Michigan Pay Telephone Association's Second Application for Declaratory Ruling FCC Docket No. 96-128

Michigan Pay Telephone Association

September 27, 2012

Summary of AT&T's unlawful prices

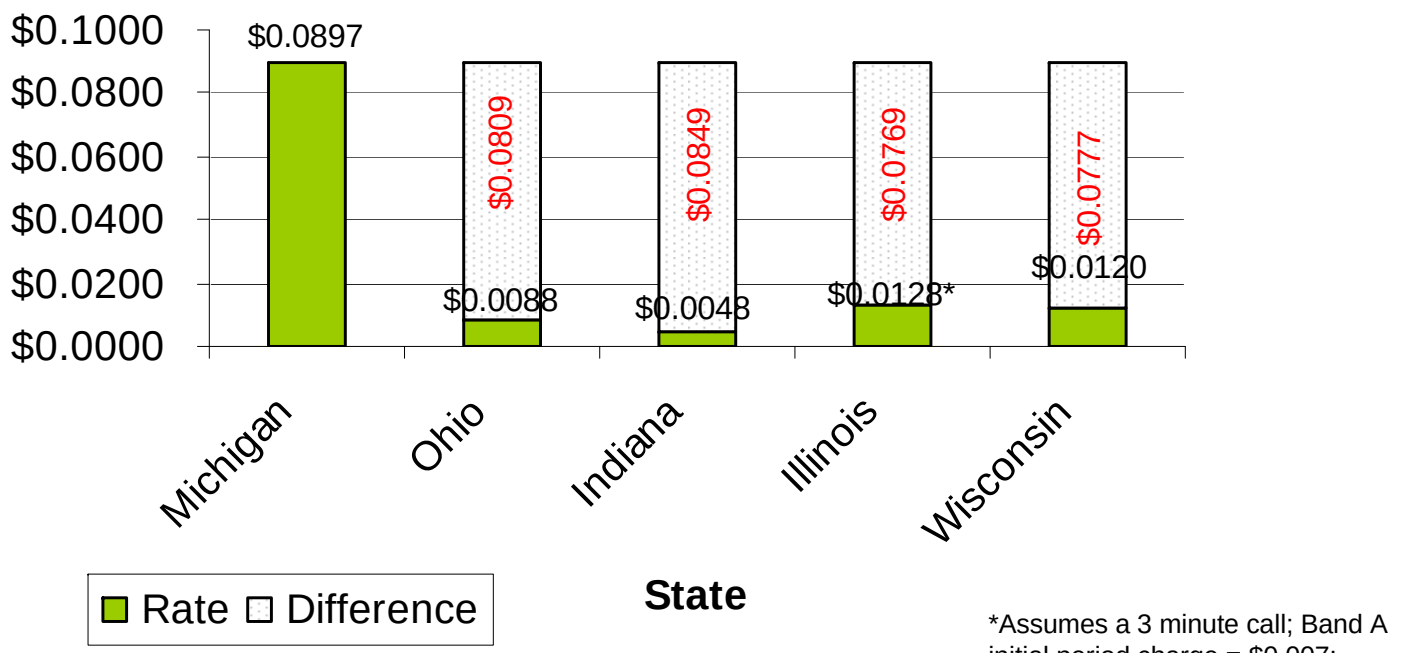
- AT&T Michigan continues to charge independent payphone providers (IPPs) rates for services that are not cost-based, despite the FCC's established New Services Test (NST) guideline methodology for local usage.

- The Michigan PSC failed to follow the NST methodology for local usage; there is no justification in the record to support a non-uniform overhead allocation for local usage:
  - no "comparable" toll usage overhead allocation;
  - no information as to the toll usage tariff rate being utilized;
  - no evidence demonstrating how toll usage is a "comparable" service.

- The Michigan PSC's determination resulted in the continued application of an overhead allocation that is more than 600% over the direct cost.*

*In April 2006, AT&T increased the local usage rate to PSPs to $0.11 per message. Subsequent to the filing of the MPTA Petition, AT&T has rescinded that rate increase.

Rate Comparison for Local Usage – Former Ameritech States



*Assumes a 3 minute call; Band A initial period charge = $0.007; subsequent periods = $0.0029.

The FCC Ordered Cost-Based Pricing for the Usage Rate Element

- *Wisconsin Order*
  - The new services test does "not mandate uniform overhead loading**, provided that the loading methodology as well as any deviation from it is justified**." ¶ 52
  - Held that "**any rate for local usage** billed to a payphone line, as well as the monthly payphone line rate, **must be cost-based** and priced in accordance with the new services test." ¶ 64.
  - "**Providing only a line, without allowing local calls over the line, does not satisfy this requirement**. We required these payphone line services to be priced at cost-based rates in accordance with the new services test. . . .

    "This conclusion advances our purpose in requiring cost-based payphone line rates in the first place. **A high usage rate would undermine our and the states' efforts to set the payphone service rates in accordance with a cost-based standard.**

    A non-cost-based usage rate would also constitute an impermissible "end run" around the requirements of section 276." ¶¶ 64-65

What the Michigan PSC Did Wrong

- The MPSC ordered a methodology not supported by any party, not even AT&T.

- The MPSC failed to follow the NST guideline methodology for local usage, there is no justification in the record supporting the non-uniform overhead allocation for local usage:
  - no “comparable” toll usage overhead allocation;
  - no toll usage tariff rate;
  - no evidence demonstrating how toll usage actually is a “comparable” service.

Appropriate Relief

- There are no factual issues:
  - The underlying cost studies or AT&T's proposed methodology adopted by the Michigan PSC;
  - The overhead adopted by the MPSC for non-usage rates was proposed by AT&T;

- Grant the MPTA Second Petition for a Declaratory Ruling, and find that AT&T Michigan did not set its usage rate in compliance with the New Services Test.

- Direct AT&T Michigan to set usage using the same overhead allocation that AT&T Michigan used, and that the MPSC approved, for the other rates for services made available to payphone providers.