In the matter of the complaint of 
AT&T MICHIGAN against 
ZENK GROUP LIMITED, INC., d/b/a PLANET ACCESS, to discontinue service, for declaratory ruling, and request for expedited relief.

MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S RESPONSE TO AT&T'S MOTION FOR SUMMARY DISPOSITION

In response to AT&T's Motion for Summary Disposition under R 460.17323, the Commission Staff states the following:

On May 15, 2008, the Administrative Law Judge will consider AT&T's Motion for Summary Disposition filed in this matter. In its motion, AT&T seeks to discontinue service to Zenk Group Limited, Inc., d/b/a Planet Access (Planet Access) for Planet Access' failure to pay for such service for more than six months.

At this time, the Staff takes no position on AT&T's pending Motion for Summary Disposition. However, should the Administrative Law Judge find in AT&T's favor and propose to the Commission that AT&T be granted the authority to discontinue its service to Planet Access, the Commission Staff requests that the Administrative Law Judge include in his recommendation a provision for adequate notice of the discontinuation of service by Planet Access to its customers as set forth by § 484.2313 of the Michigan Telecommunications Act, as well as any applicable federal provisions required by a provider to discontinue service.
Section 484.2313 states:

(1) A telecommunication provider that provides either basic local exchange or toll service, or both, may not discontinue either service to an exchange unless 1 or more alternative telecommunication providers are furnishing the same telecommunication service to the customers in the exchange.

(2) A telecommunication provider proposing to discontinue a regulated service to an exchange shall file a notice of the discontinuance of service with the commission, publish the notice in a newspaper of general circulation within the exchange, and provide other reasonable notice as required by the commission.

(3) Within 30 days after the date of publication of the notice required by subsection (2), a person or other telecommunication provider affected by a discontinuance of services by a telecommunication provider may apply to the commission to determine if the discontinuance of service is authorized pursuant to this act.

It is Staff's understanding that Planet Access has not advised its customers that it may be discontinuing service to them. If AT&T is permitted to terminate service to Planet Access without prior notice provided by Planet Access to its customers, the protections afforded those customers in MCL 484.2313 will be denied. The Staff recognizes that any delay in the discontinuation of service to Planet Access may prove burdensome to AT&T, but, nonetheless, is more bearable than the hardship to Planet Access' customers who otherwise may find themselves suddenly without service.

Therefore, should the Administrative Law Judge rule in AT&T's favor on its Motion for Summary Disposition, the Staff requests that the Administrative Law Judge recommend to the Commission that the discontinuance occur after Planet Access has complied with MCL 484.2313 and any applicable federal discontinuance of service provisions. The notice requirements in MCL 484.2313, should begin immediately after the date of an issuance of an order by the Commission granting the relief sought by AT&T to allow AT&T to disconnect service to Planet Access, and provide no less than 45 days notice from the date of the disconnection order before disconnection occurs.
Staff also requests that the Administrative Law Judge recommend that Planet Access provide it with updates detailing its progress on the discontinuance and migration of customers to other providers. Furthermore, in this instance, Planet Access should be required to allow its customers to terminate their contracts without early termination charges or other penalty in order to facilitate customer migration to another service provider without disruption of service.

Finally, to protect AT&T’s interests, Staff suggests to the Administrative Law Judge that any payments or revenues received from Planet Access’ customers and submitted to Planet Access after the date a disconnection order is issued be directed to an escrow account which can be paid to AT&T after disconnection occurs.

Respectfully submitted,

MICHIGAN PUBLIC SERVICE COMMISSION
STAFF

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Dated: May 12, 2008
STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the complaint of
AT&T MICHIGAN against
ZENK GROUP LIMITED, INC., d/b/a PLANET ACCESS, to discontinue service, for declaratory ruling, and request for expedited relief.

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PROOF OF SERVICE

STATE OF MICHIGAN )
) ss
COUNTY OF INGHAM )

Linda Andreas, being first duly sworn, deposes and says that on May 12, 2008, she served a true copy of the Michigan Public Service Commission Staff's Response to AT&T's Motion for Summary Disposition upon the following parties by depositing the same in a United States postal depository enclosed in an envelope bearing postage fully prepaid, plainly addressed as follows:

Jonathan S. Groat
Jennifer L. Copland
Dickinson Wright PLLC
215 S. Washington Square, Suite 200
Lansing, MI 48933

Michael Zengerle
Zenk Group Ltd., d/b/a Planet Access
13137 Log Cabin Point
Fenton, MI 48430

Lisa M. Bruno
AT&T Michigan
444 Michigan Avenue, Suite 1750
Detroit, MI 48226

Gary L. Field
915 N. Washington Avenue
Lansing, MI 48906

________________________________________
Linda Andreas
Subscribed and sworn to before me this 12th day of May, 2008.

_________________________________
Tina L. Bibbs, Notary Public
State of Michigan, County of Ingham
My Commission Expires: 07/13/2008