

Act No. 179
Public Acts of 1991
Approved by the Governor
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Filed with the Secretary of State
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**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991**

Introduced by Senators Dunaskiss, Posthumus and Faust

ENROLLED SENATE BILL No. 124

AN ACT to regulate and insure the availability of certain telecommunication services; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; to repeal certain acts and parts of acts; and to repeal this act on a specific date.

The People of the State of Michigan enact:

ARTICLE 1

GENERAL PROVISIONS

Sec. 101. This act shall be known and may be cited as the "Michigan telecommunications act".

Sec. 102. As used in this act:

(a) "Access" means the provision of access to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunications service within the exchange.

(b) "Basic local exchange service" means the provision of an access line and usage within a local calling area for the transmission of high-quality 2-way interactive switched voice or data communication.

(c) "Commission" means the Michigan public service commission.

(d) "Contested case" or "case" means a proceeding as defined in section 3 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.203 of the Michigan Compiled Laws.

(e) "Educational institution" means a public educational institution or a private non-profit educational institution approved by the department of education in this state authorized to provide a program of primary, secondary, or higher education or a nonprofit association or consortium whose primary purpose is education. A nonprofit association or consortium under this subdivision shall consist of 2 or more of the following:

(i) Public educational institutions.

(ii) Nonprofit educational institutions approved by the department of education.

(iii) The state board of education.

(iv) Telecommunication providers.

- (v) A nonprofit association of educational institutions or consortium of educational institutions.
- (f) "Exchange" means 1 or more contiguous central offices and all associated facilities within a geographical area in which local exchange telecommunications services are offered by a provider.
- (g) "Handicapper" means a person who has 1 or more of the following physical characteristics:
 - (i) Blindness.
 - (ii) Inability to ambulate more than 200 feet without having to stop and rest during any time of the year.
 - (iii) Loss of use of 1 or both legs or feet.
 - (iv) Inability to ambulate without the prolonged use of a wheelchair, walker, crutches, braces, or other device required to aid mobility.
- (v) A lung disease from which the person's expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the person's arterial oxygen tension is less than 60 mm/hg of room air at rest.
- (vi) A cardiovascular disease from which the person measures between 3 and 4 on the New York heart classification scale, or from which a marked limitation of physical activity causes fatigue, palpitation, dyspnea, or anginal pain.
- (vii) Other diagnosed disease or disorder including, but not limited to, severe arthritis or a neurological or orthopedic impairment that creates a severe mobility limitation.
- (h) "Information services" or "enhanced services" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information that is conveyed by telecommunications. Information or enhanced services does not include the use of such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
- (i) "LATA" means the local access and transport area as defined in *United States v American Telephone and Telegraph Co.*, 569 F. Supp. 990 (D.D.C. 1983).
- (j) "License" means a license issued pursuant to this act or a certificate of convenience and necessity issued, or other authority granted, to a provider before January 1, 1992.
- (k) "Line" or "access line" means the medium over which a telecommunication user connects into the local exchange.
- (l) "Local calling area" means a geographic area encompassing 1 or more local communities as described in maps, tariffs, or rate schedules filed with and approved by the commission.
- (m) "Local directory assistance" means the provision by telephone of a listed telephone number within the caller's area code.
- (n) "Local exchange rate" means the monthly rate, including all necessary and attendant charges, imposed for basic local exchange service to customers.
- (o) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.
- (p) "Reasonable rate" or "just and reasonable rate" means a rate that is not inadequate, excessive, or discriminatory as determined by the commission.
- (q) "Residential customer" means a person to whom telecommunication services are furnished predominantly for personal or domestic purposes at the person's dwelling.
- (r) "Special access" means the provision of access, other than switched access, to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication service within the exchange, including the use of local private lines.
- (s) "Telecommunication provider" or "provider" means a person who for compensation provides telecommunication services, or 1 or more of the unregulated services described in section 401.
- (t) "Telecommunication services" includes regulated and unregulated services offered to customers for the transmission of 2-way interactive communication and associated usage.
- (u) "Toll service" means the transmission of 2-way interactive switched communication between local calling areas. Toll service does not include individually negotiated contracts for similar telecommunication services or wide area telecommunications service.
- (v) "Wide area telecommunications service" or "WATS" means the transmission of 2-way interactive switched communication over a dedicated access line.

Sec. 103. Except as otherwise provided in this act, this act shall not be construed to prevent any person from providing telecommunication services in competition with another telecommunication provider.

ARTICLE 2

MICHIGAN PUBLIC SERVICE COMMISSION

Sec. 201. (1) The Michigan public service commission shall have the jurisdiction and authority to administer this act.

(2) In administering this act, the commission shall be limited to the powers and duties prescribed by this act.

Sec. 202. In addition to the other powers and duties prescribed by this act, the commission shall do all of the following:

(a) Establish a program to monitor the level of telecommunications subscriber connection within each exchange in the state, and report to the legislature the results of its monitoring and any actions it has taken or recommends be taken to maintain and increase subscriber connections. The report made pursuant to this subdivision shall be included in the commission's report required under subdivision (f).

(b) Establish by order the manner and form in which telecommunication providers of regulated services within the state keep accounts, books of accounts, records, and memoranda. The commission requirements under this subdivision shall not be in conflict with or in addition to any regulations covering the same subject matter made by the federal government.

(c) Require by order that a provider of a regulated service, including access, make available for public inspection and file with the commission a schedule of the provider's rates, services and conditions of service, including access provided by contract.

(d) Establish by order the quality of service for each regulated telecommunication service offered in this state. The initial order under this subdivision shall be issued not later than January 1, 1993. Each provider shall maintain the quality of service required on December 31, 1991 until the initial order is entered.

(e) Preserve the provision of high quality basic local exchange service.

(f) Issue a report to the legislature and governor on or before January 1, 1994. The report shall include all of the following:

(i) A review of commission decisions and actions involving significant telecommunication issues from the immediately preceding 2 years and a description of all pending cases.

(ii) A description of the changes and trends in the telecommunications industry, including, but not limited to, the number, type, and size of providers offering telecommunication services, what services and providers are subject to regulation, telecommunication technologies in place and under development, variations in the geographic availability of services, prices for services, penetration levels of subscriber access to local exchange service in each exchange, and issues related to basic local exchange service.

(iii) The status of compliance by providers and the commission with the requirements of this act.

(iv) The effects and the projected effects of regulatory policies and practices on telecommunication providers, services, and customers.

(v) The status of market-share concentration, availability of alternative services, patterns of price leadership, patterns of prices, financial viability of providers, and all barriers to competition.

(vi) Recommendations for legislation.

(vii) The feasibility of establishing a local calling area for residential customers which is 25 miles in all directions from the person's dwelling.

(viii) A method that will determine the long run total incremental cost pricing for each component of the local exchange network and access services.

(ix) Other information or analysis that the commission is required to provide by this act or the commission considers important to provide the legislature regarding telecommunications.

(x) The technological and economical impact of the implementation of INTRA-LATA 1-plus dialing parity within LATAs.

Sec. 203. (1) Upon receipt of an application or complaint filed pursuant to a provision of this act, or on its own motion, the commission may conduct an investigation, hold hearings, and issue its findings and order in accordance with the contested hearings provisions of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) The commission shall require uniform filing standards for a case commenced under this section. An application filed under this act shall contain all information, testimony, exhibits, or other documents and

information on which the person intends to rely to support the application. Applications that do not meet the requirements of this subsection shall be dismissed or suspended pending the receipt by the commission of the required information. The burden of proving a case filed under this act shall be with the party filing the application or complaint.

(3) The commission shall have the power to administer oaths, certify to all official acts, and to compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony.

(4) Except as otherwise provided in subsection (2), the commission shall issue a final order in a case filed under this act within 150 days from the date the application or complaint is filed. If a hearing is held, the commission shall have an additional 60 days to issue its final order.

(5) An order of the commission shall be subject to review as provided by section 26 of Act No. 300 of the Public Acts of 1909, being section 462.26 of the Michigan Compiled Laws.

(6) Before commencing a hearing under this section, the commission may attempt alternative means of resolving a dispute under its jurisdiction.

Sec. 204. If 2 or more telecommunication providers are unable to agree on a matter relating to a regulated telecommunication issue between the parties, including but not limited to, a matter prohibited by section 305, then either telecommunication provider may file with the commission an application for resolution of the matter.

Sec. 205. (1) The commission may investigate and resolve complaints that concern the quality and availability, conditions, deposit requirements, or disconnection of a regulated service, or any other provision of this act that regulates service.

(2) If the commission finds, after notice and hearing, that the quality, general availability, or conditions for the regulated service violate this act or an order of the commission under this act, or is adverse to the public interest, the commission may require changes in how the telecommunication services are provided. The commission's authority includes, but is not limited to, the revocation of a license and issuing cease and desist orders.

Sec. 206. (1) Upon complaint and after a review pursuant to section 203, if the commission finds that a new telecommunication service as being offered is adverse to the public health, safety, or general welfare or to the quality of basic local exchange service, the commission may order changes in the terms and conditions under which the service is offered.

(2) As used in this section, "new telecommunication service" means a telecommunication service that is not available as of January 1, 1992.

Sec. 207. The commission shall determine the manner in which local directory assistance service is to be regulated under this act. The regulations shall include both rates and quality of service.

Sec. 207a. Within 90 days of the effective date of this act and after receiving public comment, the commission shall determine whether coin operated telephones, direct-inward dialing, and touch-tone service are essential to the public health, safety, or general welfare and should be regulated under this act.

Sec. 208. (1) Where a competitive market for a regulated telecommunication service exists in this state, the commission, by adopting policies and entering orders, may provide for and exercise flexibility in its regulation of that service. The commission shall retain authority to rescind or amend any policy or order issued pursuant to this section.

(2) Upon application by a service provider, the commission may deregulate a service of that provider if the commission finds through a review pursuant to section 203 that competition among providers of that service is sufficient to protect the public interest.

Sec. 209. (1) If the commission finds that a party's position in a proceeding under this act was frivolous, the commission shall award to the prevailing party the costs, including reasonable attorney fees, against the nonprevailing party and their attorney.

(2) As used in this section:

(a) "Frivolous" means that at least 1 of the following conditions is met:

(i) The party's primary purpose in initiating the proceeding or asserting the defense was to harass, embarrass, or injure the prevailing party.

(ii) The party had no reasonable basis to believe that the facts underlying that party's legal position were true.

(iii) The party's legal position was devoid of arguable legal merit.

(b) "Frivolous" does not mean a complaint filed to challenge a rate alteration increase for basic local service if the complaint has been reviewed by the commission and has not been dismissed by the commission pursuant to section 203(2).

(c) "Prevailing party" means a party who wins in the proceeding.

Sec. 210. (1) Trade secrets and commercial or financial information submitted pursuant to the provisions of this act are exempt from the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, if such secrets and information would be exempt under section 13(1)(g) of Act No. 442 of the Public Acts of 1976, except for the following:

(a) Secrets and information may be exempt under this section even if they are submitted as a condition of receiving a governmental benefit other than a contract or license, or submitted in the course of an investigation to insure compliance with the provisions of this act.

(b) A protective order entered in a contested case proceeding may exempt secrets and information during the pendency of the contested case proceeding.

(2) Nothing in this section affects the commission's authority to issue protective orders or precludes a party to a proceeding before the commission from obtaining discovery of information pursuant to law or procedure applicable to such proceedings.

Sec. 211. Each telecommunication provider of a regulated service in this state shall pay an assessment in an amount equal to the expenses of the commission pursuant to Act No. 299 of the Public Acts of 1972, being sections 460.111 to 460.120 of the Michigan Compiled Laws.

Sec. 212. (1) Except as otherwise provided by subsection (2) or by this act, all complaints made and now pending before the commission as of January 1, 1992, and all investigations, examinations, and proceedings undertaken, commenced, or instituted by the commission before January 1, 1992, may be heard, conducted, and continued to final determination, and all pending actions or proceedings brought by or against the commission may be prosecuted or defended in the same manner.

(2) The commission shall order the dismissal of all complaints, investigations, examinations, and proceedings undertaken, commenced, or instituted before January 1, 1992 that are in conflict, prohibited, or otherwise inconsistent with the provisions of this act.

Sec. 213. The commission may promulgate rules or issue orders for the implementation and administration of this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

ARTICLE 3

REGULATED TELECOMMUNICATIONS SERVICES

A. BASIC LOCAL EXCHANGE

Sec. 301. (1) A telecommunication provider not possessing a license on January 1, 1992 shall not provide basic local exchange service in this state until it has obtained a license from the commission pursuant to this act.

(2) Except as provided in subsection (3), a license granted to a telecommunications provider of basic local exchange service before January 1, 1992 shall remain in full force and effect, and the carriers need not apply for a new license in order to continue offering or providing service to the extent authorized in the license or this act.

(3) The commission shall review, modify, and establish the terms of any license issued to a telecommunications provider of basic local exchange service before January 1, 1992 in order to ensure its conformity with the requirements of this act.

(4) Pending the determination of an application for a license, the commission without notice and hearing may issue a temporary license for a period not to exceed 1 year in cases of emergency to assure maintenance of adequate service or to serve particular customers and may exempt from the requirements of this act temporary services or operations when the exemption would be in the public interest.

Sec. 302. (1) After notice and hearing, the commission shall approve an application for a license if the commission finds both of the following:

(a) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service to every person within the geographic area of the license.

(b) The granting of a license to the applicant would not be contrary to the public interest.

(2) The commission shall retain a copy of all granted licenses and make all information contained in the licenses available to the public.

(3) Each provider granted a license shall retain a copy of the license at its principal place of business and make the license available for review to the public.

Sec. 303. (1) The commission may alter or amend the geographic area of a license, grant a competing license, or authorize the sale or transfer of a license to another person upon a finding that an alteration, amendment, license, sale, or transfer would be in the public interest.

(2) A telecommunication provider shall not provide basic local exchange service to customers or end-users located within another telecommunication provider's licensed service area except through interconnection arrangements consented to by the license holder or as approved by the commission pursuant to section 203.

(3) Before substantially altering the nature or scope of the basic local exchange services authorized under a license, the provider of the basic local exchange service shall apply for a new license for the alterations or additions pursuant to this act.

Sec. 304. (1) Pursuant to the provisions of this section, the commission shall approve for each provider any alterations in the local exchange rates.

(2) A provider of basic local exchange service shall set the initial rates to be charged under this act for the service on or before January 1, 1992 and file the rates with the commission. The rates shall not be greater than the monthly or usage rates allowed for basic local exchange service as of December 31, 1991.

(3) The rates established under subsection (2) shall take effect January 1, 1992.

(4) The rates for basic local exchange service shall be just and reasonable as determined by the commission.

(5) A provider may alter its rates for basic local exchange services upon notice to the commission. The notice to the commission of a rate alteration shall be accompanied with sufficient documentary support that the rate alteration is just and reasonable. After consulting with providers, the commission shall establish either by rule or order the documentation to be required under this subsection. Notice to customers is required and shall be published in a newspaper of general circulation in the service area to be affected within a reasonable time period after the notice for a rate alteration is provided to the commission, and shall be included in or on the bill of each affected customer of the provider in the next billing. The notice shall be written in plain, nontechnical, and easily understood terms and shall contain a title that includes the name of the provider and the words "NOTICE OF POSSIBLE RATE CHANGE". The notice published in a newspaper shall be printed in not less than 18-point boldfaced type and the body of the notice shall be surrounded by a black border that is not less than 1/2 of an inch from the body of the notice. The notice shall contain at least all of the following information:

(a) A statement that the customer's rate may change.

(b) An estimate of the amount of the annual change for the typical residential customer that would result if the rate alteration is approved by the commission. The estimate shall be printed in a type style and size that are distinct from and larger than the type style and size of the body of the notice.

(c) A statement that a customer who desires to comment on the rate alteration or who desires the complete details of the rate alteration may call or write the commission. The statement required under this subdivision shall also include the telephone number and address of the commission and a statement that complete details of the rate alteration will be provided free of charge to the customer and at the expense of the provider.

(6) Except as otherwise provided in subsection (9), an altered local exchange rate that does not exceed 1% less than the consumer price index shall take effect 90 days from the date of the notice required by subsection (5). A rate that exceeds 1% less than the consumer price index shall require the provider to file for approval by the commission pursuant to section 203. As used in this subsection "consumer price index" means the most recent reported annual average percentage increase in the Detroit consumer price index for all items for the prior 12-month period by the United States department of labor and as certified by the commission. A provider shall be allowed only 1 rate alteration filing under this subsection during any 12-month period.

(7) The monthly local exchange rate for residential customers of providers with 15,000 or more access lines shall not be greater than the rates allowed on December 31, 1991 for the period of January 1, 1992 to December 31, 1993 and the local exchange rate for all residential customers in the state shall be 1 of the following at the option of the customer:

(a) A flat rate allowing personal and domestic outgoing calls up to 400 calls per month. Calls in excess of 400 per month may be charged at an incremental rate as set by the provider pursuant to subsections (5) and (6). A

person who has reached the age of 60 years or more, who is handicapped, or who is voluntarily providing a service for an organization classified by the internal revenue service as a section 501(c)(3) or (19) organization, or a congressionally chartered veterans organization or their duly authorized foundations, is exempt from the 400 calls per month limitation and may receive a flat rate allowing unlimited calls per month. A person 60 years of age or more shall not be charged a rate greater than the flat rate charged other residential customers for 400 calls. The rates for persons who have reached the age of 60 years or more, shall not be increased during the period of January 1, 1992 to December 31, 1995.

(b) A rate determined by the time duration of service usage or the distance between the points of service origination and termination.

(c) A rate determined by the number of times the service is used.

(d) A rate that includes 1 or more of the rates allowed by this subsection.

(8) Either by a complaint filed by an affected party or on the commission's own motion at any time prior to the rate alteration taking effect, the commission may require a filing as provided in section 203 to review a rate set pursuant to subsection (5) and after the review issue an order approving, modifying, or rejecting the rate alteration including, but not limited to, a refund of collected excessive rates, including interest on the rates.

(9) The commission shall hold a public hearing within 45 days from the date of the notice required by subsection (5) and issue an order within the 90-day period provided for in subsection (6) finding 1 of the following:

(a) That the rate alteration is just and reasonable.

(b) That a filing under section 203 should be commenced pursuant to subsection (8).

(c) That there is a likelihood that the proposed rate alteration is not just and reasonable and order a stay of the rate alteration pending a review of the rate under this section.

(10) In determining if a filing under section 203 should be commenced pursuant to subsection (8), the commission shall consider all public comments received pursuant to subsection (5) and only review 1 or more of the following:

(a) Cost allocations to basic local exchange services.

(b) Competition.

(c) Network quality, improvement, and maintenance.

(d) Changes in costs of providing the service.

(e) Expenditures between affiliated entities of the provider and the provider.

(11) For providers with less than 250,000 access lines, the commission shall promulgate rules to streamline the rate review process applicable to such providers.

Sec. 305. (1) A provider of basic local exchange service shall not do any of the following:

(a) Discriminate against another provider by refusing or delaying access to the local exchange.

(b) Refuse or delay interconnections or provide inferior connections to another provider.

(c) Degrade the quality of access provided to another provider.

(d) Impair the speed, quality, or efficiency of lines used by another provider.

(e) Develop new services to take advantage of planned but not publicly known changes in the underlying network.

(f) Refuse or delay a request of another provider for information regarding the technical design, equipment capabilities and features, geographic coverage, and traffic patterns of the local exchange network.

(g) Refuse or delay access or be unreasonable in connecting another provider to the local exchange whose product or service requires novel or specialized access requirements.

(h) Upon a request, fail to fully disclose in a timely manner all available information necessary for the design of equipment that will meet the specifications of the local exchange network.

(i) Discriminate against any provider or any party who requests the information for commercial purposes in the dissemination of customer proprietary information. A provider shall provide without unreasonable discrimination or delay telephone directory listing information and related services to persons purchasing telephone directory listing information to the same extent and in the same quality as provided to the provider, affiliates of the provider, or any other listing information purchaser.

(j) Refuse or delay access by any person to another provider.

(k) Sell, lease, or otherwise transfer an asset to an affiliate for an amount less than the fair market value of the asset.

(l) Buy, lease, or otherwise acquire an asset from an affiliate of the provider for an amount greater than the fair market value of the asset.

(m) Bundle unwanted services or products for sale or lease to another provider.

(n) Perform any act that has been prohibited by this act or an order of the commission.

(o) Except with the approval of the commission, jointly market or offer as a package, at a discounted rate, 1 or more unregulated services with a regulated service.

(p) Sell services or products, extend credit, or offer other terms and conditions on more favorable terms to an affiliate of the provider than the provider offers to other providers.

(2) A provider of cellular telecommunication services shall not do either of the following:

(a) Unreasonably provide services, extend credit, or offer other terms and conditions on more favorable terms to an affiliate of the provider or to its retail department that sells to end users than the provider offers to other providers.

(b) Unreasonably use rates or proceeds from providers, directly or indirectly, to subsidize or offset the costs of cellular service offered by the provider, or an affiliate of the provider, to other providers or to end users.

Sec. 306. A telecommunication provider of basic local exchange service is not required to provide toll services. If a telecommunication provider that provides basic local exchange service does not offer toll or have interconnection with a toll provider, the commission may order a toll provider to interconnect with the telecommunication provider upon terms that are fair to both providers.

Sec. 307. (1) Educational institutions shall have the authority to own, construct, and operate a telecommunication system or to purchase telecommunication services or facilities from an entity capable of providing the service or facility. It is the purpose of this section to encourage the use of existing telecommunications networks and networks established by other commercial providers as building blocks for a cooperative and efficient statewide system.

(2) Educational institutions described in subsection (1) that provide telecommunication services offered in subsection (3) shall not be subject to regulation under this act. However, an educational institution shall not sell excess capacity in competition with a telecommunication provider except as provided for under the authority of the federal communications commission.

(3) Educational institutions may only provide telecommunication services required for, or useful in, the instruction and training of students and other people utilizing the institution's services, the conducting of research, or the operation of the institution. Such services shall not be considered basic local exchange services as long as they are used for the instruction and training of students and other people utilizing the institution's education services, the conducting of research, or the operation of the institution. Educational institutions may initiate and maintain cooperative arrangements with telecommunication providers without the institutions being subject to sections 301 and 303 of this act.

(4) If allowed by federal law or federal court order, upon the request of an educational institution, telecommunication providers may provide to an educational institution services for the transmission of interactive data and video communications between the institution's facilities or to the homes of students or employees of the institution, regardless of whether the exchanges are in the same or different LATAs.

(5) The rates for services provided to an educational institution by a provider under this section shall be determined by an open bid process. Bids made to provide services under this section shall include all appropriate related costs.

Sec. 307a. If no telecommunication provider fulfills the request within 12 months of the date of the request of an educational institution made pursuant to section 307(4), then upon the request of an educational institution, a provider of basic local exchange service that serves more than 1 exchange shall provide to an educational institution services for the transmission of interactive data and video communications between the institution's facilities or to the homes of students or employees of the institution, regardless of whether the exchanges are in the same or different LATAs. If the educational institution and the provider cannot agree on the cost of providing the service, either party may apply to the commission to resolve the dispute pursuant to section 203.

Sec. 308. (1) Basic local exchange or access rates or proceeds from the sale, lease, or transfer of rate acquired assets shall not be used, directly or indirectly, to subsidize or offset the costs of other products or services offered by the provider or an affiliate of the provider by providing such other products or services at less than long-run incremental cost.

(2) A provider of basic local exchange service shall not sell or transfer capital assets used to provide the service for an amount less than the fair market value to any other provider or affiliated entity for the purpose of providing an unregulated service.

(3) A provider of basic local exchange service shall notify the commission when it transfers, in whole or in part, substantial assets, functions or employees associated with basic local exchange service to an affiliated entity, indicating the identity of the affiliated entity, description of the transaction and the impact on basic local exchange service. After consultation with interested parties, the commission shall specify by order the form and manner in which notification will be required under this subsection.

(4) In an investigation under this section or pursuant to section 203, the commission shall have the authority to review the books and accounts of both the provider and affiliated entities of the provider.

Sec. 309. (1) A provider of basic local exchange service shall provide to each customer local directory assistance and, at no additional charge to the customer, an annual printed telephone directory.

(2) A provider of interzone service, as defined in tariffs on file with the commission on December 31, 1991, shall continue to provide the service pursuant to the terms of the tariffs. A provider may alter interzone service rates pursuant to provisions of section 304.

(3) A provider of basic local exchange service shall provide each customer at no additional charge the option of having access to 900 prefix services blocked through the customer's exchange service.

Sec. 309a. If allowed by federal law, a provider of basic local exchange service may provide cable television service.

B. ACCESS SERVICE

Sec. 310. (1) Except as provided by this section, the commission shall not review or set the rates for access services.

(2) Rates for access services in effect as of December 31, 1991 shall remain in effect until new rates are set by the provider or the commission as provided by this section.

(3) Except as otherwise provided in subsection (7), a provider of access services shall set the rates for access services. The rates set by a provider of access services shall not exceed the rates allowed for the same interstate services by the federal government except as otherwise ordered by the commission.

(4) From January 1, 1992 until such time a final order is issued by the federal communications commission in common carrier docket 91-213, charges for delivery and receipt of traffic of the same type between end offices and a facility of an interexchange carrier shall be equal per unit of the traffic delivered or received.

(5) Two or more providers that each have less than 250,000 access lines may agree to joint access rates and pooling of intrastate access revenues.

(6) A provider of access services shall make available for intrastate access services any technical interconnection arrangements, including colocation required by the federal government for the identical interstate access services.

(7) If the affected parties cannot agree to an access rate, then 1 or more of the parties may apply to the commission for resolution under section 203. The commission may set the access rate under this subsection.

(8) A provider of access, whether under tariff or contract, shall offer such services under the same rates, terms and conditions, without unreasonable discrimination, to all providers and customers. All pricing of special access services, including volume discounts, shall be offered to all providers and customers under the same rates, terms, and conditions. For purposes of this subsection, volume discounts on switched access shall be considered unreasonable discrimination.

(9) An alteration in rates for intrastate subscriber line charges or end-user line charges to basic local exchange customers shall be approved by the commission as provided in section 304.

Sec. 311. (1) A telecommunication provider of both basic local exchange service and toll service shall impute to itself its prices of special access and switched access for the use of essential facilities it uses in the provision of toll, WATS, or other service for which access is a component. The imputation of prices shall be in the aggregate on a service by service basis.

(2) All other providers of intrastate special access, switched access services, toll, or WATS shall impute to themselves in the aggregate on a service by service basis their individual cost of special or switched access or its equivalent in their pricing. The commission shall resolve any dispute that may arise under this section.

(3) Telecommunication services that utilize special or switched access shall be made available for resale by the telecommunication provider offering the service.

C. TOLL SERVICE

Sec. 312. (1) Except as provided by this section, the commission shall not review or set the rates for toll service.

(2) The rates for residential and business intra-LATA toll service shall not be greater than the rates allowed on December 31, 1991 for the period of January 1, 1992 to December 31, 1995. The commission may approve a rate higher than that allowed by this subsection if access rates are increased during the period of January 1, 1992 to December 31, 1995.

(3) A provider of toll service shall charge the same rate for the service on its routes of similar distance within the state unless otherwise authorized by the commission. This section does not prohibit volume discounts or discounts in promotional offerings if the provider meets the requirements of section 311.

(4) The commission shall require that toll service is universally available on a nondiscriminatory basis to all persons within the state.

(5) Adjacent exchange toll calling plans as ordered by the commission on June 19, 1991 shall remain in effect under this act until altered by order of the commission. Not later than April 1, 1992, a provider of toll service shall implement an optional discount plan for calling to exchanges within 20 miles of a customer's home exchange. The plan shall not violate the conditions delineated in the commission's order in case number U-9153, dated September 26, 1989. Notwithstanding any other provision of this act, a provider may not increase the rates for this service without the approval of the commission.

D. DISCONTINUANCE OF SERVICES

Sec. 313. (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.

Sec. 314. (1) A provider of a regulated service shall not discontinue the regulated service for failure by a customer to pay a rate or charge imposed for an unregulated service. For the purposes of this section, the commission may determine how payments are allocated between regulated and unregulated services.

(2) The commission shall determine when and under what conditions a provider of basic local exchange service may discontinue service under this section.

E. SERVICES FOR THE HEARING IMPAIRED

Sec. 315. (1) The commission shall require each provider of basic local exchange service to provide a text telephone-telecommunications device for the deaf at costs to each individual who is certified as deaf or severely hearing- or speech-impaired by a licensed physician, audiologist, or qualified state agency, and to each public safety answering point as defined in section 102 of the emergency telephone service enabling act, Act No. 32 of the Public Acts of 1986, being section 484.1102 of the Michigan Compiled Laws.

(2) The commission shall require each provider of basic local exchange service to provide a telecommunication relay service whereby persons using a text telephone-telecommunications device for the deaf can communicate with persons using a voice telephone through the use of third party intervention or automated translation. Each provider of basic local exchange service shall determine whether to provide a telecommunication relay service on its own, jointly with other basic local exchange providers, or by contract with other telecommunication providers. The commission shall determine the technical standards and essential features of text telephone and telecommunication relay service to ensure their compatibility and reliability.

(3) The commission shall appoint a 3-person advisory board consisting of a representative of the deaf community, the commission staff, and providers of basic local exchange service to assist in administering this section. The advisory board shall hold meetings, open to the public, at least once each 3 months, shall periodically seek input on the administration of this section from members of the deaf, hearing, or speech impaired community, and shall report to the commission at least annually. The advisory board shall investigate and make recommendations on the feasibility of hiring a reasonably prudent number of people from the deaf or hearing impaired and speech impaired community to work in the provision of telecommunication relay service.

(4) Rates and charges for calls placed through a telecommunication relay service shall not exceed the rates and charges for calls placed directly from the same originating location to the same terminating location. Unless ordered by the commission, a provider of a telecommunications relay service shall not be required to handle calls from public telephones except for calls charged collect, cash, to a credit card, or third party number.

(5) Notwithstanding any other provision of this act, a provider may offer discounts on toll calls where a text telephone-telecommunications device for the deaf is used. The commission shall not prohibit such discounts on toll calls placed through a telecommunication relay service.

(6) The commission shall establish a rate for each subscriber line of a provider to allow the provider to recover costs incurred under this section and may waive the costs assessed under this section to individuals who are deaf or severely hearing impaired or speech impaired.

F. LIFELINE SERVICES

Sec. 316. (1) The commission shall require each provider of residential basic local exchange service to offer certain low income customers the availability of basic local exchange service at a rate below the regulated rate.

(2) The commission shall establish a rate for each subscriber line of a provider to allow the provider to recover costs incurred under this section.

(3) The commission by order shall determine which customers qualify for the special rate under this section.

(4) The commission shall take necessary action to notify the general public of the availability of lifeline services including, but not limited to, public service announcements, newspaper notices, and such other notice reasonably calculated to reach those who may benefit from the services.

ARTICLE 4

UNREGULATED SERVICES

Sec. 401. (1) Except as otherwise provided by section 305, the commission shall not have authority over enhanced services, paging, cellular, mobile, and answering services, video, cable television, pay-per-view, shared tenant, private networks, financial services networks, radio and television, WATS, personal communication networks, municipally owned telecommunication system, 800 prefix services and the reselling of a telecommunication service. None of the foregoing shall be considered to be the provision of basic local exchange service.

(2) Except as provided in sections 206, 305, 308, and 601, the commission shall not have the authority over a telecommunication service not specifically provided for in this act.

Sec. 402. (1) A provider of an unregulated service may file with the commission a tariff which shall contain the information the provider determines to be appropriate regarding the offered service.

(2) The commission shall retain a tariff filed under this section and make all information contained in the tariff available to the public.

Sec. 403. A provider of unregulated telecommunication services shall not at any time refuse, charge, delay, or impair the speed of the connecting of a person to a telecommunication emergency service.

ARTICLE 5

PROHIBITED ACTIVITY

Sec. 501. (1) If the commission determines that a person has offered and provided a telecommunication service that is harmful to any person, the commission shall request the attorney general to bring an action in the circuit court to enjoin such acts or practices that violate this section.

(2) If the court finds the telecommunication service to be harmful, it shall issue an injunction to prohibit the service and the collection of a service charge, surcharge, or any other fee required to receive the service.

(3) As used in this section:

(a) "Harmful" means sexually explicit matter that meets all of the following criteria:

(i) Considered as a whole, it appeals to prurient interests as determined by contemporary local community standards.

(ii) It is patently offensive to contemporary local community standards.

(iii) Considered as a whole, it lacks serious literary, artistic, political, educational, and scientific value.

(b) "Local community" means the county in which the telecommunication service is received.

(c) "Prurient interest" means a lustful interest in sexual stimulation or gratification.

ARTICLE 6

PENALTIES, REPEALS, AND EFFECTIVE DATES

Sec. 601. If after notice and hearing the commission finds a person has violated a provision of this act, the commission shall order remedies and penalties to protect and make whole ratepayers and other persons who have suffered an economic loss as a result of the violation, including, but not limited to, 1 or more of the following:

(a) Except as provided in subdivision (b), the person to pay a fine for the first offense of not less than \$1,000.00 nor more than \$20,000.00 per day that the person is in violation of this act, and for each subsequent offense, a fine of not less than \$2,000.00 nor more than \$40,000.00 per day.

(b) If the provider has less than 250,000 access lines, the provider to pay a fine for the first offense of not less than \$200.00 or more than \$500.00 per day that the provider is in violation of this act, and for each subsequent offense a fine of not less than \$500.00 or more than \$1,000.00 per day.

(c) If the person is a licensee under this act, that the person's license is revoked.

(d) Cease and desist orders.

Sec. 602. The commission shall assure that none of the amounts paid pursuant to section 601 or any other related defense costs are passed through to the provider's customers in any manner.

Sec. 603. The following acts and parts of acts are repealed:

<u>Year of Act</u>	<u>Public Act Number</u>	<u>Section Numbers</u>	<u>Compiled Law Sections (1979)</u>
1883	72		484.51
1913	206	1 to 3f	484.101 to 484.103f
		4 to 11a	484.104 to 484.111a
		12 to 14	484.112 to 484.114
		19 to 24	484.119 to 484.124
		26	484.126
1913	383		469.491 to 469.493

Sec. 604. This act is repealed effective January 1, 1996.

Sec. 605. This act shall take effect January 1, 1992.

This act is ordered to take immediate effect.

.....
Secretary of the Senate.

.....
Clerk of the House of Representatives.

Approved

.....
Governor.