

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Note <sup>1</sup>

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>2a. Deposits  <b>SBC version:</b> How much should the Deposit be?   <b>MCIIm version:</b> Which Parties' deposit provision should be included in the ICA?   GTC 9 (<i>et. seq.</i>)(for issues 2a through 2f)</p>	<p>The parties agree that the purpose of the deposit requirement is to protect the party holding the deposit against the risk of non-payment by the other party. That being so, the deposit should be in an amount sufficient to cover the past due amounts that can accumulate before the party that is not being paid what it is owed can stop providing service. Agreed language concerning discontinuation of service in this interconnection agreement allows MCIIm to fall three months behind in its payments before SBC Michigan can bring a halt to its losses by discontinuing service to MCIIm. Accordingly, the deposit should be equal to three months average monthly charges. SBC Michigan's proposal is in line with the PUCO's resolution of this issue in the parties' recent arbitration in Ohio.</p> <p><b>Michigan</b> - U-12460 (Level 3 Arbitration), pp. 13-15. Michigan Commission resolved issue in favor of Level 3. Commission found that the ICA provided sufficient protection against losses associated with slow payment. The Commission noted that given Level 3's total assets, it is unlikely that SBC MI will be unable to collect monies owed.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> – (PUCO No. 01-1319-TP-ARB) pp. 6 – 8. Ohio Commission adopted SBC's proposed deposit language, over MCIIm's objection, with minor</p>	<p>Each party has proposed a deposit provision, but the proposals are fundamentally very different. SBC Michigan's proposal would permit the parties to charge a deposit based on any number of various triggers, some of which are so broadly defined or ambiguous that they might be construed to require a party to pay a deposit even if that party were honoring its payment obligations under the ICA. By contrast, MCIIm's proposal, which incorporates guidance from a recent FCC decision on the subject of security deposits, permits a party to charge a deposit based on the other party's failure to make timely payments under the ICA.</p> <p>1) <i>In the Matter of Verizon Petition for Emergency Declaratory and Other Relief</i>, WC Docket No. 02-202, Adopted: December 20, 2003, Released: December 23, 2002, Policy Statement, pars. 14, 16, 21  2) Verizon arbitration, par. 728  3) MI 271 DOJ recommendation, 10-11.</p>

<sup>1</sup> In compliance with the letter from the Arbitrators dated April 22, 2003, the parties make this Joint Submission of the Identification of the Issues. The column on the left displays the parties' agreed statement of each issue or, in instances where the parties disagree about the framing of the issue, each party's separate statement of the issue. The left column also identifies the contract sections pertaining to each issue. In the other two columns, each party has provided, for each issue, a short statement of its position and citation(s) to State commission precedent(s) on the issue. Neither party has edited, approved or otherwise provided input on the other party's position statements or citations.

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	modifications; the proposed deposit amount (two to four months' average monthly billings) was not modified.	
<p>2b.  <b>SBC version:</b> When should the deposit requirements be triggered?  <b>MCIIm version:</b> See Issue 2a.</p>	<p>Under MCIIm's proposed language, a deposit would be required only in the freakish circumstance where a party is more than 30 days late in paying a bill on a specific account <i>and</i> there is a current past due amount greater than two months average billings. This would be little different than having no deposit requirement at all – a result that MCIIm consistency sought in the past, consistently failed to achieve, and claims it has disavowed. Contrary to MCIIm's representation that its deposit language is based on recent FCC guidance, the FCC did not suggest a deposit trigger nearly so narrow. SBC Michigan's proposed deposit triggers appropriately allow for a deposit when objective circumstances in addition to late payments call into question whether a party will pay its bills as they come due.</p> <p><b>Michigan</b> - U-12460 (Level 3 Arbitration), pp. 13-15. Michigan Commission resolved issue in favor of Level 3.</p>	<p>See, Issue 2a.</p>
<p>2 c.  <b>SBC version:</b> When and in what direction should the Deposit amount be adjusted?  <b>MCIIm version:</b> See Issue 2a</p>	<p>The deposit adjustment language proposed by SBC Michigan is virtually identical to language the PUCO adopted in the parties' parallel arbitration in Ohio; is consistent with the purpose of the deposit requirement, on which the parties agree; and is consistent with the remainder of SBC Michigan's deposit language. MCIIm's language, in contrast, is unreasonable and inconsistent with the agreed purpose of the deposit requirement, because it would allow the deposit amount to be reduced below adequate levels on the basis of a short term (two months) downturn in</p>	<p>See, Issue 2a.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
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	<p>billings.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> – (PUCO No. 01-1319-TP-ARB), pp. 6 – 8. Ohio Commission adopted SBC’s proposed deposit language, over MCIIm’s objection, with minor modifications; the proposed adjustment provisions (similar to those SBC Michigan proposes here) were not modified.</p>	
<p>2d.  <b>SBC version:</b> When may the Deposit be applied to the Non-Paying Party’s account?  <b>MCIIm version:</b> See Issue 2a</p>	<p>SBC Michigan’s proposed GT&amp;C section 9.6 appropriately identifies the circumstances under which the party holding a deposit may apply the deposit to the non-paying party’s account, and is virtually identical to language the PUCO adopted in the parties’ arbitration in Ohio. MCIIm has not disputed the reasonableness of any of the circumstances identified by SBC Michigan. Bizarrely, MCIIm’s proposed deposit provisions, as of the Petition date, would <i>never</i> have allowed the party holding the deposit to apply the deposit to the non-paying party’s account. MCIIm has tried to cure that defect by offering in its testimony to accept language that would allow the deposit to be applied to the non-paying party’s account, <i>but only to the extent the non-paying party is more than 120 days past due</i>. That limitation is patently unreasonable.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> – (PUCO No. 01-1319-TP-ARB), pp. 6 – 8. Ohio commission adopted SBC’s proposed deposit language with minor modifications; the proposed language concerning applying deposits to the non-paying party’s account (substantially identical to the language SBC Michigan proposes here) was not modified.</p>	<p>See, Issue 2a.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
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<p>2e.  <b>SBC version:</b> When must the Deposit be returned?   <b>MCIIm version:</b> See Issue 2a.</p>	<p>SBC Michigan proposes that if a deposit is required (which it will be only if a Commission-approved triggering event occurs), the deposit requirement should end when the party making the deposit has established twelve months good credit history. Other State commissions have consistently approved that proposal. The six month period proposed by MCIIm is too short, and has, to the best of SBC Michigan’s knowledge, been approved by no State commission.</p> <p>SBC Michigan hereby eliminates part of this issue by accepting, in slightly modified form, the second sentence of MCIIm’s proposed section 9.4, concerning return of the deposit after cessation of service. SBC Michigan now asks the Commission to approve its proposed section 9.5, but with the addition of the following sentence: “In addition, if the Party requiring the deposit ceases providing service to the other pursuant to this Agreement, that Party shall return any deposit within thirty (30) days after it has ceased providing service, but subject to that Party’s right to apply the deposit to the other Party’s account pursuant to section 9.6 above.”</p>	<p>See, Issue 2a.</p>
<p>2f.  <b>SBC version:</b> Should the Deposit requirements be waived if an Affiliate company with \$100 Million or more in net worth guarantees the party?</p>	<p>MCIIm’s proposed language should be rejected for reasons that do not hinge on the “Affiliate” language that became (somewhat misleadingly) the focus of the agreed statement of the issue. The principal defect in MCIIm’s proposal is the simple fact that it would excuse a party from the deposit requirement if that party has a net worth of \$100 million. The fact that a company has a large stated net worth is no assurance that it is going to pay its bills, as MCIIm’s own recent history has demonstrated.</p>	<p>See, Issue 2a.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
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<i>MCIm version:</i> See Issue 2a	<p>bills, as MCIm’s own recent history has demonstrated.</p> <p>Furthermore, the big company carve-out proposed by MCIm would effectively discriminate against smaller companies. Finally, MCIm’s proposed language could readily lead to disputes about the actual net worth of a company that claimed a right to the exemption.</p>	
<p>3. May either Party disclaim warranties, including warranties of merchantability and fitness for a particular purpose?</p> <p>GTC 14</p>	<p>The parties’ interconnection obligations to each other should be those set forth in the agreement the parties are making pursuant to the 1996 Act, and no others. The panoply of duties to which the 1996 Act subjects SBC Michigan should not be supplemented by additional implied warranty duties created by state law, and Michigan interconnection agreements (including MCIm’s predecessor agreement) therefore routinely include disclaimers of implied warranties identical or similar to the one SBC Michigan is proposing here. SBC Michigan’s language – which is identical to the language the PUCO adopted in the parties’ recent arbitration in Ohio – should be adopted here as well.</p> <p><b>Michigan</b> – U-11168 (first MCIm arbitration). Order approved ICA that contains language in Article XXII that is substantially similar to language proposed by SBC here.</p> <p><b>Recent MCIm/SBC Ohio Arb</b> – (PUCO No. 01-1319 -TP-ARB), pp. 6 – 8. Ohio Commission adopted SBC Ohio language identical to language SBC Michigan proposes here.</p>	<p>Because SBC Michigan does not provide any express warranties, it should not be permitted to disclaim the most basic of warranties: warranties of merchantability and fitness for a particular purpose.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
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<p>5. Should MCIIm be permitted to purchase the same service from either the interconnection agreement or approved tariff?</p> <p>GTC 54</p>	<p>MCIIm proposes contract language that would permit it to “mix and match” tariff terms with interconnection agreement terms by, for example, leasing loops pursuant to the agreement <i>except for</i> selected terms (preferable to MCIIm) that MCIIm might extract from SBC Michigan’s tariff. To permit such a thing would eviscerate the scheme of negotiation that Congress established in the 1996 Act. The 1996 Act assumes that in their negotiations over the terms and conditions for the lease of loops, for example, a CLEC and an ILEC will engage in trade-offs; that is why section 252(i) of the Act (the MFN provision) requires the CLEC to take all legitimately related terms and conditions. If CLECs were allowed, after getting a negotiation concession on X by yielding something on Y, to pluck a better provision concerning Y out of the tariff, no rational ILEC would engage in meaningful negotiation.</p> <p>MCIIm’s proposal is directly at odds with this Commission’s arbitration order in Case No. U-12382. There (at p.p. 18-19), the Commission approved certain language proposed by the CLEC (“Coast”), but only on the following basis: “The arbitration panel was unpersuaded that the language proposed by Coast would permit it to impermissibly mix terms of the agreement with terms available in a tariff. Rather, the panel pointed out that Coast would be required to choose whether to purchase products or services pursuant to all of the related terms or conditions in the contract or the applicable tariff. . . . The Commission finds that the arbitration panel’s decision should be affirmed on this issue for the reasons stated by the panel in its decision.”</p> <p>The complaint case and Sixth Circuit decision cited by MCIIm do</p>	<p>Yes. MCIIm may freely choose to purchase services from either the interconnection agreement or the SBC Michigan tariff, at MCIIm’s option. Both the Telecom Act and Michigan law support the co-existence of tariffs and interconnection agreements. SBC Michigan’s proposed language would prevent MCIIm from taking advantage of the best rates or terms and conditions of service, and therefore is discriminatory and anti-competitive.</p> <p>1) <i>In the Matter of the Complaint of MCIImetro Access Transmission Services, Inc. against Ameritech Michigan, et. al.</i>, Case No. U-12035 (January 3, 2000, at pages 21-23)</p> <p>2) <i>Michigan Bell Telephone Company d/b/a Ameritech Michigan v. MCIImetro Access Transmission Services, Inc.</i> 323 F.3d 348, 359-360 (6<sup>th</sup> Cir. 2003)</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
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Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>not support the language MCIIm is proposing here.</p> <p><b>Michigan</b> - U-12382 (Coast to Coast arbitration), p. 19. Michigan Commission found Coast’s proposed language more reasonable and more consistent with promoting competition and orders issued in MCI Manual Order (U-12035) and Coast complaint proceeding (U-12043).</p> <p>U-12035 (MCI Manual Orders), p. 21. Commission found that MCI should be permitted to purchase products and services pursuant to provisions of a generally applicable tariff rather than the terms it negotiated for interconnection.</p>	
<p>6.  <b>SBC version:</b> Should IXCs, Competitive Access Providers (CAPs), and Wireless Carriers (CMRS providers) be included in the definition of an End User Customer?</p> <p><b>MCIIm version:</b> Should the agreement include a definition for end user customer?</p> <p>Appendix Definition “End User Customer”</p>	<p>SBC Michigan proposes a definition that this Commission has already accepted and that is consistent with the FCC’s orders. MCIIm, in contrast, proposes a definition that is contrary to established precedent and would impermissibly allow MCIIm to re-sell SBC Michigan’s products and services to other telecommunication carriers.</p> <p><b>Michigan</b> – Tariff MPSC 20R, Part 19, Section 4, Sheet 8, ¶ 6. Definition proposed by SBC identical to tariff already on file.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> – (PUCO No. 01-1319 -TP-ARB), Issue 187, pp. 179-181. Ohio Commission adopted SBC Ohio position, that MCIIm may purchase UNEs from SBC only for the purpose of offering telecom services directly to end users, not for the purpose of resale to another telecom carrier.</p>	<p>SBC Michigan has proposed a definition for End User Customer, and MCIIm has not proposed competing language. To the extent that SBC Michigan’s definition attempts to identify the parties to which MCIIm may provide telecommunications services, the definition proposed by SBC Michigan is not correct and conflicts with the Telecom Act and FCC rules and orders regarding this issue. Furthermore, MCIIm does not believe that “end user customer” should be a defined in this Agreement.</p> <p><i>First Report and Order</i> ¶939</p>

Case No. U-13758 -- May 13, 2003  
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<p>7. Should the contract contain a definition of Information Services?</p> <p>Appendix Definition “Information Services”</p>	<p>SBC Michigan’s proposed definition of “Information Service” tracks verbatim the definition of that term in 47 U.S.C. § 20 and is substantially similar to the definition of “information services” in MTA section 102(i).</p>	<p>MCIIm has two fundamental objections to SBC Michigan’s proposed definition of Information Services, and also the use of that phrase as discussed with respect to Issue 105. First, this proposed definition of Information Services is very broad and includes all types of information service providers, including Internet Service Providers (ISPs). The phrase “information services” is not used anywhere else in the Agreement except for SBC Michigan’s proposed insertion in Section 2.5 of the Reciprocal Compensation Appendix, and SBC Michigan’s blanket exclusion of “information services traffic” from the intercarrier compensation scheme is not correct.</p> <p>1) <i>ISP Intercarrier Compensation Order</i> of April 24, 2001 Order 01-131  2) Virginia arbitration proceeding involving MCI, several other CLECs and Verizon, Case DA-02-1731; CC Dockets 00-218, 00-249, 00-250 ¶261 (July 17, 2002)  3) Case No. U-11178 (January 28, 1998)  4) Case No. U-11825 (February 17, 1999)  5) Case No. U-12090 (February 22, 2000)  6) Case No. U-12382 (August 17, 2000)  7) Case No. U-12376 (September 18, 2000)</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
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<p>8. CNAM Bulk Download</p> <p>8a. Should Ameritech be required to provide bulk access to the CNAM database in addition to query access?</p> <p>CNAM Section 3.1</p> <p>8b. If Ameritech is required to provide bulk access to CNAM, should such access be at market-based rates or UNE-based rates?</p> <p>CNAM 3.1; UNE 1.2; Price List (804 <i>et seq.</i>)</p>	<p>MCIIm’s request to obtain batch downloads of the CNAM database should be rejected, because the FCC has ruled that the 1996 Act requires incumbent LECs to provide unbundled access to call-related databases <i>only</i> through the SS7 network (at the STP), and <i>only</i> for the purpose of switch query and database response. MCIIm’s request runs afoul of the FCC’s rulings in two ways: (1) the FCC allows access to CNAM only at the STP, but MCIIm demands access elsewhere, because batch downloading cannot be done at the STP; and (2) the FCC allows access to CNAM only for the purpose of switch query and data response, but MCIIm demands access for very different purposes – batch downloading. Nor is MCIIm’s request to breach the FCC’s limitations justified by MCI’s murky nondiscrimination arguments, because SBC Michigan currently provides MCIIm with nondiscriminatory access to the CNAM database in accordance with the FCC’s rules.</p> <p>This Commission has previously required SBC Michigan to provide bulk access to CNAM, but it should reconsider that decision in light of developments subsequent to the Commission’s imposition of that requirement, including rulings that support SBC Michigan’s position on this issue by the FCC’s Wireline Competition Bureau and by the PUCO in the parties’ arbitration there, not to mention by the State commissions of California and Missouri.</p> <p>If SBC Michigan is required to offer CNAM database downloads in this interconnection agreement under different terms and conditions than the existing tariff (see Issue 10), SBC Michigan should be entitled to charge a market-based rate for this enhanced service.</p>	<p>a) It is well-settled in Michigan that SBC Michigan must provide the CNAM database in bulk download in addition to query access. The MPSC recently re-affirmed this holding in the Michigan 271 case.</p> <p>b) The MPSC has also clearly ruled that the CNAM database is a UNE and must be provided at TELRIC-based prices rather than market-based rates.</p> <p>1 ) <i>Local Competition Order</i> at ¶¶ 100-105.  2) Case No. U-12540 (order of March 7, 2001, at p. 21, and order of July 25, 2001 at pp. 3-4)  3) December 20, 2001 Opinion &amp; Order in Case No. U-12320 (Order, 18-19)  4) <i>In the Matter of a Commission Investigation Into Qwest’s Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist Items 3, 7, 8, 9, 10, and 12, Minnesota Public Utility Commission, Findings of Fact, Conclusions of Law and Recommendations</i> OAH Docket No. 12-2500-14485-2, PUC Docket No. P-421/C1-01-1370, May 8, 2002 , pars. 149-154  5) <i>Petition of MCImetro Access Transmission Services, LLC and MCI MCIIm Communications, Inc. for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996</i>, Order of Georgia Consumers’ Utility Counsel, Docket No. 11901-U at 28 (March 7, 2001)  6) <i>In Re Petition of MCImetro Access Transmission Services LLC and Brooks Fiber Communications of Tennessee, Inc., for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc., Concerning Interconnection and Resale Under the The Telecommunications</i></p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
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	<p><b>Michigan</b> - U-12320 (SBC 271 docket), pp. 16 - 20. SBC was ordered to provide bulk access to CNAM in addition to query access at UNE cost based rates. Subject of Federal Court appeal.</p> <p>U-13347 (CNAM and OS/DA cost docket), pp. 2 – 5. Cost was approved by Michigan Commission 6/21/02. Subject of Federal Court appeal.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> – (PUCO No. 01-1319 -TP-ARB), p. 5 (Issue 30). Ohio Commission found that SBC Ohio is not required to provide bulk access to the CNAM database.</p> <p><b>Federal</b> – 252 Arbitration among Verizon Virginia, WorldCom, Inc., Cox Virginia Telecom, Inc. and AT&amp;T Communications of Virginia, p. 259. FCC Wireline Competition Bureau ruled that bulk CNAM download not required by TA96 or FCC rules.</p>	<p><i>Act of 1996</i>, Docket No. 00-00309, Tennessee Regulatory Utility Commission, 2002 Tenn. PUC LEXIS 112 at *26 -*27, April 3, 2002.</p> <p>7) <i>Commission Investigation and Generic Proceeding on Indiana's Rates for Interconnection, Service, Unbundled Elements, and Transport and Termination Under the Telecommunications Act of 1996 and Related Indiana Statutes</i>, Indiana Utility Regulatory Commission, CAUSE NO. 40611-S1, PHASE II (February 17, 2003) (2003 Ind. PUC LEXIS 116) at *32</p> <p>8) <i>In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc., and for Expedited Arbitration</i>, CC Docket No. 00-218, DA 02-1731 (adopted and rel. July 17, 2002) at 256-58</p>
<p>10. If bulk downloads are required, should processes be delineated in the Interconnection Agreement?</p> <p>CNAM 4.6, 4.8, 4.9, 5.2 (all), 6.2 (all)</p>	<p>The Commission, having required SBC Michigan to provide bulk downloads of CNAM, approved a 24-page long tariff pursuant to which SBC does so. MCIIm fully participated in the proceedings in which the Commission found that tariff compliant with the Commission-imposed bulk downloading requirement. If the Commission adheres to that requirement, it should simply require SBC Michigan to provide CNAM bulk downloads to MCIIm pursuant to the terms and conditions in the tariff. Moreover, the specific modifications to the terms and conditions in the tariff that MCIIm proposes are objectionable for reasons set</p>	<p>The terms and conditions for the bulk download of the CNAM database should be contained in the Agreement, even though SBC Michigan also has a tariff providing for some of these processes, because the purpose of an interconnection agreement is to provide business certainty. In addition, as discussed in further detail by MCIIm witness Joan Campion, interconnection agreements and tariffs may co-exist and MCIIm may order products and services from either the Agreement or the tariff. Furthermore, there are certain terms and conditions that MCIIm requires that are not contained in the tariff.</p>

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	forth in the testimony of SBC Michigan witness Pellerin.	
<p>11. For what purposes may MCIIm use CNAM information?</p> <p>CNAM 7.1</p>	<p>If the Commission resolves Issue 8 in favor of SBC Michigan, it must reject MCIIm’s proposed language for CNAM section 7.1, because that language is inconsistent with a rule that allows MCIIm access to CNAM only through the SS7 network and only for the purpose of switch query and database response. And even if the Commission resolves Issue 8 in favor of MCIIm, it should still reject MCIIm’s proposed language for CNAM section 7.1 in favor of SBC Michigan’s in order to ensure the protection of proprietary customer information contained in the CNAM database. The Commission should also reject MCIIm’s position because MCIIm should be allowed to use CNAM data only to provide local exchange service and exchange access within SBC Michigan’s service territory.</p> <p><b>Michigan</b> – U-12320 (271 Compliance docket), p. 11-13. Michigan Commission accepted SBC Michigan’s CNAM tariff, which contains substantially similar limitations as proposed here. <i>See</i> MPSC Tariff No 20R, Part 19, Section 4.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319-TP-ARB), pp. 10-12. Ohio commission adopted MCIIm’s proposed language permitting MCIIm to use CNAM information to provide any telecommunications service to its customers.</p>	<p>MCIIm should be allowed to use the CNAM information for any lawful purpose in the provision of a telecommunication service. SBC Michigan may not imposed restrictions on MCIIm’s use of the database. It would be discriminatory for SBC Michigan to impose restrictions on the use of the CNAM information on a CLEC since SBC Michigan is not similarly restricted. MCIIm is under the same obligation as SBC Michigan to protect the privacy of consumers, and these details have been incorporated into the agreement between the parties.</p> <p>1) Case No. U-12320, order of December 20, 2001 at p. 19  2) Ohio Arbitration, Award, 12</p>

Case No. U-13758 -- May 13, 2003  
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ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
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Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>13. How quickly should Ameritech be required to provide a refresh of DALI?</p> <p>DALI 2.2.6</p>	<p>The sixty days that SBC Michigan has proposed is reasonable, and the fifteen days MCIm has proposed is unreasonable, for the reasons explained by SBC Michigan witness Nations. But because the PUCO, in the parties’ parallel arbitration in Ohio, compromised at 45 days when the parties took the same positions, SBC Michigan offered the 45-day compromise to MCIm for Michigan. MCIm having declined, SBC Michigan proposes 45 days as its last and best offer in this arbitration. The Commission should approve that result, both because it is reasonable and to encourage parties to accept the reasonable resolutions of issues – especially non-momentous issues like this one – by other State commissions.</p> <p><b>Recent MCIm/SBC Ohio Arb --</b> (PUCO No. 01-1319-TP-ARB), p. 40, Issue 50. Ohio commission ruled SBC Ohio must provide MCIm a DALI refresh within 45 days of request.</p>	<p>MCIm believes that 15 business days, or roughly one calendar month is more than adequate time for SBC Michigan to generate a refresh of the DALI. MCIm is concerned that any more time would disadvantage MCIm since SBC Michigan will have the benefit of the corrections available to it while MCIm must use the corrupted data supplied by SBC Michigan.</p> <p>Ohio Arbitration (Ohio Panel Report, 42)</p>
<p>14.</p> <p><b>SBC version:</b> Should the rate MCIm pays for DALI be the MPSC-approved rate for DALI that appears in SBC Michigan’s tariff, or the unapproved rate proposed by MCIm?</p>	<p>MCIm should pay the TSLRIC rate ordered and approved by this Commission in Docket U-12320 on March 29, 2002. The Commission should not entertain in this arbitration MCIm’s contention that the Commission’s approval of that rate was the result of an oversight. MCIm itself stresses that it has petitioned for rehearing on the same point in U-12320, and it is only in that proceeding that MCIm’s grievance should be considered. If the Commission grants MCIm’s petition for rehearing, the result can be carried over to the parties’ interconnection agreement.</p>	<p>SBC Michigan provide nondiscriminatory access to DALI means that it must provide the listings free of use restrictions and at a cost-based rate. This requirement is in addition to, and concordant with the UNE obligations imposed pursuant to Section 251(c)(3) of the Act and by Michigan law. The FCC has reaffirmed that incumbents must “make available to unaffiliated entities all of the in-region telephone numbers they use to provide nonlocal directory assistance service at the same rates, terms and conditions they impute to themselves” and “comply with the</p>

**Case No. U-13758 -- May 13, 2003**  
**JOINT SUBMISSION OF IDENTIFICATION OF ISSUES**  
**ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,**  
**and references to other commission arbitration rulings in Michigan and elsewhere**

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<p><i>MCIIm version:</i> At what rates should Ameritech-Michigan provide DALI to MCIIm?</p> <p>Price List (888 <i>et. seq.</i>)</p>	<p><b>Michigan</b> – U-12320 (271 Compliance Docket), pp. 14-16; pp. 7-10. Commission ordered SBC Michigan to provide DAL (Directory Assistance Listing) at TSLRIC-based rates. SBC MI filed conforming tariff. <i>See</i> MPSC Tariff 20R, Part 19, Section 14.</p> <p><b>Recent MCIIm/SBC Ohio Arb --</b> (PUCO No. 01-1319-TP-ARB), p. 18, Issue 51. Ohio commission ruled DALI is not a call related database and therefore is not required as a UNE.</p>	<p>nondiscrimination requirements set forth in section 272(c)(1).” The rates that SBC Michigan has proposed in the price list are not based on forward-looking TELRIC costs, and appear to be based on a flawed cost study never approved by the MPSC. The rates proposed by MCIIm are in line with TELRIC prices and should be approved as the DALI rates.</p> <p>1) December 20, 2001 order in Case No. U-12320 (Order, p. 16).  2) In the Matter of Provision of Directory Listing Information, First Report &amp; Order, FCC 01-27 (January 2001) (hereinafter "DAL Provisioning Order") at ¶10.  3) FCC Memorandum Opinion and Order, <i>In the Matter of the Petition of SBC Communications Inc. for Forbearance of Structural Separation Requirements and Request for Immediate Interim Relief in Relation to the Provision of Nonlocal Directory Assistance Services, et al.</i>, CC Docket No. 97-172, DA 00-514, adopted April 11, 2000 (“<i>FCC Forbearance Order</i>”) at ¶ 2  4) <i>Directory Assistance Listing Cost Study, Total Element Long Run Incremental Cost Study</i>, Form 2; cited in, MCI Texas Arbitration Award, Docket 19075, at pages 12-14, 1998.  5) Case U-11831, order of November 16, 1999 at p. 38.</p>
<p>15. What is the appropriate rate for Non-Pub Emergency Number Service (ENS)?</p> <p>Price List (911 <i>et. seq.</i>)</p>	<p>MCIIm’s contention that SBC Michigan cannot charge MCIIm for a service for which SBC Michigan does not charge its retail customers is an outlandish distortion of the meaning of “non-discrimination.” The prohibition against discrimination means that SBC Michigan has to treat MCIIm as well as it treats <i>itself</i> and <i>other carriers</i>. It does not mean that SBC Michigan has to do for MCIIm everything it does for its retail customers. It costs money for SBC Michigan to provide non-published emergency</p>	<p>The appropriate rate is \$0. This service is important to Ameritech customers who need to reach other non-published customers in case of an emergency. Ameritech does not charge its customers for this service and thus charging MCIIm would discriminate against MCIIm directory assistance customers. MCIIm does not charge its own customers for such service. Moreover, because Ameritech Michigan does not provide MCIIm with non-published numbers, MCIIm is unable to provide this service to its customers</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>number service, and SBC Michigan is perfectly entitled to charge MCIIm for that service whether or not it decides to provide the service to its customers for free.</p> <p>MCIIm’s alternative contention that SBC Michigan may charge MCIIm only a cost-based rate for this service is equally mistaken. SBC Michigan must provide to MCIIm at cost-based rates those things, and only those things, that the 1996 Act requires it to provide at cost-based rates, and that does not include this service. Indeed, MCIIm does not even claim that there is anything in federal law or Michigan law that would require SBC Michigan to provide this service at cost-based rates.</p> <p>The rate SBC Michigan may charge for this service is the reasonable, market-based rate SBC Michigan has proposed.</p>	<p>itself.</p> <p>Ohio Arbitration (Ohio Panel Report, 49)</p>
<p>20. What charges are appropriate for OS/DA rate reference?</p> <p>Price List (935 <i>et. seq.</i>)</p>	<p>Regardless whether SBC Michigan must provide access to OS/DA as a UNE, SBC Michigan has no duty to provide rate reference service as a UNE. Accordingly, there is no basis in federal law or Michigan law for a requirement that SBC Michigan provide this service at cost-based rates, and SBC Michigan may charge the reasonable, market-based rate it has proposed.</p>	<p>SBC has failed to provide any support or discussion to even attempt to justify the rates which SBC is attempting to charge here for rate reference. The appropriate rate for rate reference should also be a TSLRIC/TELRIC based rate, not a market based rate. MCIIm is willing to have the Commission determine a TSLRIC/TELRIC based rate in the upcoming SBC TSLRIC/TELRIC cost proceeding and to true up the rate to the inception of the proposed interconnection agreement once this rate has been determined. The position of MCIIm on these issues is clearly lawful, while the rate proposed by SBC runs counter to the previously established rates and rate principles set forth by this Commission and is not supported at all by the testimony submitted by SBC.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

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<p>21. Should the parties be required to pay disputed amounts into an interest – bearing escrow account pending resolution of the dispute?</p> <p>Invoicing 5.2 <i>et seq.</i></p>	<p>The agreement allows a party to dispute a bill with which it disagrees, and not to pay the other party the amount in question while the dispute is pending. The only way to ensure that the party that issued the bill will be paid if the dispute is ultimately resolved in its favor is for the disputed amount to be placed in an interest-bearing escrow account, as SBC Michigan has proposed. This Commission approved such a procedure in U-12460, when it ruled, “[A]ny disputed amounts should be paid into an interest bearing escrow account by the bill due date.” (10/24/2000 Order at p. 17.) And in the recent MCIIm/SBC arbitration in Ohio, the PUCO approved SBC’s escrow language, based in part on the “tenuous” financial condition of MCIIm. (This Commission rejected SBC Michigan’s proposed escrow language in U-12952, but SBC has cured the defect in its language that yielded that result.)</p> <p><b>Michigan</b> – U-12952 (TDS arbitration), p. 2. Michigan Commission issued decision in favor of TDS. Commission noted that SBC Michigan’s argument that the requirements for escrowing disputed amounts applied to both the CLEC and ILEC ignored the fact that SBC Michigan is not contracting to purchase UNEs or resale services from TDS.</p> <p>U-12460 (Level 3 arbitration), p. 17. Michigan Commission issued decision in favor of SBC Michigan.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319-TP-ARB), p. 22, Issues 67 and 69. Ohio Commission adopted SBC’s escrow language, citing the current “tenuous” financial condition of MCI Worldcom as support for its decision.</p>	<p>MCIIm does not believe that is it necessary to pay disputed invoice amounts into an interest-bearing account pending resolution of the underlying dispute. MCIIm and SBC Michigan have operated in Michigan for many years without such an arrangement. SBC Michigan’s proposed escrow arrangement is cumbersome and interjects unnecessary delay into the process. MCIIm has proposed alternative language for handling disputed invoice amounts.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>22. Should Ameritech-Michigan be permitted to discontinue service for non-payment?</p> <p>Invoicing 7.2</p>	<p>SBC Michigan’s proposed language includes some modest and uncontroversial measures (<i>e.g.</i>, late payment charges) to protect against unexcused non-payment of bills. It also allows for the discontinuation of service, but only in the most extreme circumstances – not merely because MCIIm fails to pay a bill, for example. The agreement must include some such provision; otherwise, SBC Michigan could find itself in the absurd position of having to continue providing services to MCIIm even if (for example) MCIIm, month after month after month, fails to pay its bills <i>and</i> fails to notify SBC Michigan that it is disputing them.</p> <p>In Case No. U-12460, the Commission approved provisions virtually identical to those SBC Michigan is now proposing, with just one modification. The Commission specifically ruled that “the other remedies” proposed by SBC Michigan – the same remedies SBC Michigan is proposing here “are not unreasonable unless implemented in the extremely short time period contemplated in the language Ameritech Michigan proposes.” Accordingly, the Commission increased that time period; in all other respects, it approved SBC Michigan’s proposal. The Commission should do the same here.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319-TP-ARB), p. 9, Issue 20. Ohio Commission adopted SBC’s language with modifications.</p>	<p>MCIIm objects to the language proposed by SBC Michigan with respect to the discontinuance of service, and has taken the position that such a provision is unnecessary for this agreement. SBC Michigan’s proposed requirements are one-sided, heavy-handed and unduly onerous. Although the proposed language is written in reciprocal terms, SBC Michigan’s language is actually discriminatory in that the requirement for the payment of disputed amounts for resale and UNEs, as well as the deposit requirement or increases, will in all likelihood apply only to MCIIm under the Agreement. The penalties proposed by SBC Michigan are: 1) discriminatory because the refusal to accept or complete orders and disconnection of service will only impact MCIIm’s customers; 2) can be applied cumulatively without reasonableness or fair play, and 3) may be applied in as little as 35 days.</p> <p>Level 3 arbitration, Case No. U-12460, order of October 24, 2000 at p. 18-19.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>26.</p> <p><b>SBC version:</b> Should MCIIm be prohibited from using LIDB information other than for its' end user customers in Michigan?</p> <p><b>MCIIm version:</b> May Ameritech-Michigan impose a use restriction on the LIDB UNE?</p> <p>LIDB 3.19; 6.2</p>	<p>The interconnection agreement that is the subject of this arbitration exists for one and only one reason: to allow MCIIm to compete with SBC <i>Michigan</i> in the provision of telecommunications services in <i>SBC Michigan's</i> service territory in <i>Michigan</i>. Accordingly, MCIIm cannot lawfully use services it obtains under this agreement for any purpose other than to provide telecommunications services to its end users in Michigan. (MCIIm can obtain access to LIDB for other purposes, but not pursuant to this agreement.) This issue has nothing to do with use restrictions on a UNE; it has only to do with the scope and purpose of this particular contract.</p> <p><b>Recent MCIIm/SBC Ohio Arb --</b> (PUCO No. 01-1319-TP-ARB), pp. 24-25, Issue 81. Ohio Commission held that MCIIm access to LIDB database should be only for purpose of providing telecommunications service it intends to offer in SBC OH territory.</p>	<p>Section 51.309 of the FCC's rules state that "an incumbent LEC shall not impose limitations, restrictions, or requirements on requests for, or the use of, unbundled network elements that would impair the ability of a requesting telecommunications carrier to offer a telecommunications service in the manner the requesting telecommunications carrier intends." Similar to the CNAM database, SBC Michigan should not be permitted to impose restrictions on MCIIm's use of the LIDB database. SBC Michigan's proposed language discriminates against MCIIm and other CLECs because SBC Michigan is attempting to limit MCIIm's use of the LIDB database to the local Michigan service area whereas SBC Michigan, and its affiliates, use this information to provide service outside of Michigan.</p> <p>1) 47 C.F.R. 51.309  2) <i>Petition for Declaratory Ruling of WorldCom, Inc. for a Ruling that ILECs are Prohibited from Imposing Use Restrictions on UNEs such as LIDB</i>, CC Docket No. 01-338.</p>
<p>28. Which parties' definition of HFPL should be included in the Agreement?</p> <p>LS 2.4</p>	<p>SBC Michigan proposes a definition that is identical to the definition of HPFL that appears in its tariff: "HPFL is defined as the frequency above the voice band on a copper loop facility that is being used to carry traditional POTS analog circuit switched voice band transmissions." See Tariff MPSC 20R, Part 19, Section 2. The tariff is the result of the Commission Order on March 7, 2001.</p> <p>Furthermore, SBC Michigan's definition is consistent with the FCC's definition. The FCC requires ILECs to provide the HFPL UNE <i>only</i> on copper loops where the ILEC provides POTS</p>	<p>MCIIm's definition avoids the problem with SBC Michigan's language limiting the definition of HFPL to copper loops. As the FCC made clear in its <i>Order on Reconsideration</i>, SBC Michigan has an obligation to provide line sharing and line splitting over DLC, including Project Pronto. MCIIm's HFPL terminology captures this obligation, whereas SBC Michigan has specifically limited the definition to copper loops.</p> <p>1) <i>Order on Reconsideration</i> 16 FCC Rcd 2101, FCC 01-26, ¶ 10  2) <i>Line Sharing Order</i>, 14 FCC Rcd at 20956, para. 91  3) <i>UNE Remand Order</i>, 15 FCC Rcd at 3936-37 ¶12, App. C  4) 47 C.F.R. § 51.319(a)(1)</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>services, which SBC Michigan does. MCIIm’s proposed definition would improperly expand the FCC’s definition of the HFPL to include facilities other than copper, and would inappropriately encompass packet switching, which is distinct from the HFPL UNE and can be unbundled only in limited circumstances not applicable here. Indeed, MCIIm’s proposed contract language appears to be a back door attempt at unbundling Project Pronto.</p> <p><b>Michigan</b> -- U-12540 (Line Sharing), 3/7/01 Order, p.3. <i>See also</i> resulting Tariff MPSC 20R, Part 19, Section 2.</p> <p>AT&amp;T arbitration U-12465 2/6/02 order, pp. 18-22, deferred to 3/7/01 order in U-12540 for its agreement.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319-TP-ARB), Issue 86, pp. 25. OH Commission adopted SBC OH’s language in its entirety.</p>	<p>5) Case No. U-12540, <i>In the Matter of Ameritech Michigan for Approval of Cost Studies and Resolution of Disputed Issues Related to UNE Offerings</i> (March 7, 2001 Opinion and Order, 3).  6) December 20, 2001 MPSC Order, <i>In the Matter, on the Commission’s Own Motion, to Consider Ameritech Michigan’s Compliance with the Competitive Checklist in Section 271 of the Federal Telecommunications Act of 1996</i>, Case No. U-12320.</p>
<p>29. Which parites’ definition of Line Splitting should be included in the Agreement?</p> <p>LS 2.7</p>	<p>The Commission should adopt SBC Michigan’s proposed definition because it is consistent with this Commission’s prior orders. This Commission stated that “line splitting” occurs when “a voice CLEC provides the voice service over the LFPL, with a separate data CLEC providing service over the HFPL.” MCIIm’s proposed contract language, however, would force SBC Michigan to “line split” when SBC Michigan is the voice provider and MCIIm is the data provider, which is actually “line sharing”, not “line splitting.”</p> <p>Furthermore, MCIIm’s proposed definition presumably would require SBC Michigan to purchase, install and connect advanced</p>	<p>MCIIm’s proposed language for the line splitting definition captures the concepts first identified in the December 20, 2001 Order in Case No. U-12320. In particular, MCIIm’s language adds a third scenario where MCIIm provides the data where an SBC Michigan affiliate, or third party, is the voice provider over UNE-P or some other configuration. This scenario, and the additional language requiring SBC Michigan to facilitate the addition of data services over the HFPL, the specific circumstances identified by the MPSC in that case under which line splitting must be offered. SBC Michigan’s proposed definition, on the other hand, is extremely restrictive, does not allow for line splitting over UNE-P, and incorporates SBC Michigan’s preference for data providers over voice providers when the line splitting arrangement is provisioned from an operational standpoint.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>services equipment (the line splitter) to the loop purchased by MCIIm so that MCIIm can “utilize the HPFL.” This conflicts with the FCC’s numerous holdings that ILECs have no obligation to provide splitters to CLECs, and that ILECs are required to <i>permit</i> line splitting <i>only</i> where the CLEC purchases an entire unbundled loop and provides and installs its own splitter. MCIIm’s proposed definition also would require the creation of two new UNEs, the splitter and the “low frequency portion of the loop,” that the FCC specifically ruled should not be unbundled and that do not meet the 1996 Act “necessary” and “impair” standards.</p> <p><b>Michigan</b> – U-12320 (271 Compliance docket). Tab 8. MPSC defined Line Sharing and Line Splitting in its 10/3/02 Order, Tab 8.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB). Tab 48, pp. 24-38, Issue 86. Ohio Commission adopted in its entirety SBC Ohio’s definition of line splitting.</p>	<p>U-12320, December 20, 2001 Order and January 13, 2003 Order</p>
<p>32. Which parties’ requirements should apply for service orders and provisioning requests for HFPL and line splitting?</p> <p>LS 4.1, 4.5, 4.6 and 5.2</p>	<p>SBC Michigan’s language is expressly “subject to” the Commission’s ongoing proceedings related to SBC Michigan’s compliance with the Commission’s October 3, 2002, Order in U-12320. That guarantees that adoption of SBC Michigan’s proposed language will yield a result that is consistent with the Commission’s directives.</p> <p>MCIIm’s proposed language, in contrast, is inconsistent with this Commission’s prior orders in several respects. For example,</p>	<p>The main points of contention are that SBC believes that line splitting over UNE-P does not exist, and that line splitting is not allowed except to the extent to which it is part of the “amended” compliance plan in the 271 docket. SBC’s position in this regard is clearly erroneous. First, the MPSC has already clearly ruled that there is line splitting over UNE-P. Furthermore, SBC wants to be limited to the obligations set forth in its Amended Compliance Plan in U-12320, but the Commission has already determined that this Amended Compliance Plan is incomplete. SBC argues that SBC should not be required to offer the high and low frequencies</p>

**Case No. U-13758 -- May 13, 2003**  
**JOINT SUBMISSION OF IDENTIFICATION OF ISSUES**  
**ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,**  
**and references to other commission arbitration rulings in Michigan and elsewhere**

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>MCIIm proposes: “<i>MCIIm may provide voice service or other Telecommunications Services over the same Loop that Ameritech-Michigan, or any data affiliate of Ameritech-Michigan, or any data CLEC uses to provide data services to that customer, and Ameritech-Michigan shall not interrupt or terminate services provided in the data portion of the Loop . . . . To the extent technically feasible, Ameritech-Michigan agrees to continue to provide all existing data services to any end user customer that chooses MCIIm as its provider for voice service or other Telecommunications Services where the end user customer desires continuation of that data service.</i>” That language would require SBC Michigan’s affiliated data CLEC to “line split,” in direct contravention of this Commission’s October 3, 2002 Order in U-12320.</p> <p><b>Michigan</b> – U-12320 (271 Compliance Docket). MPSC addressed issue in its 2/20/01,3/29/02, and 10/3/02 Orders.</p>	<p>of a single loop to two different CLECs and asserts that MCIIm is attempting to expand SBC’s obligations. However, MCIIm is not proposing language in this proceeding which could be construed as having MCIIm attempting to expand SBC’s obligations in this regard. The MCIIm proposed language in this regard only would require that SBC “support MCIIm’s ability” to provide line splitting, and would not impose on SBC itself the obligation to actually provide service to two different CLECs on the same line.</p> <p>SBC asserts that SBC should not be forced in this contract to provide data service where MCIIm provides the voice service. However, MCIIm has withdrawn the contested language from the proposed MCIIm language which created this concern on the part of SBC.</p> <p>December 20, 2001 order in U-12320, p. 9.  January 13, 2003 order in U-12320, p. 11.  March 7, 2001, order in Case No. U-12540, at pages 6 and 7.</p>
<p>36. When MCIIm is the data provider and Ameritech-Michigan is the voice provider on a particular loop and the voice service is migrated to a third party LEC, should that loop be converted to a full stand-alone loop?</p> <p>LS 5.2</p>	<p>Yes. The FCC’s <i>Line Sharing Order</i> provides that if a customer who obtains voice service from an ILEC and data service from a CLEC terminates its purchase of voice service from the ILEC, for whatever reason, the CLEC (here MCIIm) is required to purchase the full stand-alone loop from the ILEC if it wishes to continue providing xDSL service to that customer. SBC Michigan’s proposed language for Appendix Line Sharing § 5.2 is in direct compliance with that requirement and therefore should be adopted.</p> <p><b>Michigan</b> - U-12320 (271 Compliance Docket), 10/3/02 and 1/13/03 Orders, respectively.</p>	<p>For Issue 36 (and SBC proposed contract language in par. 5.2 where SBC refuses to agree to the proposed MCIIm language that states “<i>and not migrated to another carrier</i>”) in the situation where SBC is providing voice service and there is data on the line, and the customer wants to migrate the voice service to a CLEC, SBC is proposing that the data carrier would be entitled to the current loop and that the new voice carrier would have to establish a new line to provide the voice service. The MPSC has ruled on this situation, and the MPSC rulings on this situation are quite clear and go directly against the position which SBC is taking here. MCIIm’s position is entirely consistent with the prior MPSC orders and with the SBC Amended Compliance Plan in Case No. U-12320.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB), pp. 24-38, Issue 93. Ohio Commission resolved this issue in favor of SBC Ohio.</p>	<p>December 20, 2001 order in Case No. U-12320 at pages 9-10.            March 29, 2002 order in Case No. U-12320 at page 6.            October 3, 2002 order in Case No. U-12320 at pages 15-16.</p>
<p>39. Should the Appendix Line Sharing contain an Intervening Law clause specific to the FCC's Triennial Review order?</p> <p>LS Section 12</p>	<p>The line sharing appendix, as it now stands, is based on FCC rules that are expected to be changed dramatically by the FCC's anticipated Triennial Review order. SBC Michigan maintains, in connection with another issue (set forth here as Issue 131 and in paragraph 9 of the Petition) that if the Triennial Review order issues before this interconnection agreement is approved, the agreement should be conformed to that Order before it is approved. Issue 39 is raised in the event that the Commission rejects SBC Michigan's position on that issue. In that scenario, the line sharing appendix should amended to conform with the Triennial Review Order immediately after the agreement is approved in accordance with SBC Michigan's proposed language.</p>	<p>SBC Michigan should not be permitted to unilaterally alter the terms of the ICA by invoking an automatic intervening law provision. Moreover, the parties have agreed upon an intervening law clause at Section 23 of the GTC and any departure from that agreed-to method for handling changes in law is inappropriate.</p>
<p>41. Is Project Pronto subject to unbundling requirements?</p> <p>xDSL 1.1.1</p>	<p>MCIIm's proposed language would require the "unbundling" of SBC Michigan's Project Pronto DSL overlay network. This Commission long ago ruled that Project Pronto is not subject to unbundling, and that is reason enough to reject MCIIm's language. Beyond that, MCIIm's proposal would also have to be</p>	<p>The MPSC has ruled that SBC Michigan must make its end-to-end broadband service offering available to MCIIm and CLECs at TELRIC pricing until the MPSC rules otherwise. MCIIm's proposed language for Issues 41 and 42 reflects this requirement. Contrary to the arguments raised by SBC Michigan, MCIIm's proposed language does not impose unbundling obligations on</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>rejected because (1) the Project Pronto DSL facilities provide packet switching functionality, and the FCC’s prerequisites for unbundling packet switching do not exist here; (2) line cards do not meet the legal requirements for “collocation”; (3) many of the “unbundling” and “collocation” requirements that MCIIm seeks are not technically feasible; (4) granting MCIIm’s request would conflict with federal policy and the goals of the 1996 Act by impeding deployment of advanced services facilities; and (5) neither the FCC nor any other state commission has imposed the kind of onerous, unnecessary, and unlawful requirements that MCIIm seeks.</p> <p><b>Michigan</b> – U-12540 (Cost Studies and UNE Offerings). Michigan Commission ruled that Project Pronto is not subject to unbundling.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB), pp. 38-53, Issues 89, 101,207, 225, 232, 233 and 236. Ohio Commission ruled that lack of access to Project Pronto on an unbundled basis does not impair MCIIm’s ability to provide the services that it seeks to provide, and that SBC is therefore not required to unbundle Project Pronto for MCIIm.</p>	<p>SBC Michigan for the separate components of the Project Pronto network, although MCIIm believes that such an obligation does exist. Under Michigan law, SBC Michigan is not permitted to withdraw its broadband service offering, and SBC Michigan’s proposed language for these issues would permit the offering to be withdrawn unilaterally. To the extent that the FCC addresses this issue in the upcoming Triennial Rules, any changes can be addressed during the negotiation process proposed by MCIIm, and the parties can raise various arguments as contemplated by the reservation of rights language proposed by MCIIm.</p> <p>1) March 7, 2001 Order in Case No. U-12540, 4  2) <i>In the matter of Ameritech Corp. Transferor and SBC Communications, Inc. Transferee For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90,95 and 101 of the Commission’s Rules</i> FCC 00-336 (released September 8, 2000)</p>
<p>42. Are Fiber Fed DLCs subject to unbundling requirements?  xDSL 2.5, 2.6, 3.1</p>	<p>No. MCIIm’s proposed language is yet one more attempt to require SBC Michigan to unbundle its packet switching network, which is not subject to unbundling. The FCC announced in its Triennial Review press release that it is eliminating all packet switching unbundling obligations and any obligations regarding the broadband path of fiber-fed loops. In light of this, it would be inappropriate to expand SBC Michigan’s packet switching unbundling obligations. And as this Commission has previously found, the packet switching in the</p>	<p>See Issue 41.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	fiber-fed Project Pronto architecture is not subject to general unbundling under the existing FCC rules.	
<p>43. Should the Commission adopt Ameritech's liability and indemnity language for the DSL appendix in addition to that contained in GTC?</p> <p>xDSL 3.7 (all), 3.8 (all)</p>	<p>Under the FCC's <i>Line Sharing Order</i>, SBC Michigan is not required to permit CLECs to deploy non-standard xDSL-based technologies over SBC Michigan's unbundled loops (or the unbundled high frequency portion of its loops). From this it necessarily follows that if SBC Michigan is going to permit MCIIm to deploy such non-standard technologies, SBC Michigan can do so on such terms and conditions as it wishes. Even if that were not so, SBC Michigan proposed limitation of liability and indemnity language for the xDSL Appendix reasonably addresses service degradation issues associated with MCIIm's deployment of such technologies and should therefore be adopted on its merits.</p> <p><b>Recent MCIIm/SBC Ohio Arb --</b> (PUCO No. 01-1319 -TP-ARB), p. 205, Issue 226. Ohio arbitration panel recommended adoption of SBC Ohio's appendix, which included specific indemnification language. Ohio Commission adopted Panel's recommendation.</p>	<p>SBC Michigan's proposed language is unreasonable since it would make MCIIm liable to SBC Michigan even in the absence of any underlying fault on MCIIm's part. Moreover, SBC Michigan's proposed language is unnecessary since the parties have agreed to comprehensive liability and indemnity provisions of general applicability at Sections 15 and 16 of the GTC.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>44. Under what circumstances may MCIIm require Ameritech-Michigan to construct facilities for the provision of UNEs, where physical facilities do not exist?</p> <p>xDSL 4.1; UNE 2.10.19</p>	<p>The Telecommunications Act of 1996 requires only that SBC Michigan provide unbundled access to its existing network, not that it construct new facilities simply to provision them as UNEs to MCIIm. Stated differently, MCIIm is entitled to unbundled access only to SBC Michigan's existing network, not to a nonexistent, hypothetical, superior network. Also, the FCC's Triennial Review press release states that, "the Commission does not require incumbent LECs to trench new cable or otherwise to construct transmission facilities so that requesting carriers can access them as UNEs at cost-based rates." SBC Michigan is merely proposing a modest modification to the language that accurately reflects the law.</p> <p><b>Michigan</b> – U-11735 (Special Construction), p. 25. Commission addressed the issue of loop availability.</p> <p>U-12465 (AT&amp;T Arbitration), p. 15 [DAP], p. 13 [Order], Issue 87. Deferred resolution of issue to U-12540.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB), pp. 76-81, Issues 189 and 227. Ohio Commission ruled SBC Ohio has no obligation to build facilities for the provision of UNEs, including xDSL-capable loops. Ohio Commission also ruled that SBC's FMOD policy should not be incorporated in the parties' interconnection agreement.</p>	<p>Ameritech-Michigan is required to provide unbundled access to its network in a nondiscriminatory fashion. To the extent Ameritech-Michigan either readies facilities or constructs facilities anew for use by itself or its affiliates, it is obligated to do the same for MCIIm. The language proposed by Ameritech-Michigan at Section 4.1 of the xDSL appendix is not consistent with this obligation and should, therefore, be rejected.</p> <p>Prior commission rulings on Issue 44: Issue number 88 in the second AT&amp;T arbitration (Case No. U-12465) (See, AT&amp;T's Proposed Decision of the Arbitration Panel at pp. 235-236 which summarizes that issue). The Commission ruling on this issue is in the order of November 20, 2000, at p. 20.</p> <p>California Commission: <i>Application by Pacific Bell Telephone Company (U 1001 C) for Arbitration of an Interconnection Agreement with MCImetro Access Transmission Services, L.L.C. (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996</i>, Case No. 01-01-010, Report issued July 16, 2001, page 37); September 20, 2001, ruling of the Public Utilities Commission of the State of California at: <a href="http://www.cpuc.ca.gov/published/final_decision/9826.htm#TopOfPage">http://www.cpuc.ca.gov/published/final_decision/9826.htm#TopOfPage</a></p> <p>Before the Illinois Commerce Commission, <i>Order</i>, Investigation of Construction Charges, Docket No. 99-0593, issued August 15, 2000. 2000 ILL.PUC LEXIS 654 at *44-51, *58-63.</p> <p>Before the Indiana Utility Regulatory Commission, Cause No. 41570, In the Matter of the Complaint of McLeodUSA Telecommunications Services, Inc. against Indiana Bell Telephone Company, Incorporated, d/b/a Ameritech Indiana, Pursuant to the</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
		<p>Provisions of I.C. §§ 8-1-2-54, 81-12-68, 8-1-2-103 and 8-1-2-104 Concerning the Imposition of Special Construction Charges, <i>Order</i>, issued June 28, 2000. 2000 IND PUC LEXIS 292 at *33-57.</p> <p>Before the Wisconsin Public Service Commission, <i>Final Decision</i>, Investigation Into Ameritech Wisconsin's Unbundled Network Elements, Docket No. 6720-TI-160/161.</p>
<p>45. Should MCIIm identify PSD mask, at the time the circuit is ordered or in accordance with standard T1.417-2001 ANSI Spectrum Management for Loop Transmission Systems?</p> <p>xDSL 4.2</p>	<p>Under the FCC rules, ILECs are required to maintain an inventory of, and provide upon request, the number of individual loops within a particular binder group that carry advanced services and the type of technology deployed on those individual loops. SBC Michigan can only fulfill this requirement if CLECs provide PSD information on a loop-by-loop basis, and the FCC's rules make clear that CLECs must provide such information on a loop-by-loop basis. <i>See Line Sharing Order</i>, ¶ 204; 47 C.F.R. §§51.231(b) and (c). Generally, SBC Michigan will do nothing more than inventory this information. However, should a data provider experience problems with a DSL signal where spectrum interference is the suspected cause, SBC Michigan can use this inventoried information to provide the impacted CLEC with a list of the advanced services that share a binder group with the degraded services. In this way, identification of spectrum management related issues are more easily identified.</p> <p><b>Michigan</b> – U-12320 (271 Compliance). Michigan Commission did not require any changes to SBC's processes regarding PSD mask.</p>	<p>MCIIm's proposed language for Sections 4.2, 8.2 and 8.4 provides that the industry standards will be followed for any exchange of information regarding the PSD mask for loops ordered from SBC Michigan. These industry standards for Spectrum Management, which have been agreed to by SBC Michigan and MCIIm, also provide a procedure for loop technology without industry standards. SBC Michigan has no valid reason to require the identification of the PSD mask at any time, and particularly not when a loop is ordered. Such a requirement would force MCIIm to divulge proprietary business information that SBC Michigan can use to target MCIIm's customers.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p><b>Recent MCIIm/SBC Ohio Arb --</b> (PUCO No. 01-1319 -TP-ARB), p. 236-239, Issue 228. Ohio Commission resolved this issue in favor of SBC Ohio.</p>	
<p>47. For loop technology without an industry standard, how should Spectrum Management be applied?</p> <p>xDSL 8.2, 8.4</p>	<p>SBC Michigan’s proposed language addresses instances where MCIIm wishes to deploy a new DSL technology for which no industry standards exist. The purpose of this language is to ensure that MCIIm is able to take advantage of any technological advancements, but that also protects end users and other carriers (including SBC Michigan) from potential harm that a new technology could cause. SBC Michigan’s proposed language is consistent with the FCC’s direction regarding technologies for which no industry standard has been established.</p> <p>MCIIm’s proposal, in contrast, is overly simplistic and merely states that both parties will comply with a single specific industry standard. MCIIm’s proposed language is defective because it says nothing about what would occur in the event that MCIIm tried to deploy a technology that is not covered by that particular standard.</p>	<p>See Issue 45.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>48a. Should MCIm be required to indemnify Ameritech-Michigan in the event of unauthorized access or use of Ameritech-Michigan's OSS by MCIm personnel?</p> <p>OSS 2.2</p>	<p>(a) If anyone – whether an MCIm employee or a third party – harms SBC Michigan’s OSS after gaining access to it through <i>MCIm</i>’s workstations or systems, or through <i>MCIm</i>’s information and/or facilities, MCIm should bear responsibility for that harm. It is MCIm, not SBC Michigan, that controls access to the OSS through MCIm’s workstations and systems, and through information and/or facilities provided by MCIm, so it must be MCIm that bears responsibility for whatever harm may result from that access. The Commission agreed when it resolved this issue in SBC Michigan’s favor in Case U-12952 and held (at p.28 of its 9/7/01 Order), “TDS is in the best position to ensure that its equipment and access to the OSS are not abused or misused. Even if a situation arose in which unauthorized access could not be said to be TDS’s direct fault, if the access is gained through TDS’s equipment or personnel, TDS should be responsible for the damages that may result.” (SBC also prevailed on exactly this issue in the parties’ recent arbitration in Ohio.)</p> <p><b>Michigan</b> – U-12952 (TDS arbitration), pp. 25-28. SBC Michigan was not precluded from seeking recovery from TDS for damages incurred due to access gained through TDS. However, broad language allowing SBC Michigan to terminate access to electronic interfaces was rejected.</p> <p>U-12460 (Level 3 Arbitration), p. 31 [DAP], p. 35 [Order].</p> <p><b>Recent MCIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB), p. 55, Issue 122. Ohio Commission adopted same language SBC proposes here (except SBC Ohio’s proposed language did not address audit rights or MCIm duty to defend</p>	<p>SBC Michigan’s proposed language is unreasonable since it would require MCIm to indemnify SBC Michigan even in the absence of any underlying fault on MCIm’s part. Moreover, SBC Michigan’s proposed language is unnecessary since the parties have agreed to comprehensive indemnity provisions of general applicability at Section 16 of the GTC.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	SBC Ohio against alleged damage claims).	
<p>48b. Should Ameritech-Michigan be permitted to audit MCIIm's use of Ameritech-Michigan's OSS?</p> <p>OSS 2.2</p>	<p>(b) Assuming the Commission follows the precedent it set in U-12952 and resolves Issue 48(a) in favor of SBC Michigan, it should also resolve Issue 48(b) in favor of SBC Michigan. The proposed audit language will allow SBC Michigan to determine, if a harm befalls its OSS, whether or not the harm is one for which MCIIm must indemnify SBC Michigan pursuant to the provision that is the subject of Issue 48(a). The sole purpose of the audit language is to enable SBC Michigan to investigate the causes of damage or harm suffered by its OSS..</p>	<p>SBC Michigan asserts that its proposed language is necessary to avoid harm to SBC Michigan. However, MCIIm accesses the SBC OSS via SBC's ARAF using SBC-required EDI protocol. MCIIm's EDI requests go through an SBC-provided translator, so MCIIm has no direct ability to change or impact the SBC OSS. Thus, MCIIm cannot "hurt" the SBC OSS in any way. Clearly, the intent of this language appears to be to allow SBC to monitor MCIIm's use of the SBC OSS, but no reason for this monitoring is provided. MCIIm agrees that both parties should ensure that no harm comes to either's operating systems but this is done by ensuring that both parties follow the EDI rules set forth in the SBC documentation. If MCIIm's software is incorrectly designed, its pre-order queries and orders will be rejected by SBC. If SBC is concerned about the number or speed of the queries that MCIIm makes to its operating system, then SBC should propose volume requirements in this contract. If SBC is concerned that MCIIm is attempting to prospect for information in the SBC OSS, then SBC should say this and should provide information on how they determine whether an OSS query is "proper" or not. If SBC intends to monitor MCIIm's OSS usage, then SBC must provide clear guidelines for how they will do this and assurances that MCI's OSS usage will not form the basis of a winback campaign by SBC. Yet, this type of protective language is absent from the SBC</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
		<p>proposal. Given the serious potential for abuse and anti-competitive conduct, SBC cannot be given such a vague and sweeping right to monitor MCIIm's contact with potential subscribers.</p> <p>Issues I-8/IV-97(Access to CPNI) in the FCC Virginia arbitration, (<i>Virginia order</i>, par. 647).</p> <p>Ohio Arbitration (Award, 54, 60)</p>
<p>49. May MCIIm view Customer Proprietary Network Information prior to obtaining authorization to become the End User's local service provider?</p> <p>OSS 2.5, 2.6, 2.8</p>	<p>Electronic access to CPNI is authorized for preorder purposes only to assist in the accurate completion of a service order. Accessing CPNI pre-sale is a marketing activity, and not a legitimate purpose of OSS. Accordingly, MCIIm should be required to obtain the necessary authorization to become the end user customer's local service provider before accessing CPNI in order to ensure that OSS is used solely for legitimate per-order activity. Otherwise, MCIIm could view the CPNI of competitors' customers and use the database as a marketing tool to win end users.</p> <p><b>Recent MCIIm/SBC Ohio Arb --</b> (PUCO No. 01-1319 -TP-ARB), pp. 54-58, Issue 123. Ohio Commission resolved this issue in favor of MCIIm.</p>	<p>MCIIm objects to SBC's proposal to include language in the interconnection agreement that would prohibit MCIIm from accessing the CSR until after the sale to the customer is completed, and would prevent MCIIm from viewing the contract termination liability information that should be included in the CSR. All that SBC is trying to do is to slow down the process of customer conversion by requiring that MCIIm receive the information manually, rather than electronically, during the pre-order process. SBC is seeking to significantly impair the way in which MCIIm presently does business in Michigan. The MCIIm position fully complies with applicable law and with its present practices throughout the country and has been accepted by Verizon, BellSouth, and Qwest. Indeed, SBC appears to be the only RBOC that has chosen to attempt to re-define the stages of customer migration to include a new process called marketing. The SBC position is not supported by the law and is contradicted by other portions of the "agreed to" language in the proposed interconnection agreement. The Commission needs to adopt the MCIIm position on this issue.</p> <p>Ohio Arbitration (Award, 58)</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>56. May MCIIm resell, to another Telecommunications Carrier, services purchased from Appendix Resale?</p> <p>Resale 1.3</p>	<p>Consistent with the 1996 Act, MCIIm should be permitted to resell SBC Michigan’s telecommunications services directly to the public only. In the parties’ recent arbitration in Ohio, the PUCO agreed and resolved this issue in favor of SBC.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB), p. 63, Issue 172. Ohio Commission adopted SBC Ohio’s position that MCIIm may purchase UNEs from an ILEC only for the purpose of offering telecom services directly to end users, not for the purpose of resale to another telecom carrier.</p>	<p>By inserting the word “not” into sentence that comprises Section 1.3, SBC Michigan is attempting to place an unlawful restriction on MCIIm’s ability to use SBC Michigan’s resold services to provide “telecommunications services”. The language proposed by SBC Michigan is directly and completely at odds with the FCC’s interpretation of “telecommunications services” that the parties have incorporated into this Agreement.</p> <ol style="list-style-type: none"> <li>1) Sections 3(a)(51), 251(b)(1) Telecom Act</li> <li>2) <i>First Report and Order</i>, ¶964</li> <li>3) <i>Virgin Islands Telephone Corporation v. Federal Communications Commission</i>, 198 F.3d 921, 930 (U.S.App.D.C.,1999)</li> <li>4) <i>Federal-State Joint Board on Universal Service</i>, 12 F.C.C.R. 8776 (1997) ¶745 (Campion, 45)</li> <li>5) <i>Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended</i>, 11 F.C.C.R. 21905 (1996) ¶265, (Campion, 46)</li> <li>6) SBC cost docket, Case No. U-11280, July 14, 1997 Order, 34-35</li> </ol>
<p>57. Other than a Federal End User Common Line charge, what appropriate approved charges, as set forth in the appropriate Ameritech-Michigan federal or applicable state tariff(s), apply to local exchange lines resold to MCIIm by Ameritech-</p>	<p>The statement of the issue (though agreed) is misleading, because the disputed contract language does not reflect any disagreement about what appropriate approved charges apply to local lines sold to MCIIm by SBC Michigan. The disputed language (with the highlighted language proposed by SBC Michigan and opposed by MCIIm) reads:</p> <p style="text-align: center;"><b>Federal End User Common Line charge <u>and any other appropriate approved charges, as set forth in the appropriate Ameritech-Michigan federal and</u></b></p>	<p>When MCIIm purchases resale services from SBC Michigan, MCIIm has agreed to pay SBC Michigan the Federal End User Common Line Charge. However, MCIIm does not agree that other taxes are owed to SBC Michigan for resale services. Rather, MCIIm collects such taxes from its end users and forwards the assessments to the appropriate agency levying the taxes.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>Michigan?</p> <p>Resale 4.6</p>	<p><u>applicable state tariff(s)</u> will apply to each local exchange line furnished to MCIIm under this Appendix for resale.</p> <p>The disputed language is patently reasonable and should be included in the agreement, because it merely specifies that whatever <i>appropriate approved</i> charges, as set forth <i>in the appropriate tariffs</i> will apply.</p> <p><i>See</i> U-10860.</p>	
<p>59. Should MCIIm be permitted to aggregate traffic for multiple end user customers onto a single service?</p> <p>Resale 4.10, 7.1, 7.1.3, 7.1.3.1</p>	<p>SBC Michigan’s Centrex tariff provides that a purchaser who aggregates traffic for multiple unaffiliated end users onto a single Centrex system is not eligible for the volume discounts for Centrex loops that would otherwise apply. This restriction applies both to retail customers and to wholesale customers. In Case No. U-12043, a CLEC challenged those provisions on the ground that they were anti-competitive and contrary to the requirements of the 1996 Act and the MTA. This Commission rejected that challenge in its 2/9/00 Order, at pp. 11-15. SBC Michigan’s proposed language for Resale section 7.1 merely requires that MCIIm abide by the same tariff restrictions that SBC must abide with for its retail customers; the Commission found this reasonable in U-12043. Thus, the Commission has already considered and rejected the objections to the tariff provisions that MCIIm in effect asserts here.</p> <p>Moreover, the PUCO approved SBC’s language (for section 4.10</p>	<p>SBC Michigan has proposed to place restrictions on MCIIm’s ability to aggregate customer traffic onto a single resale service. MCIIm objects to these restrictions on legal and operational grounds. From a legal standpoint, SBC Michigan’s language effectively reverses the FCC’s position that resale aggregation restrictions are presumptively unreasonable. From an operational standpoint, the restrictions are unreasonable and anti-competitive because they prevent MCIIm from qualifying for volume discounts that SBC Michigan is able to offer its customers.</p> <p>1) <i>First Report &amp; Order ¶953</i>  2) <i>Order Instituting Rulemaking on the Commission's Own Motion into Competition for Local Exchange Service; Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service, Decision No. 00-07-019, Rulemaking No. 95-04-043 (Filed April 26, 1995), Investigation</i></p>

**Case No. U-13758 -- May 13, 2003**  
**JOINT SUBMISSION OF IDENTIFICATION OF ISSUES**  
**ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,**  
**and references to other commission arbitration rulings in Michigan and elsewhere**

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>as well as 7.1) in the parties' recent arbitration in Ohio, and rejected the same arguments MCIIm makes here..</p> <p><b>Michigan</b> – U-12043 (Coast to Coast Complaint), p. 11. Michigan Commission resolved issue in favor of SBC Michigan.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB). Issue 173, pp. 167-170. Ohio Commission resolved this issue in favor of SBC Ohio.</p>	<p><i>No. 95-04-044 (Filed April 26, 1995), California Public Utilities Commission, 2000 Cal. PUC LEXIS 570, July 6, 2000, *29-32</i></p>
<p>61. Should MCIIm be permitted to copy, store, or maintain 800 Database information obtained from Ameritech-Michigan?</p> <p>Appendix 800 3.8; UNE 1.2</p>	<p>SBC Michigan seeks to include the following language in Appendix 800, which requires SBC Michigan to provide MCIIm nondiscriminatory access to the 800 database: “provided, however, MCIIm shall not use the database information to copy, store, maintain or create any table or database of any kind or for any purpose other than routing requirements for originating 800 calls.” That language is perfectly consistent with SBC Michigan’s tariff MPSC 20R, Part 19, section 10, Sheet 2, ¶ 7. In addition, the PUCO resolved this issue in favor of SBC in the parties’ recent arbitration in Ohio. Finally, SBC Michigan’s proposed language accurately reflects the FCC’s rules concerning access to call-related databases, as discussed in connection with Issue 8(a)</p> <p><b>Michigan</b> – U-12043 (Coast to Coast Complaint), p. 11. Michigan Commission resolved issue in favor of SBC Michigan.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB).</p>	<p>The FCC identified the 800 database as a call-related database and granted UNE status on this database in the same manner as the CNAM and LIDB databases. As a UNE the toll free calling database is not subject to use restrictions imposed by Ameritech Michigan. MCIIm may use the database to provide any telecommunications service not prohibited by the Act, or other federal or state law. Furthermore, as a UNE it should be offered at TELRIC rates.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	Issue 173, pp. 167-170. Ohio Commission resolved this issue in favor of SBC Ohio.	
62. Should MCIIm be prohibited from using 800 Database information other than for its' end user customers in Michigan?  Appendix 800 3.10	This issue is identical to Issue 26, except that it pertains to a different database, and should be resolved in favor of SBC Michigan for the same reasons.  <b>Recent MCIIm/SBC Ohio Arb --</b> (PUCO No. 01-1319 -TP-ARB), pp. 89-91, Issues 237 and 238. Ohio Commission ruled MCIIm's access to SBC Ohio's 800 database is solely for the purpose of providing telecommunications services in SBC Ohio's territory.	For all of the reasons discussed with respect to the LIDB database, SBC Michigan should not be permitted to impose use restrictions on MCIIm's use of the 800 database.
63. Should a change in Ameritech Michigan's collocation tariff be made in this contract by way of amendment?  Collocation 1	SBC disagrees with MCIIm's position that it should be able to take SBC Michigan's UNE tariff, along with the associated terms and conditions, and "freeze" that tariff into the interconnection agreement. The better approach, advocated by SBC Michigan, is to simply incorporate the tariff by reference. That way, any changes to the tariff, which may occur from time-to-time, will automatically become part of MCIIm's contract.	MCIIm has agreed with SBC Michigan that the rates, terms and conditions for collocation shall be those contained in the Michigan collocation tariff (with certain exceptions set forth as issues in this arbitration). However, the tariff being incorporated into the agreement must be as of a date certain, and not subject to change unilaterally by SBC Michigan when changes are made to the tariff. Allowing SBC Michigan to make changes to this agreement by changing its tariff eliminates the certainty of the contractual process and places MCIIm in a position of accepting contractual changes to which it has not agreed. It is MCIIm's position that if SBC Michigan changes its collocation tariff after the execution of this agreement, such changes can be incorporated in to the agreement by way of amendment agreed to by both parties.  1) McLeod arbitration, Case No. U-13124 (Order of January 22, 2002) 2) <i>In the matter of the request for Commission approval of a multi-state Interconnection agreement between MPOWER</i>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
		<p><i>COMMUNICATIONS CORPORATION, f/k/a MGC COMMUNICATIONS, INC., and various SBC Communications, Inc., owned companies, including AMERITECH MICHIGAN, Case No. U-13294, 2002 Mich. PSC LEXIS 119, March 29, 2002.</i></p>
<p>64. Should MCIIm be charged on a metered basis for power in collocation spaces?</p> <p>Collocation 2</p>	<p>No. SBC Michigan already provides collocation power as approved by the MPSC in Case No. U-12320, including the methods for providing power and billing for power consumption. The accepted methodology and approved industry standard in this state is the per amp methodology, which is reflected in SBC Michigan's current Collocation Tariff (Tariff No. 20, Part 23, Section 4). The existing per-amp method is both effective as well as efficient and should not be changed, especially in a two-party arbitration. Such an unnecessary decision here could have far reaching and unintended implications beyond the parties to this arbitration.</p> <p>The FCC has never required ILECs to recover power on a measured basis; this Commission has in fact supported the FCC's decision through the existence of the current in-place tariff which describes and implements a per amp method.</p> <p>MCIIm's testimony on this subject is sophistry. MCIIm conveniently mentions that power consumption consists of the costs used to provide power to the central office. That statement only accounts for the AC aspect of power consumption. It does not account for process of supplying DC power (i.e. central</p>	<p>It is a basic cost allocation principle that CLECs should be responsible only for the costs that they place on SBC Michigan. MCIIm should be charged for power to its collocation space based on the amount of electricity actually used by MCIIm, not on the basis of the power that might be used by the equipment in the collocation space. SBC Michigan's method for charging CLECs for power to the collocation spaces is blatantly discriminatory because SBC Michigan itself does not pay for power in this manner. MCIIm's proposed language clarifies this basic principle, as well as clarifying that MCIIm's vendors will engineer and install the fuses and power cables for MCIIm's collocation spaces.</p> <p>1) February 17, 1998 Order in <i>Investigation into forward looking cost studies and rates of Ameritech Illinois for interconnection, network elements, transport and termination of traffic.; Illinois Bell Telephone Company; proposed rates, terms and conditions for unbundled network elements.</i> Case Nos. 96-0486 Consolidated 96-0569, 1998 Ill. PUC LEXIS 109 (Order, 69)</p> <p>2) <i>In The Matter Of The Commission Investigation And Generic Proceeding On Ameritech Indiana's Rates For Interconnection, Service, Unbundled Elements, And Transport And Termination Under The Telecommunications Act Of 1996 And Related Indiana Statutes,</i> Cause No. 40611, Indiana Utility Regulatory</p>

**Case No. U-13758 -- May 13, 2003**  
**JOINT SUBMISSION OF IDENTIFICATION OF ISSUES**  
**ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,**  
**and references to other commission arbitration rulings in Michigan and elsewhere**

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	office power plant). MCIIm’s testimony intentionally misleads the reader into the assumption that power delivery includes all the costs incurred by SBC Michigan to provision collocation arrangements.	Commission, 2001 Ind. PUC LEXIS 14, January 18, 2001 at *10-*11  3) <i>IN RE: Generic Proceeding to Establish Prices for BellSouth Telecommunications, Inc.'s Interconnection Services, Unbundled Network Elements and other Related Services.</i> Docket No. 2001-65-C; ORDER NO. 2001-1089 , South Carolina Public Service Commission, 2001 S.C. PUC LEXIS 15, November 30, 2001
65. What augment interval should apply for DS0s?  Collocation 3	MCIIm seeks an unfair advantage over other collocating CLECs by asking for intervals shorter than what other CLECs receive under SBC Michigan’s current Physical Collocation Tariff (Part 23, Section 4, Sheets 36-39). That tariff already addresses augment intervals that SBC Michigan must satisfy when performing augments to existing collocation arrangements. MCIIm’s proposed intervals are inconsistent with the intervals already approved by this Commission.  MCIIm’s requested intervals were accepted, MCIIm would have the ability to require SBC Michigan to provision MCIIm’s request before other CLEC requests, which may have been submitted prior to MCIIm’s augment request. This would allow MCIIm to circumvent the FCC’s requirement of “first come first served,” as mentioned in FCC <i>First Report and Order</i> . MCIIm would gain a competitive advantage over other CLECs who follow the Collocation tariff and the FCC’s requirements.	MCIIm consistently experiences augment intervals for new DS0 pairs of 80 calendar days or more from the time the application is approved. If this practice continues, it will ultimately result in a loss of new customers for MCIIm. The nature of the broadband business is such that, quite often, the need for added capacity in a given central office or market hits very quickly, often more quickly than capacity planning can anticipate the need. In the provision of data services, MCIIm must rely on forecasts provided by ISPs that can increase rapidly depending on customer promotions or other offerings. The cost of overbuilding the pairs in all central offices would be prohibitive, and MCIIm pays for unused pairs in most locations now as it is. The purpose of MCIIm’s proposed contract language is to provide SBC Michigan with an incentive to provision new pairs on a reasonably prompt basis.

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p><b>Michigan</b> – U-12465 (AT&amp;T Arbitration). Tab 16, p. 16 (Order); Tab 23, p. 18 (DAP). Proceeding addressed limited issue of augments that do require enlargements of collocation space. Commission adopted AT&amp;T proposed language.</p>	
<p>66. Should MCIIm be required to pay for additional non-recurring cost for safety and security beyond the non-recurring charges contained in the Tariff?</p> <p>Collocation 4, Price List (978 <i>et. seq.</i>)</p>	<p>SBC Michigan is re-evaluating its position on this issue in light of its UNE cost proceeding, filed on May 2, 2003.</p>	<p>SBC Michigan- proposed Sections 4 and 5 seek to impose additional charges upon MCIIm, beyond the non-recurring charges contained in the collocation tariff, for safety and security and site conditioning. These additional charges have never been approved by the MPSC, nor have they been the subject of a cost investigation by the MPSC, and therefore are wholly inappropriate for inclusion in this agreement.</p> <p>1) <i>In the matter of ACCUTEL OF TEXAS, INC., d/b/a 1-800-4-A-PHONE's petition, pursuant to 47 USC 252(b), for arbitration of certain issues in relation to an interconnection agreement with AMERITECH MICHIGAN, Case No. U-13352, July 23, 2002</i></p> <p>2) Docket U-11831, November 16, 1999 Order, 40</p>
<p>67. Should MCIIm be required to pay for additional non-recurring cost for site conditioning beyond the non-recurring charges contained in the Tariff?</p> <p>Collocation 5, Price List (974 <i>et. seq.</i>)</p>	<p>SBC Michigan is re-evaluating its position on this issue in light of its UNE cost proceeding, filed on May 2, 2003.</p>	<p>See Issue 66.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

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<p>69. Should MCIIm be permitted to use Ameritech-Michigan's unbundled Network Elements to provide service to other Telecommunication Carriers?</p> <p>UNE 2.3</p>	<p>This issue is closely tied to issue 6 regarding the definition of an "end user". Simply put, MCIIm wants to be able to use SBC Michigan's UNEs to provide services to other telecommunications carriers, so MCIIm proposes deleting SBC Michigan's limitation from the contract. It is SBC's position that a CLEC may use UNEs to provide telecommunication services to the public, or the end user, not to another carrier. The benefits of competition belong to the consumer, not another telecommunications carrier through arbitrage. Any certified telecommunications carrier that meets the necessary criteria can access the same UNEs, with the same terms and conditions, as MCIIm.</p> <p><b>Michigan</b> – U-12465 (AT&amp;T Arbitration), p. 11 (order), p. 10 (DAP), Issue 20. Michigan Commission resolved issue in favor of SBC Michigan.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> (PUCO No. 01-1319 -TP-ARB), pp. 179-181, Issue 187. Ohio Commission adopted SBC Ohio's position that a telecom carrier such as MCIIm may purchase UNEs from an ILEC only for the purpose of offering telecom services directly to end users, not for the purpose of resale to another telecom carrier.</p>	<p>Similar to Issue 56, SBC Michigan has proposed to insert the word "not" into Section 2.3, thus precluding MCIIm from using SBC Michigan's UNEs to provide service to other telecommunications carriers. This restriction on MCIIm's ability to provide telecommunications services is in direct violation of the Telecom Act, the FCC's orders, rulings of the MPSC and Michigan law.</p> <ol style="list-style-type: none"> <li>1) Sections 3(a)(51), section 251(c)(3) Telecom Act</li> <li>2) <i>Local Competition Order</i>, ¶356</li> <li>3) <i>See Universal Service Order</i>, ¶ 785</li> <li>4) January 28, 1998 order in Case No. U-11280</li> <li>5) MTA Sections 355 and 102(x)</li> </ol>

Case No. U-13758 -- May 13, 2003  
**JOINT SUBMISSION OF IDENTIFICATION OF ISSUES**  
**ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,**  
**and references to other commission arbitration rulings in Michigan and elsewhere**

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>70. If conversion intervals exceed 60 minutes should line connection charges be waived?</p> <p>UNE 2.10.12</p>	<p>MCIIm’s proposed language unreasonably places the risk of all potential conversion delays on SBC Michigan. SBC Michigan is attempting to provide a conversion service, but cannot do so without 100% participation from all parties. That means the CLEC losing the customer, as well as the CLEC gaining the customer. Since these situations require all parties to cooperate, it is unreasonable to shift a disproportionate share of the risk on SBC.</p>	<p>In a situation where a customer is being served through an SBC switch (either as an SBC customer, as a customer of another CLEC, or as an MCIIm UNE-P customer) and the customer is now to be served through an MCIIm switch (so as to be a UNE loop customer of MCIIm), this language means that if during the course of this transition of service that the customer is out of service (meaning no dial tone) for more than 60 minutes solely due to SBC errors, that SBC would have to waive the applicable line connection charges.</p> <p>The specific language at issue would only waive the charges if the delay is “solely caused by Ameritech-Michigan. . . .” Accordingly, SBC’s concerns have already been addressed by the specific language which MCIIm is proposing. SBC’s testimony asserts that it is impossible for there to ever be a situation where SBC could be solely responsible for a prolonged loss of dial tone when migrating a customer to a CLEC switch. This SBC assertion is clearly erroneous.</p>
<p>71. What version of Ameritech-Michigan’s Facility Modifications and Construction Policy (FMOD) should apply to this contract?</p> <p>UNE 2.10.19</p>	<p>SBC Michigan advocates that the most current version of its FMOD policy, as it may change over the term of the contract, should apply. MCIIm, in contrast, prefers a FMOD policy that that was articulated nearly two years ago, and which can never change. This policy is stated in an Accessible Letter, titled, Unbundled Network Element Facility Modification &amp; Construction Policy – Issue 4.4, August 2001.</p> <p>To the extent SBC Michigan’s FMOD policy changes (subject, of course, to appropriate regulatory oversight), those changes should be reflected in this interconnection agreement. Otherwise, SBC Michigan would have to follow at least two FMOD policies, one that applies to MCIIm only, and one that</p>	<p>The parties have agreed that, for the purposes of this agreement, SBC Michigan will follow its Facilities Modifications and Construction Policy (FMOD) when facilities are not available to permit MCIIm access to UNEs. However, SBC Michigan should not be permitted to make unilateral changes to the FMOD without MCIIm’s agreement, and therefore MCIIm has proposed that the version of the FMOD to be used for this agreement should be specifically identified (Issue 71). SBC Michigan also should not be permitted to unilaterally withdraw the FMOD because it is part of this agreement, and SBC Michigan’s proposed language for Issue 72 should be rejected.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>applies to all other CLECs. The more efficient, and more reasonable, approach is to require one FMOD policy and apply that to all CLECs as that policy may change over time. MCIIm has adequate recourse should it disagree with the changes.</p> <p><b>Michigan</b> - U-11735 (Special Construction). Michigan Commission resolved issue in favor of Phone Michigan.</p> <p>U-12320 (271 Compliance), p. 16</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> (PUCO No. 01-1319 -TP-ARB), pp. 76-81, Issues 189 and 227. Ohio Commission ruled that SBC’s FMOD policy should not be incorporated into the parties’ interconnection agreement.</p>	
<p>72. May Ameritech-Michigan be permitted to discontinue its FMOD Policy on a statewide basis?</p> <p>UNE 2.10.19</p>	<p>Issue 72 is misstated, because SBC Michigan’s proposed contract language would not authorize SBC Michigan to discontinue its FMOD policy in Michigan. All the disputed language says is that SBC Michigan will perform in accordance with its FMOD Policy “<b><u>to the extent that FMOD Policy is continued in this state.</u></b>” The Commission can comfortably approve that language without even considering whether SBC Michigan can or cannot discontinue FMOD. If SBC Michigan cannot, then FMOD will continue and the disputed language will never come into play. But if SBC Michigan can, it would be absurd for the agreement to say that SBC must comply with FMOD even after it has been discontinued – which is what it would say if SBC Michigan’s language is excluded.</p> <p><b>Michigan</b> – U-11735 (Special Construction), p. 25. Michigan Commission resolved issue in favor of Phone Michigan.</p>	<p>See Issue 71.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p><b>Recent MCIIm/SBC Ohio Arb</b> (PUCO No. 01-1319 -TP-ARB), pp. 76-81, Issues 189 and 227. Ohio Commission ruled that SBC's FMOD policy should not be incorporated into the parties' interconnection agreement.</p>	
<p>75. May UNEs be combined with tariffed services other than collocation?  UNE 2.10.25</p>	<p>SBC Michigan must provide access to UNEs in a manner that allows the requesting carrier to combine those unbundled network elements as the CLEC may want, but SBC Michigan is not obligated to provide UNEs to allow a CLEC to combine UNEs with SBC Michigan's exchange access service or other tariffed service offerings. SBC Michigan's position does not impermissibly restrict MCIIm's rights to combine UNEs with other UNEs or its own facilities.</p> <p>The only plausible explanation for MCIIm's contract language is to arbitrate the system and avoid special access. Under the FCC's rules and the FCC's November 24, 1999, Supplemental Order in CC Docket 96-98, a CLEC can combine UNEs to provide exchange access service <u>only</u> if it also provides a significant amount of local exchange service to the end user. (Supplemental Order Clarification, ¶ 22.) Simply put, MCIIm's proposed language allows MCIIm to use a UNE/service combination to avoid such a requirement and use UNEs solely to provide exchange access to an end user in violation of the FCC's pronouncements</p> <p>MCIIm's proposed language also conflicts with this Commission's decisions within the 271 proceedings. During those proceedings, this Commission determined that the proposed UNE Combinations Tariff was appropriate and approved it. Within</p>	<p>The contract language proposed by Ameritech-Michigan for inclusion in the UNE Appendix at Section 2.10.25 which would prohibit UNEs other than tariffed collocation services from being combined does not comply with the rulings of the FCC. This language should therefore be rejected by the Commission.</p> <p>Further, this issue is related to an issue in the Level 3 arbitration (Case No. U-12460, order of October 24, 2000, pages 24-27) which was affirmed on appeal (Michigan Bell Telephone Co. v. Level 3 Communications, 218 F.Supp.2d 891, 900 (E.D.Mich., 2002)</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>that tariff, as within the MPSC Report, the Commission stated that both the FCC rules as well as the decision of the Verizon Order apply. It is within the Verizon Order that these types of “combinations” (co-mingling) are discussed and deemed inappropriate.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> (PUCO No. 01-1319 -TP-ARB), p. 77, Issue 188. Ohio Commission resolved this issue in favor of SBC Ohio and approved contract language virtually identical to language SBC Michigan proposes here.</p>	
<p>78. Should MCIIm be required to purchase collocation for access to unbundled Loops?</p> <p>UNE 3.10.4</p>	<p>Collocation is just one method for accessing UNEs. SBC recognizes that other means may exist for gaining access to unbundled loops and, in fact, identifies at least three methods of access that may or may not be applicable to a specific product, as defined in sections 3.5 to 3.9. MCIIm, in contrast, proposes vague, open-ended language with “or access via a third party.” Additionally, MCIIm’s language -- “<i>regardless of whether the unbundled network elements are already assembled or MCIIm combines the elements</i>” – has no basis in law. To the extent MCIIm wants to access loops in a manner not identified in SBC Michigan’s proposed language, it should follow the BFR process. This approach is much cleaner than adopting MCIIm’s proposed language that tries to anticipate future unknowns.</p>	<p>The language proposed by MCIIm at Section 3.10.4 is simply clarifying language which would prevent Ameritech-Michigan from requiring MCIIm to purchase physical collocation from Ameritech-Michigan, when ordering an unbundled loop. The language proposed by MCIIm should be adopted by the Commission in order to provide this safeguard.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>84. What terms should apply for loops provided over Integrated Digital Loop Carrier?</p> <p>UNE 5.3.1 (all)</p>	<p>The methods proposed by MCIIm are not the most efficient or cost-effective way to provide UNE loops where IDLC is deployed. Each of the methods is costly and can prematurely exhaust SBC Michigan facilities. This, in turn, could severely limit UNE availability for other CLECs, as well as service to SBC Michigan's customers. The FCC has already considered and rejected the same methods MCIIm proposes.</p>	<p>MCIIm has proposed language at Section 5.3.1 of the UNE Appendix which would prevent Ameritech-Michigan from refusing to provision an unbundled loop ordered by MCIIm if that loop is provisioned over integrated digital loop carrier and there is no copper or universal digital loop carrier spare available to which the loop may be moved. This ability to refuse a request from MCIIm is inconsistent with FCC orders and rule 47 CFR Section 51.319(a)(1) and would obviously place MCIIm at a great disadvantage. This SBC proposal could possibly impair MCIIm's ability to provide UNE-P based service. The Commission should adopt MCIIm's proposed language at Section 5.3.1.</p> <p>Case No. U-11831, order of August 31, 2000, p. 3.</p> <p>Before the Public Utilities Commission of the State of Hawaii, Docket 7702. <i>In the Matter of Instituting a Proceeding on Communications, Including and Investigation of the Communications Infrastructure of the State of Hawaii.</i></p> <p>In the Matter of: Petition by ITCDeltaCom Communications, Inc. for Arbitration of Interconnection Agreement with BellSouth Telecommunications, Inc Pursuant to Section 252(b) of the Telecommunications Act of 1996, DOCKET 27091, Alabama Public Service Commission, 2000 Ala. PUC LEXIS 161 at *17-*27, September, 2000.</p> <p>In the Matter of the Implementation of the District of Columbian Telecommunications Competition Act of 1996 and Implementation of the Telecommunications Act of 1996, Formal Case No. 962; Order No. 12610, District of Columbia Public Service Commission, 2002 D.C. PUC LEXIS 421, December 6, 2002 (at *235 and at *386-388).</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
		<p>In the Matter of the Complaint of McLeodUSA Telecommunications Services, Inc., against Indiana Bell Telephone Company Incorporated, d/b/a Ameritech Indiana, pursuant to the provisions of I.C. §§ 8-1-2-54, 8-1-2-68, 8-1-2-103, and 8-1-2-104 concerning the imposition of special construction charges, Cause No. 41570, Indiana Utility Regulatory Commission, 2000 Ind. PUC LEXIS 292, June 28, 2000, at *48.)</p> <p>Ohio Arbitration (Ohio Panel Report, 181-183)</p>
<p>85. May MCIIm request more than 25% of spare dark fiber in any requested segment?</p> <p>UNE 5.10.1</p>	<p>No. SBC Michigan’s limitation is reasonable and is identical to its tariff, Tariff MPSC 20R, Part 19, Section 18, Sheet 4, which this Commission has not taken issue with.</p> <p>As if that is not reason alone to adopt SBC Michigan’s position, here are more reasons. Dark fiber is not ubiquitously available in SBC’s network. A 25% limitation protects against MCIIm monopolizing dark fiber to the detriment of other CLECs that may also want it. Allowing MCIIm unlimited access to available dark fiber capacity in a segment could quickly, inefficiently and unfairly deplete the fiber capacity serving particular customer locations. This, in turn, might prevent another CLEC from offering a service to that location, for example broadband service that this State is leading the nation to bring to every doorstep, because it cannot access the fiber that it needs. The FCC thinks a 25% limitation is appropriately “moderate.”</p> <p><b>Michigan</b> - U-12540 (Cost Studies/UNE Offerings). Proceeding addressed issues related to Dark Fiber, which resulted in Tariff MPSC 20R, Part 19, Section 18, Sheet 4. Tariff includes 25% limit on dark fiber.</p>	<p>Ameritech-Michigan has proposed that MCIIm be limited to requesting no more than 25% of the spare dark fiber in a specific segment of the loop. Such restrictions should not be permitted, as it would be inconsistent with FCC Orders and rules and would unduly restrict the flexibility of MCIIm in offering services to Michigan consumers. As such, there is no basis for limiting MCIIm’s access to dark fiber beyond limitations already in place in the Agreement. The Commission should reject the Ameritech-Michigan -proposed language at 5.10.1.</p> <p>APPLICATION OF THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY FOR A TARIFF TO INTRODUCE UNBUNDLED NETWORK ELEMENTS, DOCKET NO. 00-05-06, Connecticut Department of Public Utility Control, 2001 Conn. PUC LEXIS 141, June 13, 2001 at *47-48</p> <p>Ohio Arbitration. Panel in the MCIIm/SBC Ohio arbitration, Case No. 01-1319-TP-ARB, rejected SBC Ohio’s 25% limitation, and SBC Ohio did not take an exception from this recommendation. (Ohio Panel Report, April 25, 2002, 185, available at <a href="http://dis.puc.state.oh.us/CMPDFs/GXSK\$F74G@II2GRS.pdf">http://dis.puc.state.oh.us/CMPDFs/GXSK\$F74G@II2GRS.pdf</a>).</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>U-12465 (AT&amp;T Arbitration). Tab 16, p. 13, Issue 47. Deferred to U-12540.</p> <p><b>Recent MCIIm/SBC Ohio Arb (PUCO No. 01-1319 -TP-ARB), pp. 206-209, Issue 199.</b> Ohio Commission resolved this issue in favor of MCIIm.</p>	
<p>87. Under what circumstances should MCIIm be required to relinquish unused dark fiber?</p> <p>UNE 5.11.2</p>	<p>In order to ensure that SBC Michigan has sufficient dark fiber to meet the needs of carriers other than MCIIm, MCIIm should be required to relinquish to SBC Michigan dark fiber that it has obtained from SBC Michigan under the circumstances set forth in SBC Michigan's proposed section 5.11.2 for the Appendix UNE. For example, if SBC Michigan provides dark fiber to MCIIm and MCIIm makes no use of it for a full year after obtaining access to it, MCIIm should be required to return the fiber to SBC Michigan so it can be used by a carrier that needs it.</p>	<p>As explained above with respect to Issue 85, there is no basis for limiting MCIIm's access to dark fiber beyond limitations already in place in the Agreement. The Commission should therefore reject the language proposed by Ameritech-Michigan at 5.11.2.</p>
<p>88. Should MCIIm be required to use the BFR process to request access to subloop segments not listed in section 6.6 of this UNE appendix?</p> <p>UNE 6.6 (chart #7)</p>	<p>MCIIm refuses to accept this Commission's prior rulings regarding the use of a BFR when requesting certain types of subloops. The Commission has approved the BFR process that allows a CLEC to request a subloop segment that has not been identified or is not listed in the UNE appendix. See Tariff MPSC 20, Part 19, Section 16, Original Sheet no. 6. SBC Michigan's UNE sub-loop offerings are consistent with the FCC's requirements. The FCC has identified specific segments that need to be unbundled as sub-loops and SBC Michigan developed its existing sub-loop products accordingly. MCIIm is apparently unhappy with that and wants access to other undefined sub-loop segments that the FCC has not identified, and SBC has not</p>	<p>Requiring MCIIm to use the BFR process to access subloops would create additional unneeded complexity, cost and uncertainty for MCIIm in its attempt to compete with Ameritech-Michigan. This is particularly true since there are already provisions for accessing subloops within the Agreement. The Commission should reject the language proposed by Ameritech-Michigan regarding this issue.</p> <p>RE: IN THE MATTER OF THE APPLICATION FOR APPROVAL OF INTERCONNECTION AGREEMENT BETWEEN U S WEST COMMUNICATIONS, INC. AND MCIMETRO ACCESS TRANSMISSION SERVICES, LLC., Decision No. C01-743; DOCKET NO. 96A-366T, Colorado</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>developed, but without following the BFR process already in place. The BFR process is in place and meets the needs and requirements for new, non-identified sub-loop segments.</p> <p><b>Michigan</b> - U-12540 (Cost studies /UNE offerings). Proceeding addressed sub-loop Terms and Conditions issues, which resulted in Tariff MPSC 20R, Part 19, Section 16, Sheet 3. Tariff states BFR process is required.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB), Issue 208. Ohio Commission resolved this issue in favor of SBC Ohio, ruling that, pursuant to FCC's rules, there must be an evaluation of technical feasibility and other factors before an additional UNE or point of interconnection is added to the Agreement, and that the BFR process is the appropriate vehicle for such a process.</p>	<p>Public Utilities Commission, 2001 Colo. PUC LEXIS 573, July 24, 2001, Mailed Date; July 18, 2001, Adopted Date, at *3-4). (See also, RE: THE APPLICATION FOR APPROVAL OF INTERCONNECTION AGREEMENT BETWEEN U S WEST COMMUNICATIONS, INC. AND MCI WORLDCOM COMMUNICATIONS, INC. fka MFS INTELENET, INC. et al. Decision No. C01-486; DOCKET NO. 96A-287T et al, Colorado Public Utilities Commission, 2001 Colo. PUC LEXIS 75, May 9, 2001, Mailed; May 21, 2001, at *4-6).</p> <p>IN THE MATTER OF THE IMPLEMENTATION OF THE DISTRICT OF COLUMBIA TELECOMMUNICATIONS COMPETITION ACT OF 1996 AND IMPLEMENTATION OF THE TELECOMMUNICATIONS ACT OF 1996, FORMAL CASE NO. 962; Order No. 12106, District of Columbia Public Service Commission, 2001 D.C. PUC LEXIS 184, August 23, 2001 at pars. 18-20.</p> <p>In the Matter of the Consolidated Petitions of AT &amp; T Communications of the Midwest, Inc., MCImetro Access Transmission Services, Inc., and MFS Communications Company for Arbitration with US WEST Communications, Inc. Pursuant to Section 252(b) of the Federal Telecommunications Act of 1996, DOCKET NO. P-442,421/M-96-855; P-5321,421/M-96-909; P-3167,421/M-96-729, Minnesota Public Utilities Commission, 1997 Minn. PUC LEXIS 49, March 17, 1997, at *33-36.</p> <p>In the Matter of the Petition of AT&amp;T Communications of the Pacific Northwest, Inc., for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to 47 U.S.C. Sec. 252(b) of the Telecommunications Act of 1996. (ARB 3) et al, Oregon Public Utility Commission, 1997 Ore. PUC LEXIS 144, January 6, 1997, at *9.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
		<p>AT&amp;T Communications of Indiana, Inc., TCG Indianapolis Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Indiana Bell Telephone Company, Incorporated, d/b/a Ameritech Indiana Pursuant to Section 252(b) of the Telecommunications Act of 1996 , Cause No. 40571-INT-03, Indiana Utility Regulatory Commission, 2000 Ind. PUC LEXIS 478, November 20, 2000, at *199-203</p>
<p>89. Should Ameritech-Michigan be required to provide subloops from the Optical Concentration Device?  UNE 6.6 (chart #9,10)</p>	<p>No. Once again, MCIIm is proposing to gain access to SBC Michigan's packetized, Project Pronto network. The Commission previously determined that SBC Michigan is not obligated to provide unbundled access to the packet switching components that it has deployed as part of its Project Pronto initiative, yet this is exactly what MCIIm's proposed language for this issue would require. In light of the fact that the MPSC previously found that SBC Michigan was not obligated to provide unbundled access to the packet switching components of its Project Pronto architecture, it makes no sense for MCIIm to attempt to force a contradictory ruling now that the FCC has indicated in its Triennial Review press release that it will not longer require <i>any</i> unbundling of packet switching..</p> <p><b>Michigan</b> - U-12540 (Cost studies/UNE offerings), p. 5 and pp. 2-3. This issue is related to Project Pronto unbundling.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> (PUCO No. 01-1319 -TP-ARB).</p>	<p>The Optical Concentration Device (OCD) is a definable point in the network where MCIIm can access a subloop without Ameritech-Michigan being required to remove a splice case or otherwise rearrange its network. In fact, the point in question is the same point that MCIIm (or any other CLEC) would access the feeder subloop that Ameritech-Michigan provides without objection. As such, MCIIm's request for subloops at this point is fully consistent with the FCC's subloop rules, and MCIIm's proposed language should be adopted.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	Issue 207, pp. 38-53. Ohio Commission resolved this issue in favor of SBC Ohio.	
<p>90. Should collocation or a Special Construction Arrangement be required to access subloops?</p> <p>UNE 6.9.1; 6.9.2</p>	<p>MCIIm seeks to ignore the existing, eminently practical process for requesting access to subloops by proposing that MCIIm instead be allowed to access subloops merely by submitting a Special Construction Arrangement (SCA) Application for access to subloops any time it wishes. The SCA was not designed, nor was it intended, to be used in the manner proposed by MCIIm. Rather, the SCA is used to establish an interconnection point, which is then used to gain access to an existing FCC UNE Remand identified sub-loop. It is the <b>only</b> process currently in place for establishing the necessary interconnection point.</p>	<p>Ameritech-Michigan has proposed language that would add expense and complexity to MCIIm’s effort to combine subloops. This additional expense and complexity is unnecessary and would only prevent MCIIm from accessing these elements in an expeditious manner. Further, the language proposed by Ameritech-Michigan is inconsistent with agreed to language in other parts of the Agreement concerning the appropriate process for accessing subloops. Ameritech-Michigan’s proposed language should therefore be rejected by the Commission.</p>
<p>91. Is Ameritech-Michigan’s provision of Engineering Controlled Splice (ECS) a required or voluntary offering?</p> <p>UNE 7.1</p>	<p>SBC Michigan’s ECS offering is strictly a voluntarily offering at non-Pronto sites, and not something that SBC Michigan is required or obligated to do.</p> <p>Even though SBC Michigan has not been required to do so, it offers the option of an ECS at identified non-Pronto sites in order to make it easier for MCIIm to gain access to those subloops at or near remote terminals. SBC Michigan is simply requesting that the agreement reflect the fact that this offering is “voluntary.”</p> <p><b>Recent MCIIm/SBC Ohio Arb --</b> (PUCO No. 01-1319 -TP-ARB), pp 84- 87, Issue 209. Ohio Commission ruled ECS at</p>	<p>Ameritech-Michigan has specifically engineered its new NGDLC architecture as a “closed environment” wherein additional equipment (e.g., the ECS) must be added to allow competitive access. As a result, Ameritech-Michigan proposes that competitors access its unbundled subloop UNEs using an ECS arrangement. Without the ECS, carriers can access Ameritech’s subloops only by collocating at each individual serving area interface (“SAI” - as many as 120 or more per wire center). In this respect, the ECS is a fundamental component of the unbundled subloop and must be held to the same standards of interconnection as the UNE itself (i.e., reasonable rates, terms and conditions consistent with Sections 251 and 252 of the Act).</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>non-Pronto sites is voluntary and approved the language SBC Michigan proposes here.</p>	<p>Because Ameritech-Michigan is <u>required</u> to provide access to its subloops and the ECS is the manner chosen by Ameritech-Michigan to allow such access, Ameritech-Michigan must therefore be <u>required</u> to provide the ECS arrangement.</p> <p>Cause No. 40611-S1, (IN THE MATTER OF THE COMMISSION INVESTIGATION AND GENERIC PROCEEDING ON AMERITECH INDIANA’S RATES FOR INTERCONNECTION, SERVICE, UNBUNDLED ELEMENTS, AND TRANSPORT AND TERMINATION UNDER THE TELECOMMUNICATIONS ACT OF 1996 AND RELATED INDIANA STATUTES, 2003 Ind. PUC Lexis 116 (February 17, 2003)) at * 98-*99.</p>
<p>92. What costs may Ameritech-Michigan properly impose on MCIIm for providing ECS?</p> <p>UNE 7.2.1 - 7.2.6</p>	<p>SBC Michigan’s proposal to recover from MCIIm SBC Michigan’s costs for the provision of ECS is reasonable and closely tracks language in SBC’s Project Pronto commitments adopted by the FCC in the <i>Project Pronto Waiver Order</i>. It is SBC’s position that SBC may in fact, charge for an ECS and associated work when an ECS is requested by the CLEC.</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB), pp. 84-87, issue 210. Ohio Commission resolved this issue in favor of SBC Ohio and adopted the same language SBC Michigan proposes here.</p>	<p>The ECS arrangement is required because Ameritech-Michigan has specifically designed its Project Pronto network in an inefficient manner. If Ameritech-Michigan had not “hardwired” connections between its NGDLC RTs and their respective SAIs, the ECS would be unnecessary (and the network would be more flexible). As such, the ECS is not a component of an efficient, forward looking network and its costs are not appropriately considered in rates associated with accessing UNEs. Indeed, the ECS is a prime example of why the FCC’s TELRIC rules allow recovery only for least cost network design. If Ameritech-Michigan is allowed to engineer its network so as to preclude reasonable access by competitors, and then to charge those competitors for overcoming this engineered inefficiency, Ameritech-Michigan will not only have complicated the process by which its competitors compete against it, but will be allowed to charge them for the pleasure.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>93. Should the Commission adopt Ameritech-Michigan’s language providing two options for implementing ECS?</p> <p>UNE 7.3 (all)</p>	<p>Yes. SBC Michigan has identified two options for the provision of ECS: the Dedicated Facility Option (“DFO”) and the Cross-connected Facility Option (“CFO”). If MCIm identifies a different option, SBC Michigan is willing to consider it via the Bona Fide Request process.</p> <p><b>Recent MCIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB), p. 87, Issue 211. Ohio Commission resolved this issue in favor of SBC Ohio and adopted the same language SBC Michigan proposes here.</p>	<p>See discussion of issues 91 and 92 above. Ameritech-Michigan would prefer not only to require CLECs to use its ECS to overcome its own engineered inefficiency (issue 91), and then to charge CLECs for this unnecessary complication (issue 92), but also to limit the options by which they can use the ECS to gain access to Ameritech-Michigan’s subloops. Ameritech-Michigan’s position defines “discrimination.” Ameritech-Michigan and its data affiliates are not similarly limited with respect to how they may use or access Ameritech-Michigan’s distribution network (e.g., subloop) and hence, CLECs cannot be limited either.</p>
<p>94. Should MCIm be required to submit a BFR for Feature Group D customized routing?</p> <p>UNE 8.3.1 and 10.8.3.4</p>	<p>MCIm contends that (1) BFRs are required only to order new UNEs, and (2) Customized Routing over Feature Group D (FGD) is not a new UNE, but a feature of an existing UNE – local switching. MCIm is wrong on point (1). Agreed section 3.1 of the BFR Appendix identifies not one, but several circumstances in which MCIm must submit a BFR, including to request “ (a) a method of Interconnection or access to an unbundled Network Element . . . not otherwise provided hereunder at the time of such request; (b) a method of Interconnection or access to an unbundled Network Element . . . that is different in quality to that which Ameritech-Michigan provides itself at the time of such request; or (c) a customized service for features, capabilities, functionalities or an unbundled Network Element . . . not otherwise provided hereunder at the time of such request. SBC Michigan’s standard offering for customized routing is over Feature Group C, and an MCIm request for Customized Routing over FGD falls within the circumstances identified in section 3.1. Accordingly, this</p>	<p>No. The bonafide request (“BFR”) process is used for CLECs to request new UNEs. Customized Routing over Feature group D is not a new UNE but is a feature of the unbundled local switching UNE SBC Michigan is already required to provide. Submitting MCIm’s request through a BFR process is not the proper procedure and would only serve to introduce unnecessarily delay and costs associated with MCIm’s request.</p> <p>1) CPUC Decision 10-09-054, dated September 20, 2001, <i>Application by Pacific Bell Telephone Company (U 1001 C) for Arbitration of an Interconnection Agreement with MCImetro Access Transmission Services, L.L.C. (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996.</i> Pages 11-13</p> <p>2) <i>UNE Remand Order ¶441, n. 867</i></p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p>Commission should resolve this issue in favor of SBC Michigan, as the PUCO did in the parties' recent arbitration in Ohio.</p> <p><b>Michigan -- U-12465 (AT&amp;T Arbitration), p. 12. Deferred to U-12320.</b></p> <p><b>Recent MCIIm/SBC Ohio Arb -- (PUCO No. 01-1319 -TP-ARB), pp. 19-21, Issue 213. Ohio Commission resolved this issue in SBC Ohio's favor.</b></p>	
<p>95. Under what rates, terms and conditions should Ameritech-Michigan be required to provide customized routing to MCIIm?</p> <p>UNE 8.3.1 and 10.8.3.1; Price List (458 <i>et. seq.</i>)</p>	<p>To the extent that MCIIm wishes to order customized routing from SBC Michigan other than that customized routing which SBC Michigan offers as a standard product, MCIIm should be required to submit a Bona Fide Request. In addition, SBC Michigan's duty to provide customized routing to MCIIm should be subject to such switch limitations as this Commission may approve.</p> <p><b>Recent MCIIm/SBC Ohio Arb -- (PUCO No. 01-1319 -TP-ARB), pp. 19-21, Issue 213. Ohio Commission ruled MCIIm must use BFR process to order customized routing.</b></p>	<p>MCIIm has proposed language that very closely tracks the FCC requirements for customized routing. Because MCIIm's requested customized routing affects the configuration of the switch, which is a UNE, such costs should be at UNE based rates and SBC should be required to file a simple cost study to justify those costs. MCIIm believes that tariff rates filed by SBC for the unbundled local switching network element necessarily include everything needed to accommodate MCIIm's requested method of customized routing whether Ameritech delivers it via Line Class Codes or via AIN.</p>
<p>96. Does the method of customized routing offered by Ameritech-Michigan relieve it of its obligation to provide OS/DA at UNE prices?</p> <p>UNE 1.2 and 10.8.3.3;</p>	<p>Under the applicable FCC Rules, an ILEC is not required to provide OS and DA as UNEs if it offers customized routing or a compatible signaling protocol for OS and DA. SBC Michigan believes it has satisfied those requirements by offering customized routing for OS and DA, as the PUCO held in the parties' recent arbitration in Ohio, but recognizes that this Commission has ruled otherwise.</p>	<p>SBC Michigan must implement customized routing to MCIIm's specifications such that MCIIm can actually route calls to itself or a third party. until such time as the MPSC finds that SBC Michigan actually provides customized routing to MCIIm in a manner consistent with the FCC's UNE Remand Order, SBC Michigan must continue to offer OS/DA as a UNE, at TELRIC rates.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

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Price List (879-884; 912-923)	<p><b>Michigan</b> – U-12465 (AT&amp;T Arbitration). Issue deferred to U-12320 (271 Compliance).</p> <p>U-12622 (Shared Transport), p. 16-23. Commissioned ordered SBC Michigan to provide OS/DA as UNEs.</p>	<p>1) Case No. U-12622, March 19, 2001 Order, 21-22</p> <p>2) <i>TDS Metrocom, Inc., And Ameritech Michigan</i>, Case No. U-12952, 2001 Mich. PSC LEXIS 332, September 7, 2001) 29-31</p> <p>3) <i>UNE Remand Order</i> ¶ 462</p> <p>4) Federal Communications Commission Memorandum Opinion and Order, <i>In re BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana</i>, CC Docket No. 98-121, 13 F.C.C.R. 20599 (Oct. 13, 1998)</p>
<p>97. Under what terms and conditions should Ameritech-Michigan provide packet switching?</p> <p>UNE 9.1 (all)</p>	<p>This is another issue where MCIIm improperly seeks access to SBC’s packetized switching network. SBC Michigan’s summaries of its positions on 30, 41, 42 and 89 explain why MCIIm’s request must be denied.</p> <p><b>Michigan</b> – U-12540 (Cost Studies/UNE Offering), p. 2-3. Michigan Commission rejected unbundling of Project Pronto.</p> <p>U-12465 (AT&amp;T Arbitration). Parties settled issue (Issue 27).</p> <p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB), p. 40 – 54, Issues 58 and 128. Ohio Commission ruled that an ILEC must offer packet switching on an unbundled basis only if four conditions set by FCC for unbundling packet switching are met, and that MCIIm failed to meet those conditions.</p>	<p>Ameritech-Michigan objects to the language proposed by MCIIm regarding this issue even though MCIIm’s language is, in Ameritech-Michigan’s words, “essentially an extrapolation of the FCC’s Packet Switching unbundling rules”. The Commission should adopt MCIIm’s proposed language with respect to this issue.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

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<p>98. Should collocation be necessary for MCIIm to connect interoffice facilities to equipment designated by MCIIm?</p> <p>UNE 10.1.1.3</p>	<p>MCIIm proposed language says that it has no obligation to collocate to connect interoffice facilities “<i>to such equipment designated by MCIIm.</i>” In other words, even in those instances when no other technically feasible option for accessing UNEs is available, MCIIm says it doesn’t have to collocate as long as it “designates,” presumably at its sole and unfettered discretion, certain equipment exempt. MCIIm is not entitled to that level of deference. SBC Michigan’s proposed language is superior and should be adopted.</p> <p><b>Michigan</b> – U-12465 (AT&amp;T Arbitration – 11/20/00 Order), p. 15. Michigan Commission resolved issue in favor of AT&amp;T.</p> <p>U-12952 (TDS Arbitration), pp. 10-13. Michigan Commission resolved issue in favor of TDS.</p>	<p>The language proposed by MCIIm at Section 10.1.1.3 is simply clarifying language that would prevent Ameritech-Michigan from requiring MCIIm to collocate in order to connect interoffice facilities to equipment designated by MCIIm when other more efficient and less costly methods are available and technically feasible. This language is consistent with other agreed to language regarding the general terms for interconnection contained within the Agreement and should be adopted by the Commission.</p> <p>Virginia Arbitration, par. 217.</p> <p>Before the Illinois Commerce Commission, Docket No. 01-0614, Order released June 11, 2002.</p>
<p>100. Which party’s definition of UNE-P should be included in the Agreement?</p> <p>UNE 16.2</p>	<p>SBC Michigan’s proposed definition should be approved because it precisely tracks SBC Michigan’s tariff. The UNE-P does not include access to SBC Michigan’s databases, vertical features or other items that MCIIm seeks to add to the tariff definition (except to the extent necessary for normal call processing).</p> <p><b>Michigan</b> – U-12320 (271 Compliance). SBC filed tariff in compliance with Michigan Commission’s order, in which it defined “UNE-P” consistently with the definition it offers here. <i>See</i> Tariff MPSC 20R, Part 19, §§15 and 23.</p>	<p>It is MCIIm’s position that the definition should make it clear that UNE-P includes databases, vertical features, and, at MCIIm’s option, operator systems and directory assistance. SBC has provided absolutely no testimony to support its proposed wording of the contract language at issue. Furthermore, the MCIIm proposed language is consistent with the manner in which UNE-P is presently being offered in Michigan and is also consistent with how UNE-P is defined in the AT&amp;T interconnection agreement and with the original MCIIm interconnection agreement which the present interconnection agreement will replace.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	<p><b>Recent MCIIm/SBC Ohio Arb</b> -- (PUCO No. 01-1319 -TP-ARB), pp. 11 - 15, Issue 22. Ohio Commission adopted the following language: “ ‘Network Element Platform’ or ‘UNE-P’ means the combination of a Loop, NID, Local Switching, Shared Transport, and signaling and call - related databases for the purpose of switch query and database response.”</p>	
<p>101. Should terms and conditions for combinations be contained in the Agreement or provided pursuant to the Michigan UNE Combinations Tariff Amendment, U-13230?</p> <p>UNE 16.3 – 16.8.3</p>	<p>This issue is similar to Issue No.63. SBC disagrees with MCIIm’s position that it should be able to take SBC Michigan’s tariff, along with the associated terms and conditions, and “freeze” that tariff into the interconnection agreement. The better approach, advocated by SBC Michigan, is to simply incorporate the tariff by reference. That way, any changes to the tariff, which may occur from time-to-time, will automatically become part of MCIIm’s contract.</p>	<p>Consistent with the position taken on similar issues, MCIIm opposes SBC Michigan’s proposal that UNE combinations, including the loop-transport combination known as EELs, be ordered via an interconnection agreement “amendment” and not pursuant to language set forth in this agreement. MCIIm has proposed to incorporate the terms and conditions of SBC Michigan’s UNE Combinations Tariff Amendment into this agreement, thus making clear the rights and obligations of each party and not providing SBC Michigan with an opportunity to unilaterally change these rights and obligations by changing the “amendment”.</p> <p>November 7, 2002, order in Case No. U-12320</p>
<p>102. Should terms and conditions for EELs Conversions be contained in the Agreement or provided pursuant to the Michigan UNE Combinations Tariff Amendment, U-13230?</p>	<p>This issue is the same as Issue No. 101. SBC disagrees with MCIIm’s position that it should be able to take SBC Michigan’s tariff, along with the associated terms and conditions, and “freeze” that tariff into the interconnection agreement. The better approach, advocated by SBC Michigan, is to simply incorporate the tariff by reference. That way, any changes to the tariff, which may occur from time-to-time, will automatically</p>	<p>See Issue 101.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIm brief summary of position and referenced to State commission arbitration ruling(s)
UNE 17 (all)	<p>become part of MCIm’s contract. Under SBC Michigan’s proposal, EELs will be made available via interconnection agreement amendment, which incorporates by reference Tariff MPSC 20R, Part 19, Sections 15 and 23.</p> <p><b>Michigan</b> – U-12465 (AT&amp;T Arbitration). Deferred issue to U-12320 (271 Compliance).</p>	
<p>103. For the purpose of intercarrier compensation, should Local Calling be defined by the physical location of the end user customers?</p> <p>Recip. Comp. 2.2</p>	<p>At issue is the definition of local calling area for purposes of intercarrier compensation. SBC Michigan respectfully requests the Commission to revisit the issue of intercarrier compensation for FX traffic. Numerous jurisdictions have consistently found such traffic to be interexchange in nature and therefore exempt from local reciprocal compensation. SBC Michigan believes it has overcome the defects identified in the Commission’s January 23, 2001 Order in Case No. U-12696, and that this issue merits fresh consideration at this time.</p> <p><b>Michigan</b> -- U-12952 (TDS Arbitration), pp. 22 – 25. Michigan Commission resolved issue in favor of TDS.</p> <p>U-12696 (Bifurcated Reciprocal Compensation/FX Application). Michigan Commission rejected SBC Michigan’s position.</p>	<p>Despite MPSC rulings to the contrary, SBC Michigan has proposed to exclude from intercarrier compensation arrangements calls terminated to customers not physically located in the SBC Michigan local calling area, known as Foreign Exchange (FX) calls. It is MCIm’s position that for reciprocal compensation purposes, the definition of local traffic doe not turn on the physical location of the end user customer receiving the call, based on well-settled law in Michigan and other jurisdictions.</p> <ol style="list-style-type: none"> <li>1) Case No. U-12382, Coast to Coast Telecommunications/ SBC Michigan Arbitration (August 17, 2000 Opinion and Order, 9)</li> <li>2) Case No. U-12460 (October 24, 2000) Level 3/SBC Michigan Arbitration, 9</li> <li>3) SBC Michigan/AT&amp;T Arbtration, Case No. U-12465 (November 20, 2000)</li> <li>4) SBC Michigan filed an application with this Commission in Case No. U-12696, seeking approval to exempt FX traffic from reciprocal compensation as local exchange traffic a January 23, 2001 Opinion and Order</li> </ol>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
		<p>5) XO Michigan arbitration with SBC Michigan, Case No. U-12992 (PDAP of September 10, 2001) also rejected SBC Michigan's position, at pages 11 and 12 (<i>id.</i>)</p> <p>6) Case No. U-12952, an arbitration involving TDS MetroComm and SBC Michigan. (September 7, 2001 Order, 24-25)</p> <p>7) Virginia arbitration, pars. 51-54</p>
<p>104. Should the Parties be permitted to agree not to compensate traffic terminated over Unbundled Local Switching (ULS)?</p> <p>Recip. Comp. 2.3</p>	<p>MCIIm proposes the following language: <i>“Local calls originated by Ameritech-Michigan and terminated over ULS, while qualifying for reciprocal compensation, may not require billing treatment if Ameritech-Michigan in turn agrees to forego UNE record exchange and related local switching charges.”</i> The language should be rejected on its face, because (1) SBC Michigan does not agree to the exchange that the language proposes, and (2) the word “may” makes the provision unworkable.</p> <p>MCIIm’s proposal is also objectionable (although this makes little difference in light of the fact that MCIIm’s language is framed as a proposed agreement and SBC Michigan declines to make the agreement), because ULS-terminated traffic should be treated the same as all other traffic for purposes of reciprocal compensation.</p> <p><b>Michigan -- U-12622 (Shared Transport), pp. 26 – 27.</b>  Michigan Commission stated that reciprocal compensation terms related to ULS-ST should not be addressed/imposed by the ULS-ST tariff but should be negotiated separately.</p>	<p>MCIIm has proposed that, for local service originated by an SBC Michigan customer and terminated to an MCIIm customer over SBC Michigan’s unbundled local switching (ULS), MCIIm is willing to forego reciprocal compensation on such calls and the record exchange required for such transactions, if SBC Michigan billing for ULS-terminating is suspended. If both reciprocal compensation and UNE-P are priced based on cost, then the money transaction would basically be equal, except that the parties would save the expense of issuing bills and auditing bills for these types of calls. Accordingly, this proposal creates an efficiency between the companies.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

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<p>105. Should Information Services traffic be exempted from Reciprocal Compensation?</p> <p>Recip. Comp. 2.5</p>	<p>Under 47 C.F.R. § 51.701(b)(1), information access traffic is not subject to section 251(b)(5) reciprocal compensation</p>	<p>SBC Michigan is required to pay reciprocal compensation at the tandem interconnection rate to MCIIm because MCIIm's switches providing service in Michigan serve a geographic area comparable to that served by SBC Michigan tandem switches. FCC Rule 51.711(b) MCIIm's local network employs state-of-the-art equipment and design principles based on the technology available today, particularly optical fiber rings utilizing SONET transmission. Using this transmission based architecture, it is possible for MCIIm to access a much larger geographic area from a single switch than does the ILEC switch in the traditional copper based architecture.</p> <p>1) Telecom Act, Sections 251(b)(5), 252(d)(2)(A)  2) FCC Rule 51.711(b)  3) <i>Local Competition Order</i>, paragraph 1089  4) <i>InterCarrier Compensation NPRM</i>.  5) MCIIm/SBC Michigan arbitration, Case No. U-11168  6) <i>MCI Telecommunications Corp. v. Michigan Bell Telephone Company</i>, 79 F.Supp.2d 768 (Dist.Ct. E.D. MI, 1999)  7) MediaOne Telecommunications of Michigan (MediaOne)/SBC Michigan arbitration, Case No. U-12198 (Order of March 3, 2000, at pages 17-18).  8) <i>Virginia Arbitration</i>, DA 02-1731, paragraph 309</p>
<p>106. Should Reciprocal Compensation rates be billed symmetrically regardless of whether traffic is terminated at a tandem or directly to an end office?</p>	<p>If MCIIm establishes, at any time during the life of the interconnection agreement, that its switch serves a geographic area comparable to the area served by an SBC Michigan tandem switch, then MCIIm will be entitled to charge SBC Michigan for tandem switching for all section 251(b)(5) telecommunications that MCIIm delivers to SBC Michigan at an SBC Michigan</p>	<p>See Issue 105.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
Recip. Comp. 4.1 – 4.1.1.3	<p>tandem switch, but not for telecommunications that MCIIm delivers to SBC Michigan at an SBC Michigan end office switch.</p> <p><b>Michigan</b> – U-12198 (MediaOne Arbitration). Tab 20, pp. 14 – 18. Michigan Commission resolved issue in favor of Media One.</p> <p>U-12465 (AT&amp;T Arbitration). Tab 16, p. 10, Issue 12. Michigan Commission resolved issue in favor of AT&amp;T.</p>	
<p>107. If MCIIm is permitted to charge tandem serving rates for a single switch, should MCIIm be permitted tandem transport facility and mileage charges between tandem and end offices, and for what mileage?</p> <p>Price List (951 <i>et. seq.</i>)</p>	<p>Having reviewed MCIIm’s testimony on this issue, SBC Michigan anticipates the parties will be able to settle the issue.</p> <p><b>Michigan</b> – U-12198 (MediaOne Arbitration), pp. 14 – 18. Michigan Commission resolved issue in favor of Media One.</p>	See Issue 105.
<p>108. What rates should apply for termination of intraLATA toll calls?</p> <p>Recip. Comp. 5.1</p>	<p>The Commission should reject MCIIm’s attempt to establish an intraLATA toll terminating rate that is higher than SBC Michigan’s rate and that can increase during the life of the agreement without SBC Michigan’s consent or meaningful Commission oversight. Instead, the Commission should cap MCIIm’s rate to terminate intraLATA toll calls at SBC Michigan’s rate for the same service. Such a cap would be consistent with the principle of rate symmetry that applies in the context of reciprocal compensation, and with the FCC’s conclusions, in an Order from which the Commission should</p>	<p>With its proposed language, SBC Michigan has unilaterally attempted to cap MCIIm’s switched access charges at its own level of exchange access charges, contrary to the Michigan access charge regime and the rulings of the MPSC. MCIIm opposes the language proposed by SBC Michigan.</p> <p>1) Case No. U-11660 (in its order of October 26, 1998)  2) Case No. U-12287 (In the matter of the complaint of AT&amp;T COMMUNICATIONS OF MICHIGAN, INC., against AMERITECH MICHIGAN, order of August 17, 2000)</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	take guidance, that CLEC interstate access charges are often inflated and bear no relationship to the CLECs' costs; on that basis, the FCC capped CLECs' interstate access rates at ILEC rates.	
<p>109. What processes should apply for assessing Percent Local Usage to determine appropriate termination rates?</p> <p>Recip. Comp. 13.2 – 13.4</p>	<p>The parties' competing language raises two separate questions. The first, which pertains to all of SBC Michigan's proposed language and most of MCIIm's proposed language for this issue, is how to treat excessive traffic that does not contain Calling Party Number ("CPN") information passed between the carriers. SBC Michigan's proposal to apply intraLATA toll charges when traffic passed without CPN exceeds 90% is reasonable and should be approved. In addition, PLU should be established on a semi-permanent basis and should be adjusted only in the event an audit indicates that adjustment is appropriate.</p> <p>The second question is embedded in the reference in MCIIm's proposed language to a scenario where "the originating Party . . . desires to combine interstate and intrastate toll traffic on the same trunk group." If MCIIm's reference to interstate toll traffic is intended to include interLATA traffic delivered from MCI (the IXC) to SBC Michigan's local end users, <i>i.e.</i>, interstate access traffic, then SBC Michigan opposes MCIIm's language. Such</p>	<p>Both parties have proposed methodologies for identifying the type of traffic passed between networks that has no CPN. MCIIm's proposal, using a PIU or PLU based on the originating carrier's traffic measurements for the prior three months, is a much more accurate and fair means by which to identify this traffic. SBC Michigan's proposal provides a windfall for SBC by assessing access charges on all traffic without CPN when the level of traffic with CPN falls below 90%.</p> <p><i>Virginia Arbitration</i>, ¶190</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	traffic is not a proper subject for this interconnection agreement; and such combining (if it includes such traffic) would create a risk of miscalculating the applicable usage factor.	
<p>110. Should Ameritech-Michigan, to the extent permitted by Intervening Law provisions of this Agreement, be able to implement the FCC ISP Compensation Order upon 20 days written notice?</p> <p>Recip. Comp. 14.1</p>	<p>SBC Michigan retains its right to avail itself of the rate cap plan set forth in the FCC’s April 27, 2001, Order, and SBC Michigan does not appear to dispute that. Nor, it appears, does MCIIm dispute the proposition that this agreement should specify that SBC Michigan retains that right. SBC Michigan believes it is appropriate to include specific language to address the effect such an election would have on the Parties’ reciprocal compensation arrangements. Omitting such terms and conditions from this agreement would leave the issue open to further negotiation and potential dispute. SBC Michigan’s language in Appendix Reciprocal Compensation § 14.1 reserving its rights to invoke the ISP Compensation Plan on 20-days notice is reasonable and should be adopted</p> <p><b>Michigan</b> – U-13725 (Amendment to LDMI interconnection agreement). Michigan Commission approved amendment, which included intervening law language substantially similar to what SBC Michigan proposes here.</p>	<p>MCIIm objects to SBC Michigan’s attempts to end-run the negotiation process contemplated in this Agreement by reserving its rights to “implement” the FCC’s <i>Intercarrier Compensation Order</i> on 20 days’ notice to MCIIm. In accordance with the agreed language of Section 1.1 of the Reciprocal Compensation Appendix, the parties will consider that order during the contemplated negotiations. Furthermore, there are details of the FCC’s order that must be addressed by the MPSC. SBC Michigan’s proposed language will simply cause confusion and should not be approved.</p> <p>1) <i>ISP Intercarrier Compensation Order</i> ¶¶ 8, 78, 89</p> <p>2) <i>In the matter of ACCUTEL OF TEXAS, INC., d/b/a 1-800-4-A-PHONE's petition for arbitration pursuant to Section 252(b) of the Telecommunications Act of 1996 to resolve open issues for an interconnection agreement with AMERITECH MICHIGAN. In the matter of the request for Commission approval of an interconnection agreement between ACCUTEL OF TEXAS, INC., d/b/a 1-800-4-A-PHONE and AMERITECH MICHIGAN (Case No. U-13352; and Case No. U-13448, 2003 Mich. PSC LEXIS 54)</i></p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

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<p>111a. What should the Agreement require with respect to the number of Points of Interconnection MCIIm shall maintain?</p> <p>NIM/ITR 2.7 and 2.8</p>	<p>Issue 111(a) concerns POI requirements. SBC Michigan’s position is that when MCIIm requests SBC Michigan to transport local calls on its network for a distance greater than a local calling area’s normal span, 15 miles, MCIIm should be required to pay SBC Michigan the “overage,” at TELRIC rates, in order to compensate SBC Michigan for the expensive interconnection. SBC Michigan’s position is consistent with, among other things, a recent federal court ruling and paragraph 199 of the FCC’s <i>Local Competition Order</i>.</p> <p><b>Michigan</b> – U-12465 (AT&amp;T Arbitration), p. 8. Michigan Commission resolved issue in favor of AT&amp;T.</p> <p>U-12382 (Coast to Coast Arbitration), pp. 3 – 5 (Order); pp. 4 – 5 (DAP). Michigan Commission resolved issue in favor of Coast to Coast.</p> <p>U-12198 (Media One Arbitration), pp. 3 – 4 (Order); pp. 4 – 6 (DAP). Michigan Commission resolved issue in favor of SBC Michigan.</p>	<p>a) It is well-settled that MCIIm may request interconnection at any technically feasible point on SBC Michigan’s network. Because of its more efficient network architecture, MCIIm is not required to mirror SBC Michigan’s network but may establish a single point of interconnection (POI) in a LATA. SBC Michigan’s proposed language is tantamount to requiring MCIIm to establish multiple POIs in a LATA and must be rejected by the MPSC.</p> <p>b) MCIIm may choose a single LATA-wide terminating interconnection at the tandem switch level, despite SBC Michigan’s unsupported claims of tandem exhaust.</p> <ol style="list-style-type: none"> <li>1) 47 U.S.C. § 251 (c)(2). FCC Rule 51.305 (a)(2)</li> <li>2) <i>Local Competition Order</i>, ¶¶172,198, 199, 220 n.464</li> <li>3) VA arbitration ¶232</li> <li>4) <i>MCI v. Verizon-Pennsylvania</i>, Civil No. 1:CV-97-1857, Memorandum and Order, p. 14 (U.S.D.C. for the Middle District of Pennsylvania, June 30, 2000)</li> <li>5) <i>US West Communications v. MFS Intelenet</i>, 193 F.3d 1112 (9<sup>th</sup> Cir. 1999)</li> <li>6) <i>US West v. Garvey</i>, File No.Civ. 97-913, 1999 U.S. Dist. LEXIS 22042,(U.S. District Court for Minnesota, March 31, 1999)</li> <li>7) <i>MCI v. U.S. West</i>, Case No. C97-1508R, 1998 U.S. Dist. LEXIS 21585 (U.S. District Court for Western District of Washington, July 21, 1998)</li> <li>8) <i>Illinois Commerce Commission, On Its Own Motion</i>, Revision of 83 Ill. Adm. Code 790, 99-0511, 2002 Ill. PUC</li> </ol>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

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		LEXIS 391, March 27, 2002, at *263-264 8) <i>In the Matter of the Petition of Global NAPs, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with Ameritech Ohio</i> , Case No. 01-3096-TP-ARB, Public Utilities Commission Of Ohio, 2002 Ohio PUC LEXIS 720, August 15, 2002 at *2-*6
111b. Should MCIIm be permitted to elect LATA wide terminating interconnection?  NIM/ITR 2.7.1, 2.7.2	Issue 111(b) concerns trunking requirements. MCIIm proposes that it be permitted to deliver traffic on trunk groups to a single SBC Michigan tandem for traffic LATA-wide. SBC Michigan counter-proposes that MCIIm be permitted to deliver the traffic to a single tandem building, but that traffic should be on trunk groups split out by tandem. SBC Michigan's approach is what is done today, conforms with routing as designated in the Local Exchange Routing Guide (LERG), and avoids problems of technical infeasibility due to tandem capacity.	See Issue 111a.
112. Should the Agreement contain terms governing the establishment of Foreign Exchange interconnection arrangements?  NIM/ITR 2.9	SBC Michigan is entitled to receive tandem switching and transport compensation, either common or dedicated, at the rates set forth in Appendix Pricing, for SBC Michigan's facilities used in the carriage of FX Traffic from the rate center where the calling party physically resides to the POI closest to the switch used for terminating calls to the rate center where the call terminates.  <b>Michigan</b> – U-12465 (AT&T Arbitration), p. 22 (Order); pp.255 – 257 (DAP). Michigan Commission resolved issue in favor of AT&T.	SBC Michigan has proposed language that would assess tandem switching and transport charges for Foreign Exchange (FX) traffic based on the geographic location of the customer, and would treat Foreign Exchange traffic crossing LATA boundaries as interLATA telecommunications traffic. MCIIm opposes such language for all of the reasons set forth in Issue 103.

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

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	<p>U-12382 (Coast to Coast Arbitration), pp. 5 – 11 (Order); pp. 5 – 9 (DAP). Michigan Commission resolved issue in favor of Coast to Coast.</p> <p>U-12460, (Level 3 Arbitration), pp. 8 – 9 (Order); pp. 5 – 6 (DAP). Michigan Commission resolved issue in favor of Level 3.</p>	
<p>113. Should MCIIm be financially responsible for obtaining the facilities that carry OS/DA, 911, mass calling, and Meet Point trunks?</p> <p>NIM/ITR 2.10</p>	<p>MCIIm should bear financial responsibility for the facilities underlying IXC traffic to and from its end users, as well as Operator Services, Directory Assistance, 911 and mass calling trunks to support its end users. In the case of IXC traffic, MCIIm recovers this investment with direct billing of the interexchange carrier. For all forms of traffic encompassed by this issue, including IXC traffic, MCIIm’s end users alone are being served by these trunks. SBC Michigan’s are not. The investment, therefore, should be made by MCIIm..</p>	<p>The language proposed by SBC Michigan would place financial responsibility for meet point trunks solely on MCIIm, which contradicts other sections of Appendix NIM/ITR that appropriately apportion the financial responsibility for meet point trunks between the parties.</p>
<p>114. May MCIIm use UNE transport for interconnection?</p> <p>NIM/ITR 3.3.1 and 4.1</p>	<p>This issue (notwithstanding the Issue statement) concerns the rates MCIIm will pay SBC Michigan when MCIIm is not collocated at SBC Michigan’s premises and leases transport facilities from SBC Michigan. The FCC recently addressed this issue in its Triennial Review Press Release dated February 20, 2003 in which it stated, “The Commission redefines dedicated transport to include only those transmission facilities connecting incumbent LEC switches or wire centers.” MCIIm is requesting that it be permitted to use unbundled dedicated transport to interconnect its switch with that of SBC Michigan, which is inconsistent with the FCC’s Press Release. Any question about SBC Michigan’s obligation to permit MCIIm to use unbundled</p>	<p>The parties have agreed that, as one method of interconnection, MCIIm lease transport facilities from SBC Michigan. These transport facilities must be based on TELRIC pricing and not SBC Michigan’s special access tariff.</p> <p>1) Airtouch Cellular/SBC Michigan arbitration in Case No. U-11973, April 29, 1999 Panel Report, 9, August 17, 1999 Order, 10-12</p> <p>2) <i>Michigan Bell Telephone Co. v. Airtouch Cellular</i>, 2002 U.S. Dist. LEXIS 6569 (U.S. Dist. Ct 2002) pages 12-13</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	dedicated transport for interconnection with its switch has been resolved. SBC’s proposed language in Appendix NIM/ITR § 3.3.1 that when MCIIm leases transport facilities from SBC Michigan, “it should be at rates found in the applicable access tariff” should be adopted.	3) MediaOne and SBC Michigan, Case No. U-12198, DAP January 28, 2000, at pages 15-16; March 3, 2000 Order pages 10-11.
115. When is mutual agreement necessary for establishing the requested method of interconnection?  NIM/ITR 3.4.4.3 and 3.5.1	Generally, SBC Michigan and MCIIm have agreed to jointly place fiber optical systems at points on SBC Michigan’s network designated by MCIIm. SBC Michigan proposes that MCIIm’s unilateral choice of placement should be confined, however, to areas where fiber is available. For remote areas that are not served by fiber, SBC Michigan should be allowed to participate in the decision whether an investment in burying fiber is prudent. MCIIm should not be permitted unilaterally to require a build-out anywhere in the LATA, without regard to whether fiber is available or not.  <b>Michigan</b> – Issue tangentially addressed in the following proceedings: U-12460 (Level 3 Arbitration), pp. 27 – 30 (DAP).  U-12382 (Coast to Coast Arbitration), pp. 3 – 5 (Order); pp. 4 – 5 (DAP).	SBC Michigan has taken the position that it has the right to refuse to interconnect in this manner at certain locations if fibers are not available and there is no “mutual benefit” to both parties. The requirement that there be mutual agreement for a fiber meet arrangement is tantamount to SBC Michigan’s refusing to enter into such an arrangement. SBC Michigan’s position is in violation of the Telecom Act mandate that MCIIm be permitted to interconnect at any technically feasible point on SBC Michigan’s network.  1) <i>In The Matter Of Implementation Of The Local Competition Provisions In The Telecommunications Act Of 1996</i> , CC Docket No. 96-98, <i>Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers</i> , CC Docket No. 95-185, FCC 96-325, Released: August 8, 1996 [ <i>Local Competition Order</i> at Paragraph 553]  2) . Telecom Act, Section 251 (c)(2)(B)  3) 47 C.F.R. § 51.321(a)  4) <i>Petition of Media One, Inc. and New England Telephone and Telegraph, for arbitration</i> , D.T.E 99-42/43, 99-52, August 25, 1999 at 24

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
		5) Complaint Of FBN-Indiana, Inc. Pursuant To 170 IAC 7-7 For Expedited Review Of A Dispute With Indiana Bell Telephone Company, Inc. D/B/A Ameritech Indiana Concerning Its Failure To Interconnect With FBN Under A Commission Approved Interconnection Agreement. Complaint Of FBN-Indiana, Inc. Pursuant To 170 Iac 7-7 For Expedited Review Of A Dispute With Indiana Bell Telephone Company, Inc. D/B/A Ameritech Indiana Concerning Its Failure To Interconnect With FBN Under A Commission Approved Interconnection Agreement, Cause No. 42001-INT-01-RD-01; Cause No. 42001-INT-01-RD-02, Indiana Utility Regulatory Commission, 2002 Ind. PUC LEXIS 415.
<p>118.  <b>SBC version:</b> Should MCIIm pay the tariffed access rate or a UNE TELRIC rate when MCIIm leases 911 circuits from Ameritech Michigan?</p> <p><b>MCIIm version:</b> Should 911 circuits when purchased from Ameritech-Michigan be Access or UNE based price?</p> <p>NIM/ITR 10.2 and 10.3</p>	<p>911 (Emergency Number Services) facilities that MCIIm leases from SBC Michigan (if any) are not a UNE. SBC Michigan has an Emergency Number Services Access (“ENSA”) Tariff (M.P.S.C. Tariff No. 20R, Part 23, Section 3) that sets forth the rates, terms and conditions for this service. This tariff provides parity in the provisioning of 911 Emergency Number Service Access for all carriers and there should be no exception for MCIIm.</p> <p><b>Michigan</b> -- See Tariff MPSC 20R, Part 23, Section 3, Sheet 9. ENSA tariff references FCC2 for circuit rates.</p>	<p>Similar to Issue 114, MCIIm may lease facilities from SBC Michigan for the purposes of 911 trunking, and the price for leasing such facilities must be TELRIC based and not based on SBC Michigan’s special access tariff.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>119. What is the appropriate methodology for calculating trunk utilization?</p> <p>NIM/ITR 18.7.1.1</p>	<p>MCIIm proposes an inefficient method for assessing how many trunks are required to support communications between the parties' end users. SBC Michigan proposes the industry standard methodology it uses in its own network, an average busy hour methodology. MCIIm proposes using the highest single hour in an entire three-month period to model its trunking needs for the next quarter. MCIIm's proposal would increase raise both parties' costs without any perceivable benefit to either party's end users.</p> <p><b>Michigan</b> – U-12460 (Level 3 Arbitration), pp. 33 – 35 (Order); p. 30 (DAP). Michigan Commission resolved issue in favor of SBC Michigan. Commission stated that the general interest of the CLEC community would be best served by SBC Michigan's trunk utilization rate.</p>	<p>MCIIm has proposed that trunk utilization calculations be based on the peak busy hour methodology because it is an accepted industry standard and better suits the MCIIm network.</p>
<p>120. What level of transit traffic should require MCIIm to interconnect directly with a third party carrier?</p> <p>NIM/ITR 22.5</p>	<p>MCIIm proposes that there be no limit on the volume of transit traffic (<i>i.e.</i>, traffic to or from a non-SBC Michigan end user) that MCIIm can route through SBC Michigan's tandem switches. SBC Michigan proposes a limit of 24 trunks worth of traffic between MCIIm and any third party carrier, at which point MCIIm and that carrier should route the traffic between their end users directly, without making use of SBC Michigan's tandem. SBC Michigan's proposal conserves an expensive resource – the tandem switch itself – and benefits the entire Michigan telecommunications industry by slowing the growth in numbers of tandems that need to be installed..</p> <p><b>Michigan</b> – U-12198 (Media One Arbitration), p. 4.</p>	<p>MCIIm has the duty to interconnect with other carriers, either directly or indirectly, in accordance with Section 251 (a) of the Telecom Act. Indirect interconnection is an efficient method of interconnection between carriers involving the use of SBC Michigan's facilities to provide transit service. SBC Michigan has proposed language that imposes a requirement on MCIIm to directly interconnect with other carriers when transit traffic reaches a certain level, thus preventing this indirect interconnection from occurring and frustrating the mandate of section 251 (a).</p> <p>1) <i>Local Competition Order</i>, ¶ 997  2) Telecom Act Sections 251 (a), 251(c)(2)  3) Ameritech-Sprint arbitration (order of January 15, 1997, Case</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
		No. U-11203) 4) Ameritech-AT&T arbitration (order of November 26, 1996, Case No. U-11151/11152)
<p>121. Should the Alternately Billed Services (ABS) arrangement be an Appendix within the ICA or a stand alone Agreement?</p> <p>ABS Appendix</p> <p>Attachment RG-2 attached to testimony of witness Robert Green</p>	<p>SBC contends that the handling of local and intraLATA ABS traffic is an integral part of any CLEC-ILEC Interconnection Agreement (ICA). The primary focus is collect calls to a local telephone number, both inbound (“Incollect”) and outbound (“Outcollect”), and is commonly included in Michigan ICAs in the UNE context (see, e.g., AT&amp;T-Michigan Bell Article 27.16 “Alternately Billed Calls,”) and in the switch-based context (see, e.g., TDS Metrocom-Michigan Bell, Appendix Billing, Collection &amp; Remittance). ABS contract terms have been approved by the MPSC and many other state PUCs in past ICAs, largely because collect calls can be placed locally as well as for toll charges. The ABS terms in the successor MCIIm ICA should similarly be subjected to MPSC approval under sec. 252 of the Act, and should be available for adoption by other carriers under sec. 252(i), and should be publicly filed in Lansing under sec. 252(f). MCIIm’s attempts to create a “side agreement” on ABS between CLEC and ILEC runs contrary to the Act and the public interest in fostering local competition in Michigan.</p>	<p>No. The issues related to ABS fall under billing and collection services, and have been deregulated and detariffed at the federal level effective January 1, 1987, as reaffirmed on April 1, 2001. Also, ABS has been de-regulated and de-tariffed in Michigan since at least 1990.</p> <p>The better resolution to issues 121 and 122 is to find that the ABS arrangement not be an Appendix within the ICA, but instead should be in a stand alone agreement that the parties are free to negotiate and not arbitrate. However, if the Commission determines that ABS needs to be a part of the Section 252 Interconnection agreement and if further details are needed, then the Commission should adopt the ABS Appendix attached to the testimony of Robert Green as Attachment RG-2. Attachment RG-2, which has been the subject of negotiations between the parties both as part of the negotiations for this arbitration and as part of unregulated negotiations, provides the appropriate details to allow each of the parties to reasonably and fairly manage billing, collection and settlement of ABS records. If the Parties fail to reach agreement through negotiation for ABS terms, MCIIm should not be obligated to do anything more than to provide Ameritech-Michigan with the necessary billing information for direct end user billing by the provider of the ABS call available to Ameritech-Michigan via the MCIIm tariff filed in Michigan.</p> <p><i>In the Matter of Detariffing of Billing and Collection Services, CC Docket No. 85-88, 1986 WL 292611, (adopted: January 14, 1985,</i></p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
		<p>Released: January 29, 1986). Paragraphs 1 and 38.</p> <p><i>In the Matter of Calling Party Pays Service Offering in the Commercial Mobil Radio Services</i>, WT Docket No. 97-207, FCC 99-137, (adopted: June 10, 1999, Released: July 7, 1999), Paragraph 59.</p> <p><i>In the Matter of Calling Party Pays Service Offering in the Commercial Mobil Radio Services</i>, WT Docket No. 97-207, FCC 01-125, (adopted: April 9, 2001), Paragraph 2.</p> <p>Case No. U-8832 (order of August 9, 1990, as amended on August 22, 1990, 1990 Mich.PSC Lexis 211).</p> <p>December 22, 1992, order in Case No. U-10064 (1992 Mich.PSC Lexis 167) at note 1 (page 3) and at p. 19.</p>
<p>122.  <b>SBC version:</b> If the Parties fail to reach agreement thru negotiation for ABS terms, should MCIIm be required to, at a minimum, bill it's End-Users, Collect and Remit payment to Ameritech-Michigan for the billing charge?</p> <p><b>MCIIm version:</b> If the Parties fail to reach agreement through</p>	<p>SBC and MCI have not reached agreement on the handling of ABS traffic between our companies, and thus every disputed term of this Appendix must be arbitrated. The overarching contract issue is who should bill the end user for the ABS charges he or she accepts. SBC's contract proposal simply states that unless and until other arrangements are made, MCIIm should be required to bill MCIIm end users for the Incollect traffic its end users accept, just as SBC will bill SBC end users for the Outcollect traffic its end users accept. MCIIm is not being asked to do anything for ABS traffic flowing in MCIIm's direction, that SBC is not willing to do when the ABS traffic flows in SBC's direction. In this manner, each company is obligated to bill, collect and remit the ABS charges to the other, in a way that is symmetrical, reciprocal, and in compliance with long-standing industry practice regarding this type of alternately billed traffic.</p>	<p>See MCIIm comments on Issue 121.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>negotiation for ABS terms, should MCIIm be obligated to do more than provide Ameritech-Michigan with the necessary billing information for direct end user billing by the provider of the ABS call available to Ameritech-Michigan via MCIIm Tariff filed in Michigan?</p> <p>ABS Appendix</p> <p>Attachment RG-2 attached to testimony of witness Robert Green</p>		
<p>123. Should the scope of the Alternately Billed Services (ABS) include traffic other than Local and Local Toll Collect, Third Party and Calling Card CATS and Non-CATS Traffic?</p> <p>ABS Appendix</p> <p>Attachment RG-2 attached to testimony of witness</p>	<p>SBC's contract proposal defines ABS just as every other CLEC and ILEC in Michigan have always understood it: calling card, collect and third number billed calls. SBC's ABS proposal further limits the scope to only those ABS calls billed to or from UNE-P end users, and only for local and intraLATA dialed calls. MCIIm's definition seeks to expand on this traditional definition of ABS, and include other types of pay-per-minute calling such as 900/976 number information services, and perhaps even IXC handled traffic on an InterLATA basis. SBC does not agree to include Information Services and InterLATA traffic in the ABS Appendix, since 251(g) of the Act carves out Information Access and InterLATA Exchange Access from the scope of § 1-252 local interconnection. Moreover, 900/976 calling differs from 0-</p>	<p>No. 900, 976, pay-per-call (PPC), Information Services (IS) or Community Information Services (CIS) are not the same as ABS. This traffic cannot be alternately billed (i.e., no collect, third number or LEC calling card billing). 900/976/PPC/IS/CIS is not related to the interconnection agreement, but is solely the result of third party agreements between SBC-Michigan and the IPs. It is not explicitly clear whether 900/976/PPC/IS/CIS is included or not included under the SBC-Michigan proposal. MCIIm is not interested in providing billing and collection to its end users for this type of service. Additionally, MCIIm has provided language in Section 6.5 of MCI's proposed ABS Agreement authorizing SBC-Michigan to block MCIIm end user access to all 900/976/PPC/IS/CIS numbers transported by SBC-Michigan.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
Robert Green	dialed collect calling in that 900/976 is ancillary, optional type traffic, and 0+/0- operator-assisted dialing is basic local telephony.	MCIIm’s proposed language in Section 4.2 and 4.3 of Attachment RG-2 clearly indicates which traffic would be covered by such an agreement and which types of traffic would not. This language is necessary to ensure SBC-Michigan or any of the Participating LECs/CLECs do not utilize this agreement for the billing of dial one, long distance or other types of non-ABS charges.
<p>124. What other terms and conditions should govern ABS?</p> <p>ABS Appendix</p> <p>Attachment RG-2 attached to testimony of witness Robert Green</p>	<p>SBC’s contends the parties ABS Appendix should cover these core terms regarding ABS traffic: (1) Billing and Remitting ABS charges, (2) Answering End User Inquiries, (3) Adjusting Unbillable or Rejected ABS calls, and (4) Blocking lines with unpaid ABS charges (“Uncollectibles”). SBC’s Appendix covers all four of these main topics with a section heading for each point. MCIIm first proposes a four sentence clause for the entirety of the ABS Appendix, saying only that each party shall “direct bill” the other party’s end users for ABS charges. Then, confusingly, MCIIm proposes in its responsive testimony a 36-page ABS Appendix of its own, covering many other topics not directly related to ABS traffic in the UNE environment. Interestingly, though, even the MCIIm 36-page proposal covers the four core ABS concepts outlined above, which shows that the ABS Appendix should cover more than just a “direct billing” requirement in their four-sentence proposal.</p>	<p>See, MCIIm comments on Issue 121. Additionally, any agreement between the parties should address the following situations, which the SBC proposal fails to address: 1.) a clearly defined reciprocal situation where MCIIm is the transporting LEC and has ABS that is billable to SBC-Michigan’s end users or end users of ILECs/CLECs that participate in SBC-Michigan’s non-CAT’s Clearinghouse process; 2.) clarification of which ABS types will be settled by whom; 3.) clarification that CATS settlement will only occur for those ILECs/CLECs in the BOC region that are participating LECs; 4.) providing for the purchase of accounts receivable for either party; 5.) should have a clearly defined settlement process; 6.) should allow the CLEC to follow its own procedures for recourse of all types of uncollectibles; 7.) should provide for reasonable terms for recourse for any uncollectibles; 8.) should not provide for the CLEC to contact third parties directly to resolve any disagreements regarding third party ABS messages; 9.) should address the calculation, billing, and payment of end user taxes to the appropriate taxing agency; 10.) should allow the CLEC to follow its own processes for handling customer service inquiries and end user treatment and collections; 11.) should be in compliance with Truth in Billing regulations; 12.) should adequately address the issue of lost messages; 13.) should have reasonable pricing for ABS; 14.) should not allow the retroactive billing of messages up to 6 months old; 15.) should address the right of either party to audit or examine the ABS services and settlement process; 16.) should address</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIm brief summary of position and referenced to State commission arbitration ruling(s)
		confidentiality and publicity issues; 17.) should address when the payments resulting from monthly settlement activities are due to each party; 18.) should have reasonable billing options; 19.) should not require billing to end users within 30 days of receipt of the daily usage feed (DUF).
<p>125.  <b>SBC version:</b> What should MCIm be permitted to charge for billing and collection activity?</p> <p><b>MCIm version:</b> See Issue 124.</p> <p>Price List 979 (et. seq.);</p> <p>Attachment RG-2 attached to testimony of witness Robert Green</p>	<p>SBC contends that \$.05 per message is the current industry standard “billing and collection” fee to cover the costs associated with processing ABS charges each month. Many Michigan ICAs from the 1990s set the billing and collection fee at \$.03 per minute, which is what SBC has been willing to pay MCIm under its prior Michigan ICA for ABS calls. Nevertheless, for the successor ICA, SBC is willing to pay a \$.02 increase to cover inflation and other additional billing and operational costs, which represents a 66% increase in just a few years time. No further increase is warranted, and in fact, MCIm’s economies of scale in billing large numbers of UNE-P end users should work to hold costs down. Given these facts, MCIm’s proposal of \$.30 or more for billing and collection is far in excess of industry norms, and is indicative of the MCIm estimation that Inbound collect calling (“Incollects”) will exceed Outbound collect calling (“Outcollects”), thus creating another arbitrage opportunity on the payment of the B&amp;C fee between the companies.</p>	<p>See MCIm discussion on Issue 124. The rates which should be applicable are set forth in Attachment RG-2 to the testimony of Robert Green.</p>
<p>126.  <b>SBC version:</b> If MCIm undertakes billing and collection, should MCIm LIDB block uncollectible accounts?</p>	<p>SBC contends that this issue mistakenly focuses only on MCIm, because in § 11.2 of SBC’s ABS Appendix, SBC offers to block Outcollect traffic to SBC end users who do not pay, just as it is asking MCIm to block Incollect traffic to MCIm end users who do not pay. The blocking of unpaid accounts is an industry standard practice which utilizes the Line Information Database</p>	<p>See MCIm discussion of Issue 124. No. MCIm agrees with SBC-Michigan that blocking is the way to alleviate financial risk due to non-payment by an end user but does not agree that the CLEC is somehow responsible for ABS blocking. SBC-Michigan can or should have the operational ability to block completed calls originating on their network. Additionally, if SBC-Michigan does</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
<p><i>MCIIm version:</i> See Issue 124</p> <p>ABS Appendix</p> <p>Attachment RG-2 attached to testimony of witness Robert Green</p>	<p>(LIDB) to block collect and other ABS calls while permitting regular local calling to occur. The LIDB block prevents the non-paying end user from accepting collect calls in the first place. In SBC's view, if end users do not pay for their ABS charges, then they forfeits the right to continue accepting collect calls until the past due charges are paid. SBC blocks its nonpaying end users, and believes MCIIm should do the same, or else fraudulent calling patterns will emerge from end users who have no intention of paying their bills.</p>	<p>not wish to bill ABS, MCIIm has indicated that it has no objections if SBC-Michigan blocks end users from utilizing local alternate billing options (i.e., local collect, third party billing, and ILEC/CLEC calling card) that originate on SBC-Michigan's network and bill to MCIIm's customers as long as SBC-Michigan does not block the ability of these MCIIm customers to receive IXC third party billed or collect calls that are transported by an IXC such as 1-800-Collect or 1-800-CALL-ATT. However, MCIIm strongly disagrees that TBE Blocking of end user access to the network for any form of ABS Local and Interexchange transport is appropriate to ensure SBC-Michigan has a billing and collection arrangement through the CLECs.</p>
<p>127.</p> <p><i>SBC version:</i> What requirements should apply to the handling of end user customer inquiries?</p> <p><i>MCIIm version:</i> See issue 124</p> <p>ABS Appendix</p> <p>Attachment RG-2 attached to testimony of witness Robert Green</p>	<p>SBC offers to assist MCIIm in answering end user inquiries as a normal part of the ABS billing and collection process. MCIIm's 36-page contract proposal makes reference to answering end user inquiry, but proposes assessing an "inquiry charge" for doing so. SBC, on the other hand, proposes that both parties answer end user inquiries without charge to the other party or the inquiring customer. SBC's proposal even details the email address and response intervals by which such inquiries will be handled by SBC, and is clearly superior to leaving the matter silent in the contract, as is MCIIm's first proposal.</p>	<p>See MCIIm position on Issue 124. Additionally, MCIIm should be allowed to follow its own procedures for handling customer service inquiries. SBC-Michigan's proposal would require MCI to submit a claim for a post billing adjustments related to end user customer complaints and inquiries. SBC-Michigan's ABS appendix proposal provides no acceptable standard, process or practice for adjusting an end user accounts. Without such a process MCIIm has no right of recourse for a post billing adjustment thereby allowing SBC-Michigan to defer the burden, business risk and responsibility for post billing adjustments squarely back on MCIIm. In addition, with the sole and exclusive right to determine a claim disposition related to post billing adjustments, SBC-Michigan further unfairly defers their business risk and responsibility related to ABS on MCIIm. The SBC-Michigan proposed requirements are exceptionally burdensome both on MCIIm and the end user. The direct result is that the MCIIm end user cannot resolve a request for ABS adjustment in a single call or within a reasonable definable timeframe. MCIIm, under the SBC proposal, would be unreasonably required to</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
		facilitate this burdensome process to the detriment of MCIIm end users or to take all SBC-Michigan's business risk and responsibility related to the post billing adjustment portion of SBC-Michigan Uncollectibles.
<p>129.  <b>SBC version:</b> Who's responsible for administering MCIIm's LIDB data?</p> <p><b>MCIIm version:</b> Should MCIIm be required to negotiate a separate LIDB Administration and Storage Agreement?</p> <p>LIDB 6.5</p>	<p>SBC Michigan has no obligation to administer MCIIm's LIDB data. In the absence of a LIDB-AS Appendix to address specific terms and conditions relative to SBC Michigan's administration of MCIIm's LIDB data, SBC Michigan's minimal language in this Appendix clarifies for this agreement that MCIIm is responsible for administering its own LIDB data.</p>	<p>The language proposed by SBC Michigan is unnecessary because MCIIm does not store its customers' information in the LIDB database, with the exception of UNE-P customer information that SBC Michigan adds to the database. At the time that MCIIm houses information in the LIDB database, a separate agreement can then be negotiated.</p>
<p>130. For two-way interconnection trunks, should the parties apportion costs other than 50/50 by applying a "Relative Use Factor"?</p> <p>NIM 8.2.1 and 8.2.2</p>	<p>MCIIm proposes that each party bill the other for the use of facilities on its side of the POI. Billing would be for the percentage of those facilities used by the other company. SBC Michigan opposes this proposal, because it would be an awkward and expensive way to apportion interconnection costs compared to the method the parties have already agreed to elsewhere – namely, that MCIIm may place the Point of Interconnection where it desires, and thereby apportion which Party physically provides what percent of the facilities. Among SBC Michigan's objection to MCIIm's proposal is its lack of specifics — what rate, how is percentage calculated, how do trunks relate to trunk facilities, and how is the information to be captured. Finally, MCIIm should not be able to have it both ways by being allowed</p>	<p>MCIIm has proposed a reasonable method by which to allocate the shared costs of usage on two-way trunks. The Relative Use Factor (RUF) assumes that the traffic is in balance at 50/50 usage by both parties unless one party can demonstrate a different factor, based on three calendar months of usage.</p> <p>1) <i>Local Competition Order</i> ¶ 1062</p> <p>2) <i>In the Matters of TSR Wireless, LLC, et. al., v. U.S. West Communications, Inc., et. al.</i>, File Nos. E-98-13, E-98-15, E-98-17, E-98-18, FCC 00-194</p> <p>3) <i>In The Matter Of The Petition Of Level 3 Communications,</i></p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
	to specify the physical design (location of the POI) and then to charge SBC Michigan for the outcome of MCIIm's decision.	<p><i>LLC For Arbitration Pursuant To Section 253(B) Of The Communications Act Of 1934, As Amended By The Telecommunications Act Of 1996, With Qwest Corporation Regarding Rates, Terms And Conditions For Interconnection, Docket No. T-03654A-00-0882; Docket No. T-01051B-00-0882; Decision No. 63550, Arizona Corporation Commission, 2000 Ariz. PUC LEXIS 4, April 10, 2000, at *15-16</i></p> <p><i>4) In The Matter Of The Petition Of MFS Communications Company, Inc., For Arbitration Pursuant To 47 U.S.C. § 252(B) Of Interconnection Rates, Terms And Conditions With U S West Communications, Inc., Decision No. C02-1433; DOCKET NO. 96A-287T, Colorado Public Utilities Commission, 2002 Colo. PUC LEXIS 1373, December 18, 2002, at * 1.</i></p> <p><i>5) In the Matter of the Request for Approval of Negotiated Agreement Under the Telecommunications Act of 1996 Between MCI WORLDCOM COMMUNICATIONS, INC., f/k/a MFS INTELENET, INC., and QWEST CORPORATION, f/k/a U S WEST COMMUNICATIONS, INC., Docket No. UT-960323, Washington Utilities and Transportation Commission, 2002 Wash. UTC LEXIS 457, November 17, 2002.</i></p> <p><i>6) In The Matter Of The Application Of Qwest Corporation Regarding Relief Under Section 271 Of The Federal Telecommunications Act Of 1996, Wyoming's Participation In A Multi-State Section 271 Process, And Approval Of Its Statement Of Generally Available Terms, Docket No. 70000-TA-00-599, (Record No. 5924), Wyoming Public Service Commission, 2002 Wyo. PUC LEXIS 450, September 25, 2002, Issued; September 25, 2002, at *17</i></p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
<p>131.  <b>SBC version:</b> Should the Parties' interconnection agreement reflect the order(s) and regulations, if any, that the FCC promulgates in its Triennial Review proceeding before the date on which this Commission approves the parties' interconnection agreement?</p> <p>SBC contract reference:  None. (See SBC Petition para. 9.)</p> <p><b>MCIIm version:</b> Has SBC waived issue 131, or if it has not waived the issue should the parties follow the agreed-upon section 23 of the General Terms and Conditions Appendix with respect to changes in the law which have occurred since the submission of information by the parties on April 11 and May 6?</p> <p>MCIIm contract reference:</p>	<p>The FCC announced its decision in the Triennial review of its UNE policies on February 20, 2003, and is now expected to enter its order embodying that decision in May 2003. MCIIm's and SBC Michigan's interconnection agreement negotiations were, necessarily, predicated on the FCC's pre-Triennial Review rules. When the FCC issues its Triennial Review order, however, the rules will change – and the change is expected to occur months before the agreement that emerges from this arbitration is approved. The agreement that this Commission approves should reflect significant changes of law that can now be anticipated.</p>	<p>SBC has waived this issue. Furthermore, GTC Section 23 covers any order now made public (after the April 11 and May 6 filings in this matter) in the Triennial Review or any other proceeding. See, MCIIm's Answer to paragraph 9 of SBC's Petition.</p>

Case No. U-13758 -- May 13, 2003  
JOINT SUBMISSION OF IDENTIFICATION OF ISSUES  
ISSUE MATRIX OF OPEN (UNRESOLVED) ISSUES, With Summary of party positions,  
and references to other commission arbitration rulings in Michigan and elsewhere

Open Issue Number with index to contract language	SBC Michigan brief summary of position and referenced to State commission arbitration ruling(s)	MCIIm brief summary of position and referenced to State commission arbitration ruling(s)
GTC Section 23.		