

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5721

A bill 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 101, 103, 201, 203, 203a, 207, 213, 302, 303, 304, 310, 312, 502, 503, 506, 601, and 604 (MCL 484.2101, 484.2103, 484.2201, 484.2203, 484.2203a, 484.2207, 484.2213, 484.2302, 484.2303, 484.2304, 484.2310, 484.2312, 484.2502, 484.2503, 484.2506, 484.2601, and 484.2604), sections 101, 203, 207, 213, 303, 304, 310, 312, 601, and 604 as amended and sections 203a, 502, and 503 as added by 1995 PA 216 and section 506 as added by 1998 PA 259, and by adding sections 214, 316a, 322, 507, and 701; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 101. (1) This act shall be known and may be cited as
2 the "Michigan telecommunications act".

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1 (2) The purpose of this act is to do all of the following:

2 (a) Ensure that every person has access to JUST, REASONABLE,
3 AND AFFORDABLE basic residential telecommunication service.

4 (b) Allow and encourage competition to determine the avail-
5 ability, prices, terms, and other conditions of providing tele-
6 communication services.

7 (c) Restructure regulation to focus on price and quality of
8 service and not on the provider. ~~Rely more on~~ SUPPLEMENT
9 existing state and federal law regarding antitrust, consumer pro-
10 tection, and fair trade to provide ADDITIONAL safeguards for com-
11 petition and consumers.

12 (d) Encourage the introduction of new services, the entry of
13 new providers, the development of new technologies, and increase
14 investment in the telecommunication infrastructure in this state
15 through incentives to providers to offer the most efficient serv-
16 ices and products.

17 (e) Improve the opportunities for economic development and
18 the delivery of essential services including education and health
19 care.

20 (f) Streamline the process for setting and adjusting the
21 rates for regulated services that will ensure effective rate
22 review and reduce the costs and length of hearings
23 ~~traditionally~~ associated with rate cases.

24 (g) Encourage the use of existing educational telecommunica-
25 tion networks and networks established by other commercial pro-
26 viders as building blocks for a cooperative and efficient
27 statewide educational telecommunication system.

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1 (h) Ensure effective review and disposition of disputes
2 between telecommunication providers.

3 (I) AUTHORIZE ACTIONS TO ENCOURAGE THE DEVELOPMENT OF A COM-
4 PETITIVE TELECOMMUNICATION INDUSTRY.

5 Sec. 103. (1) Except as otherwise provided in this act,
6 this act shall not be construed to prevent any person from pro-
7 viding telecommunication services in competition with another
8 telecommunication provider.

9 (2) THE COMMISSION SHALL SUBMIT AN ANNUAL REPORT DESCRIBING
10 THE STATUS OF COMPETITION IN TELECOMMUNICATION SERVICES IN THIS
11 STATE, INCLUDING, BUT NOT LIMITED TO, THE TOLL AND LOCAL EXCHANGE
12 SERVICE MARKETS IN THIS STATE. THE REPORT REQUIRED UNDER THIS
13 SECTION SHALL BE SUBMITTED TO THE GOVERNOR AND THE HOUSE AND
14 SENATE STANDING COMMITTEES WITH OVERSIGHT OF TELECOMMUNICATION
15 ISSUES.

16 Sec. 201. (1) ~~The~~ EXCEPT AS OTHERWISE PROVIDED BY THIS
17 ACT, THE Michigan public service commission shall have the juris-
18 diction and authority to administer this act AND ALL FEDERAL
19 TELECOMMUNICATIONS LAWS, RULES, ORDERS, AND REGULATIONS THAT ARE
20 DELEGATED TO THE STATE.

21 (2) ~~In administering this act, the commission shall be~~
22 ~~limited to the powers and duties prescribed by this act.~~ THE
23 COMMISSION SHALL EXERCISE ITS JURISDICTION AND AUTHORITY CONSIS-
24 TENT WITH THIS ACT AND ALL FEDERAL TELECOMMUNICATIONS LAWS,
25 RULES, ORDERS, AND REGULATIONS.

26 Sec. 203. (1) Upon receipt of an application or complaint
27 filed under this act, or on its own motion, the commission may

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1 conduct an investigation, hold hearings, and issue its findings
2 and order under the contested hearings provisions of the adminis-
3 trative procedures act of 1969, ~~Act No. 306 of the Public Acts~~
4 ~~of 1969, being sections 24.201 to 24.328 of the Michigan Compiled~~
5 ~~Laws~~ 1969 PA 306, MCL 24.201 TO 24.328.

6 (2) IF A COMPLAINT FILED UNDER THIS SECTION ALLEGES FACTS
7 THAT WARRANT EMERGENCY RELIEF, THE COMPLAINANT MAY REQUEST AN
8 EMERGENCY RELIEF ORDER. ON THE DATE OF FILING, THE COMPLAINT AND
9 REQUEST FOR EMERGENCY RELIEF SHALL BE HAND-DELIVERED TO THE
10 RESPONDENT AT ITS PRINCIPAL PLACE OF BUSINESS IN MICHIGAN. THE
11 COMMISSION SHALL ALLOW 5 BUSINESS DAYS FOR A FILING IN RESPONSE
12 TO THE REQUEST FOR EMERGENCY RELIEF. THE COMMISSION SHALL REVIEW
13 THE COMPLAINT, THE REQUEST FOR EMERGENCY RELIEF, THE RESPONSE,
14 AND ALL SUPPORTING MATERIALS AND DETERMINE WHETHER TO DENY THE
15 REQUEST FOR EMERGENCY RELIEF OR TO CONDUCT AN INITIAL EVIDENTIARY
16 HEARING. THE INITIAL EVIDENTIARY HEARING SHALL BE CONDUCTED
17 WITHIN 5 BUSINESS DAYS FROM THE DATE OF THE NOTICE OF HEARING AND
18 THE COMMISSION SHALL ISSUE AN ORDER GRANTING OR DENYING THE
19 REQUEST FOR EMERGENCY RELIEF. AN ORDER FOR EMERGENCY RELIEF MAY
20 REQUIRE A PARTY TO ACT OR REFRAIN FROM ACTION TO PROTECT
21 COMPETITION. ANY ACTION REQUIRED BY AN ORDER FOR EMERGENCY
22 RELIEF SHALL BE TECHNICALLY FEASIBLE AND ECONOMICALLY REASONABLE
23 AND THE RESPONDENT SHALL BE GIVEN A REASONABLE PERIOD OF TIME TO
24 COMPLY WITH THE ORDER. AT THE HEARING FOR EMERGENCY RELIEF, THE
25 RESPONDENT HAS THE BURDEN OF SHOWING THAT THE ORDER IS NOT TECH-
26 NICALLY FEASIBLE AND NOT ECONOMICALLY REASONABLE. IF THE
27 COMMISSION FINDS THAT EXTRAORDINARY CIRCUMSTANCES EXIST THAT

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1 WARRANT EXPEDITED REVIEW BEFORE THE COMMISSION'S ISSUANCE OF A
2 FINAL ORDER, IT SHALL SET A SCHEDULE PROVIDING FOR THE ISSUANCE
3 OF A PARTIAL FINAL ORDER AS TO ALL OR PART OF THE ISSUES FOR
4 WHICH EMERGENCY RELIEF WAS GRANTED WITHIN 90 DAYS OF THE ISSUANCE
5 OF THE EMERGENCY RELIEF ORDER.

6 (3) AN ORDER FOR EMERGENCY RELIEF MAY BE GRANTED UNDER SUB-
7 SECTION (2) IF THE COMMISSION FINDS ALL OF THE FOLLOWING:

8 (A) THAT THE PARTY HAS DEMONSTRATED EXIGENT CIRCUMSTANCES
9 THAT WARRANT EMERGENCY RELIEF.

10 (B) THAT THE PARTY SEEKING RELIEF WILL LIKELY SUCCEED ON THE
11 MERITS.

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

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

15 (4) THE COMMISSION MAY REQUIRE THE COMPLAINANT TO POST A
16 BOND IN AN AMOUNT SUFFICIENT TO MAKE WHOLE THE RESPONDENT IN THE
17 EVENT THAT THE ORDER FOR EMERGENCY RELIEF IS LATER FOUND TO HAVE
18 BEEN ERRONEOUSLY GRANTED.

19 (5) AN ORDER FOR EMERGENCY RELIEF SHALL EXPIRE UPON THE
20 SOONER OF ANY OF THE FOLLOWING:

21 (A) NINETY DAYS AFTER ITS ISSUANCE.

22 (B) ISSUANCE OF THE COMMISSION'S PARTIAL FINAL ORDER.

23 (C) AN EARLIER DATE SET BY THE COMMISSION. NOTWITHSTANDING
24 THIS SUBSECTION, THE COMMISSION MAY EXTEND THE EMERGENCY RELIEF
25 ORDER TO A DATE NO LATER THAN THE DATE ON WHICH THE FINAL ORDER
26 IN THE PROCEEDING IS ISSUED.

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1 (6) AN ORDER GRANTING OR DENYING EMERGENCY RELIEF UNDER
2 SUBSECTION (2) SHALL BE SUBJECT TO IMMEDIATE REVIEW IN THE COURT
3 OF APPEALS AS A MATTER OF RIGHT BY THE PARTY AGGRIEVED. THE
4 REVIEW SHALL BE DE NOVO AND SHALL COMPLY WITH MICHIGAN COURT RULE
5 7.211(C)(6). THE COURT MAY STAY AN ORDER GRANTING EMERGENCY
6 RELIEF UPON THE POSTING OF A BOND OR OTHER SECURITY IN AN AMOUNT
7 AND ON TERMS SET BY THE COURT. REGARDLESS OF WHETHER AN APPEAL
8 IS MADE UNDER THIS SUBSECTION, THE COMMISSION SHALL PROCEED WITH
9 THE CASE AND ISSUE A FINAL ORDER AS OTHERWISE REQUIRED UNDER THIS
10 SECTION.

11 (7) ~~—(2)—~~ An application or complaint filed under this sec-
12 tion shall contain all information, testimony, exhibits, or other
13 documents and information WITHIN THE PERSON'S POSSESSION on which
14 the person intends to rely to support the application or
15 complaint. Applications or complaints that do not meet the
16 requirements of this subsection shall be dismissed or suspended
17 pending the receipt by the commission of the required
18 information. IF THE COMPLAINANT OR APPLICANT REQUIRES INFORMA-
19 TION IN THE POSSESSION OF THE RESPONDENT, NOT WITHIN THE
20 COMPLAINANT'S OR APPLICANT'S POSSESSION, THE COMMISSION MAY ALLOW
21 A REASONABLE OPPORTUNITY FOR DISCOVERY TO ALLOW THE COMPLAINANT
22 OR APPLICANT TO PROVIDE ALL RELEVANT INFORMATION, TESTIMONY,
23 EXHIBITS, OR OTHER DOCUMENTS ON WHICH THE COMPLAINANT OR APPLI-
24 CANT INTENDS TO RELY TO SUPPORT ITS APPLICATION OR COMPLAINT.

25 (8) ~~—(3)—~~ The burden of proving a case filed under this act
26 ~~shall be~~ IS with the party filing the application or
27 complaint.

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1 (9) ~~-(4)-~~ In a contested case under this section, the
2 commission can administer oaths, certify all official acts, and
3 compel the attendance of witnesses and the production of papers,
4 books, accounts, documents, and testimony.

5 (10) ~~-(5)-~~ Except as otherwise provided in ~~subsections (2)~~
6 ~~and (6)~~ THIS SECTION, the commission shall issue a final order
7 in a case filed under this section within 90 days from the date
8 the application or complaint is filed.

9 (11) ~~-(6)-If~~ EXCEPT AS PROVIDED FOR A HEARING INVOLVING A
10 REQUEST FOR EMERGENCY RELIEF, IF a hearing is required, the
11 applicant or complainant shall publish a notice of hearing as
12 required by the commission within 7 days of the date the applica-
13 tion or complaint was filed or as required by the commission.
14 The first hearing shall be held within 10 days after the date of
15 the notice. If a hearing is held, the commission shall have 180
16 days from the date the application or complaint was filed to
17 issue its final order. If the principal parties of record agree
18 that the complexity of issues involved requires additional time,
19 the commission may have up to 210 days from the date the applica-
20 tion or complaint was filed to issue its final order. IF THE
21 APPLICATION OR COMPLAINT IS SUBJECT TO SECTION 203A, THE COMMIS-
22 SION SHALL HAVE AN ADDITIONAL 45 DAYS TO ISSUE ITS FINAL ORDER.

23 (12) ~~-(7)-~~ An order of the commission shall be subject to
24 review as provided by section 26 of ~~Act No. 300 of the Public~~
25 ~~Acts of 1909, being section 462.26 of the Michigan Compiled Laws~~
26 1909 PA 300, MCL 462.26.

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1 (13) ~~—(8)—~~ If a complaint is filed under this section by a
2 provider against another provider, the provider of service shall
3 not discontinue service during the period of the contested case,
4 including the alternative dispute process, if the provider
5 receiving the service has posted a surety bond, provided an
6 irrevocable letter of credit, or provided other adequate security
7 in an amount and on a form as determined by the commission.

8 (14) EXCEPT IF THERE IS A REQUEST FOR EMERGENCY RELIEF UNDER
9 THIS SECTION, IF THE COMPLAINT FILED UNDER THIS SECTION INVOLVES
10 AN INTERCONNECTION DISPUTE BETWEEN PROVIDERS, THE COMMISSION
11 SHALL REQUIRE THE PARTIES TO UTILIZE THE ALTERNATIVE DISPUTE PRO-
12 CESS UNDER SECTION 203A.

13 (15) IN ADDITION TO ANY OTHER RELIEF PROVIDED BY THIS ACT,
14 THE COMMISSION OR A PARTY MAY SEEK TO COMPEL COMPLIANCE WITH A
15 COMMISSION ORDER BY PROCEEDINGS IN MANDAMUS, INJUNCTION, OR BY
16 OTHER APPROPRIATE CIVIL REMEDIES IN THE CIRCUIT COURT OR OTHER
17 COURT OF PROPER JURISDICTION.

18 (16) THE AMENDATORY ACT THAT ADDED THIS SUBSECTION DOES NOT
19 AMEND, ALTER, OR LIMIT ANY CASE OR PROCEEDING COMMENCED BEFORE
20 THE EFFECTIVE DATE OF THIS SUBSECTION.

21 Sec. 203a. (1) For all complaints involving a dispute of
22 \$1,000.00 or less, A DISPUTE UNDER SECTION 203(14), or at the
23 option of the complainant, for a period of 45 days after the date
24 the complaint is filed under section 203, the parties shall
25 attempt alternative means of resolving the complaint.

26 (2) Any alternative means that will result in a recommended
27 settlement may be used that is agreed to by the principal parties

1 of record, including, but not limited to, settlement conferences,
2 mediation, and other informal dispute resolution methods. If the
3 parties cannot agree on an alternative means within 20 days after
4 the date the complaint is filed, the commission shall order
5 mediation. Within the 45-day period required under subsection
6 (1), a recommended settlement shall be made to the parties.

7 (3) Within 7 days after the date of the recommended settle-
8 ment, each party shall file with the commission a written accep-
9 tance or rejection of the recommended settlement. If the parties
10 accept the recommendation, then the recommendation shall become
11 the final order in the contested case under section 203.

12 (4) If a party rejects the recommended settlement, then the
13 application or complaint shall proceed to a contested case hear-
14 ing under section 203.

15 (5) The party that rejects the recommended settlement shall
16 pay the opposing party's actual costs of proceeding to a con-
17 tested case hearing, including attorney fees, unless the final
18 order of the commission is more favorable to the rejecting party
19 than the recommended settlement under this section. A final
20 order is considered more favorable if it differs by 10% or more
21 from the recommended settlement in favor of the rejecting party.

22 (6) If the recommendation is not accepted under
23 subsection (3), the individual commissioners shall not be
24 informed of the recommended settlement until they have issued
25 their final order under section 203.

26 (7) An attempt to resolve a contested case under this
27 section is exempt from the requirements of section 203 and the

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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 (8) This section shall not extend or toll the time within
5 which the commission is required to issue its final order under
6 section 203.

7 Sec. 207. ~~The~~ UNTIL DIRECTORY ASSISTANCE SERVICE IS
8 DETERMINED BY THE COMMISSION TO BE A COMPETITIVE SERVICE, THE
9 commission shall determine the manner in which ~~local~~ ALL direc-
10 tory assistance service to the ~~end user~~ END-USER is to be regu-
11 lated under this act. The regulations shall include both rates,
12 IF ANY, and quality of service.

13 Sec. 213. (1) ~~No later than July 1, 1996,~~ SUBJECT TO SUB-
14 SECTION 201, the commission ~~shall~~ MAY promulgate rules ~~for the~~
15 ~~implementation and administration of this act~~ under the adminis-
16 trative procedures act of 1969, ~~Act No. 306 of the Public Acts~~
17 ~~of 1969, being sections 24.201 to 24.328 of the Michigan Compiled~~
18 ~~Laws~~ 1969 PA 306, MCL 24.201 TO 24.328.

19 (2) Except as provided in subsection (3), effective
20 September 1, 1996, the following administrative rules shall not
21 apply to telecommunication providers or telecommunication
22 services:

23 (a) Electric power and communication lines: R 460.581 to
24 R 460.592.

25 (b) Intrastate telephone services and facilities:
26 R 460.1951 to R 460.1968.

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1 (c) Filing procedures for communications common carriers
2 tariffs: R 460.2051 to R 460.2057.

3 (d) Consumer standards and billing practices, residential
4 telephone service: R 460.2211 to R 460.2279.

5 (e) Uniform systems of accounts for class A and class B
6 telephone companies: R 460.9041 and R 460.9059.

7 (3) If the Michigan supreme court rules that sections 45 and
8 46 of the administrative procedures act of 1969, ~~Act No. 306 of~~
9 ~~the Public Acts of 1969, being sections 24.245 and 24.246 of the~~
10 ~~Michigan Compiled Laws~~ 1969 PA 306, MCL 24.245 AND 24.246, are
11 unconstitutional, and a statute requiring legislative review of
12 administrative rules is not enacted within 90 days after the
13 Michigan supreme court ruling, the commission shall not promul-
14 gate rules under this act. Subsection (2) does not apply if the
15 commission is prohibited from promulgating rules under this
16 subsection.

17 SEC. 214. (1) THE COMMISSION SHALL ISSUE ORDERS THAT ASSIGN
18 THE TELEPHONE DIGITS 2-1-1 TO COMMUNITY RESOURCE INFORMATION AND
19 REFERRAL ANSWERING POINTS ESTABLISHED UNDER SUBSECTION (3) AND
20 PRESCRIBE APPROPRIATE INTERCONNECTION ORDERS TO CARRY OUT THE
21 INTENT OF THIS SECTION.

22 (2) EACH PROVIDER OF BASIC LOCAL EXCHANGE SERVICE IN THIS
23 STATE SHALL ASSIGN THE TELEPHONE NUMBER 2-1-1 ONLY TO A COMMUNITY
24 RESOURCE INFORMATION AND REFERRAL ANSWERING POINT ESTABLISHED
25 UNDER SUBSECTION (3).

26 (3) THE COMMISSION SHALL DESIGNATE A COMMUNITY RESOURCE
27 INFORMATION AND REFERRAL ENTITY TO BE THE 2-1-1 ANSWERING POINT

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1 FOR VARIOUS GEOGRAPHICAL AREAS WITHIN THIS STATE. IN MAKING ITS
2 DETERMINATION, THE COMMISSION SHALL CONSIDER ALL OF THE
3 FOLLOWING:

4 (A) THE RECOMMENDATIONS OF THE MICHIGAN ALLIANCE FOR INFOR-
5 MATION AND REFERRAL SYSTEMS.

6 (B) WHETHER THE RELEVANT STATE-ENDORSED MULTIPURPOSE COLLA-
7 BORATIVE BODIES ARE IN AGREEMENT.

8 (C) WHETHER THE ENTITY HAS ESTABLISHED A FRAMEWORK TO ASSURE
9 THE PROVISION OF COVERAGE OF THE 2-1-1 TELEPHONE NUMBER 24 HOURS
10 PER DAY, 7 DAYS PER WEEK.

11 (D) WHETHER THE ENTITY MEETS 2-1-1 STANDARDS ADOPTED BY THE
12 MICHIGAN ALLIANCE FOR INFORMATION AND REFERRAL SYSTEMS.

13 (4) EACH COMMUNITY RESOURCE INFORMATION AND REFERRAL ENTITY
14 DESIGNATED BY THE COMMISSION TO BE THE 2-1-1 ANSWERING POINT FOR
15 A PARTICULAR GEOGRAPHICAL AREA WITHIN THE STATE SHALL ESTABLISH
16 THE FRAMEWORK TO PROVIDE SUFFICIENT RESOURCES TO OPERATE THE
17 2-1-1 TELEPHONE NUMBER 24 HOURS PER DAY, 7 DAYS PER WEEK.

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

21 (a) The applicant possesses sufficient technical, financial,
22 and managerial resources and abilities to provide basic local
23 exchange service to ~~every person~~ ALL RESIDENTIAL AND COMMERCIAL
24 CUSTOMERS within the geographic area of the license AND THAT THE
25 APPLICANT INTENDS TO PROVIDE SERVICE WITHIN 1 YEAR FROM THE DATE
26 THE LICENSE IS GRANTED.

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

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

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

9 Sec. 303. (1) The commission may alter or amend the geo-
10 graphic area of a license, grant a competing license, or
11 ~~authorize the sale or transfer of a license to another person~~
12 REVOKE A LICENSE OF A PROVIDER IF WITHIN 2 YEARS FROM THE DATE
13 THE LICENSE WAS GRANTED THE PROVIDER HAS NOT MARKETED ITS SERV-
14 ICES TO ALL POTENTIAL CUSTOMERS OR HAS REFUSED TO PROVIDE SERV-
15 ICES TO CERTAIN CUSTOMERS.

16 (2) A telecommunication provider shall not provide basic
17 local exchange service to customers or end-users located within
18 another telecommunication provider's licensed service area except
19 through interconnection arrangements as provided by this act.

20 (3) The sale or transfer of shares of stock of a provider of
21 basic local exchange service is not a sale or transfer of a
22 license or a discontinuance of service.

23 (4) THE COMMISSION HAS THE AUTHORITY TO APPROVE OR DENY A
24 PROPOSED ADDITION, ELIMINATION, OR MODIFICATION OF AN AREA CODE
25 IN THIS STATE. THE COMMISSION SHALL GIVE PUBLIC NOTICE AND SHALL
26 CONDUCT A PUBLIC HEARING IN THE AFFECTED GEOGRAPHIC AREA BEFORE

1 AN ADDITION, ELIMINATION, OR MODIFICATION OF AN AREA CODE IS MADE
2 IN THIS STATE.

(5) TO THE EXTENT THAT IT IS TECHNICALLY AND ECONOMICALLY
FEASIBLE, THE COMMISSION SHALL ISSUE ORDERS REQUIRING THE
MODIFICATION OF ALL AREA CODE BOUNDARIES IN THIS STATE TO INSURE
THAT THEY CONFORM TO COUNTY LINES.

3 Sec. 304. (1) Except as provided in section 304a, the rates
4 for basic local exchange service shall be just and reasonable.

5 (2) A provider may alter its rates for basic local exchange
6 services by 1 or more of the following:

7 (a) Filing with the commission notice of a decrease, dis-
8 count, or other rate reduction in a basic local exchange rate. A
9 rate alteration under this subdivision shall become effective
10 without commission review or approval.

11 (b) Filing with the commission notice of an increase in a
12 basic local exchange rate that does not exceed 1% less than the
13 consumer price index. Unless the commission determines that the
14 rate alteration exceeds the allowed increase under this subdivi-
15 sion, the rate alteration shall take effect 90 days from the date
16 of the notice required under subsection (3). As used in this
17 subdivision, "consumer price index" means the most recent
18 reported annual average percentage increase in the Detroit con-
19 sumer price index for all items for the prior 12-month period by
20 the United States department of labor.

21 (c) Filing with the commission an application to increase a
22 basic local exchange rate in an amount greater than that allowed
23 under subdivision (b). The application shall be accompanied with
24 sufficient documentary support that the rate alteration is just
25 and reasonable. The commission shall make a determination within
26 the 90-day period provided for in subsection (5) of 1 of the
27 following:

1 (i) That the rate alteration is just and reasonable.

2 (ii) That a filing under section 203 is necessary to review
3 the rate alteration.

4 (3) Notice to customers of a rate alteration is required for
5 a rate alteration under subsection (2)(b) or (c) and section 304a
6 and shall be included in or on the bill of each affected customer
7 of the provider before the effective date of the rate
8 alteration.

9 (4) The notice required under subsection (3) shall contain
10 at least all of the following information:

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

12 (b) An estimate of the amount of the annual change for the
13 typical residential customer that would result by the rate
14 change.

15 (c) A statement that a customer may comment on or receive
16 complete details of the rate alteration by calling or writing the
17 commission. The statement shall also include the telephone
18 number and address of the commission. Complete details of the
19 rate alteration ~~will~~ SHALL be provided free of charge to the
20 customer at the expense of the provider.

21 (5) Except as otherwise provided in subsections (2) and (6),
22 an altered basic local exchange rate shall take effect 90 days
23 from the date of the notice required by subsection (3).

24 (6) Upon receiving a complaint or pursuant to a determina-
25 tion under subsection (2)(c), the commission may require a filing
26 under section 203 to review a proposed rate alteration under

1 subsection (2)(c). The commission's final order may approve,
2 modify, or reject the rate alteration.

3 (7) In reviewing a rate alteration under subsection (6), the
4 commission shall consider only 1 or more of the following factors
5 if relevant to the rate alteration as specified by the provider:

6 (a) Total service long run incremental cost of basic local
7 exchange services.

8 (b) Comparison of the proposed rate to the rates charged by
9 other providers in this state for the same service.

10 (c) Whether a new function, feature, or capability is being
11 offered as a component of basic local exchange service.

12 (d) Whether there has been an increase in the costs to pro-
13 vide basic local exchange service in the geographic area of the
14 proposed rate.

15 (e) Whether the provider's further investment in the network
16 infrastructure of the geographic area of the proposed rate is
17 economically justifiable without the proposed rate.

18 (8) A provider shall be allowed only 1 rate increase for
19 each class or type of service during any 12-month period.

20 (9) A provider shall not make a rate alteration under this
21 section until the rate has been restructured under section 304a.

22 (10) THE COMMISSION SHALL EXEMPT A PROVIDER FROM THIS SEC-
23 TION AND SECTION 310(2) IF IT FINDS ALL OF THE FOLLOWING:

24 (A) THE PROVIDER PROVIDES BASIC LOCAL EXCHANGE SERVICE OR
25 BASIC LOCAL EXCHANGE AND TOLL SERVICE TO LESS THAN 250,000
26 END-USERS IN THIS STATE.

1 (B) THE PROVIDER OFFERS TO END-USERS SINGLE-PARTY BASIC
2 LOCAL EXCHANGE SERVICE, TONE DIALING, TOLL ACCESS SERVICE,
3 INCLUDING END-USER COMMON LINE SERVICES AND DIALING PARITY AT A
4 TOTAL PRICE OF NO HIGHER THAN THE AMOUNT CHARGED AS OF MAY 1,
5 2000.

6 (C) THE PROVIDER PROVIDES DIALING PARITY ACCESS TO OPERATOR,
7 TELECOMMUNICATION RELAY, AND EMERGENCY SERVICES TO ALL BASIC
8 LOCAL EXCHANGE END-USERS.

(11) A CALL MADE TO A LOCAL CALLING AREA ADJACENT TO THE
CALLER'S LOCAL CALLING AREA SHALL BE CONSIDERED A LOCAL CALL AND
SHALL BE BILLED AS A LOCAL CALL.

9 Sec. 310. (1) Except as provided by this act, the commis-
10 sion shall not review or set the rates for toll access services.

11 (2) ~~A~~ EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (7), A
12 pro-
13 vider of toll access services shall set the rates for toll access
14 services. Access service rates and charges set by a provider
15 that exceed the rates allowed for the same interstate services by
16 the federal government are not just and
17 reasonable. IN NO EVENT MAY END-USER OR SUBSCRIBER LINE CHARGES
18 EXCEED THE RATES ALLOWED FOR THE SAME INTERSTATE SERVICES BY THE
19 FEDERAL GOVERNMENT AS OF MAY 1, 2000. Providers may agree to a rate
20 that is less than the
21 rate allowed by the federal government. If the providers cannot
22 agree on a rate, a provider may apply to the commission under
23 section 204.

24 (3) Two or more providers that each have less than 250,000
25 access lines may agree to joint toll access service rates and
26 pooling of intrastate toll access service revenues.

(4) A provider of toll access services shall make available
for intrastate access services any technical interconnection
arrangements, including colocation required by the federal gov-
ernment for the identical interstate access services.

1 (5) A provider of toll access service, whether under tariff
2 or contract, shall offer the services under the same rates, terms
3 and conditions, without unreasonable discrimination, to all
4 providers. All pricing of special toll access services and
5 switched access services, including volume discounts, shall be
6 offered to all providers under the same rates, terms, and
7 conditions. Until allowed by the federal communications commis-
8 sion, volume discounts on switched access are prohibited under
9 this subsection.

10 (6) If a toll access service rate is reduced, ~~under section~~
11 ~~304a,~~ then the provider receiving the reduced rate shall reduce
12 its rate to its customers by an equal amount. THE COMMISSION
13 SHALL INVESTIGATE AND ENSURE THAT THE PROVIDER HAS COMPLIED WITH
14 THIS SUBSECTION.

(7) A PROVIDER OF BASIC LOCAL EXCHANGE SERVICE SHALL NOT ASSESS
OR IMPOSE ON END-USERS AN INTRASTATE SUBSCRIBER LINE CHARGE OR END-
USER LINE CHARGE.

(8) THIS SECTION SHALL NOT APPLY TO BASIC LOCAL EXCHANGE
PROVIDERS THAT HAVE 250,000 OR FEWER CUSTOMERS IN THIS STATE.

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 Sec. 312. (1) Except as provided by this act, the commis-
17 sion shall not review or set the rates for toll service.

18 (2) A provider of toll service may charge the same rate for
19 the service on its routes of similar distance.

20 (3) The commission shall require that toll service is uni-
21 versally available to all persons within the state.

22 (4) ~~Adjacent~~ UPON COMMISSION REVIEW AND APPROVAL, ALL PRO-
23 VIDERS OF TOLL SERVICE SHALL MAKE AVAILABLE TO THEIR CUSTOMERS
24 ADJACENT exchange toll calling plans. ~~as ordered by the commis-~~
25 ~~sion on June 19, 1991.~~ ALL PROVIDERS OF TOLL SERVICE SHALL
26 INFORM THEIR CUSTOMERS OF THE AVAILABLE PLANS. THE PLANS shall
27 remain in effect under this act until altered by order of the

1 commission. A provider of toll service shall implement an
2 optional discount plan for calling to exchanges within 20 miles
3 of a customer's home exchange. The plan shall not violate the
4 conditions delineated in the commission's order in case number
5 U-9153, dated September 26, 1989.

(5) EXCEPT AS OTHERWISE APPROVED BY THE COMMISSION, A PROVIDER
SHALL NOT CHARGE A MANDATORY MINIMUM MONTHLY OR MANDATORY FLAT-RATE
CHARGE FOR TOLL CALLS EXCEPT IN CONNECTION WITH AN OPTIONAL DISCOUNT
TOLL CALLING PLAN.

6 SEC. 316A. (1) AS USED IN THIS SECTION:

7 (A) "AFFORDABLE RATES" MEANS, AT A MINIMUM, RATES IN EFFECT
8 ON JANUARY 1, 2001 OR AS DETERMINED BY THE COMMISSION.

9 (B) "INTRASTATE UNIVERSAL SERVICE FUND" MEANS A FUND CREATED
10 BY THE COMMISSION TO PROVIDE A SUBSIDY TO CUSTOMERS FOR THE PRO-
11 VISION OF SUPPORTED TELECOMMUNICATION SERVICES PROVIDED BY ANY
12 TELECOMMUNICATION CARRIER.

13 (C) "SUPPORTED TELECOMMUNICATION SERVICES" MEANS PRIMARY
14 RESIDENTIAL ACCESS LINES AND A MINIMUM LEVEL OF LOCAL USAGE ON
15 THOSE LINES, AS DETERMINED BY THE COMMISSION.

16 (D) "UNIVERSAL SERVICE" SHALL MEAN THE PROVISION OF SUP-
17 PORTED TELECOMMUNICATION SERVICES BY ANY CARRIER.

18 (2) NO SOONER THAN JULY 1, 2002, THE COMMISSION SHALL INITI-
19 ATE AN INVESTIGATION TO DETERMINE WHETHER AN INTRASTATE UNIVERSAL
20 SERVICE FUND SHOULD BE CREATED. THE COMMISSION SHALL COMPLETE
21 THE INVESTIGATION NO SOONER THAN DECEMBER 1, 2002. ALL PROVIDERS
22 SHALL BE MADE RESPONDENTS IN THE PROCEEDING AND ANY OTHER INTER-
23 ESTED PARTY MAY PARTICIPATE AND INTERVENE IN THE PROCEEDING.

24 (3) THE COMMISSION SHALL DETERMINE FOR EACH PROVIDER WHETHER
25 AND TO WHAT EXTENT THE AFFORDABLE RATE LEVEL TO PROVIDE SUPPORTED
26 TELECOMMUNICATION SERVICES IS BELOW EACH PROVIDER'S FORWARD

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1 LOOKING ECONOMIC COST OF THE SUPPORTED TELECOMMUNICATION
2 SERVICES.

3 (4) IF A FUND IS CREATED UNDER THIS SECTION, TO THE EXTENT
4 PROVIDERS PROVIDE SUPPORTED TELECOMMUNICATION SERVICES AT AN
5 AFFORDABLE RATE THAT IS BELOW THE FORWARD LOOKING ECONOMIC COST
6 OF THE SUPPORTED TELECOMMUNICATION SERVICES, THE FUND SHALL PRO-
7 VIDE A SUBSIDY FOR CUSTOMERS IN AN AMOUNT WHICH IS EQUAL TO THE
8 DIFFERENCE BETWEEN THE AFFORDABLE RATE AS DETERMINED BY THE COM-
9 MISSION AND THE FORWARD LOOKING ECONOMIC COST OF THE SUPPORTED
10 SERVICES, LESS ANY FEDERAL UNIVERSAL SERVICE SUPPORT RECEIVED FOR
11 THOSE SUPPORTED SERVICES.

12 (5) ELIGIBILITY FOR CUSTOMERS TO RECEIVE INTRASTATE UNIVER-
13 SAL SERVICE SUPPORT UNDER SUBSECTION (4) SHALL BE CONSISTENT WITH
14 THE ELIGIBILITY GUIDELINES OF SECTION 254(E) OF THE TELECOMMUNI-
15 CATIONS ACT OF 1996 AND THE RULES AND REGULATIONS OF THE FEDERAL
16 COMMUNICATIONS COMMISSION. THE STATE FUND SHALL BE ADMINISTERED
17 BY AN INDEPENDENT THIRD PARTY ADMINISTRATOR SELECTED BY THE
18 COMMISSION.

19 (6) TO THE EXTENT AN INTRASTATE UNIVERSAL SERVICE FUND IS
20 ESTABLISHED, THE COMMISSION SHALL REQUIRE THAT THE COSTS OF THE
21 FUND BE RECOVERED FROM ALL TELECOMMUNICATION PROVIDERS ON A COM-
22 PETITIVELY NEUTRAL BASIS. PROVIDERS CONTRIBUTING TO THE INTRA-
23 STATE UNIVERSAL SERVICE FUND MAY RECOVER FROM END-USERS THE COSTS
24 OF THE FINANCIAL SUPPORT THROUGH SURCHARGES ASSESSED ON
25 END-USERS' BILLS.

26 (7) UPON REQUEST OR ON ITS OWN MOTION, THE COMMISSION, AFTER
27 NOTICE AND HEARING, SHALL DETERMINE IF, BASED UPON CHANGES IN

1 TECHNOLOGY OR OTHER FACTORS, THE FINDINGS MADE UNDER THIS SECTION
2 SHOULD BE REVIEWED.

(8) THIS SECTION DOES NOT APPLY IF AN INTERSTATE UNIVERSAL SERVICE FUND EXISTS ON THE FEDERAL LEVEL UNLESS OTHERWISE APPROVED BY THE COMMISSION.

SEC. 322. (1) AS USED IN THIS SECTION:

(A) "AFFILIATE" MEANS A PERSON WHO, DIRECTLY OR INDIRECTLY, OWNS OR CONTROLS, IS OWNED OR CONTROLLED BY, OR IS UNDER COMMON OWNERSHIP OR CONTROL WITH, ANOTHER PERSON. THE TERM "OWN" MEANS TO OWN AN EQUITY OR OTHER FINANCIAL INTEREST OF MORE THAN 10% OR ANY MANAGEMENT INTEREST.

(B) "BROADBAND" MEANS OF A CAPABILITY IN EXCESS OF 144 KILOBITS PER SECOND.

(C) "BROADBAND INTERNET ACCESS TRANSPORT SERVICES" MEANS THE BROADBAND TRANSMISSION OF DATA BETWEEN A USER AND HIS OR HER INTERNET SERVICE PROVIDER'S POINT OF INTERCONNECTION WITH THE BROADBAND INTERNET ACCESS TRANSPORT PROVIDER'S FACILITIES.

(D) "INTERNET" MEANS COLLECTIVELY THE MYRIAD OF COMPUTER AND TELECOMMUNICATIONS FACILITIES, INCLUDING EQUIPMENT AND OPERATING SOFTWARE, THAT COMPRISE THE INTERCONNECTED WORLDWIDE NETWORK OF NETWORKS THAT EMPLOY THE TRANSMISSION CONTROL PROTOCOL/INTERNET PROTOCOL, OR ANY PREDECESSOR OR SUCCESSOR PROTOCOLS TO SUCH PROTOCOL, TO COMMUNICATE INFORMATION OF ALL KINDS BY WIRE OR RADIO.

(E) "INTERNET SERVICE PROVIDER" MEANS A PERSON WHO PROVIDES A SERVICE THAT ENABLES USERS TO ACCESS CONTENT, INFORMATION, ELECTRONIC MAIL, OR OTHER SERVICES OFFERED OVER THE INTERNET.

(F) "WIRELINE BROADBAND INTERNET ACCESS TRANSPORT PROVIDER" MEANS A PERSON WHO PROVIDES BROADBAND INTERNET ACCESS TRANSPORT SERVICES, BY AID OF WIRE, CABLE, OR OTHER LIKE CONNECTION, OVER FACILITIES OWNED BY IT OR UNDER ITS CONTROL FOR A FEE DIRECTLY OR INDIRECTLY TO THE PUBLIC. THE TERM ALSO INCLUDES AN INTERNET SERVICE PROVIDER WHO SELF-PROVIDES, OVER FACILITIES OWNED BY IT OR UNDER ITS CONTROL, THE WIRELINE BROADBAND TRANSPORT OF ITS SERVICES BETWEEN ITSELF AND ITS USERS.

(2) THE COMMISSION SHALL STUDY WHETHER THE STATE SHOULD REQUIRE EACH WIRELINE BROADBAND INTERNET ACCESS TRANSPORT PROVIDER WHO IS, OR IS AN AFFILIATE OF, AN INTERNET SERVICE PROVIDER TO PROVIDE ANY OTHER REQUESTING INTERNET SERVICE PROVIDER ACCESS TO ITS BROADBAND INTERNET ACCESS TRANSPORT SERVICES, UNBUNDLED FROM THE PROVISION OF CONTENT, ON RATES, TERMS, AND CONDITIONS THAT ARE AT LEAST AS FAVORABLE AS THOSE ON WHICH IT PROVIDES THE ACCESS TO ITSELF, TO ITS AFFILIATE, OR TO ANY OTHER PERSON.

(3) THE COMMISSION SHALL REPORT TO THE LEGISLATURE AND THE GOVERNOR NO LATER THAN JULY 1, 2001 ON ITS FINDINGS UNDER THIS SECTION.

3 Sec. 502. (1) A provider of a telecommunication service
4 shall not do any of the following:

5 (a) Make a statement or representation, including the omis-
6 sion of material information, regarding the rates, terms, or con-
7 ditions of providing a telecommunication service that is false,
8 misleading, or deceptive.

9 (b) Charge an end-user for a subscribed service that the
10 end-user did not make an initial affirmative order. Failure to
11 refuse an offered or proposed subscribed service is not an affir-
12 mative order for the service.

13 (c) If an end-user has canceled a service, charge the
14 end-user for service provided after the effective date the serv-
15 ice was canceled.

16 (d) If a residential end-user has orally ordered a service,
17 fail to confirm the order in writing within 15 days after the
18 service is ordered.

19 (e) State to an end-user that their basic local exchange
20 service or other regulated service will be discontinued unless
21 the end-user pays a charge that is due for an unregulated
22 service.

23 (F) DISPARAGE THE SERVICES, BUSINESS, OR REPUTATION OF
24 ANOTHER BY FALSE OR MISLEADING REPRESENTATION OF FACT.

25 (G) REPRESENT TO A PARTY TO WHOM SERVICES ARE SUPPLIED THAT
26 THE SERVICES ARE BEING SUPPLIED IN RESPONSE TO A REQUEST MADE BY
27 OR ON BEHALF OF THE PARTY WHEN THEY ARE NOT.

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1 (H) CAUSE A PROBABILITY OF CONFUSION OR A MISUNDERSTANDING
2 AS TO THE LEGAL RIGHTS, OBLIGATIONS, OR REMEDIES OF A PARTY TO A
3 TRANSACTION.

4 (I) REPRESENT OR IMPLY THAT THE SUBJECT OF A TRANSACTION
5 WILL BE PROVIDED PROMPTLY, OR AT A SPECIFIED TIME, OR WITHIN A
6 REASONABLE TIME, IF THE PROVIDER KNOWS OR HAS REASON TO KNOW IT
7 WILL NOT BE SO PROVIDED.

8 (J) CAUSE COERCION AND DURESS AS A RESULT OF THE TIME AND
9 NATURE OF A SALES PRESENTATION.

10 (2) WHEN THE COMMISSION HAS AUTHORITY TO BRING A PROCEEDING
11 FOR VIOLATION OF THIS SECTION, THE COMMISSION MAY ACCEPT AN
12 ASSURANCE OF DISCONTINUANCE OF A METHOD, ACT, OR PRACTICE WHICH
13 IS ALLEGED TO BE UNLAWFUL UNDER THIS SECTION FROM THE PERSON WHO
14 IS ALLEGED TO HAVE ENGAGED, BE ENGAGING, OR BE ABOUT TO ENGAGE IN
15 THE METHOD, ACT, OR PRACTICE. THE ASSURANCE SHALL NOT BE AN
16 ADMISSION OF GUILT OR BE INTRODUCED IN ANY OTHER PROCEEDING.
17 UNLESS RESCINDED BY THE PARTIES OR VOIDED BY THE COURT FOR GOOD
18 CAUSE, THE ASSURANCE MAY BE ENFORCED IN THE CIRCUIT COURT BY THE
19 PARTIES TO THE ASSURANCE. THE ASSURANCE MAY INCLUDE A STIPULA-
20 TION FOR ANY OF THE FOLLOWING:

21 (A) THE VOLUNTARY PAYMENT BY THE PERSON FOR THE COST OF
22 INVESTIGATION.

23 (B) AN AMOUNT TO BE HELD IN ESCROW PENDING THE OUTCOME OF AN
24 ACTION.

25 (C) AN AMOUNT FOR RESTITUTION TO AN AGGRIEVED PERSON.

1 Sec. 503. (1) The commission shall promulgate rules ~~under~~
2 ~~section 213~~ that establish privacy guidelines in the providing
3 of telecommunication services.

4 (2) The rules promulgated under this section shall include,
5 but need not be limited to, protections against the releasing of
6 certain customer information and customer privacy intrusions.

7 (3) A person who obtains an unpublished telephone number
8 using a telephone caller identification service shall not do any
9 of the following without the written consent of the customer of
10 the unpublished telephone number:

11 (a) Disclose the unpublished telephone number to another
12 person for commercial gain.

13 (b) Use the unpublished telephone number to solicit
14 business.

15 (c) Intentionally disclose the unpublished telephone number
16 through a computer data base, on-line bulletin board, or other
17 similar mechanism.

18 Sec. 506. (1) Upon the receipt of a complaint filed by a
19 person alleging a violation of section 505 OR 507, an ~~end-user~~
20 END-USER who has been switched to another provider OR HAD SERV-
21 ICES ADDED in violation of section 505 OR 507, or a provider who
22 has been removed as an end-user's provider without the end-user's
23 authorization, or upon the commission's own motion, the commis-
24 sion may conduct a contested case as provided under section 203.
25 THE COMMISSION SHALL CREATE, AND SHALL SUPPLY UPON REQUEST, A
26 FORM AFFIDAVIT DESIGNED TO ENABLE AN END-USER TO PROVIDE ALL
27 INFORMATION NECESSARY TO PROMOTE EFFICIENT RESOLUTION OF

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1 COMPLAINTS ALLEGING A VIOLATION OF SECTION 505 OR 507. HEARINGS
2 CONDUCTED UNDER THIS SECTION SHALL COMPLY WITH THE FOLLOWING
3 REQUIREMENTS:

4 (A) HEARINGS SHALL BE CONDUCTED IN A MANNER AS TO OPTIMIZE
5 EXPEDIENCY, CONVENIENCE, AND THE ABILITY OF END-USERS TO BRING
6 AND PROSECUTE, WITHOUT THE ASSISTANCE OF COUNSEL, COMPLAINTS
7 ALLEGING VIOLATIONS OF SECTION 505 OR 507, WHILE PRESERVING THE
8 RIGHTS OF THE PARTIES.

9 (B) IF POSSIBLE, THE COMMISSION SHALL HOLD THE HEARING AT A
10 LOCATION NEAR THE END-USER'S RESIDENCE OR PLACE OF BUSINESS.

11 (2) If the commission finds that a person has violated
12 section 505 OR 507 or an order issued under section 505 OR 507,
13 the commission shall order remedies and penalties to protect and
14 make whole end-users and other persons who have suffered damages
15 as a result of the violation, including, but not limited to, 1 or
16 more of the following:

17 (a) Order the person to pay a fine for the first offense of
18 not less than ~~-\$10,000.00~~ \$20,000.00 or more than ~~-\$20,000.00~~
19 \$30,000.00. For a second and any subsequent offense, the commis-
20 sion shall order the person to pay a fine of not less than
21 ~~-\$25,000.00~~ \$30,000.00 or more than ~~-\$40,000.00~~ \$50,000.00. If
22 the commission finds that the second or any of the subsequent
23 offenses were knowingly made in violation of section 505 OR 507,
24 the commission shall order the person to pay a fine of not more
25 than ~~-\$50,000.00~~ \$70,000.00. Each switch made in violation of
26 section 505 OR SERVICE ADDED IN VIOLATION OF 507 shall be a
27 separate offense under this subdivision.

1 (b) Order an unauthorized provider to refund to the end-user
2 any amount greater than the end-user would have paid to an autho-
3 rized provider.

4 (C) ORDER A PORTION BETWEEN 10% TO 50% OF THE FINE ASSESSED
5 UNDER SUBDIVISION (A) BE PAID DIRECTLY TO THE CUSTOMER WHO SUF-
6 FERED THE VIOLATION OF SECTION 505 OR 507.

7 (D) ~~(c)~~ Order an unauthorized provider to reimburse an
8 authorized provider an amount equal to the amount paid by the
9 end-user that should have been paid to the authorized provider.

10 (E) ~~(d)~~ If the person is licensed under this act, revoke
11 the license if the commission finds a pattern of violations of
12 section 505 OR 507.

13 (F) ~~(e)~~ Issue cease and desist orders.

14 (3) Notwithstanding subsection (2), a fine shall not be
15 imposed for a violation of section 505 OR 507 if the provider has
16 otherwise fully complied with ~~section~~ SECTIONS 505 AND 507 and
17 shows that the violation was an unintentional and bona fide error
18 notwithstanding the maintenance of procedures reasonably adopted
19 to avoid the error. Examples of a bona fide error include clerical,
20 calculation, computer malfunction, programming, or printing
21 errors. An error in legal judgment with respect to a person's
22 obligations under section 505 is not a bona fide error. The
23 burden of proving that a violation was an unintentional and bona
24 fide error is on the provider.

25 (4) If the commission finds that a party's complaint or
26 defense filed under this section is frivolous, the commission
27 shall award to the prevailing party costs, including reasonable

1 attorney fees, against the nonprevailing party and their
2 attorney.

3 SEC. 507. (1) A TELECOMMUNICATIONS PROVIDER SHALL NOT
4 INCLUDE OR ADD OPTIONAL SERVICES IN AN END-USER'S TELECOMMUNICA-
5 TIONS SERVICE PACKAGE WITHOUT THE EXPRESS ORAL OR WRITTEN AUTHO-
6 RIZATION OF THE END-USER.

7 (2) UPON THE RECEIPT OF A COMPLAINT FILED BY A PERSON ALLEG-
8 ING A VIOLATION OF THIS SECTION OR UPON THE COMMISSION'S OWN
9 MOTION, THE COMMISSION MAY CONDUCT A CONTESTED CASE AS PROVIDED
10 UNDER SECTION 203.

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

17 (a) Except as provided in subdivision (b), the person to pay
18 a fine for the first offense of not less than \$1,000.00 nor more
19 than \$20,000.00 per day that the person is in violation of this
20 act, and for each subsequent offense, a fine of not less than
21 \$2,000.00 nor more than \$40,000.00 per day.

22 (b) If the provider has less than 250,000 access lines, the
23 provider to pay a fine for the first offense of not less than
24 \$200.00 or more than \$500.00 per day that the provider is in vio-
25 lation of this act, and for each subsequent offense a fine of not
26 less than \$500.00 or more than \$1,000.00 per day.

1 (c) A refund to the ratepayers of the provider of any
2 collected excessive rates.

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

5 (e) Cease and desist orders.

6 (F) EXCEPT FOR AN ARBITRATION CASE UNDER SECTION 252 OF PART
7 II OF TITLE II OF THE COMMUNICATIONS ACT OF 1934, CHAPTER 622,
8 110 STAT. 66, ATTORNEY FEES AND ACTUAL COSTS OF A PERSON OR A
9 PROVIDER OF LESS THAN 250,000 END-USERS.

10 Sec. 604. ~~(1) This act is repealed effective January 1,~~
11 ~~2001~~ DECEMBER 31, 2005.

12 ~~(2) Section 312b of Act No. 179 of the Public Acts of 1991,~~
13 ~~being section 484.2312b of the Michigan Compiled Laws, is~~
14 ~~repealed effective July 1, 1997.~~

15 ~~(3) Sections 206, 207a, 212, 307a, 501, and 605 of Act~~
16 ~~No. 179 of the Public Acts of 1991, being sections 484.2206,~~
17 ~~484.2207a, 484.2212, 484.2307a, 484.2501, and 484.2605 of the~~
18 ~~Michigan Compiled Laws, are repealed.~~

19 ~~(4) Section 3g of Act No. 206 of the Public Acts of 1913,~~
20 ~~being section 484.103g of the Michigan Compiled Laws, is~~
21 ~~repealed.~~

22 ARTICLE 7

23 TELECOMMUNICATION SERVICE RATES

24 SEC. 701. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
25 ACT AND EXCEPT AS ALLOWED BY SECTION 304(10) OR FOR SERVICES
26 DETERMINED TO BE COMPETITIVE UNDER SUBSECTION (3) AND FOR RATES
27 CHARGED UNDER CONTRACT, THE RATE CHARGED FOR EVERY TELECOMMUNICATION SERVICE

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1 PROVIDED TO AN END-USER IN THIS STATE SHALL BE NO HIGHER THAN THE
2 RATE CHARGED FOR THE SERVICE AS OF MAY 1, 2000.

3 (2) THE RATE FOR ANY NEW SERVICE NOT OFFERED UNDER A CON-
4 TRACT THAT IS FUNCTIONALLY EQUIVALENT OR SUBSTANTIALLY SIMILAR TO
5 AN EXISTING SERVICE SHALL BE SET NO GREATER THAN THE RATE ALLOWED
6 FOR THE EXISTING SERVICE UNDER SUBSECTION (1).

7 (3) THE RATES DETERMINED UNDER THIS SECTION SHALL REMAIN IN
8 EFFECT FOR EACH SERVICE UNTIL DECEMBER 31, 2003, OR UNTIL THE
9 COMMISSION DETERMINES THAT A SERVICE IS COMPETITIVE FOR AN IDEN-
10 TIFIABLE CLASS OR GROUP OF CUSTOMERS IN AN EXCHANGE, GROUP OF
11 EXCHANGES, OR OTHER CLEARLY DEFINED GEOGRAPHICAL AREA, WHICHEVER
12 IS EARLIER.

13 (4) THE COMMISSION SHALL ISSUE A DETERMINATION AS TO WHETHER
14 A SERVICE IS COMPETITIVE WITHIN 60 DAYS FROM THE DATE THE APPLI-
15 CATION IS FILED. IF THE DETERMINATION IS NOT MADE WITHIN THE 60
16 DAYS, THE SERVICE IS CONSIDERED COMPETITIVE.

17 (5) A COMPLAINT ARISING UNDER THIS SECTION SHALL BE DETER-
18 MINED BY THE COMMISSION UNDER SECTION 203.