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November 9, 2000

Ms. Dorothy Wideman
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Michigan Public Service Commission
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RE: MPSC Case No. U-12598

Dear Ms. Wideman:

Enclosed for filing is the original and four copies of the "Attorney General's Initial Brief," together with Proof of Service upon all parties.

Very truly yours,

A handwritten signature in black ink, appearing to read "Orjiakor N. Isiogu".

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Encs.

c: George Schankler, ALJ
All Parties of Record

MPSC U-12598 Cover Letter

PROOF OF SERVICE

MPSC Case No. U-12598

The undersigned certifies that a copy of "Attorney General's Initial Brief" was served upon the parties listed below by mailing the same to them at their respective addresses with first class postage fully prepaid thereon, or by State Interdepartmental mail as indicated, on the 9th day of November, 2000.

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's
own motion, to establish service
quality standards, including enforcement
provisions, for Ameritech Michigan.

Case No. U-12598

ATTORNEY GENERAL'S INITIAL BRIEF

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ATTORNEY GENERAL'S INITIAL BRIEF

I. INTRODUCTION

Attorney General Jennifer M. Granholm files the following Initial Brief in accordance with the schedule established by the Administrative Law Judge (ALJ) in this proceeding. On August 17, 2000 the Michigan Public Service Commission (MPSC) issued an order in Case No. U-12571 with which it opened a docket to conduct a legislative-type inquiry into Ameritech Michigan's (AM) service quality problems. Subsequently, on September 7, 2000 the MPSC issued an Order and Notice of Hearing commencing this contested case proceeding. The MPSC stated that it was "persuaded that, in addition to the inquiry commenced in Case No. U-12571, it should commence a contested case proceeding . . . concerning Ameritech Michigan's quality of service." (*Id.* at 2). With its September 7, 2000 Order initiating this case the MPSC encouraged the MPSC Staff and other parties to "incorporate in their respective testimony any lessons learned from the legislative inquiry in Case No. U-12571." (*Id.* at 3).

It is nothing short of axiomatic that tough, reasonable, and enforceable quality standards for the provision of telecommunications services is extremely critical to the maintenance of a high quality basic local exchange service in Michigan. Much like the MPSC, the Attorney

General has received an inordinate amount of complaints from customers of Ameritech Michigan expressing very strong dissatisfaction with the quality of service, or lack thereof, they have received from the Company. While Ameritech Michigan is but one company of the many that are licensed to provide basic local exchange service in Michigan, it has a special distinction by virtue of the sheer number of customers that are entirely dependent upon the Company for service. Indeed, as the state's largest incumbent local exchange carrier its service quality problems have a significant impact on not only the economy of the state but also deeply affects the public welfare.

The Attorney General submits that since existing service quality standards have proved wholly inadequate, new and updated standards are needed to elevate the level of service quality and to forestall future problems. Both the record in this case as well as the public hearings in Case No. U-12571 point to widespread service quality problems which require an immediate and comprehensive response. The Attorney General believes that it is essential to adopt standards calculated to restore telephone service to a level which facilitates the protection of public health, welfare and safety of the people of Michigan.

Therefore, the Attorney General proposes the following primary recommendations to help restore service quality, reduce customer dissatisfaction, restore credibility, provide for appropriate safeguards for customers, and insure reasonable compensation (via customer credits) to AM customers which have suffered from poor service quality:

- 1) implement certain new service quality standards for AM, which focus on the primary problems related to unreasonable and excessive delays in installation, repairs and out of service conditions.
- 2) implement certain updated service quality standards for AM related to unreasonable and excessive delays in installation, repairs and out-of-service conditions;
- 3) implement both interim and permanent customer credit programs to reimburse and safeguard AM customers; and
- 4) implement a new informal complaint process.

Clearly, some service quality changes need to be made as soon as possible to address the current and specific service quality problems of AM. The customers of AM cannot afford any delays as a result of awaiting the conclusion of some future generic investigation. Contrary to the arguments of AM, this proceeding is lawful, not procedurally defective, and should not be dismissed.

II. ARGUMENT

A. Ameritech Michigan's Motion for Summary Disposition should be denied.

On October 25, 2000, AM filed a Motion for Summary Disposition of this case. First, AM argues that this case is unlawful and procedurally defective because the MPSC has chosen

not to establish service quality standards for AM under Chapter 3 of the Michigan Administrative Procedures Act (MAPA), Act 306 of 1969, MCL 24.201, *et seq*; MSA 3.560(101), *et seq*. The Company contends that the MPSC's decision to establish service quality standards through a contested case proceeding is violative of the requirements of the MAPA. Second, AM argues that it is unlawful for the MPSC to establish service quality standards that are applicable only to AM rather than the entire class of telecommunications service providers. Third, AM argues that the expeditious schedule set by the MPSC in this proceeding violates AM's due process rights.

The Attorney General submits that AM's arguments are without merit and the Company's motion should be denied. First, contrary to AM's arguments the statutory and case law of Michigan firmly establish that the MPSC is not constrained to establish or amend rules/standards only under Chapter 3 of the MAPA. Indeed, the MPSC is legally authorized to establish standards pursuant to the rule-making provisions of the MAPA or through adjudication on a case-by-case basis. At page 4 of its Motion for Summary Disposition, AM states as follows:

The current telecommunication services standards, R 484.1 *et. seq.*, were promulgated as "rules" by the Commission and were made effective July 17, 1996. See, May 31, 1996 Order in MPSC Case No. U-11040. If the Commission seeks to alter those rules in any way – including to amend the rules so as to "enhance" their provisions – it must do so in the same manner, not by adopting new "standards" through contested case or other non-rulemaking proceedings. The only other manner in which current rules may be amended or enhanced, according to APA Section 31(5), is "as a result of an act of the legislature."

Under the laws of Michigan the above-quoted argument is without merit. In *Northern Michigan Exploration Co. v Public Service Commission*, 153 Mich App 635; 396 NW2d 487 (1986), the

Michigan Court of Appeals quite clearly rejected the argument made by AM in this case. The Court of Appeals articulated:

The formula is upheld also on the further ground that the rule-making requirement of the APA does not apply to “[a] determination, decision or order in a contested case.” MCL 24.207(f); MSA 3.506(107)(f).

Finally plaintiffs’ contention must be rejected because it is settled that an agency has the option of setting standards either pursuant to the rule-making provisions of the APA or case by case through adjudication. See, for example, *American Way Life Ins Co v Ins Comm’r*, 131 Mich App 1; 345 NW2d 634 (1983), lv den 419 Mich 937 (1984); *DAIIE v Comm’r of Ins*, 119 Mich App 113; 326 NW2d 444 (1982); *Michigan Life Ins Co v Ins Comm’r*, 120 Mich App 552; 328 NW2d 82 (1982).

(*Id.* at 649).

Subsequently, in *Midland Cogeneration v Public Service Commission*, 199 Mich App 286; 501 NW2d 573(1993), the Michigan Court of Appeals reaffirmed the legal principle that the MPSC may establish standards in the context of a contested case proceeding in lieu of the rule-making procedures of the MAPA.

Second, contrary to AM’s argument, in view of the magnitude if not crisis proportion, of AM’s service quality problems, it is not unlawful for the MPSC to establish service quality standards that specifically address AM’s current situation. At page 10 of its Motion for Summary Disposition, AM argues that the MPSC’s attempt to establish service quality rules in this contested case proceeding constitutes an improper “special” act because it would apply to it rather than the entire telecommunications service providers. In support of its argument, the Company cites *Rohan v Detroit Racing Association*, 314 Mich 326; 22 NW2d 433 (1946). As the Attorney General previously stated, AM is in the enviable position of being the state’s largest dominant incumbent provider of basic local exchange service. As the testimony presented by

Mr. Harry Semerjian, witness for Ameritech, abundantly makes clear, AM services at least 95% of the combined business and residential customers within its service territory:

Q Do you know what percentage of residential customers within Ameritech's serving territory Ameritech currently has?

A I'm sorry?

Q The percentage of residential customers within the Ameritech serving areas that Ameritech provides local service to?

A I don't have that broken down by residential versus business. I do know - - I've seen statistics that indicate that approximately five percent of the total customers in our service territories are served by competitors.

Q And who is residential and business combined?

A Correct.

Q So Ameritech has at least 95 percent of the combined business and residential market within its serving areas?

A And dropping rapidly.

Q The answer is they do have 95 percent - -

A We do have 95 percent and that percentage is dropping rapidly.

Q Have you projected at what point it will hit 90 percent?

A No, I have not.

(4 Tr. 180).

In light of its vast share of customers in its service territory which is virtually statewide, the MPSC is entitled to establish rules for AM which address problems which seem to be uniquely AM's. This principle is acknowledged by the Michigan Supreme Court when it states as follows:

The mere fact that a law only applies, however, to a limited number does not make it special instead of general. It may be general within the constitutional sense and yet, in its application, only affect one person or one place.

(Id. at 349).

Third, contrary to the assertion of AM, while the expeditious schedule set by the MPSC in this proceeding imposes additional constraints on the parties, it clearly does not constitute a violation of the Company's due process rights. Ironically, in light of the unequal positions of the parties with respect to access to AM data, rather than AM, it is the MPSC Staff and intervenors like the Attorney General, that suffer a distinct disadvantage by virtue of the time pressures attendant to the expeditious schedule. An illustration of this significant point is AM's refusal to respond to the Attorney General's discovery request based on its peculiar assertion in the absence of any record evidence that the ALJ restricted discovery to only one round per testimony. In light of the expeditious schedule, the practical effect of AM's refusal to respond to discovery is that the Attorney General is denied important material for purposes of presenting a case. Consequently, AM's arguments should be rejected and the Motion for Summary Disposition be denied.

B. New and Improved Service Quality Standards are Necessary for Ameritech Michigan.

Based on the record in this case, as well as that in Case No. U-12571, new and improved service quality standards are necessary for AM to ensure that the telecommunications service needs of the majority of the people of Michigan is being more than adequately met. The Attorney General believes that some of the reasons which support the adoption of new service quality standards include:

- 1) The public hearings in Case No. U-12571 have made it very clear that service quality problems require immediate attention.
- 2) The new standards will help detect and identify potential service quality problems at an earlier date, and require earlier reporting to the MPSC.
- 3) The SBC/AM merger service quality reports show extreme high customer dissatisfaction in Michigan when compared to other states, and a timely and proper response to this dissatisfaction is warranted.
- 4) The SBC/AM merger service quality reports show deteriorating service quality standards in the Ameritech region, compared to the SBC states, and this requires immediate attention.
- 5) Both the MTA and the Federal Telecom Act address service quality, and the FTA promotes enhanced service quality.
- 6) It is clear that a renewed emphasis on service quality is necessary since AM has not been able to effect improvements in service quality.
- 7) Service quality should naturally improve over time due to advanced technology, so service standards should naturally become tighter to reflect the impact of improved technology and meet customer expectations.
- 8) There are a lot more reasons to have new and updated standards, rather than maintain the status quo.

(4 Tr. 246).

C. The Attorney General's Proposed Service Quality Standards are Reasonable and Necessary to Improve Service Quality and Protect Against Repeated Deterioration.

The Attorney General has proposed a clear and concise list of about four new service quality standards and four revised service quality standards which are reasonable and necessary to improve service quality and to protect customers against repeated deterioration. As a part of these standards the Attorney General proposes both an interim customer credits program until service quality is returned to a reasonable level, and a new permanent customer credits program. Finally, the Attorney General believes that an informal customer complaint process should be

adopted in addition to the specific service quality standards. Attachment A to this Brief summarizes in a simple table format the proposed recommendations of the Attorney General compared to existing Michigan service quality standards, the proposals of AM and Staff. In addition, Attachment A compares the Attorney General's service quality recommendations to those which exist in other states in order to show the reasonableness and necessity of the Attorney General's recommendations.

In addition to the simple table format at Attachment A, the Attorney General provides additional support and information about each one of her service quality recommendations in the following paragraphs, ending with a more detailed explanation of the proposed recommendation for customer credits. Mr. Ostrander's testimony on behalf of the Attorney General forms the foundation of support for the following standards:

New Standards

Service Installation Time
Installation Answer Time
Out of Service Speed
Repairs Commitment
Interim Customer Credits

Improved Existing Standards

Trouble Reports
Repair Answer Time
Repair Speed
Installation Commitment
Permanent Customer Credits (Once
Service is Restored to Reasonable
Levels)
Informal Customer Complaint Process

Service Installation Time - New Standard

Based on AM's current significant delays in installation of telephone service, this is one of the most important standards to implement since there is no current Michigan standard in place for Service Installation Time. Generally, this is one of the most important service quality standards in other states and most states have such a standard. (4 Tr. 261-262).

Mr. Ostrander recommends that 95% of service installations take place within 5 days, unless a customer has arranged for an alternative time. The 95% requirement is consistent with Texas service quality standards for Service Installation (Exhibit I-8, Section 26.54(c)(1)). Illinois requires 90% of service installations within 5 days (Exhibit I-10, Section 730.540). This standard, like most others recommended by Mr. Ostrander, should be subject to a 2-month exception reporting process instead of the current 3-month exception reporting process. (4 Tr. 249, 261-262).

Mr. Ostrander also recommends an interim and permanent customer credit program to go along with service installation, in place of the current customer credit program that applies only to out of service and repairs conditions. The permanent customer credit program for installations is similar to Ohio's existing standard. The customer credit program will be addressed comprehensively later in this Brief.

Since the MPSC currently has a time requirement for completing repairs, (for which the Attorney General recommends an improved standard), it is important to have a time requirement for completing installation of telephone service, especially because of the significant and unreasonable delays encountered by AM customers. AM's most recent service quality filing with the FCC¹ indicates that for just the month of June 2000, residential service installation was delayed over 30 days for 117 customers, and there were 2,888 missed installation commitments

¹ SBC/AM service quality results filed with the FCC (and publicly available on the FCC website) pursuant to the FCC's October 8, 1999, order in CC Docket No. 98-141 and required as conditions of the SBC/AM merger, based on NARUC's white paper service quality reporting requirements

by AM. For business service, installation was delayed over 30 days for 178 customers, and there were 3,741 missed installation commitments by AM. (Exhibit I-5). Since the MPSC currently has no standard for service installation time, AM is not required to report any information regarding this critical standard. Therefore, it was necessary to obtain publicly available data on installation time from the FCC's merger reporting conditions for AM as provided at Exhibit I-5.

In addition, the significant delays in installation of service is likely to be a big reason why AM ranks worst among all 13 Ameritech and SBC states, with the highest Percent of Dissatisfied Customers for residence service, and ranks second highest among these states in terms of Customer Complaints as indicated by the most recent reports filed with the FCC. About 26% of AM's residential customers indicate they are dissatisfied to very dissatisfied with AM. (4 Tr. 249, 261-262). The service quality reports filed with the FCC show that for the past year (July 1999 to June 2000), AM has consistently had the largest percent of dissatisfied residential customers among all SBC and Ameritech states, and by an extremely wide margin, AM significantly exceeds seven of the eight SBC states (all SBC states except Connecticut) in terms of dissatisfied customers. (Exhibit I-5). Finally, Senator Rogers shares this example of poor customer installation time from the September 18, 2000, public hearing in Case No. U-12571:

We had a pregnant woman, nine months, begging to have their phone. Customer service representative said, well, you'll have to wait in line like everyone else.

(2 Tr. 104) (Case No. U-12571).

Installation Answer Time - New Standard

Current Michigan Rule 484.52(2) requires repair calls to be answered within a monthly average of 25 seconds, with a three month reporting exception. However, there is no separate or

specific standard for answer time related to installations. (4 Tr. 258). The Attorney General recommends implementing an installation answer time for installations, requiring that a live operator be available as an option for customers within a certain time frame. The current three month reporting exception period should be reduced to two months, and the average answer time be measured and reported specifically for each “answering/call location,” The Attorney General believes that one of the most important issues in this case is the customer’s access to a live operator for both installation and repairs, when this option is desired by the customer. Therefore, the portion of this standard which recommends a live operator as an available option, also applies to having a live operator available for repair calls as part of an updated standard for repair answer time.

The Attorney General believes it is important to emphasize that current Michigan Rule 484.2 (definitions) indicates that an “Answer” means that either a live representative or an automated system is ready to render assistance or ready to accept information necessary to process the call, and that an acknowledgment that the customer is waiting on the line shall not constitute an answer. It is somewhat unclear as to how an “automated system” can be ready to render assistance to answer a customer’s request regarding repairs and other questions under the current standard. Therefore, this standard should require that a live representative be available within a reasonable time frame, to those persons needing this option for both repairs and installation. (4 Tr. 259).

Arguably, AM is not meeting the current standard which requires that either a live operator or an automatic system be ready to render assistance. Given AM’s vehement opposition to a live operator, it is clear that AM does not consider a “live operator” to even be a reasonable

option available to customers under the current standard. The MPSC may only need to clarify and emphasize that the current standard intends that a live operator/representative be available within a prescribed time frame, and that AM must comply with this standard. This is supported by the fact that there is no other way which AM can “render assistance” without having a live operator available as an option for some customer inquiries regarding repairs and installation.

The Attorney General previously explained AM’s significant delays in installation of telephone service and how important this standard is to customers. As Mr. Ostrander testified:

Since the service quality data which is available indicates a significant lag in installations, it is necessary to ensure that these calls are answered on a timely basis and not unduly delayed, dropped or subject to extended waiting times via automated answering systems just because there exists no service quality standard to address these concerns.

(4 Tr. 259).

This installation answer time standard complements the repair installation standard, because in order for AM to decrease its delays in installation time, it is very likely that access to live operators is necessary at times to improve communication and ensure timely installation and confirm commitment dates.

The Attorney General believes that a live operator should always be an option available to customers, although not all customers will need or desire to use this option for routine or standard matters related to installation and repairs. (4 Tr. 259). The Attorney General recommends several options in regard to a live operator as an available option:

- 1) The current 25 second answer time standard for an automated response could be relaxed to 60 seconds, but also include the availability of a live operator for both repairs and installation calls within this time. (4 Tr. 259).
- 2) Access to a live operator within 60 seconds from the automated response time of 25 seconds could be an option, which means that effectively the customer could get access to a live operator within about 90 seconds (the 60 seconds plus the 25 second automated response) if they desire this option. This is a further elaboration of the position above.

The Attorney General believes that the comments at the public hearings in Case No. U-12571 are a very good indication of the need for a live operator as indicated by the customer's inability to gain access to AM personnel to discuss service problems and related issues.

In addition, the Attorney General believes that answering time should be separately reported and measured for each "answering/call location". This would allow exceptions to be reported for each location, so if there is a problem, corrective action can be directed toward a specific call center. Absent specific information on a call location basis, the averaging of answer time between two different call centers could fail to disclose that one call center has a problem if the averaging process masks these problems and makes it appear that all calls are being handled properly.

Out of Service Speed - New Standard

This standard relates to conditions when the customer's telephone is beyond normal repairs and is completely out of service. Because of AM's significant delays in curing out of service conditions for customers, this new standard is extremely important, and should be one of the highest priorities among the Attorney General's recommendations.

Current Michigan Rule 484.52(4) requires repairs and out of service conditions to be cured within 36 hours on a monthly average. The Attorney General proposes three primary components for this new standard. First, to disaggregate the Repair Speed standard from the Out of Service Speed standard and create a new Out of Service Speed standard. Second, exceptions should be reported for two consecutive months, instead of the current three months. Third, this standard should apply to monthly averages calculated on a wire center basis if possible, or an exchange basis at the minimum.

The Out of Service Speed standard should require that on a monthly average, 95% of all out of service conditions be cured within 24 hours on weekday, and 48 hours on weekends, on a wire center basis. There would be exceptions to meeting this requirement in the case of catastrophic events and what has typically been called "Acts of God" such as tornados, severe ice and snow storms, flooding, etc. Corrective actions and reports must be filed for any two consecutive months where this standard is not met. (4 Tr 256).

As Mr. Ostrander testified:

Prior to the 1996 service quality changes in Case No. U-11040, there was a separate standard for Out of Service speed which required that 90% be cleared within 24 hours for Monday through Friday, and 90% be cleared within 48 hours for weekends.”

(4 Tr. 256)

The Attorney General proposes a return to a separate standard for Out of Service conditions because a customer without telephone service should receive a higher priority and faster repairs than a customer which has telephone service but requires some other kind of repair. (4 Tr 256).

This standard is reasonable since both Illinois and Wisconsin require this same treatment of clearing 95% of all out of service troubles within 24 hours (Illinois standards, Section 730.535(a)). (Exhibit I-10). The Wisconsin standard is applicable to price cap companies in Wisconsin, including Ameritech Wisconsin, as set forth to be used for the year 2000 in Docket 05-TI-248 (and pursuant to the Second 157 Order in docket 05-TI-157, dated May 7, 1999, and amended by letter dated June 22, 1999). The standard which the Attorney General proposes is certainly very reasonable since it is more lenient than both Texas and Ohio. Texas requires 90% of out of service requests to be cleared within 8 hours on an exchange basis (Exhibit I-8, Texas Rules Section 26.54(c)(6) (C)). Ohio requires 100% of out of service requests to be cleared within 24 hours, excluding Sundays and holidays (Exhibit I-9, Section 4901:1-5-24 (B)(6)).

It is important to have a shorter time requirement for fixing out of service conditions, as compared to normal repairs, especially because of the significant and unreasonable delays encountered by AM customers in just normal repairs. AM’s most recent service quality filing

with the FCC (see footnote 1) indicates that for just the month of June 2000 (the most recent month available), a total of 46,486 residential customers were out of service for more than 24 hours, and the average repair time was about 96 hours. For business service, a total of 55,686 customers were out of service for more than 24 hours, and the average repair time was about 92 hours. (Exhibit I-5). In addition, for just the month of June 2000, there were 75,813 AM residential customers reported to be out of service, and 92,685 business customers. (Exhibit I-5). Since the MPSC currently does not have a separate or stricter standard for out of service installation time, AM is not required to report any information regarding this critical standard as it relates to just out of service conditions. Therefore, it was necessary to obtain publicly available data on installation time from the FCC's merger reporting conditions for AM as provided at Exhibit I-5.

Repair Speed - Updated Standard

The current Michigan Repair Speed Rule 484.52(iv)(4) requires a monthly average repair speed of 36 hours for both normal repairs and out of service requests, with corrective action required for three consecutive months of exceptions. The Attorney General proposes three relatively minor updates to this standard. First, the Attorney General recommends that this standard of repair time within 36 hours apply only to normal repairs, since a separate standard for out of service repairs was previously recommended. Second, exceptions should be reported for two consecutive months, instead of three months. Third, this standard should apply to monthly averages calculated on a wire center basis if possible, or an exchange basis at the minimum.

AM ranks worst among all 13 Ameritech and SBC states regarding Average Repair Interval for residential service. This is one category where AM is head and shoulders worse than all other companies, with no other company coming close. This justifies important changes for repair and out of service condition standards.

The combination of the new standard for curing out of service conditions within 24 hours (instead of the old standard of 36 hours previously used for both repairs and out of service conditions), along with the more minor changes in the updated repair standard (although the 36 hour time frame is retained), should lead to a significant decline in the average repair interval, which is at unreasonable levels for AM. As reported in its service quality filings with the FCC, under the SBC/Ameritech merger conditions, for just the month of June 2000 AM had 46,486 residential customers that were without telephone service for over 24 hours, with an average repair time of 96 hours. About 55,686 business customers were without telephone service for 24 hours, with an average repair time of 92 hours. (Exhibit I-5). The unreasonable delays of about 96 hours are already about triple the current 36 hour repair time standard required in Michigan. But requiring out of service conditions to be restored within 24 hours will also help lead to significant improvements and reductions in the average repair interval of 96 hours reported to the FCC by AM. The increasing trend in repair times in the last year (from FCC information for the latest period July 1999 to June 2000), would also be improved by the Attorney General's recommendations.

Repair Commitment Percent - New Standard

Current Michigan Rule 484.63 requires 90% of installation commitments to be met on a monthly average basis, with a three consecutive month exception rule. Therefore, an Installation

Commitment Percent standard exists, but no Repair Commitment Percent standard exists. The Attorney General recommends that the same 90% which applies to Installation also apply to Repairs. It appears that prior to the service quality rule changes in 1996, a general commitment percent of 90% was in effect which applied to both installation and repairs. The Attorney General recommends a return to this type of standard. In addition, the Attorney General recommends that the three month exception rule be changed to two months for both Installation and Repairs. (4 Tr. 260-261).

The Attorney General generally believes that customers experience the same frustration from AM's failure to meet either an installation commitment or a repair commitment and they do not distinguish between the two, and therefore a standard is appropriate for both. Customers should not have to tolerate an unreasonable wait or guess when repairs will be made, or when installation will take place. Both commitments should be narrowed down for customers. Absent any Repair Commitment standard, the repairs may be unduly delayed which contributes to additional customer dissatisfaction which is already extremely high in Michigan. This type of standard should help turn around customer dissatisfaction and address spiraling complaints. (4 Tr. 261).

Installation Commitment Percent - Updated Standard

Current Michigan Rule 484.63 requires 90% of installation commitments to be met on a monthly average basis, with a three consecutive month exception rule. The Attorney General recommends minor updates to this standard, but not a change in the 90% installation commitment standard. The Attorney General recommends that the three month exception rule be changed to two months for both Installation and Repairs. (4 Tr. 260-261). Establishment of a

new Repairs Commitment Percent which was previously addressed, is the most significant recommendation in the area of commitment standards.

Customer Trouble Reports - Updated Standard

The current Michigan standard in Rule 484.65 requires that the average monthly rate of customer trouble reports in any wire center is not be more than 6 per 100, with exceptions reported for 3 consecutive months. The Attorney General recommends that this standard be changed to no more than 4 per 100 customer trouble reports per month on the same wire center basis, with exceptions reported for 2 consecutive months. The Attorney General's proposal is very reasonable since it is more lenient than Texas (Exhibit I-8, Section 26.54(c)(6)(A)) and Ohio (Exhibit I-9, 4901:1-5-24(B)(2)), which require that customer trouble reports not exceed 3 per 100. (4 Tr. 257).

The Attorney General does not believe that service quality standards, or trouble report rates, vary between urban and rural exchanges (or large and small exchanges). This is because establishing different standards between urban and rural areas would be viewed as discriminatory and actually facilitate inferior service quality in rural areas, as compared to urban areas. AM has proposed different trouble report rates for large versus small exchanges. The Attorney General disagrees with AM's proposal. Allowing more trouble reports in rural areas may have the adverse effect of promoting inefficient and substandard service compared to urban areas. The intent of Section 254(b)(3) of the FTA (Universal Service Section) is to eliminate the differences between rural and urban areas, and promote equity in both rates and services. To allow rural areas to have a higher trouble report rate than urban areas could be viewed as a violation of the intent of the FTA, since this may promote inferior service compared to urban areas. (4 Tr. 258).

It is obvious that AM has a significant problem with service quality as indicated by the number of customer trouble reports. AM's most recent service quality filing with the FCC (see footnote 1) indicates that for just the month of June 2000, AM ranks second worst among all 13 Ameritech and SBC states regarding repeat trouble reports, and ranks third worst among all Ameritech and SBC states regarding Trouble Report Rate per 100 lines for residential customers. (4 Tr. 248). The FCC data shows that for the most recently reported data in June 2000, AM had 98,799 residential trouble reports, and 121,200 business trouble reports, along with 24,000 "repeat" trouble reports for residential customers and 28,000 repeat trouble reports for business customers. (Exhibit I-5).

In addition, the significant number of trouble reports is likely to be a big reason why AM ranks worst among all 13 Ameritech and SBC states with the highest Percent of Dissatisfied Customers for residential service, and ranks second highest among these states in terms of Customer Complaints as indicated by the most recent reports filed with the FCC.

Interim and Permanent Customer Credits Program

The Attorney General proposes both an interim and a permanent customer credits program related to both repairs and installation. Attachment B to this Brief summarizes the Attorney General's interim and permanent customer credits program.

Service quality standards in Michigan currently only provide for customer credits related to delays in repairs, although AM has also volunteered an interim customer credits program for installation which the Attorney General believes is inadequate. An interim customer credits program should be in place until service quality is restored to a level related to the service quality

standards adopted from this case (or restored to current levels if new standards are to be delayed or not adopted in this case). Once service quality is restored, then the permanent (or ongoing) service quality customer credits program recommended by the Attorney General should be considered in effect. (4 Tr. 250 - 252).

The Attorney General's interim customer credits program is more reasonable and responsive to customer needs, than AM's interim customer credits program.

The primary differences between the Attorney General's interim customer credits program and AM's interim program is set forth below:

- 1) Repairs/outage Basic Credits - AM offers a \$14 credit if the outage is greater than 48 hours, whereas the Attorney General propose a \$28 credit (twice the local rate) plus applicable fees and taxes when either repairs or outages impede the ability to use phone for 24 hours. Therefore, the credit proposed by the Attorney General is about twice that of AM (plus it credits related fees and taxes related to local service) and is available for repairs/outages of 24 hours instead of 48 hours.
- 2) Installation Basic Credits - AM offers a \$14 credit if the installation date is beyond seven days, whereas the Attorney General proposes a credit of \$14 (the basic local rate) plus the full amount of the nonrecurring installation charges (about \$40 for residential, plus any additional) for installation dates beyond five days. The Attorney General proposes a credit of the local and installation charge

and for delays greater than five days which appears to be the prevailing industry standard for service quality installation in various states.

- 3) Repairs and Installation Cellular Phone - AM does not offer a cellular phone, whereas the Attorney General proposes that the customer have the option of getting a free loaned cellular phone (except they pay toll charges at prevailing toll rates, although they do not have to pay for a reasonable amount of incoming local/toll charges to the cell phone).
- 4) Repairs and Installation Retroactive Credits - AM's latest offer makes it credits retroactive to January 1, 2000, whereas the Attorney General proposes that credits should be retroactive to the earliest of January 1, 2000, or the period when service quality began to slip measurably.
- 5) Repairs and Installation Additional Credits - AM does not propose any further credits, whereas the Attorney General believes that further credits should apply for customers in the past that did not receive proper credits or pro rates. (IV Tr 252-253).

AM's interim customer credits program is inadequate, unreasonable and not compensatory to customers because:

- 1) Existing permanent customer credit standards in Ohio which already exceed what AM has offered as its current interim program in Michigan. AM only offers a

credit for the nonrecurring installation charge which is equal to the basic local service rate, whereas Ohio's existing standards already offer an installation credit which exceeds this. Ohio offers a credit for one-half of the non-recurring installation charge if service is not installed within five days, and they offer a full credit if service is not installed within 10 days under 4901:1-5-18. Therefore, the new customer credits program which Ameritech offers is not even as good as that which exists under Ohio service quality standards. (4 Tr. 253-254 and Exhibit I-9).

- 2) The availability of a free cellular phone, as part of a customer credits program, has been raised by the Chairman of the Illinois Commission, Mr. Mathias – in a September 14, 2000 letter to Mr. Mueller (President and CEO of SBC/Ameritech). Mr. Mathias proposes the idea of a free cellular phone from Ameritech if service is not restored within 24 hours or not installed within five days – which are the same parameters the Attorney General recommends. (4 Tr.. 254).
- 3) Based on an October 13, 2000 news release by the Indiana Office of Utility Counselor (“OUCC”), it has a pending agreement with Ameritech Indiana (subject to approval by the Indiana Commission) regarding provision of free cellular phone service for customers experiencing the loss of phone service.

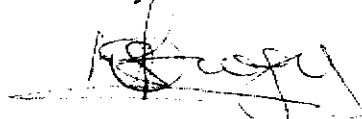
The Attorney General addresses additional details regarding customer credits throughout it's testimony. (4 Tr. 240-241, 250-255).

RELIEF

For all the reasons stated above, the Attorney General requests that the MPSC deny AM's Motion for Summary Disposition and adopt the Attorney General's recommendations.

Respectfully submitted,

JENNIFER M. GRANHOLM
Attorney General

A handwritten signature in black ink, appearing to read 'Orjiakor N. Isiogu', is written over a horizontal line.

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November 9, 2000
Cases U-12598 Initial Brief

ATTACHMENT A - COMPARISON OF ATTORNEY GENERAL RECOMMENDATIONS TO OTHER PARTIES
Attorney General Brief
Case U-12598

Item	Standard	Attorney General Proposal			AM Michigan	MPSC Staff	Current Michigan Standard	Other States	Other States Service Quality
		New/Updated	Explanation	Notes	Proposal & Notes	Proposal & Notes		Same As AG Proposal	
A.	Service Install. Time	New	95% install. within 5 days	1, 2, 6	Not applic.	Keep records for install. > than 3 days.	None	Texas	Illinois - 90% within 5 days
B.	Install. Answer Time	New	Live operator as an option within 90 seconds	1, 3, 6	7, current standard	Live operator within 3 minutes	Requires repair calls only (not installation) to be answered by automated/live operator in 25 sec.		
C.	Repair Answer Time	Updated/New	Live operator as an option within 90 seconds	1, 3, 6	7, current standard	Live operator within 3 minutes	Repair calls to be answered by automated/live operator in 25 sec.		
D.	Out of Service Speed	New	95% cured within 24 hrs. on weekdays, 48 hrs. on weekends	1, 2, 6	7, current standard	100% cured within 24 hrs., 48 hrs. on weekends	Requires repairs and out of service to be cured in 36 hrs.	Illinois & Wisconsin	Texas - 90% within 8 hrs. Ohio - 100% within 24 hrs.
E.	Repair Speed	Updated	36 hrs. stays the same, see notes for minor changes	1, 2, 6	7, current standard		Requires repairs and out of service to be cured in 36 hrs.		Kansas - repairs within 30 hrs.
F.	Repair Commitment %	New	90% of repair commits.	1, 2, 6	N/A	Cust. given commit. time within 2-hrs.	None, requires 90% of install. commitments but not repairs		
G.	Install. Commitment %	Updated	90% stays the same, see notes for minor changes	1, 2, 6	7, current standard	100% within 3 days of commitment date	90% of install. Commitments be met		
H.	Cust.Trouble Reports	Updated	Not > 4 per 100 Access Lines per month	1, 2, 6	3,000 A/L - not > 6/100 1,001 to 2,999 A/L - not > than 8/100 < 1,000 A/L - not > than 10/100	Not > 4 per 100 Access Lines per exchange	Not > 6 per 100 Access Lines per month		

Notes:

1. The Attorney General recommends a 2-month exception reporting exception period for all standards instead of the current 3-month exception period.
2. The Attorney General recommends all standards be averaged on a monthly basis on a per wire center basis (instead of averaging all wire centers together for a total co. average).
3. The Attorney General recommends monthly averaging on a per call center/location basis.
4. This above table does not include all of Staff's recommendations, but only compares Attorney General recommendations to other parties. Staff and Attorney General customer credits policy not shown at this schedule.
5. The above table does not include all existing Michigan service quality standards where the Attorney General does not recommend a change.
6. Generally, exceptions apply for Acts of God and catastrophes for all Attorney General recommendations.
7. Ameritech Michigan recommends existing Michigan standard per testimony of Mr. Semerjian (IV Tr 98-100).
8. Customer Credits are a part of the Attorney General's recommendation but this is explained separate from this schedule.

Attachment B
Case No. U-12598
Attorney General Brief

**ATTORNEY GENERAL INTERIM AND PERMANENT
CUSTOMER CREDITS PROGRAM**

Interim Policy (Until Service Quality is Restored) - Cell Phone for Out of Service/ Repairs:

- 1) For any customer whose telephone is out of service for greater than 24 hours, or for which repairs have not been performed within 24 hours in order to conduct reasonable non-impaired transmission, cell phone service is provided through the date of service restoration or final repairs and a credit equal to twice the local rate and related charges is applied. Customers should not pay any charges for local service and any toll charges would be at the prevailing toll rate, and customers should not have to pay for a reasonable level of incoming local and toll calls on the cell phone. Under no conditions will there be a duplication of charges for cell phones and the local service rates and related charges.
- 2) All of the previously identified credits should be applicable to all affected customers on a retroactive basis to the earliest of January 1, 2000, or when service quality standards generally slipped in the area of repairs.

Interim Policy (Until Service Quality is Restored) - Cell Phone for Late Installs:

- 1) For any customer whose telephone is not installed within 5 days, cell phone service is provided through the date of installation, and a credit equal to the full amount of the nonrecurring installation fee and the local rate (and related charges). Customers should not pay any charges for local service and any toll charges would be at the prevailing toll rate, and customers should not have to pay for a reasonable level of incoming local and toll calls on the cell phone. Under no conditions will there be a duplication of charges for cell phones and the local service rates and related charges.
- 2) All of the previously identified credits should be applicable to all affected customers on a retroactive basis to the earliest of January 1, 2000, or when service quality standards generally slipped in the area of installation.

Permanent Policy - Cell Phone for Out of Service/ Repairs:

- 1) For any customer whose telephone is out of service for greater than 24 hours, or for which repairs have not been performed within 24 hours in order to conduct reasonable non-impaired transmission, cell phone service is provided through the date of service restoration or final repairs. For cell phones, toll charges would be at the prevailing toll rate, and customers should not have to pay for a reasonable level of incoming local and toll calls on the cell phone. Under no conditions will there be a duplication of charges for cell phones and the local service rates and related charges.
- 2) For out of service/repairs from 2 to 5 days, a cell phone is provided with credits at pro-rated amounts of the local service rate and related charges.
- 3) For out of service/repairs from 6 to 10 days, the cell phone is provided with credits equal to one-half of the local service rate and related charges.
- 4) For out of service/repairs exceeding 10 days, the cell phone is provided with credits equal to the entire amount of the local service rate and related charges, and if the period exceeds 30 days without service then two full months credit is available on the 31st day and doubling every 30th days thereafter.

Permanent Policy - Cell Phone for Late Installs:

- 1) For any customer whose telephone is not installed within 5 days, cell phone service is provided through the date of installation, and there are no charges for local or related services until installation. For cell phones, toll charges would be at the prevailing toll rate, and customers should not have to pay for a reasonable level of incoming local and toll calls on the cell phone. Under no conditions will there be a duplication of charges for cell phones and the local service rates and related charges.
- 2) For any installs between 6 and 10 days, one-half of the non-recurring installation fee is waived and the cell phone is provided with credits equal to one-half of the local service rate and related charges.
- 3) For any installs exceeding 10 days, the entire non-recurring installation fee is waived, and the cell phone is provided with credits equal to the entire amount of the local service rate and related charges, and if the period exceeds 30 days without service then two full months credit is available on the 31st day and doubling every 30th days thereafter.

Note: A reasonable level of incoming local/toll calls on the cell phone is intended to mean that all incoming local and toll calls would be free on the cell phone (since these would normally be essentially free with a landline phone). However, local and toll incoming calls could be subject to some upper bounds based on either usage or the number of calls such as 250 minutes usage for incoming calls. Or the number of allowed incoming calls could be based on the “number” of calls, such as double the number of normal outgoing calls over a recent 6-month period for that customer - - with the choice of the “usage” option or the “number” option at the customer’s discretion. The amount of free incoming local and toll calls could be compared to total minutes available for flat charges in various cellular phone plans in determining a reasonable volume, for example it appears that 150, 250 and 500 minutes are some of the plans available.