

FRASER TREBILCOCK DAVIS & DUNLAP, P.C.
LAWYERS

PETER L. DUNLAP³
DOUGLAS J. AUSTIN
MICHAEL E. CAVANAUGH
JOHN J. LOOSE
DAVID E.S. MARVIN⁴
STEPHEN L. BURLINGAME
DARRELL A. LINDMAN
IRIS K. LINDER
GARY C. ROGERS
MARK A. BUSH
MICHAEL H. PERRY
BRANDON W. ZUK
DAVID D. WADDELL
MICHAEL C. LEVINE
THOMAS J. WATERS
MARK R. FOX^{2, 4}
MICHAEL S. ASHTON
H. KIRBY ALBRIGHT
GRAHAM K. CRABTREE
MICHAEL P. DONNELLY
EDWARD J. CASTELLANI⁵
NAN ELIZABETH CASEY

PETER D. HOUK¹
JONATHAN E. RAVEN
THADDEUS E. MORGAN
ANNE BAGNO WIDLAK
ANITA G. FOX⁶
ELIZABETH H. LATCHANA
TODD D. CHAMBERLAIN
RYAN M. WILSON
KENNETH S. WILSON²
ROBERT B. NELSON
BRIAN P. MORLEY²
JOHN D. MILLER⁷
TONI L. HARRIS⁸
RYAN K. KAUFFMAN
JOSHUA S. SMITH
KATHERINE A. WEED
JENNIFER UTTER HESTON
DOUGLAS L. MINKE
NICOLE L. PROULX
VINCENT M. PECORA

124 WEST ALLEGAN STREET, SUITE 1000
LANSING, MICHIGAN 48933

TELEPHONE (517) 482-5800

FACSIMILE (517) 482-0887

WEBSITE WWW.FRASERLAWFIRM.COM

Writer's Direct Dial: (517)377-0875

Detroit Office
Telephone (313) 237-7300
Facsimile: (313) 961-1651

Archie C. Fraser (1902-1998)
Everett R. Trebilcock (1918-2002)
James R. Davis (1918-2005)

Of Counsel
Donald A. Hines
Ronald R. Pentecost

¹Retired Circuit Judge

²Also Licensed in Florida

³Also Licensed in Colorado

⁴Also Licensed in District of Columbia

⁵Also Certified Public Accountant

⁶Also Licensed in North Carolina

⁷Also Licensed in Georgia

⁸Also Admitted by U.S. Patent and Trademark Office

June 14, 2006

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way, Ste. 7
Lansing, MI 48911

In re: In the matter of Sprint Communications Company L.P.'s petition for de novo review pursuant to MCL 484.3117 of Determination No. 5 made by the METRO Authority
MPSC Case No. U-14878

Dear Ms. Kunkle:

Enclosed for filing is a Petition for Leave to Intervene of XO Communications Services, Inc. and a Proof of Service of the same. Please call if you have any questions regarding the enclosure.

Very truly yours,

FRASER TREBILCOCK DAVIS & DUNLAP, P.C.



Michael S. Ashton

MSA/dkl
Enclosure

cc: Steven D. Hughey
Roderick Coy
Melvin Farmer, Jr.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

MPSC Case No. U-14878

**PETITION FOR LEAVE TO INTERVENE OF XO
COMMUNICATIONS SERVICES, INC.**

XO Communications Services, Inc. ("XO"), by and through its legal counsel Fraser Trebilcock Davis & Dunlap, P.C., and pursuant to Rule 201 of the Rules of Practice and Procedure before the Commission, hereby petitions the Michigan Public Service Commission for leave to intervene in the above-entitled proceeding. In support of its Petition, XO states:

1. XO is a Delaware corporation with a business office at 810 Jorie Blvd, Ste 200, Oak Brook, IL 60523.
2. XO is a licensed provider of local exchange service in the State of Michigan and provides a variety of telecommunications services in Michigan.
3. In its May 25, 2006, Order and Notice of Hearing, this Commission stated that "this case involves a question of first impression." *Id.* at p 1.
4. The issue identified by the Commission is whether providers are required to pay METRO Act fees for facilities that are leased from other providers.
5. The Commission recognized that this issue was likely to impact a large number of interested parties. In issuing its Order and Notice of Hearing, the Commission stated:

Because Sprint's petition presents a question of first impression that involves a previously untested *de novo* review procedure and

will likely affect numerous interested persons, the Commission finds that this matter should be set for a prehearing conference before an administrative law judge. Toward that end, the Commission directs that copies of this order and notice of hearing be served on Sprint, the METRO Authority, all providers of telecommunications services who routinely receive invoices from the METRO Authority, The Michigan Municipal League, and the Michigan Townships Association. In addition, in the interests of fairness and broad participation, the Commission encourages the METRO Authority to place a conspicuous notice of the intervention procedures and the prehearing conference on its website.

6. In previous cases, the Commission has adopted the two prong test for standing set forth in Association of Data Processing Service Organizations Inc v Camp, 397 US 150; 90 S Ct; 250 L Ed 184 (1970). XO meets this standing test adopted by the Commission.

7. XO is able show that: (1) they would likely suffer an injury in fact (i.e. their interests are in danger); and (2) that their interests allegedly endangered are within the zone of interest to be protected or regulated by the statute under consideration by the Public Service Commission.

8. XO meets the first prong of the standing test because XO has a financial interest in the outcome of this proceeding. As a provider, its financial interests may be directly impacted by the decision reached by the Commission,

9. XO also meets the second prong of the standing test because, as a provider, XO's interests are "within the zone of interest to be protected or regulated" by the METRO Act. Accordingly, XO satisfies the two-prong test for standing in this proceeding.

10. No other parties can adequately represent XO's interest in this proceeding.

11. Furthermore, if the Commission were to determine that XO does not have standing as a matter of right, then the Commission should grant XO permissive intervention. XO

is in a position to provide useful information to the Commission in making a determination on these significant policies.

12. XO's position is that providers are not required to pay METRO Act fees for facilities that are leased from other providers.

13. Furthermore, XO reserves its right to address any additional issues permitted to be raised in this proceeding.

WHEREFORE, XO Communications Services, Inc. respectfully requests that it be granted status to intervene as a party to this proceeding with full rights of participation.

Respectfully submitted,

Fraser Trebilcock Davis & Dunlap, P.C.
Counsel for XO Communications Services, Inc.

Dated: June 14, 2006

By: _____
Michael S. Ashton (P40474)
Business Address:
124 W. Allegan, Suite 1000
Lansing, Michigan 48933
(517) 482-5800

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

MPSC Case No. U-14878

Proof of Service

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Debbie K. Lange, being first duly sworn, deposes and says that on this 14th day of June, 2006, she served a copy of Petition for Leave to Intervene of XO Communications Services, Inc. and Proof of Service upon the following by U.S. mail and by e-mail to the addresses listed on the attached service list.

Steven D. Hughey
Assistant Attorney General
Public Service Division
6545 Mercantile Way, Ste. 15
Lansing, MI 48911
hugheys@michigan.gov

Melvin Farmer, Jr., Director
METRO Authority
MI Dept. of Labor & Economic Growth
611 West Ottawa, 4th Floor
Lansing, MI 48913

Roderick Coy
Clark Hill, PLC
212 East Grand River Ave.
Lansing, MI 48906
rcoy@clarkhill.com

Debbie K. Lange

Subscribed and sworn to before me
on this 14th day of June, 2006

Jennifer Joy Yocum, Notary Public
Ingham County, Michigan
Acting in Ingham County
My Commission Expires: 12-17-2011