

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of and complaint, )  
or in the alternative a request for a declaratory ruling, )  
by **MCIMETRO ACCESS TRANSMISSION** )  
**SERVICES LLC** for determinations regarding rates )  
of end-user local services bundled with unregulated )  
features or options, and request for emergency relief. )  
\_\_\_\_\_)

Case No. U-14309

At the December 21, 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

**DECLARATORY RULING**

On October 8, 2004, MCImetro Access Transmission Services LLC (MCImetro) filed an application and complaint, or in the alternative, a request for declaratory relief. On October 22, 2004, the Competitive Local Exchange Carriers Association of Michigan (CLECA) filed a petition for leave to intervene. On October 26, 2004, SBC Michigan (SBC) filed a petition to intervene. On November 18, 2004, the Commission Staff filed a notice of appearance.

The Commission has reviewed the MCImetro filing and believes that declaratory relief consistent with the applicable provisions of the Michigan Telecommunications Act, MCL 484.2101 et seq., (MTA) is appropriate pursuant to Rule 701 of the Commission’s Rules of Practice and Procedure, R 460.17701. Further, both CLECA and SBC filed in support of the position of MCImetro and their petitions to intervene are granted. Given the ruling in this matter as set forth

below, which effectively grants MCImetro the requested declaratory relief, there is no need for further briefing or proceedings in this matter.<sup>1</sup>

The Commission finds that the questions of how or if bundled services<sup>2</sup> should be tariffed, and whether rate adjustments to bundled services require approval by the Commission pursuant to Section 304 or Section 203 of the MTA, need to be addressed. The Commission's ruling is based upon a review of the MCImetro filing, along with the petitions to intervene by CLECA and SBC, as well as the applicable provisions of the MTA.

MCImetro, as well as other competitive local exchange carriers and incumbent local exchange carriers, currently combine regulated basic local exchange services (BLES) with unregulated features or options to form a bundled service. Rates for BLES are regulated by the Commission, and a provider who wishes to modify a BLES rate must file an application with the Commission pursuant to either Section 203 or 304 of the MTA. Features or options not classified as BLES are not rate regulated by this Commission and providers are free to modify the rates for these services without Commission approval.

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<sup>1</sup> SBC's petition to intervene raised an additional argument, that its intervention is needed because the MCImetro petition implied that SBC is not following the proper process for tariffing bundled services. SBC's argument in this regard is unfounded because MCImetro did not allege that SBC was violating the law, only that MCImetro was being held to a different standard and thus being discriminated against.

<sup>2</sup> In the context of this proceeding, bundled services consist of rate regulated basic local exchange services combined in a single package or bundled rates with one or more of the following: unregulated features, intraLATA toll calling, interLATA toll calling, wireless service, digital subscriber line (DSL) service, or any other matter over which the Commission lacks regulatory jurisdiction. When charges for unregulated services appear on the same customer bill as charges for basic local exchange service, that does not mean that all items on the customer's bill are part of a bundled service. If, for example, the bill to the end-user includes an itemized rate for basic local exchange service and also sets forth itemized rates for one or more unregulated services or components, then the itemized unregulated services are not part of a bundled service as that term is used in this order. In such a situation, the unregulated item or component would not require a tariff, and no Commission approval or review would be needed to alter the rates for the itemized unregulated services or components set forth in the bill.

MCImetro may adjust rates charged to end-user customers for bundled services without filing an application with the Commission pursuant to Section 203 or 304 of the MTA and without complying with the notice provisions of Section 304, when the adjustment involves only unregulated features or options. Any adjustment in rates for end-user BLES which are included in a bundled service are subject to the requirements of Section 203 or 304 of the MTA.

The Commission finds that MCImetro must comply with the following tariff requirements:

1. MCImetro must file as part of its local tariff in Michigan the monthly rates for all bundled services it offers. For each bundled service, the tariff should clearly identify which portion of the rate is for regulated BLES, which portion is for the unregulated rate<sup>3</sup> portion of the service, and the total end-user rate.

2. When MCImetro offers unregulated services to customers who also subscribe to MCImetro for BLES, but no bundled services are offered, MCImetro is not required to tariff the unregulated services. When MCImetro offers a bundled service, but also offers additional unregulated services that are not part of the rate for the bundled service, MCImetro is not be required to tariff the unregulated services that are not part of the bundled service.

3. When MCImetro wishes to increase or decrease the tariff rate for any bundled service, and the change to the tariff does not involve a change to the rate regulated BLES component of the bundled service, MCImetro must file the tariff changes on or before the date the new rate becomes effective.

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<sup>3</sup> Unregulated rates include, but are not limited to, features (e.g., call waiting, call forwarding, caller ID, call return, multi-ring, repeat dialing, and three-way calling), voice mail, intraLATA toll, interLATA toll, wireless, and retail DSL services.

4. Attachment A to this order provides several examples of how current MCImetro tariffs might be modified to comply with the tariff requirements for bundled services. The changes to existing tariffs are marked in parentheses and asterisks.

5. MCImetro need not modify its current tariffs to identify the BLES component of a bundled service until such time as MCImetro desires to adjust its rates for that bundled service. MCImetro may not adjust rates for any particular bundled service until it complies with the tariff requirements outlined in this proceeding (unless it elects to file an application pursuant to Sections 304 or 203 of the MTA).

The process set forth above addresses altering the rates for bundled services in a reasonable manner that is consistent with both statutory mandates and the MTA's goal of fostering a competitive telecommunications market in Michigan.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 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. The request for declaratory ruling is granted.

THEREFORE, IT IS ORDERED that the request for declaratory ruling filed by MCImetro Access Transmission LLC is granted as set forth in this opinion.

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 December 21, 2004.

/s/ Mary Jo Kunkle

Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

\_\_\_\_\_  
Chair

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Commissioner

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Commissioner

By its action of December 21, 2004.

\_\_\_\_\_  
Its Executive Secretary

MCImetro ACCESS TRANSMISSION SERVICES, LLC  
Tariff M.P.S.C. No. 3R3rd Revised Sheet 1067.1  
Cancels 2nd Revised Sheet 1067.1**11. CONSUMER LOCAL EXCHANGE SERVICE - FACILITY BASED****K. Residential R4 Service (Cont.)<sup>1</sup>**Termination (Cont.):

- 9) For existing customers who disconnect only from intraLATA service under the companion residential service offering under M.P.S.C. No. 1R, the companion residential service offering under <http://www.mci.com/service/>, the companion residential service offering under M.P.S.C. No. 1R, and Residential R4 Service under this tariff will terminate. Customers will then default to the service offerings under <http://www.mci.com/service/> and M.P.S.C. No. 1R to which the customer was subscribed at the time of subscription to this plan and to Residential R1 Service under this tariff.
- 10) For new customers who disconnect from interstate service under <http://www.mci.com/service/> and from intraLATA service under M.P.S.C. No. 1R, the companion residential service offering under <http://www.mci.com/service/>, the companion residential service offering under M.P.S.C. No. 1R, and Residential R4 Service under this tariff will terminate. Customers will then default to Residential R1 Service under this tariff.
- 11) For new customers who disconnect only from interstate service under <http://www.mci.com/service/>, the companion residential service offering under <http://www.mci.com/service/>, the companion residential service offering under M.P.S.C. No. 1R, and Residential R4 Service under this tariff will terminate. Customers will then default to Residential R1 Service under this tariff and to the rates described in Basic Calling Plan XX under M.P.S.C. No. 1R.
- 12) For new customers who disconnect only from intraLATA service under the companion residential service offering under M.P.S.C. No. 1R, the companion residential service offering under <http://www.mci.com/service/>, the companion residential service offering under M.P.S.C. No. 1R and Residential R4 Service under this tariff will terminate. Customers will then default to Basic Calling Plan XX under M.P.S.C. No. 1R, Basic Calling Plan Option 15 under <http://www.mci.com/service/> and Residential R1 Service under this tariff.

Offering A: For a monthly recurring charge, customers will receive unlimited local calling under R4 (including Interzone) and an allotment of minutes that may be used for interstate and intrastate (InterLATA and IntraLATA) service as described in companion residential service in <http://www.mci.com/service/> and in MCI WorldCom Communications, Inc. MPSC No. 1R. Customers are subject to the terms and conditions as outlined in <http://www.mci.com/service/> and MCI WorldCom Communications, Inc. MPSC No. 1R.

Offering B: For a monthly recurring charge, customers will receive unlimited local calling (including Interzone). Customers are subject to the terms and conditions as outlined in MCI WorldCom Communications <http://www.mci.com/service/> and MCI WorldCom Communications, Inc. MPSC No. 1R.

1. Non-Recurring Charge  
Line Connection Fee: \$42.00

2. Monthly Recurring Charges (Per Line)

| <u>Access Area</u>             | <u>Offering A</u> | <u>Offering B</u> |
|--------------------------------|-------------------|-------------------|
| A, B1, B2, C1, C2, C3, C4, C5: | \$35.99 (1)       | \$25.99 (1)       |

(\*\*) The \$35.99 rate for Offering A is composed of the following:  
\$15.99 for unlimited local calling, Residential R1 Service, plus  
\$20.00 as an unregulated additional amount.

The \$25.99 rate for Offering B is composed of the following:  
\$15.99 for unlimited local calling, Residential R1 Service, plus  
\$10.00 as an unregulated additional amount. (\*\*)

<sup>1</sup>Effective April 16, 2002, Residential R4 Service will no longer be available to new subscribers.

Issued under authority of M.P.S.C. Opinion and Order dated June 5, 1997, Case No. U-11345.

Issued: March 31, 2004

Shannon L. Gilroy, Tariff Administrator  
205 N. Michigan Avenue, Suite 1100  
Chicago, IL 60601

Effective: April 1, 2004

MCImetro ACCESS TRANSMISSION SERVICES, LLC  
 Tariff M.P.S.C. No. 3R

4th Revised Sheet 1068.4  
 Cancels 3rd Revised Sheet 1068.4

11. CONSUMER LOCAL EXCHANGE SERVICE - FACILITY BASED

M. Residential R6 Service (Cont.)<sup>1</sup>

Termination (Cont.):

- 12) For new customers who disconnect only from intraLATA service under the companion residential service offering under M.P.S.C. No. 1R, the companion residential service offering under <http://www.mci.com/service/>, the companion residential service offering under M.P.S.C. No. 1R, and Residential R5 Service under this tariff will terminate. Customers will then be automatically re-subscribed to Basic Calling Plan XX under M.P.S.C. No. 1R, Basic Calling Plan Option 15 and International Savings Plan 7 under <http://www.mci.com/service/> and Residential R1 Service under this tariff.

Non-Recurring Charges

Line Connection Charge: \$42.00  
 Service Order Charge: \$ 5.00  
 Record Order Charge: \$ 8.35

Monthly Recurring Charges

Offering A

Access Areas A and B  
 Primary Line: \$ 22.50 (I)  
 Each Additional Line: \$ 22.50 (I)

Offering B

Access Areas A and B  
 Primary Line: \$ 24.99 (I)  
 Each Additional Line: \$ 24.99 (I)

Offering C

Access Areas A and B  
 Primary Line: \$ 35.99 (I)  
 Each Additional Line: \$ 35.99 (I)

Offering D

Access Areas A and B  
 Primary Line: \$ 34.99 (I)  
 Each Additional Line: \$ 34.99 (I)

Offering E

Access Areas A and B  
 Primary Line: \$ 33.99 (I)  
 Each Additional Line: \$ 33.99 (I)

(\*\*) The \$22.50 rate for Offering A is composed of the following:  
 \$15.99 for unlimited local calling, Residential R1 Service, plus  
 \$6.51 as an unregulated additional amount.

The \$24.99 rate for Offering B is composed of the following:  
 \$15.99 for unlimited local calling, Residential R1 Service, plus  
 \$9.00 as an unregulated additional amount.

The \$35.99 rate for Offering C is composed of the following:  
 \$15.99 for unlimited local calling, Residential R1 Service, plus  
 \$20.00 as an unregulated additional amount.

The \$34.99 rate for Offering D is composed of the following:  
 \$15.99 for unlimited local calling, Residential R1 Service, plus  
 \$19.00 as an unregulated additional amount

The \$33.99 rate for Offering E is composed of the following:  
 \$15.99 for unlimited local calling, Residential R1 Service, plus  
 \$18.00 as an unregulated additional amount.\*\*) )

<sup>1</sup>Effective October 6, 2001, Residenti

Issued under authority of M.P.S

Issued: March 31, 2004

Shannon L. Gilroy, Tariff Administrator  
 205 N. Michigan Avenue, Suite 1100  
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MCImetro ACCESS TRANSMISSION SERVICES, LLC  
Tariff M.P.S.C. No. 3R

3rd Revised Sheet 1068.5  
Cancels 2nd Revised Sheet 1068.5

11. CONSUMER LOCAL EXCHANGE SERVICE - FACILITY BASED

N. Residential RA Service<sup>1</sup>

Customers who subscribe to this service will receive one home phone line which includes touch tone service. Customers who qualify for Lifeline Service Programs are not eligible for this service. Unlimited local calling is included with this service. The following features are also included in the monthly line charge; customer may choose a minimum of 2, but no more than 3, of the following features: Call Forwarding, Call Forwarding-Busy, Call Forwarding-Busy w/Customer Control, Call Forwarding-No Answer, Call Forwarding-No Answer w/Customer Control, Call Return, Call Screening, Call Waiting, Multi-Ring 3, Repeat Dialing, Speed Dial 30, Three-Way Calling, Call Waiting ID Name & Number, Caller ID Name & Number, Caller ID Number Only. The following are not included in the monthly line charge: non-recurring charges, operator assistance, directory assistance, directory listing options, Interstate line charge, blocking options, taxes, surcharges, additional custom calling features and per-call charges (i.e. 900/976, local, intraLATA and long distance). Usage from any other residential service offerings cannot be aggregated with this service.

IntraLATA calls are not included in the monthly RA charge. Customers who have selected MCI WorldCom as their primary IntraLATA exchange carrier will be charged the IntraLATA rates as specified in MCI WorldCom Communications, Inc. M.P.S.C. No. 1R.

Monthly Recurring Charge: \$28.99 (I)

(\*\* The \$28.99 rate is composed of the following:  
\$15.99 for unlimited local calling, Residential R1 Service, plus  
\$13.00 as an unregulated additional amount.\*\*)

<sup>1</sup>Effective April 16, 2002, Residential RA Service will no longer be available to new subscribers.

MCImetro ACCESS TRANSMISSION SERVICES, LLC  
Tariff M.P.S.C. No. 3R

4th Revised Sheet 1068.6.2  
Cancels 3rd Revised Sheet 1068.6.2

11. CONSUMER LOCAL EXCHANGE SERVICE - FACILITY BASED

O. Residential RB Service (Cont.)<sup>1</sup>

Termination (Cont.):

- 8) For new customers who disconnect from Residential RB Service under this tariff and intraLATA service under Integrated Calling Plan RB under MCI WorldCom Communications, Inc., M.P.S.C. No. 1R, companion interstate service under <http://www.mci.com/service/>, Integrated Calling Plan RB under MCI WorldCom Communications, Inc., M.P.S.C. No. 1R, and Residential RB Service under this tariff will terminate. Customers will then be defaulted to the Basic Calling Plan Option 15 under <http://www.mci.com/service/> and Basic Calling Plan XX under MCI WorldCom Communications, Inc., M.P.S.C. No. 1R.
- 9) For new customers who disconnect from Residential RB Service under this tariff and interstate service under <http://www.mci.com/service/>, the companion residential service offering under <http://www.mci.com/service/>, companion residential offering under MCI WorldCom Communications, Inc., M.P.S.C. No. 1R, and Residential RB Service under this tariff will terminate. Customers will then be defaulted to Basic Calling Plan XX under MCI WorldCom Communications, Inc., M.P.S.C. No. 1R.
- 10) For new customers who disconnect from interstate service under <http://www.mci.com/service/> and from intraLATA service under MCI WorldCom Communications, Inc., M.P.S.C. No. 1R, the companion residential service offering under <http://www.mci.com/service/>, Integrated Calling Plan RB under MCI WorldCom Communications, Inc., M.P.S.C. No. 1R and Residential RB Service under this tariff will terminate. Customers will then be defaulted to Residential RA Service under this tariff.
- 11) For new customers who disconnect only from intraLATA service under Integrated Calling Plan RB under MCI WorldCom Communications, Inc., M.P.S.C. No. 1R, the companion residential service offering under <http://www.mci.com/service/>, Integrated Calling Plan RB under MCI WorldCom Communications, Inc., M.P.S.C. No. 1R and Residential RB Service under this tariff will terminate. Customers will then be defaulted to Basic Calling Plan XX under MCI WorldCom Communications, Inc., M.P.S.C. No. 1R, Basic Calling Plan Option 15 under <http://www.mci.com/service/> and Residential RA Service under this tariff.
- 12) For new customers who disconnect only from interstate service under <http://www.mci.com/service/>, the companion residential service offering under <http://www.mci.com/service/>, Integrated Calling Plan RB under MCI WorldCom Communications, Inc. M.P.S.C. No. 1R, and Residential RB Service under this tariff will terminate. Customers will then be defaulted to Residential RA Service under this tariff and to the Basic Calling Plan XX under MCI WorldCom Communications, Inc., M.P.S.C. No. 1R.

For a monthly recurring charge, customers will receive unlimited local calling and a per-minute rate of \$0.07 for intrastate (interLATA and intraLATA) Dial 1 usage. Customers are subject to the terms and conditions as outlined in MCI WorldCom Communications, Inc. <http://www.mci.com/service/> and MCI WorldCom Communications, Inc., M.P.S.C. No. 1R.

Monthly Recurring Charge: \$34.99 (I)

(\*\*) The \$34.99 rate is composed of the following:  
\$15.99 for unlimited local calling, Residential R1 Service, plus  
\$19.00 as an unregulated additional amount.\*\*)

<sup>1</sup>Effective April 16, 2002, Residential RB Service will no longer be available to new subscribers.