

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the request for Commission approval of an interconnection agreement between SBC MICHIGAN and SAGE TELECOM, INC.)	Case No. U-13513
_____)	
In the matter, on the Commission's own motion, to require SBC MICHIGAN and SAGE TELECOM, INC. , to submit their interconnection agreement for review and approval.)	Case No. U-14121
_____)	

At the October 14, 2004 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

ORDER GRANTING CLARIFICATION

On August 25, 2004, SBC Michigan (SBC) and Sage Telecom, Inc. (Sage), filed a petition for reconsideration or clarification of the August 3, 2004 order, which determined that their Local Wholesale Complete (LWC) agreement was an interconnection agreement subject to Commission review and approval pursuant to Section 252(a) and (e) of the federal Telecommunications Act of 1996 (FTA), 47 USC 252(a) and (e), and which approved both the LWC agreement and the eighth amendment to the interconnection agreement between SBC and Sage.¹

¹On May 6, 2004, SBC and Sage filed a joint motion for approval of the eighth amendment to their interconnection agreement in Case No. U-13513, which was consolidated with Case No. U-14121

While SBC and Sage disagree with the Commission's determination that the LWC and the eighth amendment to their interconnection agreement constitute an interconnection agreement, they readily concede that "mere disagreement with a Commission order is not an adequate basis for seeking reconsideration of that order." Petition, p. 2. However, they assert that one aspect of the August 3, 2004 order merits reconsideration or clarification because it is based upon a misapprehension of fact and could lead to an unintended consequence. Specifically, SBC and Sage contend that "[n]either the LWC nor the 8th Amendment, nor the two together, were intended to replace all aspects of any of the parties' existing interconnection agreements, including the one for Michigan." Petition, p. 3. They maintain that they did not seek to terminate their existing Michigan interconnection agreement as approved by the Commission. Accordingly, SBC and Sage request that the Commission clarify that SBC and Sage will be in compliance with the August 3, 2004 order if they file a Michigan-specific eighth amendment to their existing interconnection agreement, attaching as an appendix the LWC agreement, including the pricing schedule, but with Sections 11 and 15 (and those additional provisions that refer to Sections 11 and 15) redacted. Therefore, except as amended by that eighth amendment, the parties' current approved interconnection agreement, as amended, would otherwise be unchanged and would remain in full force and effect.

No one filed a response to SBC's and Sage's August 25, 2004 petition.

After consideration of their arguments, the Commission finds that the clarification requested by SBC and Sage should be granted.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 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.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.

b. SBC and Sage will be in compliance with the August 3, 2004 order if they file a Michigan-specific eighth amendment to their existing interconnection agreement, attaching as an appendix the LWC agreement, including the pricing schedule, but with Sections 11 and 15 (and those additional provisions that refer to Sections 11 and 15) redacted within 30 days. It is also clarified that, except as amended by that eighth amendment, the parties' current approved interconnection agreement, as amended, remains otherwise unchanged and in full force and effect.

THEREFORE, IT IS CLARIFIED that SBC Michigan and Sage Telecom, Inc., will be in compliance with the August 3, 2004 order if they file a Michigan-specific eighth amendment to their existing interconnection agreement, attaching as an appendix the Local Wholesale Complete agreement, including the pricing schedule, but with Sections 11 and 15 (and those additional provisions that refer to Sections 11 and 15) redacted, within 30 days. It is also clarified that, except as amended by that eighth amendment, the parties' current approved interconnection agreement, as amended, remains otherwise unchanged and in full force and effect.

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/ J. Peter Lark

Chair

(S E A L)

/s/ Robert B. Nelson

Commissioner

/s/ Laura Chappelle

Commissioner

By its action of October 14, 2004.

/s/ Mary Jo Kunkle

Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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By its action of October 14, 2004.

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Suggested Minute:

“Adopt and issue order dated October 14, 2004 granting the petition for clarification of the August 3, 2004 order requested by SBC Michigan and Sage Telecom, Inc., as set forth in the order.”