

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



MIKE COX
ATTORNEY GENERAL

P.O. Box 30212
LANSING, MICHIGAN 48909

June 22, 2006

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48911

Dear Ms. Kunkle:

Re: MPSC Case No. U-14878

Enclosed for filing in the above-captioned case please find the **Attorney General's Notice of Appearance and Intervention**, together with a Proof of Service. This filing is being submitted electronically pursuant to the Commission's Paperless Electronic Filings Program.

Sincerely,

 John Liskey
2006.06.22
15:07:32 -04'00'

John R. Liskey (P31580)
Assistant Attorney General
Tobacco and Special Litigation Division
(517) 373-1123

JRL/jas
Enclosures
c: All parties of record

PROOF OF SERVICE - U-14878

The undersigned certifies that a copy of the **Attorney General's Notice of Appearance and Intervention** was served upon the parties listed below by mailing the same to them at their respective addresses with first class postage fully prepaid thereon on the 22nd day of June, 2006.

Janet Schafer

Digitally signed by Janet Schafer
DN: cn=Janet Schafer, c=US
Date: 2006.06.22 15:18:31 -04'00'

Janet A. Schafer

Sprint Communications

Roderick S. Coy
Haran C. Rashes
Clark Hill
212 E. Grand River Avenue
Lansing, MI 48906

METRO Authority

Steven D. Hughey
Assistant Attorney General
Public Service Division
6545 Mercantile Way, Suite 15
Lansing, MI 48911

Talk America/ LDMI

Telecommunications/

TDS Metrocom

XO Communications Services

Michael S. Ashton
Fraser Trebilcock Davis & Dunlap
124 W. Allegan, Suite 1000
Lansing, MI 48933

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

MPSC Case No. U-14878

**ATTORNEY GENERAL'S
NOTICE OF APPEARANCE AND INTERVENTION**

MICHAEL A COX, ATTORNEY GENERAL OF THE STATE OF MICHIGAN,
by and through John R. Liskey, Assistant Attorney General, gives notice of his
appearance and intervention in this proceeding. In support of his appearance and
intervention he says:

I. APPEARANCE AND INTERVENTION

1. He appears and intervenes in this proceeding for and on behalf of the
People of the State of Michigan.

II. AUTHORITY TO INTERVENE

2. He is the duly elected and qualified Attorney General of the State of
Michigan and holds such office by virtue of and pursuant to the provisions of Const 1963,
art 5, sec 21, and by mandate of the qualified electorate of the State of Michigan. He is
also the head of the Department of Attorney General created by sections 50 through 52 of
the Executive Organizations Act of 1965, 1965 PA 380, MCL 16.10 *et seq*; MSA 3.29(1)
et seq. It has long been established that the Attorney General of the State of Michigan is

the sole and proper legal representative of the state and its officers. *People v Navarre*, 22 Mich 1 (1869); *Babcock v Hanselman*, 56 Mich 27; 22 NW 99 (1885); *Jennings v State Veterinary Board*, 156 Mich 417; 120 NW 785 (1909); *Attorney General v Public Service Commission*, 243 Mich App 487, 504; 625 NW2d 16 (2000).

3. The Attorney General's intervention and appearance in this proceeding is authorized by both statutory and common law. *State of Michigan ex rel Frank J. Kelley v C R Equipment Sales, Inc*, 898 F Supp 509, 513-514 (WD Mich, 1995); see also *Humphrey v Kleinhardt*, 157 FRD 404, 405 (WD Mich, 1994).

4. MCL 14.28 provides in relevant part:

The attorney general shall prosecute and defend all actions in the supreme court, in which the state shall be interested, or a party; . . . and may, when in his own judgment the interests of the state require it, intervene in and appear for the people of this state in any other court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested.

This power is also exercisable at any stage of the proceedings. MCL 14.101; MSA 3.211 states in pertinent part:

The attorney general of the state is hereby authorized and empowered to intervene in any action heretofore or hereafter commenced . . . whenever such intervention is necessary in order to protect any right or interest of the state, or of the people of the state. Such right of intervention shall exist at any stage of the proceeding, and the attorney general shall have the same right to prosecute an appeal, or to apply for re-hearing or to take any action or step whatsoever that is had or possessed by any of the parties to such litigation.

The Attorney General has the right to intervene in any proceeding when the Attorney General, in his own discretion, deems it in the public interest to do so. *People v*

O'Hara, 278 Mich 281; 270 NW2d 298 (1936), and *Gremore v People's Community Hospital Authority*, 8 Mich App 56; 153 NW2d 377 (1967). Indeed, the Attorney General "has statutory and common law authority to act on behalf of the people of the State of Michigan in any cause, or matter, such authority being liberally construed." *Michigan State Chiropractic Association v Kelley*, 79 Mich App 789; 262 NW2d 676, 677 (1977).

5. In *Attorney General v Liquor Control Comm'n*, 65 Mich App 88; 237 NW2d 196 (1975), the Michigan Liquor Control Commission issued a complaint against four liquor licensees arising out of criminal convictions in federal court actions. A hearing was conducted before one of the liquor control commissioners, and that commissioner dismissed the complaint. One month later, the Attorney General intervened in the proceedings and filed a petition for rehearing. The Liquor Control Commission issued a written decision and ruled (1) that the Attorney General could not intervene and (2) that it had no authority to consider a petition for rehearing. The Michigan Court of Appeals ruled that, even after the administrative agency had ruled in favor of the licensee, the Attorney General had the legal authority and duty to intervene and seek review. *Id.* at 91-93.

6. As the chief law officer of the state, the Attorney General has a wide range of powers at common law to represent public interests as he may deem necessary for the protection of public rights. *Mundy v McDonald*, 216 Mich 444, 450; 185 NW 877 (1921).

7. The common law powers and duties of the Attorney General include the power to intervene in all actions which are of concern to the general public. Under common law, the court should only prohibit the Attorney General from intervening or bringing an action when to do so "is clearly inimical to the public interest." *In re Intervention of Attorney General*, 326 Mich 213; 40 NW 2d 124, 126 (1946). In *Associated Builders & Contractors v Perry*, 115 F3d 386 (6th Cir, 1997), the United States Court of Appeals for the Sixth Circuit affirmed the Michigan Attorney General's statutory and common law authority to intervene for purposes of protecting the state's interest.

8. The Attorney General, in his judgment, has determined that the interests of the state and the people of the State of Michigan require him to intervene in this proceeding on their behalf. Any action taken in this proceeding will directly affect the general well being of all Michigan citizens. Accordingly, the Attorney General has determined that the state and the people of the State of Michigan have a significant interest in this proceeding.

III. REASONS FOR INTERVENTION

9. The State of Michigan is a body politic established under the Constitution of the United States of America and admitted into the Union by act of Congress under date of January 26, 1837.

10. It appears to the Attorney General that this proceeding requires his appearance and intervention because significant interests of the State and its people will

be affected. This proceeding will affect not only the State of Michigan, but also telecommunication providers authorized to do business in this state.

IV. STATEMENT OF POSITION IN THIS PROCEEDING

11. In response to the application by Sprint, the Attorney General states that it has not taken a position in this case at this time.

V. RELIEF

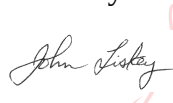
Wherefore, the Attorney General requests the Commission to:

A. Enter his Notice of Intervention and Appearance upon the official record of the above-captioned proceeding and treat him as a party in this proceeding for all purposes, and;

B. Grant the people, and state, any and all relief as the facts and circumstances show to be appropriate.

Respectfully submitted,

Michael A. Cox
Attorney General

 John Liskey
2006.06.22
15:08:24 -04'00'

John R. Liskey (P31580)
Assistant Attorney General
Tobacco and Special Litigation Division
7th Floor, G. Mennen Williams Bldg.
P.O. Box 30212
Lansing, MI 48909
(517) 373-1123
liskeyj@michigan.gov

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U-14878 AG Intervention