

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of SPRINT COMMUNICATIONS	)	
COMPANY L.P. 's petition for de novo review	)	
pursuant to MCL 484.3117 of Determination No. 5	)	Case No. U-14878
made by the METRO Authority.	)	
_____	)	

At the May 25, 2006 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Laura Chappelle, Commissioner
Hon. Monica Martinez, Commissioner

ORDER AND NOTICE OF HEARING

This case involves a question of first impression raised by Sprint Communications Company L.P. (Sprint) regarding an interpretation of the Metropolitan Extension Telecommunications Rights-of-way Oversight Act (METRO Act), 2002 PA 48, as amended, MCL 484.3101 *et seq.*

On November 1, 2002, the METRO Act became effective. Section 3 of the METRO Act created an oversight authority, known as the METRO Authority, to manage telecommunications facilities located in public rights-of-way. Among other things, the METRO Act standardized management of public rights-of-way, the collection of fees from telecommunications providers for facilities owned by the provider, and the remittance of such fees to municipalities for the use of the rights-of-way.

The following facts do not appear to be in dispute. Sprint provides telecommunications services via fiber facilities located in the public rights-of-way. As such, Sprint is responsible for

making payments to the METRO Authority for the use of these rights-of-way. On March 30, 2005, Sprint first reported its linear fiber footage to the METRO Authority. In so doing, Sprint's report detailed all fiber in place and delineated owned fiber and leased fiber. On May 20, 2005, the METRO Authority billed Sprint for both leased and owned fiber for the 2003, 2004, and 2005 right-of-way fees. On June 1, 2005, Sprint objected to the invoice. On June 10, 2005, the METRO Authority modified its original invoice and re-billed Sprint an amount based only on the facilities actually owned by Sprint. Sprint submitted a payment for the full amount of the revised invoice on June 28, 2005.

On July 19, 2005, the METRO Authority issued Determination No. 5, which states that a provider's maintenance fees should be based on the linear feet of all facilities "occupied" by the provider in the public right-of-way without regard to whether the facilities are leased or owned by the provider. Determination No. 5 was communicated to Sprint via letter dated July 28, 2005 from Melvin Farmer, Jr., Director of the METRO Authority. On August 11, 2005, Sprint communicated its disagreement with Determination No. 5 to Mr. Farmer.

On May 3, 2006, Sprint filed a petition pursuant to Section 17 of the METRO Act, MCL 484.3117, for *de novo* review by the Commission of Determination No. 5 made by the METRO Authority. In its petition, Sprint represents that it has no objection to paying the per linear foot amounts for its owned facilities. However, Sprint insists that it should not be required to pay fees for leased facilities that are owned by other providers.

Because Sprint's petition presents a question of first impression that involves a previously untested *de novo* review procedure and will likely affect numerous interested persons, the Commission finds that this matter should be set for a prehearing conference before an administrative law judge. Toward that end, the Commission directs that copies of this order and notice of

hearing be served on Sprint, the METRO Authority, all providers of telecommunications services who routinely receive invoices from the METRO Authority, The Michigan Municipal League, and the Michigan Townships Association. In addition, in the interests of fairness and broad participation, the Commission encourages the METRO Authority to place a conspicuous notice of the intervention procedures and the prehearing conference on its website.

Any person who is interested in intervening in this proceeding as a party shall file a petition to intervene in Case No. U-14878 by June 22, 2006 in accordance with the Commission's Rules of Practice and Procedure, R 460.17101 *et seq.* The prehearing conference shall be held at 9:00 a.m. on June 29, 2006 at the Commission's Lansing office location, which is located at 6545 Mercantile Way, Lansing, Michigan, 48911.

All documents filed in this case shall be submitted electronically through the MPSC Electronic Case Filings Web site at: <https://efile.mpsc.cis.state.mi.us/cgi-bin/efile/login.pl>. Requirements and instructions for filing electronic documents can be found in the Electronic Case Filings Users Manual at: <http://efile.mpsc.cis.state.mi.us/efile/pdfs/usersmanual.pdf>. An application for account and letter of assurance, required of all first-time users, are located at: <http://efile.mpsc.cis.state.mi.us/efile/pdfs/assurance.pdf>. If you require assistance prior to e-filing, contact the Commission Staff at 517-241-6170 or by e-mail at: mpscefilecases@michigan.gov.

The Commission FINDS that:

a. Jurisdiction is pursuant to 2002 PA 48, as amended, MCL 484.3101 *et seq.*; 1969 PA 306, as amended, MCL 24.201 *et seq.*; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 *et seq.*

b. Any person who is interested in intervening in this proceeding as a party should file a petition to intervene in Case No. U-14878 by June 22, 2006 in accordance with the Commission's Rules of Practice and Procedure, R 460.17101 *et seq.*

c. A prehearing conference should be scheduled for 9:00 a.m. on June 29, 2006 at the Commission's Lansing office location, which is located at 6545 Mercantile Way, Lansing, Michigan, 48911.

d. Copies of this order and notice of hearing should be served on Sprint, the METRO Authority, all providers of telecommunications services who routinely receive invoices from the METRO Authority, The Michigan Municipal League, and the Michigan Townships Association. In addition, in the interests of fairness and broad participation, the METRO Authority should be encouraged to place a conspicuous notice of the intervention procedures and the prehearing conference on its website.

THEREFORE IT IS ORDERED that:

A. Any person who is interested in intervening in this proceeding as a party shall file a petition to intervene in Case No. U-14878 by June 22, 2006 in accordance with the Commission's Rules of Practice and Procedure, R 460.17101 *et seq.*

B. A prehearing conference should be scheduled for 9:00 a.m. on June 29, 2006 at the Commission's Lansing office location, which is located at 6545 Mercantile Way, Lansing, Michigan, 48911.

C. Copies of this order and notice of hearing shall be served on Sprint Communications Company L.P., the METRO Authority, all providers of telecommunications services who routinely receive invoices from the METRO Authority, The Michigan Municipal League, and the Michigan Townships Association. In addition, in the interests of fairness and broad participation, the Metro

Authority is encouraged to place a conspicuous notice of the intervention procedures and the prehearing conference on its website.

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

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chairman

(S E A L)

/s/ Laura Chappelle
Commissioner

/s/ Monica Martinez
Commissioner

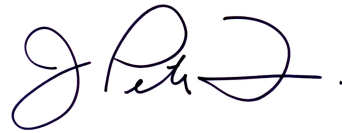
By its action of May 25, 2006.

/s/ Mary Jo Kunkle
Its Executive Secretary

Authority is encouraged to place a conspicuous notice of the intervention procedures and the prehearing conference on its website.

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

MICHIGAN PUBLIC SERVICE COMMISSION



Chairman



Commissioner



Commissioner

By its action of May 25, 2006.



Its Executive Secretary

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-14878

County of Ingham)

Patricia A. Fronta being duly sworn, deposes and says that on May 25th 2006, A.D. she served a copy of the attached Commission order by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

Patricia
A. Fronta

Digitally signed by
Patricia A. Fronta
DN: CN = Patricia A.
Fronta, C = US, O =
Case Management, OU
= MPSC
Date: 2006.05.26
14:41:59 -04'00'

Patricia Fronta

Subscribed and sworn to before me
this 25th day of May 2006

Gloria Pearl
Jones

Digitally signed by Gloria Pearl Jones
DN: CN = Gloria Pearl Jones, C = US,
O = DLEG/MPSC, OU = Executive
Secretary
Date: 2006.05.26 12:59:52 -04'00'

Notary Public, Eaton County, Michigan
Acting in Ingham, County, Michigan
My Commission expires June 5, 2007

SERVICE LIST FOR DOCKET # U – 14878 CASE #

DATE OF PREPARATION: 05/26/2006

MR. BRETT LEOPOLD
SPRINT COMMUNICATIONS COMPANY, LP
SPRINT MAILSTOP
CODE KSOPHN0212-2A461 6450 SPR
OVERLAND PARK KS 66251

MR. RODERICK S. COY
CLARK HILL PLC
212 EAST GRAND RIVER AVE.
LANSING MI 48906 4328

**SUBSCRIPTION LIST
ALL COMMUNICATION ORDERS**

MR. DON EITNIEAR
DIT – TELECOMMUNICATIONS DIV.
HANNA BUILDING, FIRST FLOOR
LANSING MI **ID MAIL**

MR. MICHAEL BYRNE
SENATE DEMOCRATIC STAFF
ROMNEY BUILDING
LANSING MI **ID MAIL**

MR. JOHN PESTLE
VARNUM, RIDDERING, SCHMIDT & HOWLETT
BRIDGEWATER PLACE
P.O. BOX 352
GRAND RAPIDS MI 49501-0352

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P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-14878

County of Ingham)

April M. Arman being duly sworn, deposes and says that on May 25, 2006, A.D. she served a copy of the attached Commission order by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

April M. Arman

Digitally signed by April M. Arman
DN: CN = April M. Arman, C = US, O =
Michigan Public Service Commission
Date: 2006.05.26 14:03:50 -04'00'

April M. Arman

Subscribed and sworn to before me
this 25th day of May, 2006

Gloria Pearl
Jones

Digitally signed by Gloria Pearl
Jones
DN: CN = Gloria Pearl Jones, C =
US, O = DLEG/MPSC, OU =
Executive Secretary
Date: 2006.05.26 13:08:05 -04'00'

Notary Public, Eaton County, Michigan
Acting in Ingham, County, Michigan
My Commission expires June 5, 2007

Michigan Municipal League
1675 Green Road
Ann Arbor, MI 48105

Michigan Township Association
512 Westshire Dr.
Lansing, MI 48917

Nextel West Corp.
Mr. Thomas McMahon
Regional Director
Strategic Sites
27755 Stansbury Blvd.
Farmington Hills, MI 48334

TelCove
Ms. Suzanne Rivchin
712 North Main Street
Coudersport, PA 16915

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-14878

County of Ingham)

April M. Arman being duly sworn, deposes and says that on May 25, 2006 A.D. she served a copy of the attached Commission orders via E-Mail, to the persons as shown on the attached service list.

April M. Arman

Digitally signed by April M. Arman
DN: CN = April M. Arman, C = US, O
= Michigan Public Service
Commission
Date: 2006.05.26 14:03:59 -04'00'

April M. Arman

Subscribed and sworn to before me
this 25th day of May 2006

Gloria Pearl
Jones

Digitally signed by Gloria Pearl
Jones
DN: CN = Gloria Pearl Jones, C =
US, O = DLEG/MPSC, OU =
Executive Secretary
Date: 2006.05.26 13:07:50 -04'00'

Gloria Pearl Jones
Notary Public, Eaton County, MI
Acting in Ingham County, MI
My Commission Expires June 5, 2007

ILEC Provider Name

Ace Telephone Company of Michigan
Allendale Telephone Company
Baraga Telephone Company
Barry County Telephone Co.
Blanchard Telephone Association, Inc.
Bloomingdale Telephone Company, Inc.
Carr Telephone Company
CenturyTel Midwest - Michigan
CenturyTel of Michigan, Inc.
CenturyTel of Northern Michigan, Inc.
CenturyTel of Upper Michigan, Inc.
Chapin Telephone Company
Chippewa County Telephone Company
Climax Telephone Company
Contel of the South
Deerfield Farmers' Telephone Company
Drenthe Telephone Company
Frontier Communications of Michigan
Hiawatha Telephone Company
Kaleva Telephone Company
Lennon Telephone Company
Midway Telephone Company
Ogden Telephone Company
Ontonagon County Telephone Company
Peninsula Telephone Company
Pigeon Telephone Company
Sand Creek Telephone Company
SBC Ameritech Michigan
Springport Telephone Company
TDS Telecom/Chatham Telephone Co.
TDS Telecom/Communication Corp. of MI (CCM)
TDS Telecom/Island Telephone Co.
TDS Telecom/Shiawassee Telephone Co.
TDS Telecom/Wolverine Telephone Co.
Upper Peninsula Telephone Co.
Verizon North Incorporation
Waldron Telephone Company
Westphalia Telephone Company
Winn Telephone Company

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CLEC Provider Name

Winn Telecom
Borderland Communications
JAS Networks
AboveNet Communications, Inc.
360Networks (USA) Inc.
MCIMetro Access Transmission Services, LLC
Waypoint Telecommunications
Baraga Telephone Company
Level 3 Communications, LLC
Great Lakes Comnet, Inc.
Elantic Telecom, Inc.
Climax Telephone Company
CenturyTel Fiber Company, LLC
Norlight Telecommunications, Inc.
Global Crossing North American Networks, Inc.
MichTel Communications LLC
TCG Detroit
AT&T
Qwest Communications Corporation

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US Signal Company, LLC
WilTel Communications
XO Communication Services, Inc.
Broadwing Communication Services, Inc.
TDS Metrocom, LLC
CenturyTel Acquisitions, LLC
McLeodUSA Telecommunications
Midwest Communication Services, Inc.
Holland Board of Public Works
City of Sturgis
Consumers Energy
Detroit Edison
Sprint Communications L.P.
Ford Motor Company
City of Detroit Public Lighting Department
ClearLinx Network Corporation
Peninsula Fiber Network
TC3 Telecom, Inc.
METRO Authority

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