S T A T E  O F  M I C H I G A N

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 August 3, 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**

On April 3, 2004, SBC Communications, Inc. (SBC), the corporate parent of SBC Michigan, issued a press release indicating that SBC had entered into a seven-year "commercial agreement" with Sage Telecom, Inc. (Sage), concerning SBC's provision of telecommunications services to Sage in Michigan and several other states.

On April 28, 2004, the Commission ordered SBC and Sage to file that agreement in its entirety with the Commission for review pursuant to Section 252(a) and (e) of the federal Telecommunications Act of 1996 (FTA), 47 USC 252(a) and (e), which provides that interconnection agreements arrived at through negotiations must be filed with and approved by

this Commission. Moreover, the Commission found that its jurisdiction over the agreement at issue is not limited to the FTA. Citing Section 355 of the Michigan Telecommunications Act, 1991 PA 179, as amended, MCL 484.2101 et seq. (MTA), the Commission observed that a provider of basic local exchange service such as SBC must unbundle and separately price each basic local exchange service offered by the provider into loop and port components. The Commission also noted that Section 355 obligates a provider to "allow other providers to purchase such services on a nondiscriminatory basis." MCL 484.2355. Based on Section 357 of the MTA, MCL 484.2357, the Commission noted its authority to regulate the resale and wholesale rates, terms, and conditions of basic local exchange services. Finally, the Commission stated that it is empowered to enforce Section 359 of the MTA, MCL 484.2359, which requires that a compensation agreement for the termination of local traffic agreed to by providers must be available to other providers "with the same terms and conditions on a nondiscriminatory basis." MCL 484.2359. Accordingly, the Commission directed SBC and Sage to file their full agreement no later than 5:00 p.m. on May 5, 2004. However, to the extent that SBC and Sage believed that a provision of the interconnection agreement might contain commercially sensitive information that should remain confidential, they were allowed to identify each such specific provision, which could be filed under seal pursuant to Section 210 of the MTA, MCL 484.2210.

On May 4, 2004, SBC filed an emergency motion for stay of that order and a petition for rehearing and reconsideration. On May 5, 2004, Sage filed a memorandum in support of SBC's pleadings. Additionally, on May 5, 2004, SBC and Sage filed a confidential version of their "Private Commercial Agreement for Local Wholesale Complete" (LWC Agreement), which was sealed and separated from the docket. On 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.

On May 7, 2004, MCImetro Access Transmission Services LLC filed a petition to intervene in both proceedings. On May 14, 2004, similar petitions to intervene were filed in Case No. U-14121 by the Competitive Local Exchange Carriers Association of Michigan, Telnet Worldwide, Inc., Quick Communications, Inc., d/b/a Quick Connect USA, Superior Technologies, Inc., d/b/a Superior Spectrum, Inc., grid 4 Communications, Inc., C.L.Y.K. Inc., d/b/a Affinity Telecom, and CompTel/ASCENT Alliance.

In other pleadings filed on various dates, SBC and Sage opposed intervention by any other entity. The purported interveners oppose SBC's and Sage's efforts to stay the proceedings or to seek rehearing of the April 28, 2004 order. Finally, on May 18, 2004, SBC and Sage withdrew their requests for complete confidentiality of the agreement and submitted a redacted version[1] of the agreement for public inspection. In so doing, SBC and Sage maintained that certain portions of the LWC Agreement must remain protected from public disclosure.

On June 3, 2004, the Commission directed that interested persons should be given an opportunity to submit written comments on whether the LWC Agreement between SBC and Sage comports with applicable state and federal statutory provisions. The Commission also expressed interest in receiving comments concerning whether approval of the LWC Agreement would be in the public interest.

[1]SBC and Sage redacted five separate "WHEREAS" clauses and §§ 2.8, 2.16, 2.18, 11, and 15 of the LWC Agreement in their entirety, including the title headings of these sections, from their filing in Case No. U-14121. SBC and Sage also partially redacted §§ 2.3 (definition of Basic Analog Switching), 2.4 (definition of Basic Analog Loop), 4.2.6 (description of offered vertical features), 4.2.7 (terms relating to SS7, CNAM, LIDB, E911 and 800 services), and 31.1 (relating to intellectual property). Further, SBC and Sage redacted § 2.8 of the 800 Appendix in its entirety, and §§ 4.7 and 4.7.1 of the LIDB Appendix in their entirety. Finally, SBC and Sage redacted from the Pricing Schedule the rates that Sage is paying SBC for the "LWC product" under the LWC Agreement.

Following issuance of the June 3 order, comments were filed by Verizon North Inc. and Contel of the South, Inc., d/b/a/ Verizon North Systems (Verizon), AT&T Communications of Michigan, Inc., TCG Detroit, MCImetro Access Transmission Services LLC, the Competitive Local Exchange Carriers Association of Michigan, ACD Telecom Inc., TelNet Worldwide, Inc., Quick Communications, Inc., d/b/a Quick Connect USA, Superior Technologies, Inc., d/b/a Superior Spectrum, Inc., grid 4 Communications, Inc., C.L.Y.K. Inc., d/b/a Affinity Telecom (collectively, Joint CLECs), Sprint Communications Company L.P. (Sprint), and the Commission Staff (Staff). Reply comments were filed by SBC and Sage.

Positions of the Parties

a. Verizon

Verizon contends that neither state nor federal statutory provisions require the Commission to approve the LWC Agreement. According to Verizon, an agreement that does not address duties imposed by Section 251 of the FTA is not subject to the requirements of Section 252 of the FTA. Consequentially, Verizon insists that the parties to such an agreement need not file it with the Commission. Further, Verizon contends that the Commission does not have authority pursuant to any provision of the MTA to review and approve a private commercial agreement. Finally, Verizon maintains that mandatory Commission review and approval of the LWC Agreement is not in the public interest because "it obstructs the migration of the telecommunications market to the kind of economically rational consensual wholesale arrangements that apply to virtually every other sector of the economy." Verizon comments, p. 1.

b. Joint CLECs

In their comments, the Joint CLECs maintain that the whole LWC Agreement must be publicly disclosed to permit interested parties a meaningful opportunity to review and comment. According to the Joint CLECs, what they have been able to discern about the LWC Agreement suggests that it is "significantly discriminatory, anticompetitive and designed to thwart facilities-based competition." Joint CLECs' comments, p. 2. They insist that the agreement does not comport with applicable statutory provisions and is not in the public interest. The Joint CLECs describe the proposed amendment submitted in Case No. U-13513 as nothing more than a "poison pill", given inclusion of a $20 stand-alone loop rate that they maintain was designed to chill competition from providers seeking to transition from the use of SBC's facilities. The Joint CLECs assert that SBC and Sage are attempting to conceal counterbalancing terms of their secret deal in undisclosed agreements to make the proposed amendment unattractive to other providers that might seek to take advantage of it via "pick and choose." They also contend that the redacted portions of the LWC Agreement constitute an interconnection agreement within the meaning of that term as used in the FTA. According to them, competing CLECs and the Commission can only discover potential instances of discriminatory treatment if the entire LWC Agreement is disclosed. Citing a FCC determination[2], the Joint CLECs maintain that the Commission has broad discretion to determine whether any agreement between an incumbent local exchange carrier and a competitive local exchange carrier to be disclosed. Additionally, they note that Texas, Indiana, Kansas, Missouri, and Ohio have taken steps to obtain public disclosure of the LWC Agreement.

[2]In the Matter of Qwest Communications International Petition for Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements under Section 252(a)(1), Memorandum Opinion and Order, (WC Docket No. 02-89); FCC No. 02-276, (rel. October 4, 2002).

The Joint CLECs next contend that the LWC Agreement is discriminatory and should be rejected because it discriminates against competitive local exchange carriers that are, or wish to be, facilities-based carriers. According to the Joint CLECs, Sage will be required to use SBC's LWC product to the extent available to fulfill all of its wholesale requirements in the provision of wireline local exchange service over the seven-year term of the agreement because the agreement both establishes minimum volume requirements for Sage's purchases and precludes Sage from using any other sources or self-supply in meeting its needs. Indeed, they stress that Sage will pay a financial penalty if it fails to purchase at least 450,000 LWC access lines in a month and use the LWC product to meet 95% of its local needs. According to them, such provisions effectively bind Sage to SBC for all of its wholesale supply and also lock-out other competitive local exchange carriers that desire to serve other or additional customers using their own switching equipment.

The Joint CLECs also contend that a provision contained in Section 5.3, which the Joint CLECs argue could void the entire arrangement if SBC is forced to enter into a similar agreement with any other carrier, renders the LWC Agreement objectionable and contrary to public policy because of the opt-in requirements of Section 252(i) of the FTA. The Joint CLECs argue that the LWC Agreement illegally chills facilities-based competition and is geared towards maintaining SBC's status as a monopoly provider of wholesale services in Michigan. They also assert that the LWC Agreement is out of step with the FCC's recent efforts to promote facilities-based competition.

Accordingly, the Joint CLECs recommend that the Commission: (1) reject the SBC/Sage agreements, (2) direct SBC and Sage to file all of the terms and conditions of all related agreements, and (3) permit further comment after disclosure of additional materials.

c. Sprint

Sprint believes that the LWC Agreement, in its entirety, must be publicly filed with the Commission. According to Sprint, Section 252(a) of the FTA establishes the framework for voluntary negotiation of agreements for interconnection, services, or network elements and requires that such agreements be filed with the Commission under Section 252(e). Sprint argues that there are no exceptions from filing for any voluntarily negotiated Section 252(a) agreements, regardless of whether negotiated with or without regard to the standards of Sections 251(b) and (c). Sprint further argues that there are no rules allowing the filing of portions of such agreements.

Sprint insists that the FCC addressed this issue in the Qwest decision wherein it held that a state commission may determine whether a voluntarily negotiated agreement should be filed. Sprint believes that even if the Commission determines that the LWC Agreement is not an inter-connection agreement, the agreement should still be available for public inspection because it has a high potential for discriminatory and anti-competitive effect. According to Sprint, because the Commission has authority to deter and to thwart discrimination, it should "exercise that authority by requiring purported commercial agreements dealing with alternate ways to acquire loops and switch ports for competitive purposes (or any other matters that were clearly covered by Section 251/252 prior to USTA II)[3] to be publicly filed and subject to review." Sprint comments, p. 2.

Moreover, Sprint argues that the Commission has authority pursuant to Section 271 of the FTA to require SBC and Sage to file the LWC Agreement. According to Sprint, Section 271 creates an obligation for SBC, entirely independent of any Section 251 obligations, to continue to provide unbundled network elements, including those removed from Section 251 mandatory unbundling. Because the Section 271 network element obligations of SBC are subject to the

[3] United States Telecom Assn v FCC, _____ US App DC _____; 359 F3d 554 (2004).

nondiscrimination and reasonable pricing requirements of Sections 201 and 202, Sprint insists that they must be made public and subject to review.

d. Commission Staff

In its comments, the Staff defends the legality of the Commission's April 28, 2004 order. According to the Staff, because the nondiscrimination provisions of the FTA are similar to, and consistent with, the nondiscrimination provisions reflected in the MTA, the Commission must have access to the entire LWC Agreement to determine whether the agreement discriminates against other competitors in violation of both state and federal telecommunications law. The Staff also argues that SBC and Sage should not be permitted to circumvent the interconnection approval process. Citing Verizon v Strand, 309 F3d 935, 941 (CA 6, 2002), the Staff maintains that private negotiations and arbitrations aimed at creating interconnection agreements are subject to Commission review and approval. Additionally, the Staff relies on Verizon v Strand, 2004 US App LEXIS 8331 (Docket No. 02-2322), decided April 28, 2004, wherein the Sixth Circuit Court of Appeals held that in passing the FTA, Congress envisioned that private and voluntary negotiations between providers would be backed by the threat of Commission intervention to achieve interconnection in a manner that promotes competition in the local telephony market.

Finally, the Staff indicates that to the extent that the LWC Agreement was available for inspection by the Staff, it "generally complies with applicable state and federal statutory provisions concerning interconnection agreements." Staff comments, p. 7. However, the Staff also notes that "the structure of this specific agreement (making certain obligations of one party contingent upon the other party performing or agreeing to perform other acts) renders this agreement difficult to reconcile with the "pick and choose" provisions of § 252(i) of the FTA."

Staff comments, p. 7. Accordingly, the Staff reserved comment on whether approval of this agreement is in the public interest until it reviewed the comments of other parties on this issue.

e. SBC

SBC begins its reply comments by noting the FCC's March 31, 2004 press release indicating that the interests of consumers will best be served by incumbent local exchange carriers and competitive local exchange carriers engaging in good-faith negotiations to arrive at commercially acceptable arrangements that provide a substitute for unbundled network elements. SBC insists that the LWC Agreement represents such an agreement.

According to SBC, it and Sage seek to achieve an end to eight years of regulatory wrangling through their multi-year agreement that provides both parties with much needed certainty. However, SBC contends that the trade-offs embodied in the LWC Agreement are specifically tailored to the needs of SBC and Sage. Therefore, SBC insists that there is ample justification for their efforts to maintain the confidentiality of the agreement.

SBC acknowledges that the "terms of the agreement that pertain to obligations under Section 251 of the Act must be filed with the Commission." SBC reply comments, p. 6. However, SBC contends that its joint filing in Case No. U-13513 incorporates all provisions of the LWC Agreement that address the rates, terms, and conditions under which the parties purport to meet their obligations under Section 251 of the FTA, including provisions relating to reciprocal compensation and unbundled access to loops.

SBC contends that it filed the LWC Agreement under protest because the FTA does not require SBC and Sage to seek Commission review or approval of the non-251 arrangements in their agreement. According to SBC, such voluntarily negotiated terms do not constitute an

interconnection agreement requiring Commission approval and any approval requirement for such terms would be an unlawful expansion of the scope of Section 252.

Because no party has set forth a rational basis for its denial, SBC insists that the eighth amendment to its interconnection agreement should be approved. In so doing, SBC dismisses most of the comments filed by others. SBC notes its agreement with Verizon's position, but rejects the positions taken by the Staff, Sprint, and the Joint CLECs. According to SBC, the Staff's comments focus on the legality of the Commission's April 28, 2004 order, but fail to address the merits of the eighth amendment. SBC also argues that Sprint did not address the merits of the eighth amendment. Further, SBC chides Sprint for failing to cite any authority for its contention that all provisions of the LWC Agreement should be filed with the Commission.

SBC attacks the comments of the Joint CLECs as illogical, invalid, and irrelevant. According to SBC, the Commission's approval has been sought by SBC and Sage only with regard to the portion of their agreement that is subject to Section 252 of the FTA. SBC insists that the portions of the agreement for which SBC and Sage seek approval are entirely unobjectionable, and that nothing the Joint CLECs contend about other aspects of that agreement is to the contrary. With regard to the matter of the $20 loop rate, about which the Joint CLECs railed, SBC states that the $20 loop rate is a region-wide, 13-state rate. Moreover, because Sage's business model is directed primarily at rural and suburban areas, where loop rates are typically higher than in urban areas, SBC insists that the $20 loop rate is reasonable, especially in light of the seven-year term of the agreement.

SBC argues that its agreement to fulfill the wholesale needs of a small provider like Sage provides no indication that the market for wholesale services will be compromised. Likewise,

SBC contends that the Joint CLECs' suggestion that the agreement discourages facilities-based competition is off base and disingenuous.

In any case, SBC asserts that the Joint CLECs are simply wrong to contend that the agreement, insofar as it encourages Sage to direct traffic to SBC's network, disserves the public interest. According to SBC, the agreement benefits both SBC and Sage. Additionally, SBC maintains that approval of the eighth amendment will not void Section 252(i) of the FTA, as argued by the Joint CLECs. Rather, SBC contends that its approval will ensure that the purposes of Section 252, including Section 252(i), are met by subjecting to the requirements of that section those aspects of the LWC Agreement that are within the scope of Section 251.

Next, SBC maintains that the Commission has no authority to require filing and approval of the LWC Agreement privately negotiated by SBC and Sage. SBC contends that the Commission's authority to review an interconnection agreement is conditioned on a competitive local exchange carrier's "request for interconnection, services, or network elements pursuant to section 251." 47 USC 252(a)(1). Additionally, SBC insists that there is no legal or logical basis to require filing and approval of a commercial arrangement relating to products or services not clearly covered by Section 251. SBC concedes that all of the rates, terms, or conditions under which the parties agree to provide interconnection, services, or network elements pursuant to subsections (b) or (c) must be filed. However, SBC asserts that requiring the filing and review of terms that deviate from the "standards" set forth in subsections (b) and (c) need not be filed. SBC insists that its position is buttressed by Section 251(c)(1) of the FTA, which provides that incumbent local exchange carriers must negotiate under Section 252 "the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection." To the extent that a particular element need no longer be unbundled under Section 251(d)(2), SBC contends that

it falls outside the scope of the incumbent local exchange carrier's duty to negotiate under Section 251(c)(1) and the scope of the Section 252 filing and review requirement.

SBC also maintains that the conclusion that non-251 arrangements of private commercial agreements are not subject to Section 252 is not only consistent with the language of the FTA, it also fully comports with the FTA's underlying goals. According to SBC, requiring the filing of such terms for review by the Commission frustrates the market-based goals of the FTA and the specific call by the FCC for negotiations of commercially acceptable arrangements between incumbent local exchange carriers and competitive local exchange carriers. Finally, SBC contends that the Commission lacks authority under Section 271 of the FTA to review its agreement with Sage.

f. Sage

Sage urges the Commission to approve the eighth amendment to its interconnection agreement with SBC and to conclude that the Commission need not further consider the LWC Agreement between Sage and SBC. In so doing, Sage raise three issues. The first issue concerns whether an agreement for the supply of a substitute for the unbundled network element-platform (UNE-P) product that the law no longer requires SBC to provide, as well as other services that SBC was never required to provide, should be subjected to the same scrutiny that is reserved for agreements covering elements and services that SBC is required to provide under Section 251. The second issue concerns whether the Commission agrees that a competitive local exchange carrier should be barred from entering into an agreement with SBC unless it satisfies the needs of all other competitive local exchange carriers, no matter how disparate the business plans of the competitive local exchange carriers might be. The third issue concerns whether the Commission should force Sage and SBC to make public highly sensitive and innovative provisions of their agreement, including

those which involve trade secrets, even though such provisions relate to matters that are not required to be filed under Sections 251 and 252 of the FTA.

Sage argues that the eighth amendment to its interconnection agreement does not discriminate against other carriers because, pursuant to Section 252(i), it was available to any other carrier. According to Sage, the $20.00 loop rate is not discriminatory because Sage's agreement to pay that rate does not mean that other carriers must also pay that rate. Sage stresses that other carriers remain free to purchase loops at the rate approved by the Commission.

Sage urges the Commission to avoid the "one size fits all" approach supported by the Joint CLECs. Sage argues that the prohibition against discrimination should not prevent a competitive local exchange carrier from attempting to address its individual needs. Sage insists that it needs to maintain its ability to serve its customers and that access to a replacement for UNE-P is crucial to its objectives and business plan. In addition, Sage echos many of SBC's arguments, including that the LWC Agreement need not to be filed or approved under Section 252, that the Commission's approach will cause a "train wreck" by subjecting non-Section 251 arrangements to the Section 252 approval process, and that filing of the LWC Agreement is not required under Section 271. Further, Sage insists that the redacted portions of LWC Agreement should remain confidential because they relate to matters that are not within the scope of Sections 251 or 252.

Finally, Sage urges the Commission to approve the eighth amendment to Sage's interconnection agreement with SBC and rule that the LWC Agreement need not be submitted for approval under Section 252. In the alternative, if the Commission should require that the LWC Agreement be approved, Sage argues that the Commission not require that the redacted portions be made public and approve the LWC Agreement.

Discussion

Section 252 of the federal Telecommunications Act of 1996, 47 USC 252, requires that any interconnection agreement that is adopted by negotiation be submitted to the Commission for approval. 47 USC 252(e) provides in part:

> (2) The State commission may only reject
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> (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) of this section if it finds that—
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> (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
>
> (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity;
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> * * * *
>
> (3) Notwithstanding paragraph (2), but subject to section 253 of this title, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

47 USC 252(e)(2) and (3).

Unlike many of interconnection agreements and amendments that are approved each year by the Commission, the LWC Agreement and SBC's and Sage's request for approval of the eighth amendment to the SBC/Sage interconnection agreement have generated a great deal of controversy. Of most concern is whether the provisions contained in the LWC Agreement needs to be filed, reviewed, and approved by the Commission. Contrary to the assertions made by SBC and Sage, the Commission finds that most of the provisions of the LWC Agreement and the eighth amendment to the interconnection agreement are subject to the Commission's review and approval pursuant to state and federal law.

According to Section 252, the Commission has broad discretion for determining whether an agreement between an incumbent local exchange carrier and a competitive local exchange carrier must be filed. As pointed out in several of the comments, the FCC addressed this issue when Qwest faced litigation regarding its intentional failure to file secret interconnection agreements in Minnesota. In ruling against Qwest, the FCC stated that "an agreement that creates an ongoing obligation pertaining to resale, number portability, dialing parity, access to rights-of-way, reciprocal compensation, interconnection, unbundled network elements, or collocation is an interconnection agreement that must be filed pursuant to section 252(a)(1)." (Qwest Order, ¶ 8). Moreover, the FCC indicated that "state commissions are well positioned to decide on a case-by-case basis whether a particular agreement is required to be filed as an 'interconnection agreement' and, if so, whether it should be approved or rejected." (Qwest Order, ¶ 10).

The Commission is persuaded that the most of the provisions of LWC Agreement and the eighth amendment qualify for review and approval under the FTA. Specifically, the Commission concludes that, except for the commercially sensitive information redacted from the May 18, 2004 public version of the agreement filed by SBC and Sage, the remainder of the LWC Agreement and eighth amendment are subject to the Commission's review and approval.

Under Section 252(e)(2)(A), the Commission must approve this amendment unless it makes one of two findings: (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity. The Commission concludes that, after reviewing the LWC Agreement and the eighth amendment, that it should approve them, subject to the following conditions. In so doing, the Commission finds that the

LWC Agreement and the eighth amendment are consistent with federal and state law and are in the public interest.

The first condition attached to the Commission's approval concerns the intertwined nature of the LWC Agreement and the eighth amendment. The Commission finds that these agreements are so enmeshed that, for purposes of the Commission's review under Section 252 of the FTA, they should be combined into a single document. Clearly, the text of the eighth amendment alone does not provide a full understanding of the arrangement and the two documents must be considered together.

Second, the Commission finds that SBC and Sage should be obligated to make the LWC Agreement pricing schedule public. The Commission finds that the LWC Agreement pricing schedule, which is an attachment to the LWC Agreement, is an integral part of the arrangement that must be disclosed. Further, any of the redacted provisions of the LWC Agreement that refer to the pricing schedule should also be disclosed. The FCC's recent decision to change its "pick and choose" rule (47 CFR 51,809) to an "all or nothing" rule provides further support for requiring the disclosure of the bulk of the LWC Agreement because there is no reason for SBC to now claim that a provider can choose to be bound by only certain provisions of the agreement and attempt to negotiate better terms regarding those provisions not chosen.

However, contrary to the assertions of the Joint CLECs and Sprint, the Commission finds that two of the redacted portions of the May 18, 2004 filing by SBC and Sage, specifically Sections 11 and 15, which concern commercially sensitive information pertinent only to Sage's future business plans, need not be disclosed and are not subject to approval by the Commission. Additionally, any of the redacted provisions that refer to Sections 11 & 15 need not be disclosed.

Finally, under 47 USC 252(i) and MCL 484.2359(2), the services provided under the approved provisions set forth in the LWC Agreement and the eighth amendment must be made available to other telecommunications carriers upon the same terms and conditions.

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. The provisions set forth in the LWC Agreement and the eighth amendment to the SBC/Sage interconnection agreement constitute an interconnection agreement that should be approved, subject to the conditions set forth in the order.

c. Within 30 days, SBC and Sage should submit an executed interconnection agreement consistent with the conclusions of this order.

THEREFORE, IT IS ORDERED that:

A. The provisions set forth in the Private Commercial Agreement for Local Wholesale Complete Agreement and the eighth amendment to the SBC Michigan and Sage Telecom, Inc., interconnection agreement are approved, subject to the conditions set forth in the order.

B. Approval of the provisions set forth in the Private Commercial Agreement for Local Wholesale Complete Agreement and the eighth amendment does not alter the duty of the parties to comply with relevant federal and state law and past and future Commission orders and rules.

C. Within 30 days, SBC Michigan and Sage Telecom, Inc., shall submit an executed interconnection agreement consistent with the conclusions of this order.

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 August 3, 2004.

/s/ Mary Jo Kunkle
Its Executive Secretary

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

Chair

Commissioner

Commissioner

By its action of August 3, 2004.

Its Executive Secretary

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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 |
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Suggested Minute:

"Adopt and issue order dated August 3, 2004 approving an interconnection agreement between SBC Communications, Inc., and Sage Telecom, Inc., subject to certain conditions, as set forth in the order."