urged that technical specifications and design which will afford provider number portability be left to the industry (potential customers, service providers and manufacturers). Such an industry approach was established by the Illinois Commerce Commission and the Michigan Staff has fully supported that process. As the Michigan Staff indicated in its prefiled testimony in the Michigan interconnection proceeding, "It is inconceivable...to expect a different technology in Illinois and Michigan." The Michigan Staff has urged that the technical recommendations of the Illinois task force be adopted in Michigan. The Michigan Staff has also urged that any technical solution for long term provider number portability be compatible with the future development of so-called location and service number portability. Although the latter two types of number portability are not at the forefront of consideration today, in the long term these will permit customers to move and keep the same telephone number, or change types of service and retain their telephone numbers. Technical solutions must take these longer term considerations in mind. In the meantime, however, Michigan Staff urges that if in a particular area of the country local

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[14]Sec. 358(2) and Sec. 358(3) of Act 179, Attachment 1.

[15]Case No. U-10860, In the matter, on the Commission's Own Motion, to establish permanent interconnection arrangements between basic local exchange service providers.

competition has already proceeded to a point where number portability alternatives are being adopted (as is the case in Illinois and Michigan), there is no justification for delaying this while a national implementation schedule is considered. Once again, states should be permitted to adopt and implement reasonable alternatives which adhere to the 1996 Act.

III. Access to Rights-of-Way (¶ 220)

Finally, Michigan Staff notes that once again in at least a limited manner, Michigan law addresses the establishment of just and reasonable rates for attachment to poles or conduit owned or controlled by providers of telecommunications service. The law specifies that a rate is just and reasonable :

> "...if it assures the provider recovery of not less than the additional costs of providing the attachments, nor more than an amount determined by multiplying the percentage of the total usage space, or the percentage of the total duct or conduit capacity, which is occupied by the attachment, by the sum of the operating expenses and actual capital costs of the provider attributable to the entire pole, duct, or right-of-way."[16]

This particular portion of Michigan law applies to large and small providers alike and is again not in conflict with provisions of the 1996 Act.

IV. Conclusion

Michigan Staff urges continued progress toward a competitive telecommunications

[16]Sec. 361(3) of Act 179, Attachment 1.

marketplace. The FCC should adopt minimum requirements which must be met to assure this competition and permit compliance with the 1996 Act. Alternatives to achieve these ends, however, must be permitted to proceed if goals are to be met in the shortest timeframe possible with the least potential for negative impact.

Respectfully Submitted,

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Communications Division
Michigan Public Service Commission

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MICHIGAN TELECOMMUNICATIONS ACT

Act 179 of 1991
as amended by
Act 216 of 1995

ARTICLE 1

GENERAL PROVISIONS

Sec. 101. (1) This act shall be known and may be cited as the "Michigan telecommunications act".

(2) The purpose of this act is to do all of the following:

(a) Ensure that every person has access to basic residential telecommunication service.

(b) Allow and encourage competition to determine the availability, prices, terms, and other conditions of providing telecommunication services.

(c) Restructure regulation to focus on price and quality of service and not on the provider. Rely more on existing state and federal law regarding antitrust, consumer protection, and fair trade to provide safeguards for competition and consumers.

(d) Encourage the introduction of new services, the entry of new providers, the development of new technologies, and increase investment in the telecommunication infrastructure in this state through incentives to providers to offer the most efficient services and products.

(e) Improve the opportunities for economic development and the delivery of essential services including education and health care.

(f) Streamline the process for setting and adjusting the rates for regulated services that will ensure effective rate review and reduce the costs and length of hearings traditionally associated with rate cases.

(g) Encourage the use of existing educational telecommunication networks and networks established by other commercial providers as building blocks for a cooperative and efficient statewide educational telecommunication system.

(h) Ensure effective review and disposition of disputes between telecommunication providers.

Sec. 102. As used in this act:

(a) "Access service" means access to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication services within the local exchange. Except for end-user common line services, access service does not include access service to a person who is not a provider.

(b) "Basic local exchange service" or "local exchange service" means the provision of an access line and usage within a local calling area for the transmission of high-quality 2-way interactive switched voice or data communication.

(c) "Cable service" means 1-way transmission to subscribers of video programming or other programming services and subscriber interaction for the selection of video programming or other programming services.

(d) "Commission" means the Michigan public service commission.

(e) "Contested case" or "case" means a proceeding as defined in section 3 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.203 of the Michigan Compiled Laws.

(f) "Educational institution" means a public educational institution or a private non-profit educational institution approved by the department of education to provide a program of primary, secondary, or higher education, a public library, or a nonprofit association or consortium whose primary purpose is education. A nonprofit association or consortium under this subdivision shall consist of 2 or more of the following:

(i) Public educational institutions.

(ii) Nonprofit educational institutions approved by the department of education.

(iii) The state board of education.

(iv) Telecommunication providers.

(v) A nonprofit association of educational institutions or consortium of educational institutions.

(g) "Energy management services" means a service of a public utility providing electric power, heat, or light for energy use management, energy use control, energy use information, and energy use communication.

(h) "Exchange" means 1 or more contiguous central offices and all associated facilities within a geographical area in which local exchange telecommunication services are offered by a provider.

(i) "Handicapper" means a person who has 1 or more of the following physical characteristics:

(i) Blindness.

(ii) Inability to ambulate more than 200 feet without having to stop and rest during any time of the year.

(iii) Loss of use of 1 or both legs or feet.

(iv) Inability to ambulate without the prolonged use of a wheelchair, walker, crutches, braces, or other device required to aid mobility.

(v) A lung disease from which the person's expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the person's arterial oxygen tension is less than 60 mm/hg of room air at rest.

(vi) A cardiovascular disease from which the person measures between 3 and 4 on the New York heart classification scale, or from which a marked limitation of physical activity causes fatigue, palpitation, dyspnea, or anginal pain.

(vii) Other diagnosed disease or disorder including, but not limited to, severe arthritis or a neurological or orthopedic impairment that creates a severe mobility limitation.

(j) "Information services" or "enhanced services" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information, including energy management services, that is conveyed by telecommunications. Information services or enhanced services do not include the use of such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

(k) "Interconnection" means the technical arrangements and other elements necessary to permit the connection between the switched networks of 2 or more providers to enable a telecommunication service originating on the network of 1 provider to terminate on the network of another provider.

(l) "Inter-LATA prohibition" means the prohibitions on the offering of inter-exchange or inter-LATA service contained in the modification of final judgement entered pursuant to a consent decree in United States v. American Telephone and Telegraph Co., 552 F. Supp. 131 (D.D.C. 1982) and in the consent decree approved in United States v. GTE Corp., 603 F. Supp. 730 (D.D.C. 1984).

(m) "LATA" means the local access and transport area as defined in United States v. American Telephone and Telegraph Co., 569 F. Supp. 990 (D.D.C. 1983).

(n) "License" means a license issued pursuant to this act.

(o) "Line" or "access line" means the medium over which a telecommunications user connects into the local exchange.

(p) "Local calling area" means a geographic area encompassing 1 or more local communities as described in maps, tariffs, or rate schedules filed with and approved by the commission.

(q) "Local directory assistance" means the provision by telephone of a listed telephone number within the caller's area code.

(r) "Local exchange rate" means the monthly and usage rate, including all necessary and attendant charges, imposed for basic local exchange service to customers.

(s) "Loop" means the transmission facility between the network interface on a subscriber's premises and the main distribution frame in the servicing central office.

(t) "Operator service" means a telecommunication service that includes automatic or live assistance to a person to arrange for completion and billing of a telephone call originating within this state that is specified by the caller through a method other than 1 of the following:

(i) Automatic completion with billing to the telephone from which the call originated.

(ii) Completion through an access code or a proprietary account number used by the person, with billing to an account previously established with the provider by the person.

(iii) Completion in association with directory assistance services.

(u) "Operator service provider" or "OSP" means a provider of operator service.

(v) "Payphone service" means a telephone call provided from a public, semipublic, or individually owned and operated telephone that is available to the public and is accessed by the depositing of coin or currency or by other means of payment at the time the call is made.

(w) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(x) "Port" except for the loop, means the entirety of local exchange, including dial tone, a telephone number, switching software, local calling, and access to directory assistance, a white pages listing, operator services, and interexchange and intra-LATA toll carriers.

(y) "Reasonable rate" or "just and reasonable rate" means a rate that is not inadequate, excessive, or unreasonably discriminatory. A rate is inadequate if it is less than the total service long run incremental cost of providing the service.

(z) "Residential customer" means a person to whom telecommunication services are furnished predominantly for personal or domestic purposes at the person's dwelling.

(aa) "Special access" means the provision of access service, other than switched access service, to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication service within the exchange including the use of local private lines.

(bb) "State institution of higher education" means an institution of higher education described in sections 4, 5, and 6 of Article VIII of the state constitution of 1963

(cc) "Telecommunication provider" or "provider" means a person or an affiliate of the person each of which for compensation provides 1 or more telecommunication services

(dd) "Telecommunication services" or "services" includes regulated and unregulated services offered to customers for the transmission of 2-way interactive communication and associated usage. A telecommunication service is not a public utility service.

(ee) "Toll service" means the transmission of 2-way interactive switched communication between local calling areas. Toll service does not include individually negotiated contracts for similar telecommunication services or wide area telecommunication service.

(ff) "Total service long run incremental cost" means, given current service demand, including associated costs of every component necessary to provide the service, 1 of the following:

(i) The total forward-looking cost of a telecommunication service, relevant group of services, or basic network component, using current least cost technology that would be required if the provider had never offered the service.

(i) The total cost that the provider would incur if the provider were to initially offer the service, group of services, or basic network component.

(gg) "Wide area telecommunications service" or "WATS" means the transmission of 2-way interactive switched communication over a dedicated access line.

Sec. 103. Except as otherwise provided in this act, this act shall not be construed to prevent any person from providing telecommunication services in competition with another telecommunication provider.

ARTICLE 2

MICHIGAN PUBLIC SERVICE COMMISSION

Sec. 201. (1) The Michigan Public Service Commission shall have the jurisdiction and authority to administer this act.

(2) In administering this act, the commission shall be limited to the powers and duties prescribed by this act.

Sec. 202. In addition to the other powers and duties prescribed by this act, the commission shall do all of the following:

(a) Establish by order the manner and form in which telecommunication providers of regulated services within the state keep accounts, books of accounts, and records in order to determine the total service long run incremental costs and imputation requirements of this act of providing a service. The commission requirements under this subdivision shall be consistent with any regulations covering the same subject matter made by the federal communications commission.

(b) Require by order that a provider of a regulated service, including access service, make available for public inspection and file with the commission a schedule of the provider's rates, services and conditions of service, including access service provided by contract.

(c) Promulgate rules under section 213 and issue orders to establish and enforce quality standards for providing telecommunications services in this state.

(d) Preserve the provision of high quality basic local exchange service.

(e) Create a task force to study changes occurring in the federal universal service fund and the need for the establishment of a state universal service fund to promote and maintain basic local exchange service in high cost rural areas at affordable rates. The task force shall issue a report to the legislature and governor on or before December 31, 1996 containing its findings and recommendations The task force shall consist of all the following members:

(i) The chairperson of the commission.

(ii) One representative from each basic local exchange provider with 250,000 or more access lines.

(iii) Four representatives from providers who, together with affiliated providers, provide basic local exchange or toll service to less than 250,000 end users in this state.

(iv) Two representatives of other providers of regulated services.

(v) One representative of the general public.

(f) On or before January 1, 1997, the commission shall study and report to the legislature and governor on the following matters that have impact on the basic local exchange calling activities of all residential customers in the state:

(i) The percentage of intra-LATA calls and minutes of usage which are charged as basic local exchange calls.

(ii) The average size and range of sizes of basic local exchange calling areas.

(iii) The ability of customers to contact emergency services, school districts, and county, municipal, and local units of government without a toll call.

(iv) Whether there are significant differences in basic local exchange calling patterns between urban, suburban, and rural areas.

(v) The impact on basic local exchange rates which would occur if basic local exchange calling areas are altered.

(vi) The impact when basic local exchange calling areas overlap LATA boundaries.

(vii) The impact on basic local exchange rates which would occur if basic local exchange calling areas are expanded within LATA boundaries.

(g) On or before January 1, 1997, conduct a study of internet access provider locations to determine which exchanges can reach the nearest location only by making a toll call. The commission shall then gather input from internet access providers, local exchange providers, and other interested parties and make a recommendation to the legislature as to the steps needed to allow all local exchange customers to access an internet provider by making a local call.

Sec. 203. (1) Upon receipt of an application or complaint filed under this act, or on its own motion, the commission may conduct an investigation, hold hearings, and issue its findings and order under the contested hearings provisions of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) An application or complaint filed under this section shall contain all information, testimony, exhibits, or other documents and information on which the person intends to rely to support the application or complaint. Applications or complaints that do not meet the requirements of this subsection shall be dismissed or suspended pending the receipt by the commission of the required information.

(3) The burden of proving a case filed under this act shall be with the party filing the application or complaint.

(4) In a contested case under this section, the commission can administer oaths, certify all official acts, and compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony.

(5) Except as otherwise provided in subsections (2) and (6), the commission shall issue a final order in a case filed under this section within 90 days from the date the application or complaint is filed.

(6) If a hearing is required, the applicant or complainant shall publish a notice of hearing as required by the commission within 7 days of the date the application or complaint was filed or as required by the commission. The first hearing shall be held within 10 days after the date of the notice. If a hearing is held, the commission shall have 180 days from the date the application or complaint was filed to issue its final order. If the principal parties of record agree that the complexity of issues involved requires additional time, the commission may have up to 210 days from the date the application or complaint was filed to issue its final order.

(7) An order of the commission shall be subject to review as provided by section 23 of Act No. 300 of the Public Acts of 1909, being section 462.26 of the Michigan Compiled Laws.

(8) If a complaint is filed under this section by a provider against a customer, the provider of service shall not discontinue service during the pendency of the contested case, including the alternative dispute process, if the provider receiving service had posted a surety bond, provided an irrevocable letter of credit, or provided other adequate security in an amount determined by the commission.

(9) For all complaints involving a dispute of $1,000.00 or less, upon motion of the complainant, for a period of 45 days after the complaint is filed under section 203, the parties shall attempt methods of resolving the complaint.

(10) Any alternative means that will result in a recommended settlement may be used that is agreed to by the principal parties of record, including, but not limited to, settlement conferences, mediation, and other informal dispute resolution methods. If the parties cannot agree on an alternative method within 20 days after the date the complaint is filed, the commission shall order mediation. Within the 45-day period required under subsection (9), a recommended settlement shall be made to the parties.

(11) Within 7 days after the date of the recommended settlement, each party shall file with the commission a written acceptance or rejection of the recommended settlement. If the parties accept the recommendation, then the recommendation shall become the final order in the contested case under section 203.

(12) If a party rejects the recommended settlement, then the application or complaint shall proceed to a contested case hearing under section 203.

(13) The party that rejects the recommended settlement shall pay the opposing party's actual costs of proceeding to a contested case hearing, including attorney fees, unless the final order of the commission is more

favorable to the rejecting party than the recommended settlement under this section. A final order is considered more favorable if it differs by 10% or more from the recommended settlement in favor of the rejecting party.

(5) If the recommendation is not accepted under subsection (3), the individual commissioners shall not be informed of the recommended settlement until they have issued their final order under section 203.

(6) An attempt to resolve a contested case under this section is exempt from the requirements of section 203 and the administrative procedures act of 1969, 1969 PA 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(7) This section shall not extend or toll the time within which the commission is required to issue its final order under section 203.

Sec. 304. If 2 or more telecommunication providers are unable to agree on a matter relating to a regulated telecommunication issue between the providers, including but not limited to, a matter prohibited by section 305, a telecommunication provider may file with the commission an application for resolution of the matter.

Sec. 305. (1) The commission may investigate and resolve complaints against a provider. The penalties under this act shall not be imposed for a violation that occurred more than 2 years before the date the complaint was filed.

(2) If the commission finds, after notice and hearing, that the quality of service and conditions for the regulated service violate this act or an order of the commission under this act, or is adverse to the public interest, the commission may require changes in how the telecommunication service is provided. The commission's authority includes, but is not limited to, the revocation of a license and issuing cease and desist orders.

Sec. 307. The commission shall determine the manner in which local exchange access service to the end user is to be regulated under this act. The regulations shall include both rates and quality of service.

Sec. 308. (1) If a competitive market for a regulated telecommunication service in which the rate is regulated exists in this state, a provider may petition the commission to classify that service for all providers within the relevant market as a competitive service.

(2) Except as provided under section 321, if a regulated service is classified as competitive, the rate for the service shall be deregulated and not subject to review under this act.

(3) A service is competitive under this section if for an identifiable customer group or group of customers in an exchange, group of exchanges, or other commonly defined geographical area, the service is available from more than 1 unaffiliated provider and 3 or more of the following apply:

(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 [illegible] and reliable methods.

(d) Rates and charges for the service have changed within the previous [illegible] month period.

(e) [illegible] functionally equivalent service, reasonably available to [illegible] unaffiliated provider or supplier.

(5) Except as provided under subsection (5), a service is not [illegible] under this section if for an identifiable class or group of [illegible] exchange, group of exchanges, or other clearly defined [illegible] of the providers of the service is an unaffiliated [illegible] facilities based basic local exchange service to less than 250,000 [illegible] in this state. A provider may apply to the commission for a review [illegible] under section 203 to determine whether the service is [illegible] of the rate deregulated.

[illegible] subsection (4) does not apply if there are 3 or more providers of [illegible] basic local exchange service throughout the competitive [illegible] one or more of the providers is a provider of facilities based basic [illegible] service to less than 250,000 end-users in this state.

[illegible] shall give notice to its customers if a service is to be [illegible] facilities and its rate deregulated. The notice shall be [illegible] on the bill of each affected customer of the provider before [illegible] the classification.

[illegible] classification under this section shall take effect 45 [illegible] the notice required by subsection (6)

[illegible] complaint alleging [illegible] commission may require a bill [illegible] classification and issue an order revising, modifying, or [illegible] classification.

[illegible] provider shall [illegible] classified as [illegible] until the [illegible] commission [illegible]

[illegible] basic local [illegible] classified as [illegible]

[illegible] basis.

(7) [illegible]

[illegible] of the following conditions:

[illegible] party's primary purpose in initiating the proceeding or [illegible] defense is to harass, embarrass, or injure the prevailing [illegible]

(ii) The party had no reasonable basis to believe that the facts underlying that party's legal position were true.

(iii) The party's legal position was devoid of arguable legal merit.

(b) "Frivolous" does not mean a complaint filed to challenge a rate alteration increase for basic local service if the complaint has been reviewed by the commission and has not been dismissed by the commission pursuant to section 203(2).

(c) "Prevailing party" means a party who wins in the proceeding.

Sec. 210. (1) Except under the terms of a mandatory protective order, trade secrets and commercial or financial information submitted under this act are exempt from the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) If information is disclosed pursuant to a mandatory protective order, then the information may be included in the commission's evidentiary record if admissible and remains confidential.

(3) There is a rebuttable presumption that cost studies, customer usage data, marketing studies, and contracts between providers are trade secrets or commercial or financial information protected under subsection (1). The burden of removing the presumption under this subsection is with the party seeking to have the information disclosed.

Sec. 211. Each telecommunication provider of a regulated service in this state shall pay an assessment in an amount equal to the expenses of the commission pursuant to Act No. 299 of the Public Acts of 1972, being sections 460.111 to 460.120 of the Michigan Compiled Laws.

Sec. 213. (1) No later than July 1, 1996, the commission shall promulgate rules for the implementation and administration of this act under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) Except as provided in subsection (3), effective September 1, 1996, the following administrative rules shall not apply to telecommunication providers or telecommunication services:

(a) Electric power and communication lines: R 460.581 to R 460.592.

(b) Intrastate telephone services and facilities: R 460.1951 to R 460.1968.

(c) Filing procedures for communications common carriers tariffs: R 460.2051 to R 460.2057.

(d) Consumer standards and billing practices, residential telephone service: R 460.2211 to R 460.2279.

(e) Uniform systems of accounts for Class A and Class B telephone companies: R 460.9041 and R 460.9059.

(3) If the Michigan Supreme Court rules that sections 45 and 46 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969,

being sections 24.245 and 24.246 of the Michigan Compiled Laws, are unconstitutional, and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling, the commission shall not promulgate rules under this act. Subsection (2) does not apply if the commission is prohibited from promulgating rules under this subsection.

ARTICLE 2A

LOCAL UNITS OF GOVERNMENT

Sec. 251. (1) Except as provided in subsections (2) and (3), a local unit of government shall grant a permit for access to and the ongoing use of all rights-of-ways, easements, and public places under its control and jurisdiction to providers of telecommunications services.

(2) This section shall not limit a local unit of government's right to review and approve a provider's access to and ongoing use of right-of-way, easement, or public place or limit the unit's authority to ensure and protect the health, safety, and welfare of the public.

(3) A local unit of government shall approve or deny access under this section within 90 days from the date a provider files an application for a permit for access to a right-of-way, easement, or public place. A provider's right to access and use of right-of-way, easement, or public places shall not be unreasonably denied by a local unit of government. A local unit of government may require as a condition of a permit that a bond be posted by the provider, which shall not exceed the reasonable cost, to ensure that the right-of-way, easement, or public place is returned to its original condition during and after the provider's access and use.

Sec. 252. Any conditions of a permit granted under section 251 shall be limited to the provider's access and usage of any right-of-way, easement, or public place.

Sec. 253. Any fees or assessments made under section 251 shall be on a nondiscriminatory basis and shall not exceed the fixed and variable costs to the local unit of government in granting the permit and maintaining the right-of-ways, easements, or public places used by a provider.

Sec. 254. A provider using the highways, streets, alleys, or other public places, shall obtain a permit pursuant to section 251.

ARTICLE 3

REGULATED TELECOMMUNICATIONS SERVICES

A. BASIC LOCAL EXCHANGE

Sec. 301. (1) A telecommunication provider shall not provide or resell basic local exchange service in this state without a license issued from the commission pursuant to this act.

(2) Pending the determination of an application for a license, the commission without notice and hearing may issue a temporary license for a period not to exceed 1 year.

Sec. 302. (1) After notice and hearing, the commission shall approve an application for a license if the commission finds both of the following:

(a) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service to every person within the geographic area of the license.

(b) The granting of a license to the applicant would not be contrary to the public interest.

(2) The commission shall retain a copy of all granted licenses and make all information contained in the licenses available to the public.

(3) Each provider granted a license shall retain a copy of the license at its principal place of business and make the license available for review to the public.

Sec. 303. (1) The commission may alter or amend the geographic area of a license, grant a competing license, or authorize the sale or transfer of a license to another person.

(2) A telecommunication provider shall not provide basic local exchange service to customers or end-users located within another telecommunication provider's licensed service area except through interconnection arrangements as provided by this act.

(3) The sale or transfer of shares of stock of a provider of basic local exchange service is not a sale or transfer of a license or a discontinuance of service.

Sec. 304. (1) Except as provided in section 304a, the rates for basic local exchange service shall be just and reasonable.

(2) A provider may alter its rates for basic local exchange services by 1 or more of the following:

(a) Filing with the commission notice of a decrease, discount, or other rate reduction in a basic local exchange rate. A rate alteration under this subdivision shall become effective without commission review or approval.

(b) Filing with the commission notice of an increase in a basic local exchange rate that does not exceed 1% less than the consumer price index. Unless the commission determines that the rate alteration exceeds the allowed increase under this subdivision, the rate alteration shall take effect 90 days from the date of the notice required under subsection (3). As used in this subdivision, "consumer price index" means the most recent reported annual average percentage increase in the Detroit consumer price index for all items for the prior 12-month period by the United States department of labor.

(c) Filing with the commission an application to increase a basic local exchange rate in an amount greater than that allowed under subdivision (b). The application shall be accompanied with sufficient documentary support that the rate alteration is just and reasonable. The commission shall make a determination within the 90-day period provided for in subsection (5) of 1 of the following:

(i) That the rate alteration is just and reasonable.

(ii) That a filing under section 203 is necessary to review the rate alteration.

(3) Notice to customers of a rate alteration is required for a rate alteration under subsection (2)(b) or (c) and section 304a and shall be included in or on the bill of each affected customer of the provider before the effective date of the rate alteration.

(4) The notice required under subsection (3) shall contain at least all of the following information:

(a) A statement that the customer's rate may change.

(b) An estimate of the amount of the annual change for the typical residential customer that would result by the rate change.

(c) A statement that a customer may comment on or receive complete details of the rate alteration by calling or writing the commission. The statement shall also include the telephone number and address of the commission. Complete details of the rate alteration will be provided free of charge to the customer at the expense of the provider.

(5) Except as otherwise provided in subsections (2) and (6), an altered basic local exchange rate shall take effect 90 days from the date of the notice required by subsection (3).

(6) Upon receiving a complaint or pursuant to a determination under subsection (2)(c), the commission may require a filing under section 203 to review a proposed rate alteration under subsection(2)(c). The commission's final order may approve, modify, or reject the rate alteration.

(7) In reviewing a rate alteration under subsection (6), the commission shall consider only 1 or more of the following factors if relevant to the rate alteration as specified by the provider:

(a) Total service long run incremental cost of basic local exchange services.

(b) Comparison of the proposed rate to the rates charged by other providers in this state for the same service.

(c) Whether a new function, feature, or capability is being offered as a component of basic local exchange service.

(d) Whether there has been an increase in the costs to provide basic local exchange service in the geographic area of the proposed rate.

(e) Whether the provider's further investment in the network infrastructure of the geographic area of the proposed rate is economically justifiable without the proposed rate.

(8) A provider shall be allowed only 1 rate increase for each class or type of service during any 12-month period.

(9) A provider shall not make a rate alteration under this section until the rate has been restructured under section 304a.

Sec. 304a. (1) Upon filing with and 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:

(a) Touchtone capability and associated charges into basic local exchange service at rate levels no greater than the sum of the current basic local exchange service rates and the touchtone service rates. Residential customers with rotary dial service may retain such service at their current rate.

(b) Within basic local exchange rates, all or part of the existing rate elements and charges for other services that are designed to recover the costs associated with the local exchange network.

(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.

(4) The commission shall have 45 days from the date of a filing under this section to review the proposed rate restructuring to ensure that rates are not less than the total service long run incremental costs of the service, or that the rate restructuring brings rates that are below such costs closer to the costs. If the commission is unable to make a determination within the allowed 45 days under this subsection, the commission shall have an additional 15 days to review the rate restructuring.

(5) If the commission does not complete its review within the time period required under subsection (4), the rate restructuring is considered approved under this section. The basic local exchange provider may implement the restructured rates 10 days following commission approval or the end of the period provided for commission review, whichever is earlier.

(6) Except as provided in subsection (7), for purposes of this section and the act, providers who, together with any affiliated providers, provide basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state may determine total service long run incremental cost through preparation of a cost study or may determine that their total service long run incremental cost is the same as that of a provider with more than 250,000 end-users.

(7) A provider of basic local exchange service with less than 15,000 end-users in this state may determine that their total service long run incremental cost is the same as that of a provider with more that 250,000 end-users.

Sec. 304b. (1) A provider of basic local exchange service shall develop and offer various rate plans that reflect residential customer calling patterns that shall include, but not limited to, all of the following at the option of the customer unless it is not technologically feasible:

(a) A flat rate allowing unlimited personal and domestic outgoing calls.

(b) A flat rate allowing personal and domestic outgoing calls up to 400 calls per month per line. Calls in excess of 400 per month may be charged at an incremental rate as set by the provider under section 304. If a customer has more than 1 line at the same location that appears on the customer's bill, the allowable calls under this subdivision shall be the aggregate of all the lines regardless from which line the calls originate. A person who is handicapped or is voluntarily providing a service for an organization classified by the internal revenue service as a section 501(c)(3) or (19) organization, or a congressionally chartered veterans organization or their duly authorized foundations, is exempt from the 400 calls per month limitation and shall receive a flat rate allowing unlimited calls per month. A person exempt from the call cap under this subdivision shall not be charged a rate greater than the flat rate charged other residential customers for 400 calls.

(c) A flat rate allowing personal and domestic outgoing calls of not less than 50 nor more than 150 per month, per line. Providers may offer additional plans allowing personal and domestic calls of not less than 150 per month nor more than 400 per month, per line. Calls in excess of upper per call limit per month may be charged at an incremental rate as set by the provider under section 304. If a customer has more than 1 line at the same location that appears on the customer's bill, the allowable calls under this subdivision shall be the aggregate of all the lines regardless from which line the calls originate.

(d) A rate determined by the time duration of service usage or the distance between the points of service origination and termination.

(e) A rate determined by the number of times the service is used.

(f) A rate that includes 1 or more of the rates allowed by this section.

(g) A rate that includes toll-free calling to contiguous Michigan local calling exchanges.

(2) If an option required under subsection (1) is not being offered by the provider on January 1, 1996, the provider shall set the initial rate for the option.

(3) A provider who, together with any affiliated providers, provides basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state is not required to provide a rate plan required under subsection (1) if it is not economically feasible to provide the rate plan.

Sec. 305. (1) A provider of basic local exchange service shall not do any of the following:

(a) Discriminate against another provider by refusing or delaying access service to the local exchange.

(b) Refuse or delay interconnections or provide inferior connections to another provider.

(c) Degrade the quality of access service provided to another provider.

(d) Impair the speed, quality, or efficiency of lines used by another provider.

(e) Develop new services to take advantage of planned but not publicly known changes in the underlying network.

(f) Refuse or delay a request of another provider for information regarding the technical design, equipment capabilities and features, geographic coverage, and traffic patterns of the local exchange network.

(g) Refuse or delay access service or be unreasonable in connecting another provider to the local exchange whose product or service requires novel or specialized access service requirements.

(h) Upon a request, fail to fully disclose in a timely manner all available information necessary for the design of equipment that will meet the specifications of the local exchange network.

(i) Discriminate against any provider or any party who requests the information for commercial purposes in the dissemination of customer proprietary information. A provider shall provide without unreasonable discrimination or delay telephone directory listing information and related services to persons purchasing telephone directory listing information to the same extent and in the same quality as provided to the provider, affiliates of the provider, or any other listing information purchaser.

(j) Refuse or delay access service by any person to another provider.

(k) Sell, lease, or otherwise transfer an asset to an affiliate for an amount less than the fair market value of the asset.

(l) Buy, lease, or otherwise acquire an asset from an affiliate of the provider for an amount greater than the fair market value of the asset.

(m) Bundle [illegible] services or products for sale or lease to another provider.

(n) Perform any act that has been prohibited by this act or an order of the commission.

(o) Sell services or products, extend credit, or offer other terms and conditions on more favorable terms to an affiliate of the provider than the provider offers to other providers.

(p) Discriminate in favor of an affiliated burglar and fire alarm service over a similar service offered by another provider.

(2) A provider of cellular telecommunication services shall not do either of the following:

(a) Unreasonably provide services, extend credit, or offer other terms and conditions on more favorable terms to an affiliate of the provider or to its retail department that sells to end users than the provider offers to other providers.

(b) Unreasonably use rates or proceeds from providers, directly or indirectly, to subsidize or offset the costs of cellular service offered by the provider, or an affiliate of the provider, to other providers or to end users.

(3) Until a provider has complied with section 304a, the provider of a rate regulated service shall not provide that service in combination with an unregulated service in section 401 or an unbundled or resold service under section 357 at a price that does not exceed the total service long run incremental cost of each service.

Sec. 306. Except as provided in section 312B, a telecommunication provider of basic local exchange service is not required to provide toll

services. If a telecommunication provider that provides basic local exchange service does not offer toll or have interconnection with a toll provider, the commission shall order a toll provider to interconnect with the telecommunication provider upon terms that are fair to both providers.

Sec. 307. (1) Educational institutions shall have the authority to own, construct, and operate a telecommunication system or to purchase telecommunication services or facilities from an entity capable of providing the service or facility.

(2) Educational institutions that provide telecommunication services offered in subsection (3) shall not be subject to regulation under this act or by any other governmental unit.

(3) Except as provided in subsection (6), educational institutions may only sell telecommunication services required for, or useful in, the instruction and training, including work training, of students and other people utilizing the institution's educational services, the conducting of research, or the operation of the institution. The services shall not be considered basic local exchange services as long as they are used for the instruction and training of students and other people utilizing the institution's and training of students and other people utilizing the institution's education services, the conducting of research, or the operation of the institution. Educational institutions may initiate and maintain cooperative arrangements with telecommunication providers without the institutions being subject to this act.

(4) Upon the request of an educational institution, telecommunication providers may provide to an educational institution services for the transmission of interactive data, voice and video communications between the institution's facilities or to the homes of students or employees of the institution, regardless of whether the exchanges are in the same or different [illegible]

[illegible] rates for services provided to an educational institution by a [illegible] under this section shall be determined by an open bid process.

(6) Except for a state institution of higher education, if an educational institution has excess capacity, it may sell the excess capacity subject to subsection (3) and to both of the following:

(a) The amount of capacity sold shall not exceed 25% of the institution's total capacity.

(b) The capacity shall not be sold below the total service long run incremental cost of the provider of basic local exchange service in the service area of the educational institution. If there is more than 1 provider in the service area, the educational shall use the lowest total service long run incremental cost.

Sec. 308(1) Basic local exchange or access rates or proceeds from the sale, lease, or transfer of rate acquired assets shall not be used, directly or indirectly, to subsidize or offset the costs of other products or services offered by the provider or an affiliate of the provider by providing such other products or services at less than the total service long-run incremental cost.

(2) A provider of basic local exchange service shall not sell or transfer capital assets used to provide the service for an amount less than

the fair market value to any other provider or affiliated entity for the purpose of providing an unregulated service.

(3) A provider of basic local exchange service shall notify the commission when it transfers, in whole or in part, substantial assets, functions or employees associated with basic local exchange service to an affiliated entity, indicating the identity of the affiliated entity, description of the transaction and the impact on basic local exchange service.

(4) In an investigation under this section or under section 203, the commission shall have the authority to review the books and accounts of both the provider and affiliated entities of the provider.

Sec. 309. (1) A provider of basic local exchange service shall provide to [illegible] local directory assistance and, at no additional charge to the customer, an annual printed telephone directory.

(2) A provider of interzone service, as defined in tariffs on file with the commission on December 31, 1991, shall continue to provide the service [illegible] the terms of the tariffs. A provider may alter interzone service [illegible] to provisions of section 304.

(3) A provider of basic local exchange service shall provide each [illegible] additional charge the option of having access to 900 prefix [illegible] through the customer's exchange service.

[illegible] (1) A provider of telecommunication service, including, [illegible] service, may provide cable service if the provider has [illegible] agreement from the local unit of government to provide [illegible]

[illegible] provider of cable service [illegible] the service [illegible] an incumbent provider of cable [illegible] under a [illegible] agreement, [illegible] negotiating [illegible] franchise [illegible] agreement [illegible] into prior to July [illegible] may consider [illegible] conditions of the [illegible] government provid[illegible] cable [illegible]

[illegible] 09b. [illegible] Michigan shall take [illegible] discourage or [illegible] pursuing collective [illegible] by other [illegible], including, but not [illegible] office or [illegible] to prevent [illegible]

B. TOLL ACCESS SERVICE

Sec. 310. (1) Except as provided by this act, the commission shall not [illegible] set the rates for toll access services.

(2) A provider of toll access services shall set the rates for toll access services. Access service rates and charges set by a provider that exceed the rates allowed for the same interstate services by the federal government are not just and reasonable. Providers may agree to a rate that is less than the rate allowed by the federal government. If the providers cannot agree on a rate, a provider may apply to the commission under section 204.

(3) Two or more providers that each have less than 250,000 access lines may agree to joint toll access service rates and pooling of intrastate toll access service revenues.

(4) A provider of toll access service shall make available for intrastate access service any technical interconnection arrangements, [illegible] allocation, required by the federal government for the identical [illegible].

(5) A provider of toll access service, whether under tariff or contract, shall offer those services under the same rates, terms and conditions, without unreasonable discrimination, to all providers. All pricing of special toll [illegible] and switched access services, including volume discounts, shall be offered to all providers under the same rates, terms, and conditions. Except as allowed by the federal communications commission, volume discounts on [illegible] access are prohibited under this subsection.

(6) If a toll access service rate is reduced under section 301a, then [illegible] reduced rate shall reduce its rate to its customers [illegible].

(7) A local communications provider of both basic local [illegible] service shall impute the rates provided under section 367 [illegible] special toll access service and switched access for [illegible] facilities it uses in the provision of toll, WATS, or [illegible] toll access service in competition.

(8) A provider of special toll access service, [illegible], toll, or WATS shall impute to themselves in the [illegible] rates for its their individual cost of [illegible] equivalent in their pricing.

(9) Local communications services that utilize special or switched toll [illegible] shall be made available for resale by the telecommunications [illegible] service.

C. TOLL SERVICE

(1) Except as provided by this act, the commission shall not [illegible] toll rates for toll service.

(2) A provider of toll service may charge the same rate for the service [illegible] of similar distance.

(3) The commission shall require that toll service is universally [illegible] all persons within the state.

(4) Local exchange toll calling plans as ordered by the commission [illegible] shall remain in effect under this act until altered by order of the commission. A provider of toll service shall implement an optional [illegible] plan for calling to exchanges within 20 miles of a customer's home [illegible]. A plan shall not violate the conditions delineated in the [illegible] orders in case number U-9153, dated September 26, 1989.

Sec. 312a. Effective January 1, 1996, if a waiver to the inter-LATA prohibitions has been granted for a specific service area and the service area has 2 or more providers of local exchange service, the provider of basic local

exchange service shall provide 1+intra-LATA toll dialing parity within the service area that is subject to the waiver.

Sec. 312b. (1) Except as otherwise provided in subsection (2) OR (3), a provider of basic local exchange service shall provide 1+intra-LATA toll dialing parity and shall provide inter-LATA toll service to an equal percentage of customers within the same service exchange on the following dates:

(a) To 10% of the customers by January 1, 1996.

(b) To 20% of the customers by February 1, 1996.

(c) To 30% of the customers by March 1, 1996.

(d) To 40% of the customers by April 1, 1996.

(e) To 50% of the customers by May 1, 1996.

(2) If the inter-LATA prohibitions are removed, the commission shall immediately order the providers of basic local exchange service to provide 1+intra-LATA toll dialing parity.

(3) Except for subsection(1)(A), subsection(1) does not apply to the extent that a provider is prohibited by law from providing either 1+intra-LATA toll dialing parity or inter-LATA toll service as provided under subsection(1).

(4) Except as otherwise provided by this section, this section does not alter or void any orders of the commission regarding 1+intra-LATA toll dialing parity issued on or before June 1, 1995.

(5) The commission shall immediately take the necessary actions to receive the federal waivers needed to implement this section.

(6) This section does not apply to a provider of basic local exchange service with less than 250,000 access lines.

D. DISCONTINUANCE OF SERVICE

Sec. 313 (1) A telecommunication provider that provides either basic local exchange or toll service, or both, may not discontinue either service to an exchange unless 1 or more alternative telecommunication providers are furnishing the same telecommunication service to the customers in the exchange.

(2) A telecommunication provider proposing to discontinue a regulated service shall file a notice of the discontinuance of service with the commission, publish the notice in a newspaper of general circulation within the exchange, and provide other reasonable notice as required by the commission.

(3) Within 30 days after the date of publication of the notice required by subsection (2), a person or other telecommunication provider affected by a discontinuance of services by a telecommunication provider may apply to the commission to determine if the discontinuance is authorized pursuant to this act.

F. LIFELINE SERVICES

Sec 316. (1) The commission shall require each provider of residential basic local exchange service to offer certain low income customers the availability of basic local exchange service at a rate below the regulated rate.

(2) The basic local exchange rate for low income customers, except as provide in subsection (3), shall be 20% or $4.00 which shall be inclusive of any federal contribution, whichever is greater, below the regulated rate. To qualify for the reduced rate under this subsection the person's annual income shall not exceed 150% of the federal poverty income standards as determined by the United States office of management and budget and as approved by the state treasurer.

(3) The basic local exchange rate for low income customers 65 years of age or more shall be 25% or $4.00 which shall be inclusive of any federal contribution, whichever is greater, below the regulated rate.

(4) The commission shall establish a rate for each subscriber line of a provider to allow the provider to recover costs incurred under this section.

(5) The commission shall take necessary action to notify the general public of the availability of lifeline services including, but not limited to, public service announcements, newspaper notices, and such other notice reasonably calculated to reach those who may benefit from the services.

G. OPERATOR SERVICE PROVIDERS

Sec. 317. (1) The commission shall adopt operating requirements for operator service providers The requirements shall include the following:

(a) That an OSP shall furnish each entity with which the OSP contracts to provide operator service a sticker, card, or other form of information for each telephone that has access to the operator service. The information shall include the name of the operator service provider, a toll-free customer service telephone number, and a statement that charges imposed by the operator service provider may be obtained by calling the toll-free telephone number. The operator service provider shall require by contract that the entity receiving the information display the information on or near each of the telephones that has access to the service.

(b) Prior to the connection of each call, the operator service provider shall do all of the following:

(i) Announce the operator service provider's name.

(ii) Quote, at the caller's request and without charge, the rate and any other fees or surcharges applicable to the call charged by the operator service provider.

(c) Allow a caller to choose the carrier of his or her choice by doing either of the following:

(i) After informing the caller that the rates for the call may not reflect the rates for a call from the location of the caller and receiving the caller's consent, transfer the caller to the carrier of his or her choice without charge.

(ii) Instruct the caller how to reach his or her carrier of choice by dialing the carrier's 950, 1-800, or 10-xxx access service method.

(d) Allow callers to the operator service provider to reach emergency services without charge.

(2) An operator service provider shall not provide operator services in this state without first registering with the commission. The registration shall include the following information:

(a) The name of the provider.

(b) The address of the provider's principal office.

(c) If the provider is not located in this state, the address of the registered office and the name of the registered agent authorized to receive service of process in this state.

(d) Any other information that the commission may require.

(3) The registration shall be accompanied with a registration fee of $100.00.

(4) The registration is effective immediately upon filing with the commission and the payment of the registration fee and shall remain in effect for 1 year from its effective date.

(5) A registration may be renewed for 1 year by filing with the commission a renewal registration on a form provided by the commission and the payment of a renewal fee of $100.00.

(6) Except as otherwise authorized by the commission, a provider under this section shall not charge a rate for operator services or toll service that is greater than 300% of the state average rate for operator or toll service by providers of regulated toll service.

(7) A provider shall not discontinue basic local exchange service for failure by a person to pay an OSP charge.

(8) In addition to any other penalty under this act, a person who is charged for the use of an operator service provider or is denied access to emergency services in violation of this section may bring a civil action against the OSP to recover actual damages or $250.00, whichever is greater, plus all reasonable attorney fees.

H. PAYPHONE SERVICES

Sec. 318. (1) A provider of basic local exchange service shall not discriminate in favor of its or an affiliate's payphone service over similar services offered by another provider.

(2) A provider of payphone service shall comply with all nonstructural safeguards adopted by the federal communications commission for payphone service.

Sec. 319. (1) The commission shall determine the rate that a provider of toll service is to compensate a provider of payphone service for calls made on a payphone of the provider that utilizes the toll service and avoids customer direct compensation to the provider of the payphone service.

(2) The rate of compensation determined under subsection (1) shall be based on a per-call basis and shall be at the total service long run incremental cost of providing the payphone service.

(3) Until a determination can be made under subsection (1), the toll service provider shall compensate the provider of the payphone service on a per-call basic at a rate of 25 cents for each call.

(4) A provider of payphone service with less than 10,000 payphones may determine total service long run incremental cost through preparation of a cost study or may determine that their total service long run incremental cost is the same as that of a provider with more than 10,000 payphones.

(5) A provider of payphone service shall not receive compensation under this section unless the provider has registered under section 320.

Sec. 320. (1) A person shall not provide payphone service in this state without first registering with the commission. The registration shall include all of the following information:

(a) The name of the provider.

(b) The address and telephone number of the provider's principal office.

(c) If the provider is not located in this state, the address and telephone number of the registered office and the name and telephone number of the registered agent authorized to receive service of process in this state.

(d) The specific location of each payphone in this state owned or operated by the provider. Information required under this subdivision shall be made available to the local unit of government solely for the enforcement of the reporting, repairing, and replacement standards under subsection (8). The information required to be provided under this subsection shall be considered commercial information under section 210, and the information submitted shall be exempt from the freedom of information act, Act No. 442 of the Publics Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) Registration shall be accompanied by a registration fee of $100.00.

(3) The registration is effective immediately upon filing with the commission and the payment of the registration fee and shall remain in effect for 1 year from its effective date.

(4) A registration may be renewed for 1 year by filing with the commission a renewal registration on a form provided by the commission and the payment of a renewal fee of $100.00.

(5) The commission shall establish a toll-free number that can be dialed to report to the commission a payphone that is inoperative. The toll-free number shall be conspicuously displayed by the provider on or near each payphone.

(6) If the commission receives a report pursuant to subsection (5), it shall immediately notify the provider of the inoperative payphone.

(7) After consulting with providers of payphone service, local units of government, and other interested parties, the commission shall promulgate rules or issue orders under section 213 to establish and enforce quality standards in the providing of payphone service.

(8) Except as provided in subsection (9), a local unit of government shall not regulate payphone service.

(9) A local unit of government may enforce the reporting, repairing, and replacement of inoperative payphones within its jurisdiction by adopting an ordinance that conforms to the standards established by the commission under subsection (7). A local unit of government shall not impose standards greater than those established by the commission.

I. REGULATED RATES

Sec. 321. Except as otherwise provided under section 304a, a provider of a regulated telecommunication service shall not charge a rate for the service that is less than the total service long run incremental cost of providing the service.

ARTICLE 3A

INTERCONNECTION OF TELECOMMUNICATION PROVIDERS WITH THE BASIC LOCAL EXCHANGE SERVICE

Sec. 351. Until January 1, 2000 and except for section 361, this article does not apply to providers who, together with any affiliated providers, provide basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state on January 1, 1996.

Sec. 352. (1) Until January 1, 1997, the rates of a provider of basic local exchange service for interconnection under this article shall be at the provider's total service long run incremental cost of providing the service. After January 1, 1997, the rate for interconnection shall be just and reasonable as determined by the commission.

(2) The rates for unbundled loops, number portability, and the termination of local traffic shall be at the rates established under commission case U-10647 and shall remain in effect until new total service long run incremental cost studies for such services have been approved by the commission.

Sec. 353. The commission shall issue a report and make recommendations to the legislature and governor on or before January 1, 1998, involving the issues, scope, terms, and conditions of interconnection of telecommunication providers with the basic local exchange service.

A. JOINT MARKETING

Sec. 354. (1) Except as otherwise provided in subsection (2), until inter-LATA prohibitions are removed for providers of basic local exchange service, a provider of basic local exchange service shall not do any of the following:

(a) Jointly market or offer as a package a basic local exchange service together with an inter-LATA toll service or condition a rate for basic local exchange service on the customer also ordering an inter-LATA toll service.

(b) Discriminate against providers of toll service by not making available customer names and addresses that are available to an affiliate of the basic local exchange provider.

(2) Subsection (1)(A) does not apply to a Michigan facility based provider or to the extent that a provider is providing 1+ intra-LATA toll dialing parity under section 312b.

B. SERVICE UNBUNDLING

Sec. 355. (1) On or before January 1, 1996, a provider of basic local exchange service shall unbundle and separately price each basic local exchange service offered by the provider into loop and port components and allow other providers to purchase such services on a nondiscriminatory basis.

(2) Unbundle services and points of interconnection shall include at a minimum the loop and the switch port.

Sec. 356. A provider of local exchange service shall allow and provide for virtual co-location with other providers at or near the central office of the provider of local exchange service of transmission equipment that the provider has exclusive physical control over and is necessary for efficient interconnection of the unbundled services. Provider may enter into an agreement that allows for interconnection on other terms and conditions than provided under this subsection.

C. RESALE OF LOCAL EXCHANGE SERVICE

Sec. 357. (1) A provider of local exchange service shall make available for resale on nondiscriminatory terms and conditions all basic local exchange services that on January 1, 1996 it is offering to its retail customers. Resale shall be provided on a wholesale basis.

(2) Except for restrictions on resale, a provider of local exchange service may include in its wholesale tariffs any use or class of customer restrictions it includes in its retail tariffs.

(3) A provider of local exchange service is not required to offer for resale either of the following:

(a) A package of services where basic local exchange service is jointly marketed or combined with other services, or for any promotional or discounted offering of basic local exchange service.

(b) Services for which the provider does not have existing facilities in place to service the intended end user, or any service offered for the first time subsequent to March 1, 1996.

(4) No later than January 1, 1996, each provider of local exchange service shall file tariffs with the commission which set forth the wholesale rates, terms, and conditions for basic local exchange services. The wholesale rates shall be set at levels no greater than the provider's current retail rates less the provider's avoided costs.

(5) After January 1, 2000, wholesale rates shall not be less than the provider's total service long run incremental cost of the services.

D. NUMBER PORTABILITY

Sec. 358. (1) As used in this section, "number portability" means the capability for a local exchange customer at a particular location to change providers of basic local exchange service without any change in the local exchange customer's telephone number, while preserving the full range of functionality that the customer could obtain by changing telephone numbers.

(2) No later than January 1, 1999, a provider of basic local exchange service shall provide number portability.

(3) If the commission determines that it is economically and technologically feasible to provide number portability before the date required under subsection (2), the commission shall order providers of basic local exchange service to provide the service before that date.

(4) Until number portability is available, a provider of basic local exchange service shall make available to other providers direct inward dialing and remote call forwarding.

E. TERMINATION RATES

Sec. 359. (1) No later than January 1, 1996, a provider of basic local exchange service shall establish a rate charge for other providers of basic local exchange service for the termination of local traffic on its network as provided under section 352.

(2) This section does not prohibit providers of basic local exchange service from entering into an agreement for the exchange of local traffic on other terms and conditions. Any compensation arrangements agreed to between providers under this subsection shall be available to other providers with the same terms and conditions on a nondiscriminatory basis.

F. DIRECTORY ASSISTANCE

Sec. 360. (1) No later than January 1, 1996, a provider of basic local exchange service shall establish a rate to other providers of basic local exchange service for providing directory assistance.

(2) This section does not prohibit providers of basic local exchange service from entering into an agreement to provide for the exchange of providing directory assistance on other term and conditions.

G. ATTACHMENT RATES

Sec. 361. (1) As used in this section:

(a) "Attachment" means any wire, cable, facility, or other apparatus installed upon any pole or in any duct or conduit, owned or controlled, in whole or in part, by a provider.

(b) "Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable grade clearance and includes the space which separates telecommunication and power lines.

(2) A provider shall establish the rates, terms, and conditions for attachments by another provider or cable service.

(3) The rates, terms, and conditions shall be just and reasonable. A rate shall be just and reasonable if it assures the provider recovery of not less than the additional costs of providing the attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the attachment, by the sum of the operating expenses and actual capital costs of the provider attributable to the entire pole, duct, or right-of-way.

(4) An attaching provider or cable service shall obtain any necessary authorization before occupying public ways or private rights-of-way with its attachment.

(5) A public utility that directly provides a regulated telecommunication service or cable service shall establish the rates, terms, and conditions for attachments as provided under this section.

(6) This section shall not be construed to limit the commission's authority to regulate the rates, terms, and conditions of attachments upon poles or in ducts or conduits owned or controlled by utilities engaged in the transmission of electricity for light, heat, or power.

H. IMPUTATION

Sec. 362. (1) The rate of a provider of local exchange services is subject to subsection (2) if all of the following apply:

(a) The provider has a service that competes with a service of another provider.

(b) The other provider utilizes a service, including any unbundled service element or basic network component, from the provider of local exchange service that is not available within the relevant market or geographic area from any other provider of local exchange service.

(c) The provider of local exchange service uses that same noncompetitive service or its functional equivalent.

(2) The rate for a telecommunication service shall exceed the sum of both of the following:

(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 that service.

(b) The total of the long run incremental costs of the other components of the provider of local exchange service.

I. CUSTOMER DATA BASE

Sec. 363. Provider of basic local exchange service shall allow access by other providers, on a nondiscriminatory basis and in a timely and accurate manner, to data bases, including, but not limited to, the line information data base (LIDB), the 800 data base, and other information necessary to complete a call within the exchange, either on terms and conditions as the providers may agree or as otherwise ordered by the commission.

ARTICLE 4

UNREGULATED SERVICES

Sec. 501. (1) Except as otherwise provided by law or preempted by federal law, the commission shall not have authority over enhanced services, paging, cellular, mobile, and answering services, video, cable service, pay-per-view, shared tenant, private networks, financial services networks, radio and television, WATS, personal communication networks, municipally owned telecommunication system, 800 prefix services, burglar and fire alarm services, energy management services, except for state institutions of higher education the reselling of centrex or its equivalent, payphone services, and the reselling of an unlicensed telecommunication service. The foregoing services shall not be considered part of basic local exchange service.

(2) Except as otherwise provided by this act, the commission shall not have the authority over a telecommunication service not specifically provided for by this act.

Sec. 502. (1) A provider of an unregulated service may file with the commission a tariff which shall contain the information the provider considers to be appropriate regarding the offered service.

(2) The commission shall retain a tariff filed under this section and information contained in the tariff available to the public.

Sec. 503. A provider of unregulated telecommunication services shall not refuse, charge, delay, or impair the speed of the connecting of a telecommunication to emergency services.

ARTICLE 5

PROHIBITED ACTIVITY

Sec. 601. A provider of a telecommunication service shall not do any of the following:

(a) Make a statement or representation, including the omission of information, regarding the rates, terms, or conditions of providing a telecommunication service that is false, misleading, or deceptive.

(b) Charge an end-user for a subscribed service that the end-user did not make an initial affirmative order. Failure to refuse an offered or proposed subscribed service is not an affirmative order for the service.

(c) If an end-user has canceled a service, charge the end-user for service provided after the effective date the service was canceled.

(d) If a residential end-user has orally ordered a service, fail to confirm the order in writing within 15 days after the service is ordered.

(e) State to an end-user that their basic local exchange service or other regulated service will be discontinued unless the end-user pays a charge that is due for an unregulated service.

Sec. 503. (1) The commission shall promulgate rules under section 213

that establish privacy guidelines in the providing of telecommunication services.

(2) The rules promulgated under this section shall include, but need not be limited to, protections against the releasing of certain customer information and customer privacy intrusions.

(3) A person who obtains an unpublished telephone number using a telephone caller identification service shall not do any of the following without the written consent of the customer of the unpublished telephone number:

(a) Disclose the unpublished telephone number to another person for commercial gain.

(b) Use the unpublished telephone number to solicit business.

(c) Intentionally disclose the unpublished telephone number through a computer data base, on-line bulletin board, or other similar mechanism.

Sec. 504. Each regulated telecommunications provider shall file with the commission a small and minority owned telecommunication business, as defined by the department of management and budget, participation plan within 60 days of the effective date of this act. Competing telecommunication providers shall file such a plan with the commission with their application for license. Such plan shall contain such entity's plan for purchasing goods and services from small and minority telecommunications businesses and information on programs, if any, to provide technical assistance to such businesses.

ARTICLE 6

PENALTIES, REPEALS, AND EFFECTIVE DATES

Sec. 601. If after notice and hearing the commission finds a person has violated this act, the commission shall order remedies and penalties to protect and make whole ratepayers and other persons who have suffered an economic loss as a result of the violation, including, but not limited to, 1 or more of the following:

(a) Except as provided in subdivision (b), the person to pay a fine for the first offense of not less than $1,000.00 nor more than $20,000.00 per day that the person is in violation of this act, and for each subsequent offense, a fine of not less than $2,000.00 nor more than $40,000.00 per day.

(b) If the provider has less than 250,000 access lines, the provider to pay a fine for the first offense of not less than $200.00 or more than $500.00 per day that the provider is in violation of this act, and for each subsequent offense a fine of not less than $500.00 or more than $1,000.00 per day.

(c) A refund to ratepayers of the provider of any collected excessive rates.

(d) If the person is a licensee under this act, that the person's license is revoked.

(e) Cease and desist orders.

Sec. 602. The commission shall assure that none of the amounts paid pursuant to section 601 or any other related defense costs are passed through to the provider's customers in any manner.

Sec. 603. The following acts and parts of acts are repealed:

Year of Act	Public Act Number	Section Numbers	Compiled Law Sections (1979)
1883	72		484.51
1913	206	1 to 3f	484.101 to 484.103f
		4 to 11a	484.104 to 484.111a
		12 to 14	484.112 to 484.114
		19 to 24	484.119 to 484.124
		26	484.126
1913	383		469.491 to 469.493

Sec. 604. (1) This act is repealed effective January 1, 2001.

(2) Section 312b of Act No. 179 of the Public Acts of 1991, being section 484.2312b of the Michigan Compiled Laws, is repealed effective July 1, 1997.

(3) Sections 206, 207a, 212, 307a, 501, and 605 of Act No. 179 of the Public Acts of 1991, being sections 484.2206, 484.2207a, 484.2212, 484.2307a, 484.2501, and 484.2605 of the Michigan Compiled Laws, are repealed.

(4) Section 3g of Act No. 206 of the Public Acts of 1913, being section 484.103g of the Michigan Compiled Laws, is repealed.

Attachment 2

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of **MCI TELECOMMUNICATIONS CORPORATION** against **AMERITECH MICHIGAN** and **GTE NORTH INCORPORATED** relative to their not making intraLATA equal access available in the State of Michigan.	Case No. U-10138 Remand

At the March 10, 1995 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. Ronald E. Russell, Commissioner
Hon. John L. O'Donnell, Commissioner

OPINION AND ORDER

I.

HISTORY OF PROCEEDINGS

On February 24, 1994, the Commission issued an order in which it determined that intraLATA dialing parity[1] is necessary for effective competition and, therefore, it is in the public interest. The Commission ordered that intraLATA dialing parity be implemented in Michigan when Ameritech Michigan[2] and GTE North Incorporated (GTE) are authorized and

[1]IntraLATA dialing parity is the capability to dial a single digit to initiate an intraLATA long distance call. IntraLATA dialing parity is also known as intraLATA equal access and intraLATA presubscription. As a result, those terms are used interchangeably in this order.

[2]Michigan Bell Telephone Company is now referred to as Ameritech Michigan.

able to provide interLATA toll service, but no later than January 1, 1996. Toward that end, the Commission found that a task force should be established to work out the procedure for the interexchange carriers (IXCs) to be in a position to fully and fairly compete in the intraLATA toll market.

The Commission directed the Commission Staff (Staff) to coordinate the formation of the task force to address all factors necessary to establish full intrastate toll competition including, but not limited to, the following issues: (1) If the two-PIC option[3] is pursued, a deployment schedule must be developed, and all offices in which that technology can be implemented as of January 1, 1996 must be delineated along with a deployment schedule for all other central offices that cannot immediately convert to intraLATA dialing parity; (2) costs for the two-PIC option must be identified and cost recovery methodologies delineated; and (3) the effect the options available to Ameritech Michigan and GTE for intraLATA dialing parity will have on other local exchange carriers (LECs) must be evaluated.

On July 19, 1994, the Commission issued another order denying the petitions for rehearing filed by Ameritech Michigan and GTE. In that order, the Commission directed the task force to address the issues raised by the Michigan Exchange Carriers Association (MECA) regarding company-by-company implementation of intraLATA dialing parity in secondary exchange carrier (SEC) exchanges and proposed safeguards.

On September 23, 1994, the Report of the Dialing Parity Task Force (the report) was submitted to the Commission. Ameritech Michigan, GTE, MECA, MCI Communications Corporation (MCI), AT&T Communications of Michigan, Inc., (AT&T), and the Staff filed

[3]PIC is an acronym for primary interexchange carrier.

comments on the report on October 24, 1994. Attorney General Frank J. Kelley (Attorney General) and Mr. Jack Decker also submitted letters regarding the report.

II.

DISCUSSION

The Task Force Process

By letter dated March 16, 1994, the Staff requested interested parties to submit proposed issues to be addressed by the task force. Ameritech Michigan, GTE, MECA, AT&T, MCI, and LCI International Telecom Corp. (LCI) submitted proposals, while the Attorney General submitted a response. After reviewing the proposals, the Staff prepared a list of issues to be addressed, which was mailed to the parties on May 3, 1994. Ameritech Michigan, GTE, MECA, AT&T, MCI, LCI, Sprint, the Attorney General, the American Association of Retired Persons, and the Staff participated in the task force. On May 18, 1994, an initial task force meeting was held to discuss the issues and to coordinate the formation of committees to address the issues. Seven committees were formed to provide information and recommendations on the issues, which was then divided into the seven chapters that make up the report.

Each of the seven chapters of the report identifies the issues addressed by the applicable committee, the process used to complete the committee's report, and the committee's recommendations. The chapters also indicate the areas in which parties did not agree on the issues.

The task force requests that the Commission adopt the committees' unanimous recommendations. In those areas in which a consensus was not reached, the report indicates that further Commission action is necessary.

In its comments, Ameritech Michigan argues that, lacking specific direction from the Commission, the task force followed an arbitrary and skewed process. The company contends that, despite the fact that the Commission's order expressly stated that the task force was to address all factors necessary to establish full intrastate toll competition, the Staff arbitrarily excluded from consideration 13 issues that are critical to the successful implementation of intraLATA dialing parity. MECA adds that the task force focused on factual and technical implementation matters, but it did not address policy or legal issues. According to MECA, two important issues were explicitly excluded: (1) the impact of the potential withdrawal of service by the primary exchange carriers (PECs), i.e., Ameritech Michigan and GTE, from SEC exchanges and (2) MECA's recommended safeguards and standards for withdrawal of service from an area.

Additionally, Ameritech Michigan and MECA argue that the task force process and, ultimately, the report were further skewed by the composition of committee membership. They submit that because an unlimited number of IXCs were allowed to separately participate, the IXCs represented the majority membership of almost every committee. According to Ameritech Michigan, this ensured that the majority positions contained in each committee report were IXC positions because they were determined by a simple majority vote. For example, MECA points out that, while it represents 36 individual SECs in Michigan, MECA had only a single vote, whereas the IXCs had several votes because they had more individual participants.

Ameritech Michigan further argues that the report does not provide an evidentiary record because the information presented was not developed subject to any due process safeguards. At best, Ameritech Michigan submits, the report could be described as an advisory opinion

on intraLATA dialing parity issues from which the Commission may be able to identify areas that require further investigation. Ameritech Michigan maintains that serious legal issues remain regarding the legal status of the task force, the lawful procedures for implementation of the recommendations, and the Commission's jurisdiction in general over intraLATA dialing parity issues. To resolve those issues and implement the findings in the report, Ameritech Michigan states, it is likely that the Commission must comply with the contested case provisions of the Administrative Procedures Act (APA).

Finally, Ameritech Michigan argues that although the Commission's January 1, 1996 implementation date has been viewed as a deadline, the task force report demonstrates that virtually all of the implementation issues that existed on February 24, 1994 are still unresolved. Ameritech Michigan states that it would be appropriate to extend the implementation deadline to January 1, 1997 to allow time to correct the report's deficiencies and satisfy the legal requirements. Ameritech Michigan therefore requests that the Commission order supplemental proceedings consistent with the APA and due process to gather the information necessary to develop a record.

The Commission finds that all of Ameritech Michigan's, MECA's, and GTE's arguments should be rejected. First, a review of the issues excluded from consideration by the Staff reveals that they either represent an effort to relitigate whether intraLATA dialing parity should be implemented, or they are beyond the scope of this proceeding. For example, one of Ameritech Michigan's proposed issues is whether there are any legal obstacles to intraLATA presubscription. The Commission thoroughly analyzed that issue in its prior orders when it rejected the argument that the Commission does not have authority to order intraLATA dialing parity. Another proposed issue is the impact of intraLATA dialing parity

on pay telephone service, availability and cost of coin telephones, extended area service, flat rate calling, local calling areas, and resale of service. However, those considerations are outside the scope of the Commission's directions to the task force. In its February 24, 1994 order, the Commission intended that the task force's responsibility should be technical and administrative in nature. As the Staff correctly points out, it was not to determine the impact, prudence, or legality of the Commission's decision to implement intraLATA dialing parity. The Commission has already made those determinations. Therefore, the Commission believes that the Staff's narrowing of the issues was appropriate.

Second, the Commission is persuaded that the process used in the formation of the task force fairly represented all positions. Contrary to MECA's suggestion, there is no indication that the task force prevented MECA from having multiple representatives from its member companies participate in the task force. Rather, MECA chose to present a unified position on behalf of its member companies. As a result, it is only logical that more IXCs than LECs participated in the task force. However, that does not lead to the conclusion that the process was inherently unfair. In fact, the report indicates that Ameritech Michigan and MECA chaired some of the committees and, along with the other parties, participated in every other committee. Furthermore, all of the parties had the opportunity to file comments on the report, which the Commission will consider in rendering its decisions regarding the implementation of intraLATA dialing parity.

Third, Ameritech Michigan's argument that the report does not provide a sufficient legal basis upon which the Commission can make its final decisions lacks merit. In raising this issue for the first time in these proceedings, Ameritech Michigan ignores the fact that it has consistently favored the use of a task force on the issue of intraLATA dialing parity. In fact,

in its December 9, 1992 brief submitted in the first phase of this proceeding, Ameritech Michigan stated:

> "Both under the MTA and under prior law, the Commission recognized that far-reaching policy evaluations are best conducted outside of the strict confines of a contested case proceeding. Both under the MTA and prior law, the Commission has used an informal 'legislative inquiry' process to gather the necessary factual information upon which to base its policy decisions. See, e.g., Cases Nos. U-10049, U-10064, U-9316, and U-8716." (p. 41.)

In making that statement, Ameritech Michigan apparently believed that the Commission could base its decisions regarding intraLATA dialing parity, which involves far-reaching policy evaluations, on information gathered by a task force. Furthermore, Section 203 of Act 179 does not require the Commission to hold a hearing in every case. That section provides that the Commission may also conduct an investigation, which it has done through the task force process. Moreover, Ameritech Michigan's position ignores the extensive evidentiary records that were, in fact, created during both the first phase and the remand phase of this case. To now argue that the Commission should order supplemental proceedings to gather even more information merely reflects Ameritech Michigan's desire to delay implementation of intraLATA dialing parity.

Fourth, the Commission rejects Ameritech Michigan's contention that implementation of intraLATA dialing parity should be delayed until January 1, 1997. Contrary to Ameritech Michigan's assertion, the task force resolved numerous issues regarding the implementation of intraLATA dialing parity. Given Ameritech Michigan's and GTE's strong opposition to the implementation of intraLATA dialing parity by January 1, 1996, the Commission did not expect that the industry could resolve all of the issues. Furthermore, in its July 19, 1994 order, the Commission recognized Ameritech Michigan's propensity to change the date by which it maintains that intraLATA dialing parity can or should be implemented. In the first phase of

this case, Ameritech Michigan stated that two-PIC technology could not reasonably be deployed until 1999. In the second phase of this case, Ameritech Michigan argued that implementation should begin on January 1, 1998. Although Ameritech Michigan has added another reason for delaying implementation, i.e.; to satisfy claimed legal requirements, it now submits that January 1, 1997 is an appropriate implementation date. However, Ameritech Michigan's position only reinforces the Commission's belief that the company will advance any argument to delay the implementation of intraLATA dialing parity.

The Commission will now discuss the issues identified by the task force.

IntraLATA Dialing Parity Options

The cost and availability of intraLATA dialing parity committee addressed whether the software necessary to implement the different PIC options is available. Most of the information developed by this committee came from central office equipment switch manufacturers and vendors.

The committee agreed that only two of the intraLATA dialing parity options are currently viable, i.e., two-PIC and modified two-PIC. The two-PIC option allows subscribers to presubscribe to separate toll providers for intraLATA and interLATA toll service. The modified two-PIC option allows subscribers to select either their interLATA PIC or their current PEC, i.e., Ameritech Michigan or GTE, as their designated intraLATA PIC.

The first issue in dispute is whether the Commission should mandate one statewide dialing parity PIC option or leave the decision to the LECs.

Ameritech Michigan and GTE argue that the decision regarding the form of presubscription is a day-to-day management decision properly left to the discretion of the LECs. They maintain that, because either the modified two-PIC or two-PIC option is

consistent with the Commission's order in this case, the LECs should be free to choose the option that best suits their needs.

If the Commission mandates one statewide option, Ameritech Michigan favors the modified two-PIC option. Ameritech Michigan states that the modified two-PIC option offers the customer the ability to retain either the status quo or to select a single IXC to handle all toll calling. The company further states that this option is less expensive, faster to implement, more efficient, easier to administer, and easier for customers to understand, and it should result in lower toll rates.

GTE adds that the IXCs should be indifferent to the LECs' choice of PIC options because they will still have the opportunity to offer service in every exchange and customers will have a choice of carriers. GTE also points out that the IXCs and the Staff overlook the fact that, in the February 24, 1994 order, the Commission ruled that the PECs may implement the one-PIC option.[4]

The Staff agrees that the modified two-PIC option would be less expensive for Ameritech Michigan and GTE to implement, although it would not provide the options available with the two-PIC option. The Staff also points out that because GTE cannot provide the modified two-PIC option through translation changes, it would not be possible to implement statewide dialing parity any faster by favoring one two-PIC option over another. Nevertheless, the Staff, supported by the IXCs and Mr. Decker, favors statewide deployment of the two-PIC option because it will result in more customer options than the modified two-PIC option. MCI points

[4]The one-PIC option limits the customer's choice of an intraLATA toll carrier to that customer's presubscribed interLATA toll carrier if implemented before Ameritech Michigan and GTE are released from the interLATA restrictions.

out that no other state commission or task force has recommended the modified two-PIC option over the two-PIC option.

On January 4, 1995, Ameritech Michigan filed a motion for leave to file a supplemental response, a supplemental response, and an affidavit of Daniel J. Kocher. In its supplemental response, Ameritech Michigan states that it has continued to monitor developments regarding the cost, availability, and capability of both two-PIC and modified two-PIC software for the Northern Telecom, AT&T, and Siemens switches used in its network. Ameritech Michigan represents that recent developments demonstrate that there are significant technical problems with the two-PIC option. For example, Ameritech Michigan states that on November 29, 1994, AT&T attempted to provide a software update containing the two-PIC feature. However, the company submits, that version of the software contained errors and was subsequently cancelled. In addition, Ameritech Michigan says that it has also determined that AT&T's intraLATA PIC feature will not work with the most recent software generic update presently installed in Ameritech Michigan's AT&T switches. As to the Northern Telecom software, Ameritech Michigan maintains that, for certain intraLATA traffic, Northern Telecom switches cannot provide intraLATA PIC capability. According to Ameritech Michigan, as of December 1, 1994, Northern Telecom has not proposed changes to the software or recommended alternative procedures to address this situation.

Ameritech Michigan contends that the foregoing problems, among others, contradict the determination in the report that full two-PIC software is presently available and ready for implementation. As a result, Ameritech Michigan asserts that, prior to making any determinations regarding the report, the Commission should initiate a further task force investigation into the two-PIC software problems.

On January 27, 1995, MCI filed a response in opposition to Ameritech Michigan's motion for leave to file a supplemental response. MCI asserts that Ameritech Michigan had access to some of the information contained in its motion prior to filing its October 24, 1994 comments. Furthermore, MCI claims that Ameritech Michigan's filing is misleading and mispresents the facts. Consequently, MCI submits that the filing is an improper, thinly disguised attempt to block or delay intraLATA dialing parity.

More specifically, MCI responds that Ameritech Michigan fails to mention that the problems with the Northern Telecom software were resolved after December 1, 1994. As to the alleged AT&T problems, MCI states that they also have been resolved. Attached to MCI's response is a copy of a memorandum from Howard Bell, AT&T's manager of state governmental affairs, to AT&T's counsel. Mr. Bell indicates that, while an error did occur during the loading of the initial release of the feature package, it has been corrected and the currently available version should perform all features and functions as intended. Mr. Bell further indicates that he contacted AT&T Network Systems regarding the status of the two-PIC compatibility problem cited in Ameritech Michigan's supplemental comments. However, Mr. Bell states that he was advised that AT&T Network Systems was not aware of any such problem, and it could not identify any operational shortcomings.

On February 17, 1995, MCI and AT&T also filed a joint supplemental response relative to the report. Their response references Ameritech Michigan's most recent position before the Illinois Commerce Commission as embodied in its exceptions and brief on exceptions filed with that commission on February 7, 1995 in Dockets Nos. 94-0048, 94-0096, 94-0017, 94-0146, and 94-031. MCI and AT&T point out that, during the evidentiary hearings in those dockets, Ameritech had aggressively argued that intraLATA dialing parity must be linked to relief from

the interLATA restrictions, and that each company should have the option of using either the modified one-PIC or the two-PIC technology. However, MCI and AT&T submit, Ameritech has now reversed its position and no longer insists on interLATA linkage. Finally, MCI and AT&T represent that Ameritech has accepted the two-PIC option.

After a review of all of the supplemental comments, the Commission finds that Ameritech Michigan's motion should be denied. The Commission agrees with MCI that, at some point, the process has to move forward. Moreover, the Commission is persuaded that any technical problems with the two-PIC software can be resolved by the January 1, 1996 implementation date. Consequently, the Commission concludes that Ameritech Michigan's comments are motivated by its desire to further delay the implementation of intraLATA dialing parity.

The Commission therefore finds that the two-PIC option should be deployed because it will provide customers with more choices. As a result, unlike the one-PIC option and the modified two-PIC option, the two-PIC option is most consistent with the Commission's goal of full intrastate toll competition.

The second issue is whether GTE should be allowed to recover the one-time feature development costs for the two-PIC or modified two-PIC options in Michigan. AG Communications Systems, an affiliate of GTE that supplies switches, has not begun development of any intraLATA dialing parity technology.

GTE maintains that it has the right to recover its investment associated with the provision of intraLATA dialing parity in its exchanges. However, the Staff and the Attorney General strongly oppose any effort by GTE to saddle Michigan with all of the development costs for intraLATA dialing parity implementation because the technology will have wider application

beyond Michigan. As a result, the Staff submits that those costs must be shared by the family of GTE operating companies throughout the country.

GTE attached to its comments a copy of a letter dated September 3, 1994 from AG Communications Systems. In that letter, AG Communications Systems states that it will provide to GTE two pricing options to develop the software for the GTD-5 EAX switches. The first option is a buy-out option that will consist of a one-time charge for feature development within GTE's network. The second option consists of a right-to-use fee of $30,000, which will be assessed upon activation of the feature at a specific site. For purposes of estimating Michigan-specific software costs, GTE suggests using the second option.

Based on the foregoing information, it appears that this issue is moot as it relates to recovery of a one-time charge for feature development. Nevertheless, the Commission emphasizes that, although GTE has the right to recover its investment costs if they are just and reasonable, it must do so from all of its customers who benefit from intraLATA dialing parity throughout the country.

Conversion Schedule

The switch inventory committee addressed the schedule for all switches to convert to intraLATA dialing parity as well as proposals for waivers and penalties for non-conversion.

The first issue is whether the February 24, 1994 order constitutes a bona fide request (BFR) for service, or must the IXCs submit BFRs to Ameritech Michigan and GTE to start the conversion process.

The Staff and the IXCs recommended that the Commission indicate that it intended its order to be the necessary impetus to begin conversion to intraLATA dialing parity without the need for further action by any party.

Ameritech Michigan and GTE do not believe that any of the Commission's orders in this case constitute a BFR for implementation of intraLATA dialing parity in any individual switch. They say that they should not be required to incur costs to convert offices if there are no IXCs that wish to serve customers in a particular exchange. Furthermore, they submit that a BFR indicating an IXC's intent to market intraLATA services to a particular group of customers would help Ameritech Michigan and GTE focus their conversion notification efforts on those exchanges.

The Commission intended its February 24, 1994 order to initiate the conversion to intraLATA dialing parity. Requiring the IXCs to submit a BFR for every exchange in which they intend to provide service is unnecessary and will only result in delay. In the earlier phase of this proceeding, MCI indicated its intention to offer intraLATA toll service in all of the exchanges. Thus, it is doubtful that Ameritech Michigan and GTE will incur costs to convert offices in a particular exchange in which no IXCs will provide service.

The second issue is whether the PECs need to begin converting offices as soon as possible or only on January 1, 1996.

The IXCs believe that the conversion process should be accomplished on a phased-in basis prior to January 1, 1996. On the other hand, the Staff, Ameritech Michigan, GTE, and MECA believe that conversion should be accomplished on a "flash-cut" basis by January 1, 1996.

In its February 24, 1994 order, the Commission ordered that intraLATA dialing parity be implemented when Ameritech Michigan and GTE are authorized and able to provide interLATA toll service, "but no later than January 1, 1996." Given this language, the Commission's intent was to allow Ameritech Michigan and GTE to begin implementation of

intraLATA dialing parity on January 1, 1996. It did not intend to require a phased-in implementation prior to that date.

Turning to the actual conversion schedule, the committee developed separate telephone switch inventories for Ameritech Michigan, GTE, and MECA. Conversion schedules for each company were then developed using input from switch manufacturers by type of software technology.

All of the parties recommend that any switches that have been exempted by the Federal Communications Commission (FCC) from interLATA equal access conversion automatically be exempt from intraLATA conversion. The committee believed that the switches that fall into this category are readily identifiable and should not be included in the initial conversion schedule. The committee further agreed that, even though all of Ameritech Michigan's 2 BESS switches have been converted to interLATA equal access, they should also be exempt from intraLATA dialing parity conversion because the software for those switches is too expensive at this time.

The committee agreed that, for those offices that have not been converted to interLATA equal access, an LEC should not be required to provide intraLATA dialing parity until the office is changed or upgraded with equipment capable of providing interLATA equal access. As a result, for offices that will convert to interLATA dialing parity after January 1, 1996, the conversion should take place on an office-by-office basis.

The Staff recommends that the Commission adopt a firm schedule similar to that presented in Attachment 1-B.1 of the report, which is the switch inventory by company.

GTE states that the Commission must recognize that the switch inventory is rapidly becoming outdated. For example, GTE points out that the seven GTE No. 2 EAX switches

listed in Table 1-A are scheduled to be converted to DMS 100 switches, or some other switch, around the January 1, 1996 time period. Thus, GTE argues that the schedule is constantly changing based on planned switch conversions and, therefore, flexibility in scheduling is necessary to ensure efficient conversion.

Ameritech Michigan states that the impact of intraLATA dialing parity, especially on residential customers, will be massive. According to Ameritech Michigan, depending on the technology used, as few as 61% or as many as 92% of lines will have intraLATA equal access on January 1, 1996. In Ameritech Michigan's view, this means that as many as 1.5 million customer lines will be subject to confusion over the provision of toll service. The company believes that many customers will not understand which exchanges are affected by the implementation of intraLATA dialing parity. However, Ameritech Michigan states that if implementation is delayed until January 1, 1997, as many as 98% of lines will have intraLATA equal access, meaning that fewer than 500,000 lines would be subject to such confusion. Moreover, Ameritech Michigan submits, if the Commission further delayed implementation until January 1, 1998, regardless of which technology is used, only 100,000 lines in the state would not have access to intraLATA dialing parity. Ameritech Michigan therefore asserts that delaying implementation of intraLATA dialing parity until at least January 1, 1997 will significantly improve the ability of customers to deal with the changes in service. Additionally, Ameritech Michigan states that cutting over virtually all offices in the state on a single date will minimize any concerns that exist about the need for a firm conversion schedule.

In the alternative, if the Commission adopts a firm schedule for conversion, Ameritech Michigan and GTE argue that when the necessary software generic is available from the vendor and a BFR from an IXC is received, implementation of intraLATA dialing parity can

be completed within 12 months. They believe that this time is necessary to properly deploy, test, and debug the new dialing parity software. Furthermore, GTE states that implementation is also dependent upon the availability of certain external system changes that may be required to implement the software necessary to provide dialing parity. In GTE's view, the Commission must recognize that GTE's ability to provide intraLATA dialing parity is dependent on such external factors. GTE therefore submits that the Commission should not force GTE or any other LEC into a rigid schedule whereby vendors could hold the LECs hostage.

The IXCs and the Attorney General, on the other hand, state that because balloting is not anticipated in Michigan, conversion of an end office should be accomplished no later than six months after the software is available.

The Staff does not take a position on the lead time that is necessary for conversion. However, the Staff believes that, after the Commission determines the appropriate lead time, it should adopt a schedule with specific conversion dates for all of Ameritech Michigan's and GTE's end offices in Michigan.

As indicated earlier in this order, the Commission continues to disagree with Ameritech Michigan's position that implementation of intraLATA dialing parity should be delayed. Rather, the Commission is persuaded that a firm schedule should be adopted to ensure a timely and complete transition to full intrastate toll competition. Contrary to Ameritech Michigan's contention, the Commission is confident that, having experienced the conversion to interLATA equal access, customers will be able to understand the conversion to intraLATA equal access.

The Commission further finds that a firm schedule for conversion should be adopted, to ensure that Ameritech Michigan and GTE order the necessary software. Nevertheless, the Commission recognizes that Ameritech Michigan and GTE will need some lead time to test and deploy that software. On the one hand, a lead time of 12 months may result in needless delay while, on the other hand, a lead time of six months may be insufficient. Therefore, the Commission is persuaded that a lead time of nine months is a reasonable compromise. Accordingly, implementation of intraLATA dialing parity should be accomplished within nine months after the necessary software for an office is available.

To accommodate changes and permit some flexibility in the schedule, Ameritech Michigan and GTE should each submit, within 30 days of issuance of this order, the switch inventory contained in Attachment 1-B.1 to the report with the updated conversion date for each switch. That date should be either January 1, 1996 or the date nine months after the necessary software is expected to be available as discussed in the report. If the latter date is unknown or changes, Ameritech Michigan and GTE should supplement their conversion schedules as the information becomes available. Ameritech Michigan and GTE should also indicate if a switch is exempt from conversion until the office is upgraded to interLATA equal access as well as provide the dates for interLATA and IntraLATA conversion, if known. All of Ameritech Michigan's 2 BESS switches should also be exempt until those offices are upgraded. However, when the 2 BESS switches are upgraded, they should be converted immediately to intraLATA dialing parity.

The next issue is whether there should be a waiver process if Ameritech Michigan or GTE are unable to implement intraLATA dialing parity in certain switches by the scheduled date.

The IXCs and the Attorney General propose a system whereby the LECs would have to file an application for a waiver. They propose a contested case proceeding in which the LEC seeking the waiver would have to prove that the costs of providing intraLATA dialing parity outweigh the benefits to customers.

Ameritech Michigan, GTE, and MECA, on the other hand, state that a waiver process is not necessary because the primary reason that a switch would not be converted is that the manufacturer could not provide the software in time for them to implement intraLATA dialing parity. Ameritech Michigan further states that the IXCs' proposed waiver process would be especially unfair because one of the parties proposing waivers, i.e., AT&T, is also the software manufacturer and, consequently, it could be a major bottleneck in the conversion of Ameritech Michigan's offices.

If the Commission finds that a waiver process is necessary, Ameritech Michigan, GTE, and MECA propose that they be permitted to file a waiver letter with the Commission, which would take effect immediately. The burden would then shift to the carriers affected by the waiver to prove in a filing with the Commission that substantial evidence exists that the wavier was not warranted.

The Staff states that Ameritech Michigan's and GTE's central offices should not need a waiver from the January 1, 1996 implementation date. However, the Staff agrees with Ameritech Michigan and GTE that if they find that the necessary software is not available as originally indicated by the switch manufacturer, they should submit a letter, with supporting documentation, requesting a waiver from the Commission.

The Commission finds that the IXCs' proposal should be rejected because it could result in unnecessary and burdensome contested case proceedings. In contrast, Ameritech

Michigan's and GTE's proposed waiver process, with some modifications, is reasonable and should be adopted. Accordingly, for those offices scheduled to convert after January 1, 1996, Ameritech Michigan and GTE should submit a letter, accompanied by supporting documentation and a new date for conversion, requesting a waiver if the software is not available as originally indicated by the switch manufacturer. Ameritech Michigan and GTE shall serve that material on all of the parties to this case. Those parties will then have 15 days to comment on the requested waiver. Following receipt of any comments, the Commission may initiate a proceeding to investigate the matter further. If the Commission, or its Executive Secretary, does not take any action within 30 days from receipt of the comments to initiate a proceeding, the requested waiver will be treated as granted.

The final issue relative to conversion is whether there should be a discount on access charges in those offices that do not convert according to the schedule.

The Staff proposes a 55% discount on switched access charges in those end offices that do not meet the cutover date in the conversion schedule. The discount would not be applicable to switched access charges paid by Ameritech Michigan and GTE in SEC exchanges. The Staff states that the discount is justified because the access in the non-converted offices will be inferior to intraLATA equal access. Furthermore, the Staff submits that the IXCs would benefit from the discount, whereas a penalty assessed pursuant to Section 601 of Act 179 would only penalize the LECs.

The IXCs and the Attorney General agree with the Staff's proposal. AT&T points out that the proposed discount is consistent with the discount on Feature Group A and B access adopted by the FCC prior to interLATA equal access and reflects the disadvantages

associated with dialing access codes. They believe that without a discount, the LECs will not have any economic incentive to convert to intraLATA dialing parity.

MECA argues that the Staff's proposed access charge discount is unlawful and should be rejected. MECA states that it is premature to propose penalties based on the assumption that an LEC will not comply with a Commission order. Rather, MECA submits, it should be assumed that the LECs will comply but, in the event they do not, Section 601 of Act 179 contains specific remedies for violations of the law. Moreover, MECA continues, the appropriate level for access rates is controlled by Section 310 of Act 179. MECA argues that, except as provided by that section, the Commission is not permitted to review or set the rates for access services.

Ameritech Michigan agrees with MECA that it is not apparent that the Commission has the authority under Act 179 to require an LEC to charge a rate lower than that provided in the FCC tariffs. Furthermore, Ameritech Michigan says that penalties are not appropriate because AT&T, the manufacturer of Ameritech Michigan's switches, should not receive a lower rate for access it pays as an IXC because it did not provide the software to Ameritech Michigan.

The Commission finds that Ameritech Michigan's and MECA's arguments should be rejected for three reasons. First, in advancing their arguments, MECA and Ameritech Michigan mischaracterize the proposed discount as a penalty. To the contrary, the discount reflects the fact that there are different levels of service that warrant different pricing. Here, the access that will be provided in offices that do not convert to intraLATA dialing parity as scheduled requires the dialing of access codes, which is different from dialing a single digit. Second, because the parties disagree on this issue, the Commission has the authority, pursuant

to Section 310(7) of Act 179, to set the access rates. Third, the Commission is persuaded that a discount will serve as an economic incentive for Ameritech Michigan and GTE to meet the conversion schedule. The Commission therefore concludes that a 55% discount on switched access charges in those end-offices that do not meet the cutover date in the conversion schedule should be adopted.

Cost Recovery

The cost recovery committee made recommendations on issues related to the cost of implementing intraLATA dialing parity. The specific issues are (1) the cost recovery mechanism, (2) costs subject to recovery, (3) cost recovery time period, and (4) the parties that should pay the costs.

The committee agreed that the cost recovery mechanism should be in the form of an Equal Access Recovery Charge (EARC) that is separate from all other access rate elements. The EARC will be different for Ameritech Michigan, GTE, and MECA because it will reflect the costs each company incurs.

The committee could not agree on whether costs should be recovered on a per-minute-of-use basis or on a per intraLATA presubscribed access line basis.

The Staff believes that, while operating costs may follow usage more than the number of access lines after conversion is completed, the physical conversion itself is a function of the number of access lines. The Staff therefore recommends that the EARC be a monthly charge per intraLATA presubscribed access line assessed on both PECs and IXCs.

Ameritech Michigan states that allocating costs based on presubscribed lines results in cream skimming. According to Ameritech Michigan, if that methodology is used, an IXC will simply select the accounts that generate the highest revenue and profit per line. However,

the IXC has to pay only a small portion of the costs because the percentage of total lines served by the IXC is only a small portion of the total access lines. In contrast, Ameritech Michigan contends that allocating costs on the basis of either minutes-of-use or revenues assigns the largest percentage of costs to the customers that use intraLATA dialing parity the most. Ameritech Michigan therefore proposes that the EARC be a per-minute-of-use charge calculated using all intrastate, non-local switched minutes-of-use originated by the LEC's customers. Ameritech Michigan recommends that the EARC be charged to all carriers that provide both non-local intra- and interLATA services, including Ameritech Michigan and GTE when they obtain interLATA relief.

The Commission does not agree with Ameritech Michigan's argument that a per-minute-of-use charge is more appropriate because it assigns costs to customers who use intraLATA dialing parity the most. That argument misses the point. Costs associated with usage are not at issue. Rather, only the costs of physical conversion to intraLATA dialing parity are at issue. The Commission is persuaded that those costs are a function of the number of access lines. Accordingly, the EARC should be a monthly charge per intraLATA presubscribed access line assessed on both the PECs and the IXCs.

Turning to the costs that should be subject to recovery, the committee agreed that only those additional costs incurred to provide intraLATA dialing parity should be included in the EARC. Specifically, those costs are switch translation modifications; operational support system modifications; customer education and IXC notification; balloting expenses (if necessary); PIC changes; and software, generic, or feature package upgrades if directly and solely attributable to equal access. The committee was unable to agree on whether the following three cost items should be subject to recovery: (1) central office software, generic,

or feature package upgrades that provide other features in addition to intraLATA dialing parity, (2) stranded investment in inter-office facilities due to network reconfiguration, and (3) additional trunk terminations, inter-office facilities, and circuit equipment resulting from network reconfigurations.

Beginning with software upgrades, MCI and AT&T recommend that only the portion of those upgrades required to implement intraLATA dialing parity be included as a cost subject to recovery. MCI argues that the remainder of these costs will be recovered, in part, through the separations process.[5] AT&T, Sprint, and the Attorney General support MCI's position. The Staff states that this approach was used at the federal level for equal access conversion and, therefore, the Staff also supports MCI's position.

Ameritech Michigan states that switch vendors rarely provide information that disaggregates the cost of a software upgrade at the level of detail MCI proposes. MECA agrees with Ameritech Michigan and adds that its member companies mirror the National Exchange Carriers Association Tariff No. 5 as required by Act 179. MECA explains that this tariff does not include costs for intrastate intraLATA dialing parity conversion. MECA therefore submits that MCI's position that the separations process be used to recover other upgrade costs is specious. According to MECA, if other upgrade costs are not subject to recovery, there will be no revenue in the MECA pool to cover those separate costs allocated to the intrastate jurisdiction.

As to stranded investment, Ameritech Michigan believes that the network reconfiguration that will result from shifting traffic patterns caused by rerouting intraLATA toll traffic to the IXCs will strand inter-office facilities in certain routes. Ameritech Michigan contends that,

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[5]The separations process refers to the FCC's rules for allocating costs.

because this stranded investment will, in effect, be either abandoned or significantly under-utilized as a direct result of implementation of intraLATA dialing parity, it is a cost that must be recovered.

On the other hand, AT&T states that little or no LEC stranded inter-office facility investment will result from implementation of intraLATA dialing parity. According to AT&T, there will simply be changes in the level of use of the inter-office facilities in some routes, but not enough for specific inter-office facility cost recovery. MCI agrees that, while some stranded investment could result, it would have to review the underlying study results and assumptions before agreeing to support the conclusions.

The Attorney General and the Staff also believe that these costs should not be subject to recovery in the EARC. The Staff contends that Ameritech Michigan's position conflicts with the notion of lowering barriers to market entry and the additional risk associated with competitive telecommunications markets. The Staff concludes that providers such as Ameritech Michigan cannot advocate more and more competitive freedom but expect regulators to make the company whole if competition results in idle plant or loss of market share.

Additional trunk termination and circuit equipment will be needed to accommodate the rerouted traffic resulting from network reconfiguration. Ameritech Michigan believes that these are valid costs that must be recovered.

The IXCs, on the other hand, state that because these are legitimate access costs, they should be recovered solely through the access charges paid for local transport. Although Ameritech Michigan agrees that there should be no double recovery of these costs, it states that present access rates, especially the one-time charges, may not recover costs of this

magnitude. Consequently, Ameritech Michigan recommends that those costs not recovered through access charges should be recovered by the EARC.

MECA believes that if an SEC is forced to invest in additional trunk, circuit, or inter-office facilities for the sole purpose of providing intraLATA dialing parity, the costs of those facilities should be a part of the EARC. According to MECA, if these costs are not recovered as conversion costs, they must be covered by MECA company earnings because MECA access charges, which mirror interstate rates, are not adequate to cover the additional costs.

The Commission finds that only those costs directly attributable to intraLATA dialing parity should be subject to recovery through the EARC. Specifically, the costs for software upgrades that would have taken place regardless of the implementation of intraLATA dialing parity should not be included in the EARC. Recovery of those non-dialing parity costs can be recovered through other mechanisms. Furthermore, the Commission is persuaded that the need for additional trunk terminations and related equipment is uncertain at this time and, therefore, those costs should not be subject to recovery through the EARC. The Commission agrees with the IXCs and the Staff that, if those costs materialize, they can be recovered through other access charges.

The committee agreed that all costs subject to recovery, including depreciation expense for valid and additional capital expenditures, should be amortized over a specific time period. However, the parties disagreed on the length of the amortization period.

Ameritech Michigan favors an amortization period of three years. According to Ameritech Michigan, if an eight-year period is used, the technology could be obsolete before the costs are recovered, and the LECs would be left with the difference. Nevertheless,

Ameritech agrees that five years would be a reasonable compromise because it has been used in similar situations.

The Staff and MECA recommend a five-year recovery period commencing January 1, 1996. However, MECA wishes to clarify that, to implement this proposal for the SECs that choose to jointly file access rates, a five-year period should apply to each group of companies that have conversions in any one year. The conversion costs would be pooled and amortized over the following five-year period. Similarly, when conversions occur during subsequent years, they would also be amortized over the next five years, and so on.

AT&T, MCI, Sprint, and the Attorney General initially argued that the eight-year period used at divestiture for interLATA equal access is still reasonable today. They believe that a shorter period will lead to higher equal access recovery charges, which could discourage market entry by smaller IXCs in the earlier years. Nevertheless, AT&T, MCI, and Sprint state that they might agree to the five-year period if the magnitude of the overall costs subject to recovery is not too great. However, until the costs and recovery mechanism are known, they recommend that the Commission use an eight-year amortization period.

The Commission finds that five years is a reasonable period of time in which to recover the costs of implementing intraLATA dialing parity. Accordingly, the Commission adopts a five-year cost recovery period commencing January 1, 1996.

The next issue relates to who should pay for the costs of implementing intraLATA dialing parity.

Ameritech Michigan and GTE believe that implementation of intraLATA dialing parity should be paid for by those entering the market, i.e., the IXCs. They believe that their proposal recognizes that the conversion to intraLATA dialing parity will have the immediate

effect of eliminating the LATA boundaries for only the IXCs. However, Ameritech Michigan and GTE would agree to participate in the cost recovery process when interLATA relief is granted.

The IXCs, MECA, and the Staff believe that the costs of implementing full intrastate toll competition should be borne by all of the participants in that market. They submit that cost recovery mechanism that omits any of the market participants maintains artificial barriers to entry that are inconsistent with the Commission's desire to have full intrastate toll competition.

The Commission finds that all providers of intraLATA toll services should pay the costs of implementing intraLATA dialing parity because it is most consistent with full intrastate toll competition. In contrast, requiring only the IXCs to pay for intraLATA dialing parity would have a chilling effect on competition because it would put new market entrants at a cost disadvantage.

The final issue relative to cost recovery is whether the charge for PIC changes should be the mirrored rate from the FCC access tariffs.

The IXCs state that mirroring is appropriate because the current charge for interLATA PIC changes has worked well. Furthermore, the IXCs believe that mirroring would also eliminate customer confusion that could result from having one charge for interLATA PIC changes and another charge for intraLATA PIC changes. The Staff agrees with the IXCs, adding that because the PIC change rate element is currently in the interstate access charge tariff, Section 310(3) of Act 179 controls this issue.

Section 310(3) of Act 179 states, in pertinent part that, "[t]he rates set by a provider of access services shall not exceed the rates allowed for the same interstate services by the federal government except as otherwise ordered by the commission." [MCL 484.2310(3).]

Based on this provision, the Commission finds that the charge for PIC changes should be no higher than the mirrored rate from the FCC access tariffs.

Balloting[4]

The balloting committee addressed whether balloting should occur as intraLATA dialing parity is implemented, as well as the details involved in the balloting process.

The committee agreed that there is no need to ballot in exchanges that have already been balloted in the FCC's interLATA equal access process because it could result in customer confusion and needless costs. The current toll carrier would remain the carrier for intraLATA service to customers who, as of the implementation date of intraLATA dialing parity, do not affirmatively select another intraLATA carrier. For those exchanges that have not been converted to interLATA equal access by January 1, 1996, the committee recommended that balloting for intraLATA presubscription occur simultaneously with balloting for interLATA equal access. Inasmuch as Ameritech Michigan is 100% converted to interLATA equal access, GTE and the MECA companies are the only LECs that would be affected by balloting.

For GTE and the MECA companies, the committee recommended that balloting follow FCC guidelines as found in FCC Dockets 83-1145 and 91-64. (Attachments 3-A and 3-B to the report.) Those guidelines also include an allocation process. End-users not making a PIC selection during the balloting process are allocated to a provider of regulated toll service based on the proportion of PIC selections in the exchange in which the end-user resides. For

[4]Balloting is the process of presubscribing to a particular toll carrier.

example, if 10% of the end-users in an exchange choose toll provider X, 10% of the end-users that need to be allocated will be allocated to toll provider X.

The Staff and the IXCs support the FCC's allocation process as described above, arguing that it lowers barriers to competition. Furthermore, the Staff argues that because Ameritech Michigan has completed its interLATA equal access process, no future balloting is expected for that company. As a result, the Staff asserts that Ameritech Michigan's arguments on balloting should be disregarded because the issue is moot.

On the other hand, Ameritech Michigan and GTE disagree with the proposed allocation process. They believe that the failure to return a ballot is, in most cases, a decision to stay with the customer's present carrier. According to Ameritech Michigan and GTE, a customer should not be arbitrarily reassigned to a new carrier because many of those customers would have to be changed back to their current provider after learning that they had been reassigned.

The Commission agrees with the Staff that Ameritech Michigan's arguments should be disregarded because this issue is moot as it relates to that company. For GTE, however, the Commission is persuaded that the FCC's allocation process is most consistent with full intrastate toll competition. In contrast, the default process merely encourages the status quo. In reaching this conclusion, the Commission relies on the FCC's discussion of this issue at the interLATA level:

> "We also find under Sections 201(b) and 202(a) of the Communications Act, 47 U.S.C. §§201(b), 202(a), (footnote omitted) that 'default' is an unreasonable and discriminatory practice. The BOCs through their tariffs automatically presubscribe a customer to AT&T and only change that presubscription to another carrier upon request of the customer. As a result of this 'default' procedure, AT&T's customers may acquire its services by doing nothing. The other IXCs must, however, aggressively advertise in order to get their potential customers to take an affirmative action and select an IXC. This practice clearly accords AT&T preferential treatment and gives

> it an advantage over its competitors. The marketing advantage that AT&T enjoys is not predicated on any quality or pricing difference but rather on its historical monopoly position. 'Default' is, therefore, unreasonable and contrary to the public interest because it favors one carrier over others without a justified showing of necessity and denies the public the benefits of competition." (In the Matter of Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, June 12, 1985 Memorandum Opinion and Order, p. 920, 101 F.C.C. 2d.)

In this proceeding, adoption of a default process would result in GTE retaining customers by doing nothing, whereas its competitors would have to aggressively advertise to persuade potential customers to take affirmative action to select an IXC. Consequently, this practice would afford GTE an advantage over its competitors. For these reasons, the Commission also rejects GTE's arguments.

The committee also recommended that, for those offices already converted to interLATA equal access, the LECs should notify end-users twice of the availability of intraLATA dialing parity. The first notice would be provided 90 days before the date intraLATA dialing parity becomes available to those customers, and the second notice would be provided within 30 days following end-office cutover.

Ameritech Michigan and GTE strongly oppose being required to provide notice to customers regarding the availability of intraLATA dialing parity in exchanges in which balloting will not occur. They state that it is just a thinly disguised attempt by the IXCs to get the LECs to provide free advertising for the IXCs. According to Ameritech Michigan, every customer of an LEC is already a customer of either AT&T, or MCI, or another IXC. As a result, Ameritech Michigan asserts, the IXCs have the same access to those customers as Ameritech Michigan and they should be required to pay for their own marketing efforts. Ameritech Michigan concludes that it cannot be compelled to subsidize the marketing efforts of its competitors.

The Staff and the IXCs recommend that the LECs be required to provide the notice. They point out that, because notification will be a legitimate intraLATA dialing parity implementation expense, it will be recoverable from all carriers.

The Commission finds that the LECs should be required to provide the necessary notice to end-users and IXCs. Because balloting will not occur in any exchanges that have been converted to interLATA equal access, Ameritech Michigan and GTE will start out with 100% of the intraLATA 1+ and 0+ market. Thus, it is reasonable that the LECs provide the notice. In doing so, Ameritech Michigan and GTE will not be subsidizing the marketing efforts of their competitors because the cost of providing notice is an implementation expense subject to recovery. Furthermore, the Commission expects that the material to be distributed will be neutral in nature so that no carrier is advantaged or disadvantaged by it. To ensure that the material is, in fact, neutral, the Commission directs the LECs to submit the material to the Staff for its review.

The committee also determined that it is equally important to provide timely and adequate information to the IXCs. For those offices converting or already converted to interLATA equal access, the committee recommended that IXCs be notified of the availability of intraLATA dialing parity 90 days before the official end-office activation date. This notice should be accomplished by sending a letter to the IXCs specifying the office(s) converting, the conversion date(s), IXC requirements to participate in intraLATA dialing parity, and information on how to request a carrier manual if a decision is made to provide service.

Finally, the committee recommended that end-users making carrier selections during the 90-day period prior to the date intraLATA dialing parity becomes available be entitled to do so free of charge. It further recommended that charges should also be waived for an

additional three-month period if an end-user makes his or her initial intraLATA PIC selection after end-office cutover.

Everyone except Ameritech Michigan agrees with the committee's recommendation. They state that a charge to change must be considered a barrier to entry and a deterrent to customers selecting anything but the status quo.

Ameritech Michigan, however, states that, once again, the IXCs want the LECs to pay the costs of implementing intraLATA dialing parity. According to Ameritech Michigan, a specific charge for a change in PIC that covers costs should be assessed for every PIC change because it will ensure recovery of costs from the cost causer rather than creating a subsidy between carriers.

The Commission agrees with the committee's recommendations. If customers are required to pay a fee to change toll carriers during the conversion process, it is likely that many customers will not make any change for that reason alone. Consequently, like the default process, the charge for a change in PIC would give Ameritech Michigan and GTE an advantage over their competitors.

Participation in IntraLATA Dialing Parity

The participation in intraLATA dialing parity committee addressed whether participation should be voluntary or mandatory for the IXCs and PECs. The committee agreed that all providers of regulated toll services should be able to compete on an equal basis. However, they could not agree on whether participation should be voluntary or mandatory.

The committee pointed out that there are currently at least two toll carriers, i.e., a PEC and AT&T, in every Michigan exchange. It agreed that, in an intraLATA dialing parity environment, this arrangement should continue until either the PEC or AT&T makes a filing

in which it satisfies the Commission that its presence is no longer required to ensure a competitive market. Thus, even if the Commission concludes that participation in intraLATA dialing parity should be voluntary, existing providers of regulated toll services should be obligated to maintain their presence until it is no longer necessary. According to the committee, under this scenario, no new barriers to competition would be created and the market would determine whether a new toll provider should enter that market.

Ameritech Michigan states that there should be mandatory statewide participation of all toll providers in intraLATA dialing parity. However, Ameritech Michigan suggests that true reciprocal regulation requires that if the Commission determines that participation should be voluntary, it should also remove Ameritech Michigan's obligation as the carrier of last resort or, in the alternative, fairly allocate that obligation among all providers.

MECA believes that participation should be required for the PECs and optional for the IXCs. AT&T and MCI agree that the PECs currently providing intraLATA toll service should continue to do so in the exchanges in which they currently provide service. AT&T states that the PECs should continue to do so for at least two years, and then participation should be voluntary. According to AT&T, this time would give the Commission the opportunity to ensure that competition is in place and sustainable in an exchange. AT&T concludes that the two-year period should also allay fears about the need for a carrier of last resort following implementation of intraLATA dialing parity. On the other hand, the IXCs believe that their participation should be voluntary.

GTE recommends total voluntary participation for both PECs and IXCs. The Staff goes a step further and recommends that the Commission make participation in intraLATA dialing parity voluntary on an exchange-by-exchange basis, an approach it maintains is most consistent

with implementation of full intrastate competition. The Staff believes that demographics will determine the market's participants, whereas a requirement for statewide participation at this time is a barrier to market entry rather than a catalyst for competition.

Section 103 of Act 179 provides that "this act shall not be construed to prevent any person from providing telecommunication services in competition with another telecommunications provider." (MCL 484.2103.) Consistent with that provision and the Commission's goal of full intrastate toll competition, the Commission finds that participation in intraLATA dialing parity should be voluntary on an exchange-by-exchange basis. As the committee correctly pointed out, there are currently at least two toll carriers in every Michigan exchange. Additionally, MCI has committed to offer service in every exchange. As a result, the Commission is not persuaded that any exchange will be without toll service. In fact, Section 313 of Act 179 provides that a carrier may not discontinue service to an exchange unless one or more alternative providers are furnishing the same service to the customers in that exchange. Section 306 of Act 179 also provides that the Commission may order a toll provider to interconnect with another provider, which does not provide toll service, upon terms that are fair to both providers. Given these safeguards in the law, it is neither necessary nor appropriate to mandate participation in intraLATA dialing parity.

Engineering and Billing

The engineering and billing committee investigated and provided recommendations on billing changes that will be required upon implementation of intraLATA dialing parity and network reconfigurations and costs associated with that conversion.

The committee agreed to use the industry standards established by the Customer Account Records Exchange (CARE) system to facilitate the exchange of the necessary billing and

record information for companies that have that capability. The CARE system provides a mechanized two-way interface for the exchange of customer data between LECs and IXCs. The format provides for the exchange of data from order submission through account maintenance and discontinuation. The committee also indicated that, in the January 9, 1992 order in CC Docket No. 91-64, the FCC approved the use of one of four different verification procedures by the IXCs when advising LECs of a PIC change. The committee recommended that the Commission adopt the FCC's directives for unauthorized intraLATA PIC changes.

Turning to the issues in dispute, everyone except Ameritech Michigan and MCI agreed on the calls that should be included in intraLATA dialing parity, i.e., all switched intraLATA non-local calls including interzone and 0+ calls that are dialed using seven digits. A majority of the committee also believed that intraLATA dialing parity should not apply to 0+ local calls, and 411, 611, 911, 0-, 976-XXXX, and local directory assistance calls. In contrast, Ameritech Michigan believes that interzone calls should be excluded, while MCI believes that directory assistance calls should be included.

As to interzone calls, the Staff explains that, prior to Act 179 and up until 1993, interzone revenues were considered local. Under Act 179, Ameritech Michigan reclassified those revenues to toll. Because Ameritech Michigan believes that interzone calling can be treated as toll, the Staff recommends that the Commission conclude that interzone calling is subject to intraLATA dialing parity.

The Commission agrees with the majority position on this issue. In its August 14, 1992 order in Case No. U-10074, the Commission found that directory assistance continues to be an indispensable telecommunications service that should be regulated in essentially the same manner as basic local exchange service. As a result, local directory assistance calls should not

be included in intraLATA dialing parity because they do not constitute toll service. In contrast, interzone calls should be included in intraLATA dialing parity because Ameritech Michigan itself classifies those calls as toll service. Accordingly, all switched non-local calls, including interzone calls and 0+ calls that are dialed using seven digits, should be included in intraLATA dialing parity.

The second issue relates to costs that will be incurred due to changes in the network to implement intraLATA dialing parity. These costs are separate from the central office costs examined by the switch inventory committee. The question is whether network reconfiguration costs can be measured due to the large number of variables and whether the cost estimates are relevant for consideration for cost recovery in the EARC.

Ameritech Michigan states that engineering costs of up to $10 million should be recovered by the LECs. It submits that its data should be accepted as a fair representation of the level of costs that may result and must be recovered when incurred as a result of intraLATA dialing parity implementation.

The IXCs believe that Ameritech Michigan's network rearrangement cost estimates are not relevant and do not have any probative value to either the task force or the Commission. First, they maintain, the estimates are not relevant because they do not represent a direct cost of intraLATA dialing parity implementation and they are already recovered through existing LEC access tariff charges. Second, the IXCs submit, it is not possible to create an accurate assessment of network rearrangement costs flowing from intraLATA dialing parity implementation. According to the IXCs, the network changes required to meet changing customer needs resulting from intraLATA dialing parity implementation will occur over an

extended period of time. During that time, they state that the network will be in a dynamic condition subject to many forces unrelated to intraLATA dialing parity.

The Staff agrees with the IXCs that it is difficult to differentiate costs incurred due to intraLATA dialing parity and other costs caused by normal growth, modernization, or changing customer demands for existing and new services. As a result, the Staff recommends that network reconfiguration costs be excluded from the recovery mechanism for intraLATA dialing parity. The Staff believes that there are other more appropriate vehicles for recovery of those costs, such as existing access charges.

The Commission is persuaded that network reconfiguration costs should be excluded from recovery in the EARC. In particular, the Commission agrees with the Staff that it is too difficult to differentiate costs resulting from intraLATA dialing parity and costs resulting from other factors. Because those costs can be recovered through other mechanisms, they should not be included in the EARC.

Impact of IntraLATA Dialing Parity on the SECs

The impact of intraLATA dialing parity on the SECs committee addressed how the SECs will be affected when Ameritech Michigan and GTE implement intraLATA dialing parity.

The committee concluded that no major technological problems will be experienced in either PEC or SEC exchanges if intraLATA dialing parity is implemented through either the modified two-PIC or two-PIC options. However, the committee found that there are practical and economic consequences if dialing parity is implemented in the SEC exchanges. The committee explained that when intraLATA dialing parity is implemented in SEC exchanges, the PEC/SEC relationship will no longer exist. PECs will no longer be the exclusive 1+ and 0+ intraLATA providers of regulated toll services in SEC exchanges and a new carrier

relationship will replace the PEC/SEC relationship. However, the committee believed that those consequences could be addressed by using a transitional approach to implementation in SEC exchanges.

The committee understood that the Commission's orders apply only to Ameritech Michigan and GTE, but the Commission required the task force to address the issues raised by MECA regarding company-by-company implementation. The committee was unanimous in its opinion that it is desirable for intraLATA dialing parity to be extended to the SEC exchanges to achieve statewide dialing parity.

The Staff points out that the Commission needs to clarify whether it intended MECA companies to be required to implement intraLATA dialing parity. The Staff states that if the Commission wants MECA to participate in intraLATA dialing parity, but does not believe this case provides the opportunity to require them to do so, it must institute a proceeding to explore the options related to that issue.

The committee disagreed on how and when the SECs should convert to intraLATA dialing parity. MECA argues that the conversion schedule developed by the task force is not a recommended schedule of mandatory conversion for the SECs. Rather, MECA submits, it simply indicates the offices in which the necessary technology will be available by January 1, 1996, not when that technology can be deployed.

MECA believes that it should be allowed to implement intraLATA dialing parity in the SEC exchanges on a company-by-company and exchange-by-exchange basis when it is economically feasible to do so. MECA states that this approach will allow the SECs that are ready and able to convert to do so as soon as possible and keep costs down for both the SECs and toll providers. MECA points out that there are 36 SECs in Michigan, each of which has

particular circumstances applicable only to that SEC. According to MECA, the SECs have different capital structures, different investment schedules, different service areas, and different operating hardware and software of varying age and configuration. In MECA's view, these differences mandate company-specific implementation procedures.

The IXCs and the Staff object to MECA's proposal. They take the position that the SECs should convert when required by a Commission order and after they receive a BFR. The SECs would then be required to convert within a certain number of months and the conversion schedule would be determined by the switch inventory committee. The Staff further recommends that the SECs may convert after a Commission order but prior to receiving a BFR. However, in that event, the SECs' conversion costs would not be included in the EARC.

The Commission recognizes that its February 24, 1994 order applied only to Ameritech Michigan and GTE. Although MECA participated in both the original and remand phases of this proceeding, the SECs were not the subject of those proceedings. Additionally, MECA has not applied for authority to convert the SEC exchanges to intraLATA dialing parity. Nevertheless, all of the parties, including MECA, assume that the SEC exchanges should be included in intraLATA dialing parity. The Commission agrees with the industry that, if intraLATA dialing parity is to be accomplished in an orderly manner to achieve statewide dialing parity, the SEC exchanges ought to be included in that process. Consequently, the SECs may voluntarily comply with the Commission's orders on dialing parity.

The final outstanding issue relates to MECA's proposed safeguards. The Commission's July 19, 1994 order directed the task force to address that issue. However, the report

indicates that, due to time constraints, the committee did not address safeguards. As a result, that issue was addressed during the comment phase of this case.

MECA reiterates that the Commission should adopt various safeguards to protect and enhance the quality and level of toll service in the state. In fact, this section of MECA's comments is taken verbatim from its exceptions filed in the remand phase of this case. Those safeguards relate to the adoption of the principle of a dominant carrier and standards for withdrawal of service. Specifically, MECA proposes that an intraLATA toll carrier cannot withdraw from an exchange unless the carrier shows that (1) the service area has intraLATA equal access, (2) the service area has at least two carriers that are certified to provide 1+ and 0+ intraLATA service and are actually providing this service, and (3) the petitioning carrier is not the dominant carrier in terms of having the largest intraLATA market share for that service area.

The Commission is not persuaded that it is necessary to adopt MECA's proposed safeguards. In enacting Act 179, the Legislature intended to promote competition while continuing to maintain universal telecommunication service. As a result, Section 313 of Act 179, which addresses conditions under which a provider may discontinue service, requires the maintenance of basic local exchange and toll service at least where it existed on January 1, 1992. Therefore, the Commission does not believe that any further action is required regarding safeguards for market exit as a result of intraLATA dialing parity.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, R 460.17101 et seq.

b. The unanimous recommendations contained in the task force report on intraLATA dialing parity should be adopted.

c. The two-PIC option will offer customers more choices and, therefore, it should be deployed.

d. The IXCs should not be required to submit to Ameritech Michigan and GTE a BFR for each exchange in which the IXCs wish to provide service.

e. Implementation of intraLATA dialing parity by Ameritech Michigan and GTE should be accomplished on a flash-cut basis on January 1, 1996.

f. A firm schedule for conversion to intraLATA dialing parity subsequent to January 1, 1996 should be adopted for Ameritech Michigan and GTE.

g. Ameritech Michigan and GTE should each file, within 30 days of issuance of this order, the switch inventory contained in Attachment 1-B.1 of the report with an updated conversion date for each switch.

h. A waiver process for those offices scheduled to convert after January 1, 1996 is necessary. However, a formal contested case process will not be mandatory.

i. A 55% discount on access charges in those offices that do not meet the conversion schedule should be adopted.

j. The costs of implementing intraLATA dialing parity should be recovered in the form of an EARC on a per intraLATA presubscribed access line basis. Only those costs directly attributable to intraLATA dialing parity implementation should be recovered through the EARC.

k. Five years is a reasonable amortization period for the recovery of the costs of implementing intraLATA dialing parity.

l. The costs of implementing intraLATA dialing parity should be borne by all providers of intraLATA toll service.

m. The charge for PIC changes should be no higher than the rate from the FCC access tariffs.

n. The FCC's process for allocating end-users not making a PIC selection during the balloting process is reasonable and should be adopted.

o. For those offices already converted to interLATA equal access, the LECs should notify both end-users and IXCs of the availability of intraLATA dialing parity. The information to be mailed to end-users and IXCs should be submitted to the Staff for its review.

p. Charges for PIC changes should be waived during the 90-day period prior to the availability of intraLATA dialing parity as well as for an additional 90 days thereafter.

q. Participation in intraLATA dialing parity should be voluntary for the PECs and the IXCs on an exchange-by-exchange basis.

r. All switched intraLATA non-local calls, including interzone and 0+ calls that are dialed using seven digits, should be included in intraLATA dialing parity.

THEREFORE, IT IS ORDERED that:

A. The unanimous recommendations contained in the Report of the Dialing Parity Task Force are adopted.

B. The two-PIC option for intraLATA dialing parity shall be deployed in Ameritech Michigan's and GTE North Incorporated's exchanges.

C. The February 24, 1994 order constitutes a bona fide request for service and, therefore, no further action is necessary to begin the conversion process to intraLATA dialing parity.

D. Implementation of intraLATA dialing parity shall be accomplished on a flash-cut basis on January 1, 1996.

E. A firm schedule for conversion to intraLATA dialing parity shall be adopted for both Ameritech Michigan and GTE North Incorporated.

F. Ameritech Michigan and GTE North Incorporated shall each file, within 30 days of issuance of this order, the switch inventory contained in Attachment 1-B.1 to the Report of the Dialing Parity Task Force. Ameritech Michigan and GTE North Incorporated shall include the updated conversion date to intraLATA dialing parity for each switch, which shall be either January 1, 1996 or the date nine months after the necessary software is available. If the latter date is unknown, Ameritech Michigan and GTE North Incorporated shall supplement their conversion schedules as the information becomes available. They shall also indicate the switches that will be exempt until those offices are upgraded to interLATA equal access as well as the dates for conversion to interLATA and intraLATA equal access, if known. All of Ameritech Michigan's 2 BESS switches shall also be exempt until those offices are upgraded. When those switches are upgraded, they should be immediately converted to intraLATA equal access.

G. If the software for a particular office is not available as originally indicated by the switch manufacturer, Ameritech Michigan or GTE North Incorporated shall file a letter, with supporting documentation, requesting a waiver for that office, as more fully discussed in this order.

H. A 55% discount on switched access charges in those end-offices that do not meet the cutover date in the conversion schedule is adopted.

I. The costs of implementing intraLATA dialing parity shall be recovered in the form of an Equal Access Recovery Charge on a per intraLATA presubscribed access line basis. Specifically, those costs are switch translation modifications; operational support system modifications; customer education and interexchange carrier notification; balloting expenses; primary interexchange carrier changes; and software, generic, or feature package upgrades if directly and solely attributable to intraLATA equal access.

J. A five-year amortization period commencing January 1, 1996, for recovery of the costs of implementing intraLATA dialing parity is adopted.

K. All providers of intraLATA toll service shall pay for the costs of implementing intraLATA dialing parity.

L. The charge for primary interexchange carrier changes shall be no higher than the rate from the Federal Communications Commission's access tariffs.

M. The Federal Communications Commission's process for allocating end-users not making a primary interexchange carrier selection is adopted.

N. For those offices already converted to interLATA equal access, the local exchange carriers shall notify both end-users and interexchange carriers of the availability of intraLATA dialing parity according to the procedure set forth in this order. The local exchange carriers shall submit to the Commission Staff for its review the material to be distributed.

O. Charges for primary interexchange carrier changes shall be waived during the 90-day period prior to the availability of intraLATA dialing parity as well as for an additional 90 days thereafter.

P. Participation in intraLATA dialing parity shall be voluntary for the primary exchange carriers and the interexchange carriers on an exchange-by-exchange basis.

Q. All switched intraLATA non-local calls, including interzone and 0+ calls that are dialing using seven digits, shall be included in intraLATA dialing parity.

R. All contentions of the parties inconsistent with this order and not specifically addressed or determined are 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.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand
Chairman

(S E A L)

/s/ Ronald E. Russell
Commissioner

As discussed in my separate opinion,
I concur in part and dissent in part.

/s/ John L. O'Donnell
Commissioner

By its action of March 10, 1995.

/s/ Dorothy Wideman
Its Executive Secretary

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of **MCI TELECOMMUNICATIONS CORPORATION** against **AMERITECH MICHIGAN** and **GTE NORTH INCORPORATED** relative to their not making intraLATA equal access available in the State of Michigan.	)	Case No. U-10138 Remand

OPINION OF COMMISSIONER JOHN L. O'DONNELL
CONCURRING IN PART AND DISSENTING IN PART

On February 23, 1993, the Commission issued an order delaying implementation of intraLATA dialing parity until interLATA restrictions were removed from Ameritech and GTE. I continue to believe that it is inappropriate to require intraLATA dialing parity until Ameritech Michigan and GTE are authorized and able to provide interLATA toll service, an issue that is not within the jurisdiction of this Commission. Although my colleagues are comfortable with implementing intraLATA dialing parity before restrictions are lifted, I am not. I therefore continue to disagree with the majority's conclusion that intraLATA dialing parity should occur in any event on January 1, 1996. The basis for my concern remains the threat to the economic interests of Ameritech Michigan and GTE caused by a mismatch between state and federal regulation.

Similarly, until they obtain authority to offer interLATA toll service, I believe that it is inappropriate to require Ameritech Michigan and GTE to pay a portion of the costs of implementing intraLATA dialing parity, including the costs of notifying customers that they can presubscribe to another intraLATA carrier and switching those customers during the 90

days before and after dialing parity becomes available. Ameritech Michigan and GTE should not be required to subsidize their competitors in the intraLATA market when Ameritech Michigan and GTE are not allowed to compete with them in the interLATA market. Minimum equity considerations might be met if interLATA relief were granted to Ameritech Michigan and GTE for at least selected areas within the state of Michigan.

I continue to agree that it was prudent and necessary to establish the task force to advance the goal of full intrastate toll competition and, with the exception noted above, I join in the majority's resolution of the issues addressed by the task force.

Commissioner John L. O'Donnell

March 10, 1995