

# HOUSE BILL No. 5988

July 2, 1998, Introduced by Rep. Gubow and referred to the Committee on Public Utilities.

A bill to amend 1991 PA 179, entitled  
"Michigan telecommunications act,"  
by amending sections 201, 203, and 305 (MCL 484.2201, 484.2203,  
and 484.2305), sections 203 and 305 as amended by 1995 PA 216.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 201. (1) The Michigan public service commission shall  
2 have the jurisdiction and authority to administer this act AND TO  
3 IMPLEMENT IN THIS STATE THE APPLICABLE PROVISIONS OF THE TELECOM-  
4 MUNICATIONS ACT OF 1996, PUBLIC LAW 104-104, 110 STAT. 56.

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

7       Sec. 203. (1) Upon receipt of an application or complaint  
8 filed under this act, or on its own motion, the commission may  
9 conduct an investigation, hold hearings, and issue its findings  
10 and order under the contested hearings provisions of the

1 administrative procedures act of 1969, ~~Act No. 306 of the Public~~  
2 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~  
3 ~~Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328.

4 (2) IF THE COMPLAINT FILED UNDER THIS SECTION ALLEGES AN ACT  
5 OR OMISSION THAT IS IN VIOLATION OF THIS ACT OR THAT WILL  
6 ADVERSELY AFFECT THE ABILITY OF THE COMPLAINING PARTY TO PROVIDE  
7 SERVICE TO ITS CUSTOMERS AND THE COMPLAINING PARTY ALLEGES FACTS  
8 THAT WARRANT EMERGENCY RELIEF, THE COMPLAINANT MAY INCLUDE IN THE  
9 COMPLAINT A REQUEST FOR AN EMERGENCY RELIEF ORDER. A COMPLAINANT  
10 IS NOT PROHIBITED FROM ALLEGING OR MAKING A SEPARATE COMPLAINT  
11 FOR OTHER RELIEF ALLOWED UNDER THIS SECTION. THE COMMISSION  
12 SHALL ISSUE AN ORDER GRANTING OR DENYING THE REQUEST FOR EMER-  
13 GENCY RELIEF WITHIN 7 BUSINESS DAYS OF THE FILING OF THE  
14 COMPLAINT. IF AN ORDER FOR EMERGENCY RELIEF IS GRANTED, IT SHALL  
15 INCLUDE A FINDING AND THE BASIS FOR THE FINDING THAT EXIGENT CIR-  
16 CUMSTANCES EXIST THAT WARRANT EMERGENCY RELIEF. AN ORDER FOR  
17 EMERGENCY RELIEF MAY REQUIRE THE RESPONDING PARTY TO ACT OR  
18 REFRAIN FROM ACTION SO AS TO PROTECT THE PROVISION OF COMPETITIVE  
19 SERVICE OFFERINGS PURSUANT TO THE STANDARDS UNDER SECTION 208 TO  
20 CUSTOMERS. IN ITS ORDER GRANTING OR DENYING THE REQUEST FOR  
21 EMERGENCY RELIEF, THE COMMISSION MAY ORDER THE PAYMENT OF REASON-  
22 ABLE ATTORNEY FEES AND COSTS TO THE PREVAILING PARTY.

23 (3) AN ORDER FOR TEMPORARY EMERGENCY RELIEF MAY BE GRANTED  
24 UNDER SUBSECTION (2) WITHOUT AN EVIDENTIARY HEARING UPON A VERI-  
25 FIED FACTUAL SHOWING OF ALL OF THE FOLLOWING:

26 (A) THAT THE PARTY HAS DEMONSTRATED EXIGENT CIRCUMSTANCES  
27 THAT WARRANT EMERGENCY RELIEF.

1 (B) THAT THE PARTY SEEKING RELIEF WILL LIKELY SUCCEED ON THE  
2 MERITS.

3 (C) THAT THE PARTY WILL SUFFER IRREPARABLE HARM IN ITS ABIL-  
4 ITY TO SERVE CUSTOMERS IF EMERGENCY RELIEF IS NOT GRANTED.

5 (D) THAT THE ORDER IS NOT ADVERSE TO THE PUBLIC INTEREST.

6 (4) IF AN ORDER FOR TEMPORARY EMERGENCY RELIEF IS ISSUED  
7 WITHOUT AN EVIDENTIARY HEARING UNDER SUBSECTION (3), THE COMMIS-  
8 SION SHALL CONDUCT AN EVIDENTIARY HEARING TO REVIEW THE ORDER  
9 WITHIN 10 DAYS OF THE DATE THE ORDER WAS ISSUED TO DETERMINE  
10 WHETHER THE ORDER SHOULD BECOME A FINAL ORDER OR BE TERMINATED.

11 (5) ~~-(2)-~~ An application or complaint filed under this sec-  
12 tion shall contain all information, testimony, exhibits, or other  
13 documents and information on which the person intends to rely to  
14 support the application or complaint. Applications or complaints  
15 that do not meet the requirements of this subsection shall be  
16 dismissed or suspended pending the receipt by the commission of  
17 the required information.

18 (6) ~~-(3)-~~ The burden of proving a case filed under this act  
19 shall be with the party filing the application or complaint.

20 (7) ~~-(4)-~~ In a contested case under this section, the com-  
21 mission can administer oaths, certify all official acts, and  
22 compel the attendance of witnesses and the production of papers,  
23 books, accounts, documents, and testimony.

24 (8) ~~-(5)-~~ Except as otherwise provided in subsections (2),  
25 ~~and (6)-~~ (4), (5), (9), AND (12), the commission shall issue a  
26 final order in a case filed under this section within 90 days  
27 from the date the application or complaint is filed.

1       (9) ~~-(6)-If~~ EXCEPT AS PROVIDED IN SUBSECTION (2), IF a  
2 hearing is required, the applicant or complainant shall publish a  
3 notice of hearing as required by the commission within 7 days of  
4 the date the application or complaint was filed or as required by  
5 the commission. The first hearing shall be held within 10 days  
6 after the date of the notice. If a hearing is held, the commis-  
7 sion shall have 180 days from the date the application or com-  
8 plaint was filed to issue its final order. If the principal par-  
9 ties of record agree that the complexity of issues involved  
10 requires additional time, the commission may have up to 210 days  
11 from the date the application or complaint was filed to issue its  
12 final order.

13       (10) ~~-(7)-~~ An order of the commission shall be subject to  
14 review as provided by section 26 of ~~Act No. 300 of the Public~~  
15 ~~Acts of 1909, being section 462.26 of the Michigan Compiled Laws~~  
16 1909 PA 300, MCL 462.26.

17       (11) ~~-(8)-~~ If a complaint is filed under this section by a  
18 provider against another provider, the provider of service shall  
19 not discontinue service during the period of the contested case,  
20 including the alternative dispute process, if the provider  
21 receiving the service has posted a surety bond, provided an  
22 irrevocable letter of credit, or provided other adequate security  
23 in an amount and on a form as determined by the commission.

24       (12) IF THE COMPLAINT FILED UNDER THIS SECTION INVOLVES AN  
25 INTERCONNECTION DISPUTE BETWEEN PROVIDERS, THE COMMISSION SHALL  
26 REQUIRE THE PARTIES TO UTILIZE THE ALTERNATIVE DISPUTE PROCESS  
27 UNDER SECTION 203A.

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

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

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

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

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

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

13       (f) Refuse or delay a request of another provider for infor-  
14 mation regarding the technical design, equipment capabilities and  
15 features, geographic coverage, and traffic patterns of the local  
16 exchange network.

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

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

25       (i) Discriminate against any provider or any party who  
26 requests the information for commercial purposes in the  
27 dissemination of customer proprietary information. A provider

1 shall provide without unreasonable discrimination or delay  
2 telephone directory listing information and related services to  
3 persons purchasing telephone directory listing information to the  
4 same extent and in the same quality as provided to the provider,  
5 affiliates of the provider, or any other listing information  
6 purchaser.

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

9 (k) Sell, lease, or otherwise transfer an asset to an affil-  
10 iate for an amount less than the fair market value of the asset.

11 (l) Buy, lease, or otherwise acquire an asset from an affil-  
12 iate of the provider for an amount greater than the fair market  
13 value of the asset.

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

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

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

21 (p) Discriminate in favor of an affiliated burglar and fire  
22 alarm service over a similar service offered by another  
23 provider.

24 (Q) VIOLATE THE TERMS OF AN INTERCONNECTION AGREEMENT  
25 ENTERED INTO UNDER SECTIONS 351 TO 363 OR UNDER FEDERAL LAW.

26 (R) FAIL TO COMPLY WITH AN EMERGENCY RELIEF ORDER ISSUED  
27 UNDER SECTION 203.

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

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

7       (b) Unreasonably use rates or proceeds from providers,  
8 directly or indirectly, to subsidize or offset the costs of cel-  
9 lular service offered by the provider, or an affiliate of the  
10 provider, to other providers or to end-users.

11       (3) Until a provider has complied with section 304a, the  
12 provider of a rate regulated service shall not provide that serv-  
13 ice in combination with an unregulated service in section 401 or  
14 an unbundled or resold service under section 357 at a price that  
15 does not exceed the total service long run incremental cost of  
16 each service.