

**STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

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In the matter of Petition of Sprint Spectrum)
L.P. for Arbitration pursuant to Section 252(b))
of the Telecommunications Act of 1996 to) Case No. U-17349
establish Interconnection Agreements with)
Michigan Bell Telephone Company d/b/a)
AT&T Michigan)

**AT&T MICHIGAN'S BRIEF
PUBLIC VERSION**

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network” “for the transmission and routing of telephone exchange service and exchange access.” 47 U.S.C. § 251(c)(2), (c)(2)(A) (emphasis added). That provision is inapplicable to IP-to-IP interconnection for at least three reasons. The first two relate to the status of the requesting party, while the third relates to the status of the party against whom section 251(c)(2) would be invoked.

First, VoIP providers – as well as providers of other IP-based information services – are not “telecommunications carriers.” They therefore may not invoke interconnection rights under section 251(c)(2). Second, section 251(c)(2) is unavailable to VoIP providers because, even if they were “telecommunications carriers,” they would not be invoking this provision in order to provide the local services identified in section 251(c)(2)(A): “telephone exchange service and exchange access.” As the FCC found in its *Vonage Order*, VoIP is an indivisibly interstate, *interexchange*-type service.³⁵ And as the FCC concluded in 1996, “[a] telecommunications carrier seeking interconnection only for interexchange services is not within th[e] scope of the statutory language” and is therefore not entitled to seek interconnection under section 251(c)(2).³⁶ That is the correct – and indeed the only permissible – reading of the statutory text, which requires that the “request[er]” to interconnect be *for the purpose* of “the transmission and routing of telephone exchange service and exchange access.” In other words, the requesting carrier must be “offering” those services and not merely receiving them in order to satisfy the statutory criteria for interconnection.

³⁵ See Memorandum Opinion and Order, *Vonage Holdings Corporation Petition for a Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, 19 FCC Rcd 22404, 22415-16, 22423-24 ¶¶ 20, 31 (2004) (“*Vonage Order*”), *aff’d*, *Minn. PUC v. FCC*, 483 F.3d 570 (8th Cir. 2007).

³⁶ See *Local Competition Order* at ¶ 191.

Third, the *other* IP network, against which interconnection rights would be invoked, would not qualify as an “ILEC” subject to section 251(c)(2) – or, for that matter, to *any* of the ILEC-specific obligations under section 251(c). Instead, it would be an IP-based *broadband information services provider* to which section 251(c) is simply inapplicable.

The term “incumbent local exchange carrier” means a “local exchange carrier” that either (1) falls within a defined list of companies operating in 1996 or (2) is a successor or assign of those companies. 47 U.S.C. § 251(h)(1). The term does not include any entity that offers broadband Internet and managed IP services, which did not exist in the consumer market in 1996, by means of new fiber-based, packet-switched networks, which also did not exist in that market in 1996.

In addition, once an *existing* “ILEC” (or the affiliate of such an ILEC) stops offering “LEC” services within a given area, it will no longer be an “ILEC” subject to section 251(c)(2). The statutory definition of “ILEC” requires “that the entity *be* a ‘local exchange carrier’” and “remain[] a ‘local exchange carrier’” during the period in which any ILEC-specific regulation is applied. *CAF Order* at ¶ 1386 & n.2524 (emphasis added). Put differently, the entity must, in the FCC’s words, be a “live LEC” in order to qualify as an ILEC. *WorldCom, Inc. v. FCC*, 246 F.3d 690, 694 (D.C. Cir. 2001). But a “local exchange carrier” is defined as “any person that is engaged in the provision of telephone exchange service or exchange access.” 47 U.S.C. § 153(32). For the reasons just discussed, VoIP falls outside those categories. And providers that offer information services (including VoIP) but not these legacy services are not LECs and therefore do not fall within the subset of LECs designated as “ILECs.” Finally, that hurdle cannot be avoided by invoking section 251(h)(2), entitled “treatment of comparable carriers as

**IMPACT OF MTA PROPOSED AMMENDMENT
TO PUBLIC ACT 182 (Current Law)
MCL Section 484.2310**



Public Act No. 182 and Current Service Discontinuance (Background and Summary)

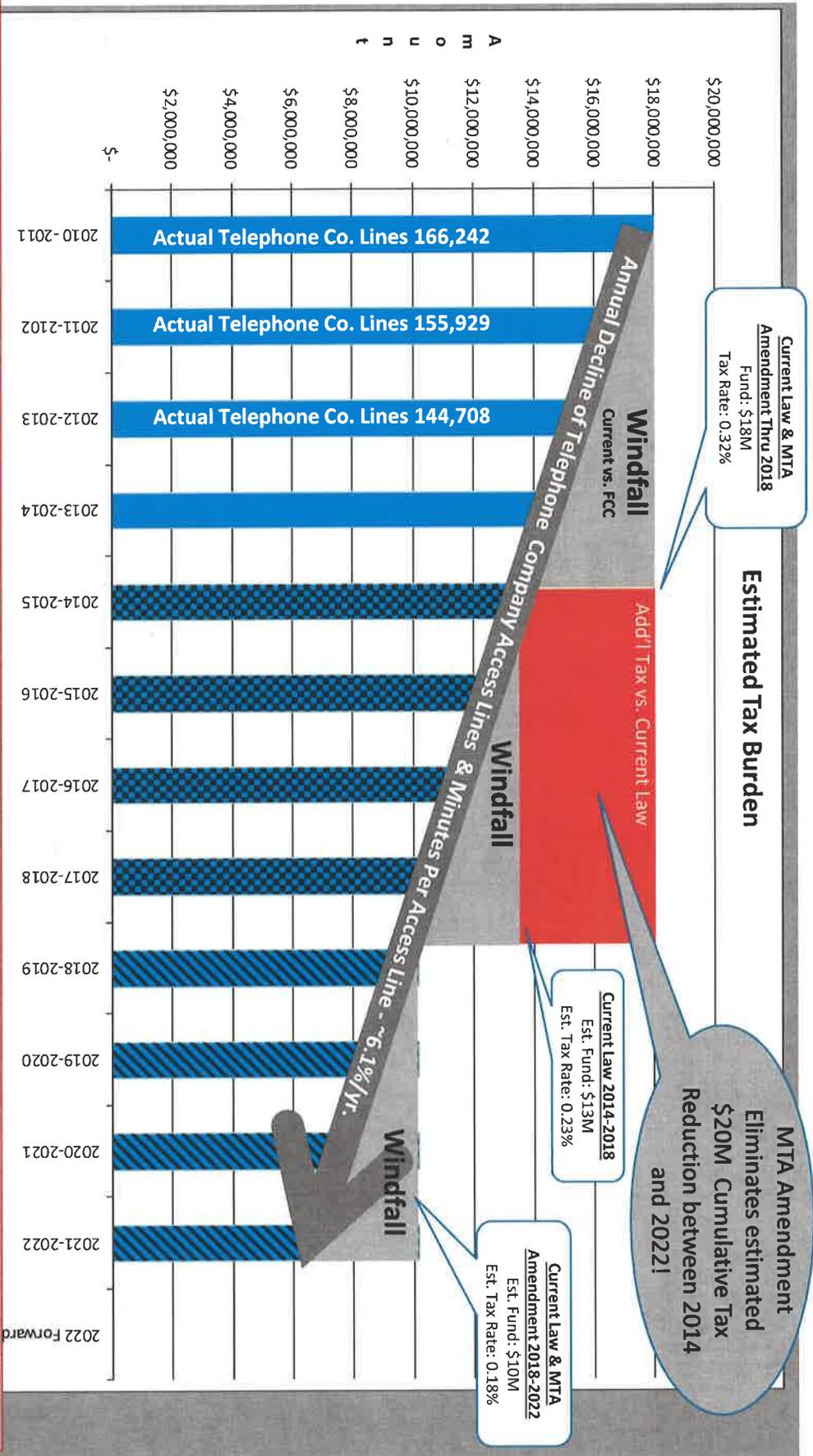
- All parties compromised on approach, including LLECs, that reduced switched access rates, but provided payments to LLECs that was to be adjusted over time to account for access line losses
- Established a fund called the Access Rate Restructuring Mechanism (“ARRM”) in September 2010 that enables LLECs to recover access revenue
 - Locked in 2008 access minutes as the basis for fund calculation
 - Fund adjusted every four years (2014 & 2018) to account for reductions in access lines
 - Fund eliminated after 12 years
 - Contributions to fund based on in-state telecommunications revenue from wireless and wireline carriers (VoIP providers exempt)
- Subsection 18 already provides a procedure for eligible providers to seek fund increases if negatively impacted by FCC access reform
 - FCC Order passed in 2011, but no LLECs have gone to Michigan commission seeking adjustments – maybe such a request can't be supported
- Current service discontinuance allows LLECs to seek relief from commission, but requires commission review and allows public input

Service Discontinuance Proposed Amendment

- MTA proposed amendment eliminates Commission review and public input
- In 2017 allows ILECs to discontinue basic local exchange service upon written notice *only*
- Even allows ILECs to continue to receive ARRM fund payouts after it has elected to discontinue providing basic local exchange service
 - This is unprecedented at both state and federal levels
- The Section 251 & 252 “protections” allow the ILECs (consistent with positions taken elsewhere in Michigan) to argue they have no ILEC obligations including interconnection
- Once ILECs discontinue and convert customers to VoIP, Wireless will bear most of ARRM as VoIP does not contribute under current law

Tax Burden Impact of Proposed Amendment on Public Act 182 (Current Law)

MTA Proposed Amendment Eliminates ARRM Fund Reductions in 2014 & 2018 in Exchange for One Reduction in 2018



Windfall = The ILECs should be satisfied with the current fund because it has a built-in windfall of over \$18M due to fact that it has not accounted for year-to-year access line losses which is estimated at ~6.1% per year based on historical losses. The current fund also locks in minutes at 2008 levels which does not account for the approximate 10% year-to-year decline observed by the FCC in its CAF order at p. 886. Therefore, the \$18M windfall is greatly understated.

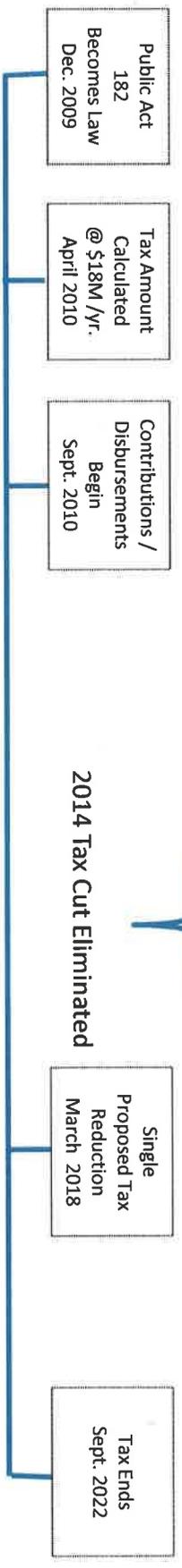


Public Act 182 (Current Law) vs. MTA Proposed Amendment

Current Law – Public Act 182



MTA Proposed Amendment



The MTA proposed amendment will:

- Eliminate the 2014 & 2018 scheduled tax rate reductions in exchange for a single reduction in 2018
- The net impact is an Additional tax burden of \$20M compared to current law
- Eliminating the 2014 reduction extends payments to ILECs for customers they no longer serve for four more years

Public Act 182 (Current Law) ARRM Fund Estimated Contributions

	All Contributors (The Tax Burden)	Sprint *
Current Law To Date (9/2010-8/2013)	\$ 54M	\$ 8M
Current Law 2010-2022	\$165M	\$25M
MTA Proposed Amendment 2010-2022	\$185M	\$28M
Added Tax Burden of Proposed Amendment vs. Current Law	\$ 20M	\$ 3M

* Approximately 20% of Sprint customers purchase prepaid service for which Sprint cannot pass through to its customers the contribution amounts it must submit to the ARRM. Sprint pays this assessment itself.

Tax Burden Impact of Proposed Amendment on Public Act 182
MTA Proposed Amendment Eliminates ARRM Fund Reductions in 2014 & 2018 in Exchange for One Reduction in 2018

	Period 2010 - 2014		Period 2014 - 2018		Period 2018 - 2022		All Periods Cumulative	
	Fund Contributions	Tax Rate	Fund Contributions	Tax Rate	Fund Contributions	Tax Rate	Fund Contributions	Current Law
Current Law (Adjustments in 2014 & 2018)								
Cumulative	\$72 M	0.32%	\$52 M	0.23%	\$41 M	0.18%	\$165 M	\$ -
Annual	\$18M		\$13.2 M		\$10.2 M			
TAM Proposal (Single Adjustment in 2018)								
Cumulative	\$72 M	0.32%	\$72 M	0.32%	\$41 M	0.18%	\$185 M	\$20 M
Annual	\$18M		\$18M		\$10.2 M			
FCC Approach (With Annual Reductions)								
Cumulative	\$62 M		\$48 M		\$37 M		\$147 M	(\$18 M)
Annual - Year 1	\$17 M		\$13.1 M		\$10.1 M			
Annual - Year 2	\$16 M	0.28% (1)	\$12.4 M	0.21% (1)	\$9.5 M	0.16% (1)		
Annual - Year 3	\$15 M		\$11.6 M		\$9.0 M			
Annual - Year 4	\$14 M		\$10.9 M		\$8.4 M			

(1) - This amount represents and average for the four annual periods.

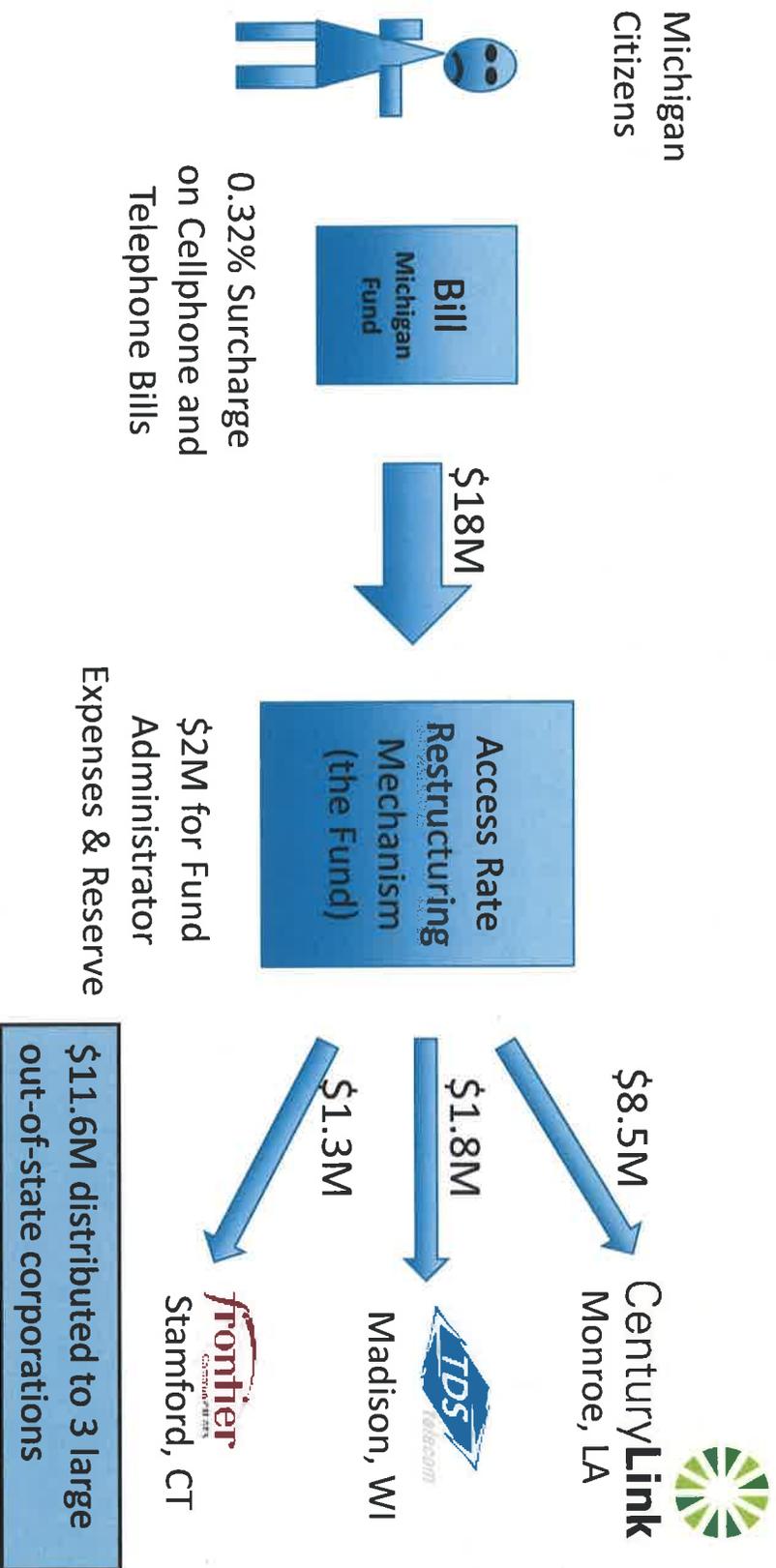
The Michigan Access Rate Restructuring Mechanism (“ARRM”) Fund

Taxing Michigan Citizens to Further Enrich Large Out-Of-State Corporations

Fund Recipient	Corporate Headquarters	2012 Operating Revenue	2012 Shareholder Dividends Paid	\$ Exported out of Michigan	% of Total Fund Payout	
CenturyLink	Monroe, LA	\$18.4B	\$1.8B	\$8.5M (0.47% of Dividends Paid)	54%	
Frontier	Stamford, CT	\$5.0B	\$399M	\$1.3M (0.33% of Dividends Paid)	8%	
TDS	Madison, WI	\$5.3B	\$53M	\$1.8M (3.4% of Dividends Paid)	11%	
Total Annual Corporate Welfare Payments from Michigan Citizens to Large Out-of-State Corporations					\$11.6M	73%

The Michigan Access Rate Restructuring Mechanism (“the Fund”)

Taxing Michigan Citizens to Further Enrich Large Out-Of-State Corporations



Telephone Companies have been prepared for many years to deal with the inevitable declines in old lines of business and reduced subsidy payments

- CenturyLink 3rd quarter 2009-10Q, page 18, filed with the Securities Exchange Commission on Nov. 9, 2009.

“During the last several years...we have experienced revenue declines in our voice and network access revenues primarily due to declines in access lines, intrastate access rates and minutes of use, and federal support fund payments. To mitigate these declines, we plan to, among other things, (i) promote long-term relationships with our customers through bundling of integrated services, (ii) provide new services, such as video and wireless broadband, and other additional services that may become available in the future due to advances in technology, wireless spectrum sales by the FCC or improvements in our infrastructure, (iii) provide our broadband and premium services to a higher percentage of our customers, (iv) pursue acquisitions of additional communications properties if available at attractive prices, (v) increase usage of our networks, and (vi) market our products and services to new customers.”

MTA Proposed Amendment to Access Rate Restructuring Mechanism is Inconsistent with Federal Law

- Section 254(f) of federal law permits states to adopt regulations to preserve and advance universal service so long as those regulations are “not inconsistent” with FCC rules.

Federal Law	MTA Proposed Amendment
Accounts for Annual Decline in Access Lines	Locks in 2008 Access Line Count
Eliminates Funding Based on Consideration of Unsubsidized Service Provider	No Consideration to Presence of Competitors*
Recipients Commit to Providing Broadband Service in Unserved Areas	No Accountability or Obligations Tied to Funds Received*
ILECs Allowed to Pass Access Reductions on to End Users in Form of Access Recovery Charge (ARC)	No Allowance*
Recipients Required to Maintain Minimum Monthly Basic Local Service Rates	No Rate Level Requirement*
Amount of Support Per Line Capped	No Per Line Cap on Funds Received*

* Also in Current Law

