STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the request for Commission approval of interconnection agreements between **GTE NORTH INCORPORATED** and incumbent local exchange carriers.	Case No. U-11580

At the March 20, 1998 meeting of the Michigan Public Service Commission in Lansing, Michigan.

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

OPINION AND ORDER

On October 31, 1997, as required by the Commission's October 15, 1997 order in Case No. U-11444, GTE North Incorporated (GTE) filed various interconnection agreements that exist between itself and the incumbent local exchange carriers (ILECs) other than Ameritech Michigan. On January 23, 1998, GTE supplemented its filing as a result of discussions with the Commission Staff.

GTE and the ILECs with whom the agreements exist are licensed to provide telecommunication services to the public in their exchanges throughout the state. The agreements between GTE and the ILECs relate to the rates, terms, and conditions of various services, such as directory assistance, operator services, and directory listings. The GTE submission also includes a number of extended area service (EAS) agreements, which, according to GTE, have been canceled but nevertheless continue to be the basis for EAS compensation with the ILECs.

Section 252 of the federal Telecommunications Act of 1996, 47 USC 252, requires that all agreements for interconnection, services, or network elements be submitted to the state commission for approval. 47 USC 252(a). 47 USC 252(e) provides in part:

> (2) GROUNDS FOR REJECTION.--The State commission may only reject--
> (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that--
> (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
> (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; . . ..
>
> (3) PRESERVATION OF AUTHORITY.--Notwithstanding paragraph (2), but subject to section 253, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

47 USC 252(e)(2) and (3).

The Commission concludes, after reviewing the agreements, that, with the exception of the EAS agreements, it should approve the submitted agreements, with the attachments. The Commission finds that these agreements are consistent with federal and state law and are in the public interest.

The EAS agreements, however, are not in compliance with state law and Commission orders regarding compensation for local traffic between ILECs, and are therefore rejected.[1] Although GTE commits in its January 23, 1998 submission to "make every effort possible to expedite the execution of" revised EAS compensation agreements "by the end of April 1998," the Commis-

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[1]See Section 352, MCL 484.2352; MSA 22.1469(352); Section 359, MCL 484.2359; MSA 22.1469(359) and the June 5, 1996 and September 12, 1996 orders in Case No. U-10860.

sion's September 12, 1996 order in Case No. U-10860 directed that EAS compensation on the bill-and-keep basis must cease by January 1, 1997. In its February 25, 1998 order in Case No. U-11281, the Commission also directed that tariffs for terminating local access services, among other items, be filed no later than March 11, 1998 based on the determinations in that proceeding.

The Commission therefore directs GTE to show cause, no later than April 24, 1998, why it is not in violation of Commission orders in Cases Nos. U-10860 and U-11281 as they relate to implementation of local call termination charges for ILEC-originated calls. In addition, GTE is to show cause why local call termination charges, if any, that have been assessed on competitive local exchange carriers (CLECs), absent the imposition of those charges on ILECs, should not be refunded to the affected CLECs, with interest.

Finally, if additional interconnection agreements are executed with ILECs at a future date, those agreements shall be submitted for Commission approval in compliance with Section 252 of the federal act and the Michigan Telecommunications Act, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended by 1995 PA 216, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC 151 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.

b. The interconnection agreements, other than the EAS agreements, should be approved.

c. GTE should be required to show cause why its treatment of EAS traffic is not in violation of state law and Commission orders.

THEREFORE, IT IS ORDERED that:

A. The interconnection agreements, other than those related to extended area service, between GTE North Incorporated and the incumbent local exchange carriers are approved.

B. Approval of the agreements does not alter GTE North Incorporated's duty to comply with relevant federal and state law and past and future Commission orders.

C. By April 24, 1998, GTE North Incorporated shall show cause why its treatment of extended area service traffic is not in violation of state law and Commission orders.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand
Chairman

(S E A L)

/s/ John C. Shea
Commissioner, dissenting in a separate opinion.

/s/ David A. Svanda
Commissioner

By its action of March 20, 1998.

/s/ Dorothy Wideman
Its Executive Secretary

STATE OF MICHIGAN

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DISSENTING OPINION OF COMMISSIONER JOHN C. SHEA

(Submitted on March 20, 1998 concerning order issued on same date.)

I am not able to join in the approval of the accompanying order. As I have stated previously, see, November 1, 1996 Dissenting Opinion in Case No. U-11138, the means to reach the result embodied in the accompanying order cannot, as the majority states, arise under federal law. Rather, the Michigan Telecommunications Act, 1991 PA 179, as amended by 1995 PA 216, MCL 484.2101 et seq.; MSA 22.1469(101) et seq., (the "MTA") is the only authority that should control this proceeding.

Based on this reasoning, questions about this Commission's authority and jurisdiction have not been resolved for me. Accordingly, I dissent.

John C. Shea, Commissioner