

Act No. 41
Public Acts of 1998
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

**Introduced by Senators Byrum, Conroy, Gougeon, North, Bullard, Vaughn, V. Smith, Peters, A. Smith,
DeBeaussaert, Young, Stallings and Koivisto**

ENROLLED SENATE BILL No. 374

AN ACT to amend 1991 PA 179, entitled "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," by amending sections 102 and 304b (MCL 484.2102 and 484.2304b), section 102 as amended and section 304b as added by 1995 PA 216.

The People of the State of Michigan enact:

Sec. 102. As used in this act:

(a) "Access service" means access to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication services within the local exchange. Except for end-user common line services, access service does not include access service to a person who is not a provider.

(b) "Basic local exchange service" or "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) "Cable service" means 1-way transmission to subscribers of video programming or other programming services and subscriber interaction for the selection of video programming or other programming services.

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

(e) "Contested case" or "case" means a proceeding as defined in section 3 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.203.

(f) "Educational institution" means a public educational institution or a private non-profit educational institution approved by the department of education to provide a program of primary, secondary, or higher education, a public library, 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.

(g) "Energy management services" means a service of a public utility providing electric power, heat, or light for energy use management, energy use control, energy use information, and energy use communication.

(h) "Exchange" means 1 or more contiguous central offices and all associated facilities within a geographical area in which local exchange telecommunication services are offered by a provider.

(i) "Information services" or "enhanced services" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information, including energy management services, that is conveyed by telecommunications. Information services or enhanced services do not include the use of such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

(j) "Interconnection" means the technical arrangements and other elements necessary to permit the connection between the switched networks of 2 or more providers to enable a telecommunication service originating on the network of 1 provider to terminate on the network of another provider.

(k) "Inter-LATA prohibition" means the prohibitions on the offering of inter-exchange or inter-LATA service contained in the modification of final judgment entered pursuant to a consent decree in United States v American Telephone and Telegraph Co., 552 F. Supp. 131 (D.D.C. 1982), and in the consent decree approved in United States v GTE Corp., 603 F. Supp. 730 (D.D.C. 1984).

(l) "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).

(m) "License" means a license issued pursuant to this act.

(n) "Line" or "access line" means the medium over which a telecommunication user connects into the local exchange.

(o) "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.

(p) "Local directory assistance" means the provision by telephone of a listed telephone number within the caller's area code.

(q) "Local exchange rate" means the monthly and usage rate, including all necessary and attendant charges, imposed for basic local exchange service to customers.

(r) "Loop" means the transmission facility between the network interface on a subscriber's premises and the main distribution frame in the servicing central office.

(s) "Operator service" means a telecommunication service that includes automatic or live assistance to a person to arrange for completion and billing of a telephone call originating within this state that is specified by the caller through a method other than 1 of the following:

(i) Automatic completion with billing to the telephone from which the call originated.

(ii) Completion through an access code or a proprietary account number used by the person, with billing to an account previously established with the provider by the person.

(iii) Completion in association with directory assistance services.

(t) "Operator service provider" or "OSP" means a provider of operator service.

(u) "Payphone service" means a telephone call provided from a public, semipublic, or individually owned and operated telephone that is available to the public and is accessed by the depositing of coin or currency or by other means of payment at the time the call is made.

(v) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(w) "Person with disabilities" 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.

(x) "Port" except for the loop, means the entirety of local exchange, including dial tone, a telephone number, switching software, local calling, and access to directory assistance, a white pages listing, operator services, and interexchange and intra-LATA toll carriers.

(y) "Reasonable rate" or "just and reasonable rate" means a rate that is not inadequate, excessive, or unreasonably discriminatory. A rate is inadequate if it is less than the total service long run incremental cost of providing the service.

(z) "Residential customer" means a person to whom telecommunication services are furnished predominantly for personal or domestic purposes at the person's dwelling.

(aa) "Special access" means the provision of access service, other than switched access service, 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.

(bb) "State institution of higher education" means an institution of higher education described in sections 4, 5, and 6 of article VIII of the state constitution of 1963.

(cc) "Telecommunication provider" or "provider" means a person or an affiliate of the person each of which for compensation provides 1 or more telecommunication services.

(dd) "Telecommunication services" or "services" includes regulated and unregulated services offered to customers for the transmission of 2-way interactive communication and associated usage. A telecommunication service is not a public utility service.

(ee) "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.

(ff) "Total service long run incremental cost" means, given current service demand, including associated costs of every component necessary to provide the service, 1 of the following:

(i) The total forward-looking cost of a telecommunication service, relevant group of services, or basic network component, using current least cost technology that would be required if the provider had never offered the service.

(ii) The total cost that the provider would incur if the provider were to initially offer the service, group of services, or basic network component.

(gg) "Wide area telecommunications service" or "WATS" means the transmission of 2-way interactive switched communication over a dedicated access line.

Sec. 304b. (1) A provider of basic local exchange service shall develop and offer various rate plans that reflect residential customer calling patterns that shall include, but not limited to, all of the following at the option of the customer unless it is not technologically feasible:

(a) A flat rate allowing unlimited personal and domestic outgoing calls.

(b) A flat rate allowing personal and domestic outgoing calls up to 400 calls per month per line. Calls in excess of 400 per month may be charged at an incremental rate as set by the provider under section 304. If a customer has more than 1 line at the same location that appears on the customer's bill, the allowable calls under this subdivision shall be the aggregate of all the lines regardless from which line the calls originate. A person with disabilities 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 shall receive a flat rate allowing unlimited calls per month. A person exempt from the call cap under this subdivision shall not be charged a rate greater than the flat rate charged other residential customers for 400 calls.

(c) A flat rate allowing personal and domestic outgoing calls of not less than 50 nor more than 150 per month, per line. Providers may offer additional plans allowing personal and domestic outgoing calls of not less than 150 per month nor more than 400 per month, per line. Calls in excess of upper per call limit per month may be charged at an incremental rate as set by the provider under section 304. If a customer has more than 1 line at the same location that appears on the customer's bill, the allowable calls under this subdivision shall be the aggregate of all the lines regardless from which line the calls originate.

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

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

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

(g) A rate that includes toll-free calling to contiguous Michigan local calling exchanges.

(2) If an option required under subsection (1) is not being offered by the provider on January 1, 1996, the provider shall set the initial rate for the option.

(3) A provider who, together with any affiliated providers, provides basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state is not required to provide a rate plan required under subsection (1) if it is not economically feasible to provide the rate plan.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Maya Rudolph

Clerk of the House of Representatives.

Approved _____

Governor.