

HOUSE BILL No. 4804

June 17, 1999, Introduced by Rep. Shulman and referred to the Committee on Energy and Technology.

A bill to amend 1991 PA 179, entitled
"Michigan telecommunications act,"
by amending sections 101, 102, 103, 201, 202, 203, 208, 213, 251,
252, 253, 303, 304, 304a, 304b, 305, 306, 308, 309b, 310, 312a,
317, 352, 353, 354, 355, 356, 357, 358, 362, 401, 402, 502, 601,
and 604 (MCL 484.2101, 484.2102, 484.2103, 484.2201, 484.2202,
484.2203, 484.2208, 484.2213, 484.2251, 484.2252, 484.2253,
484.2303, 484.2304, 484.2304a, 484.2304b, 484.2305, 484.2306,
484.2308, 484.2309b, 484.2310, 484.2312a, 484.2317, 484.2352,
484.2353, 484.2354, 484.2355, 484.2356, 484.2357, 484.2358,
484.2362, 484.2401, 484.2402, 484.2502, 484.2601, and 484.2604),
sections 101, 202, 203, 208, 213, 303, 304, 305, 306, 308, 310,
401, 601, and 604 as amended and sections 251, 252, 253, 304a,
309b, 312a, 317, 352, 353, 354, 355, 356, 357, 358, 362, and 502
as added by 1995 PA 216, and sections 102 and 304b as amended by

1998 PA 41, and by adding sections 214, 316a, 502a, and 507; 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".

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

4 (a) Ensure that every person has access to AFFORDABLE basic
5 residential telecommunication service.

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

9 (c) ~~Restructure regulation to focus on price and quality of~~
10 ~~service and not on the provider. Rely more on~~ SUPPLEMENT exist-
11 ing state and federal law regarding antitrust, consumer protec-
12 tion, and fair trade to provide ADDITIONAL safeguards for compe-
13 tition and consumers.

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

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

22 (f) Streamline the process for setting and adjusting the
23 rates for regulated services that will ensure effective rate

1 review and reduce the costs and length of hearings
2 ~~traditionally~~ associated with rate cases.

3 (g) Encourage the use of existing educational telecommunica-
4 tion networks and networks established by other commercial pro-
5 viders as building blocks for a cooperative and efficient state-
6 wide educational telecommunication system.

7 (h) Ensure effective review and disposition of disputes
8 between telecommunication providers.

9 (I) IMPLEMENT CERTAIN PROVISIONS OF THE TELECOMMUNICATIONS
10 ACT OF 1996, PUBLIC LAW 104-104, 110 STAT. 56.

11 (J) PROHIBIT CONTRACTS, COMBINATIONS, AND CONSPIRACIES IN
12 RESTRAINT OF TRADE OR COMMERCE IN TELECOMMUNICATION SERVICES AND
13 PROHIBIT MONOPOLIES AND ATTEMPTS TO MONOPOLIZE TRADE OR COMMERCE
14 IN TELECOMMUNICATION SERVICES.

15 (K) AUTHORIZE THE COMMISSION TO TAKE ACTIONS TO ENCOURAGE
16 THE DEVELOPMENT OF A COMPETITIVE TELECOMMUNICATION INDUSTRY.

17 Sec. 102. ~~As~~ EXCEPT AS OTHERWISE PROVIDED BY THIS ACT, AS
18 used in this act:

19 (a) "Access service" means access to a local exchange net-
20 work for the purpose of enabling a provider to originate or ter-
21 minate telecommunication services within the local exchange.
22 Except for end-user common line services, access service does not
23 include access service to a person who is not a provider.

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

1 (c) "Cable service" means 1-way transmission to subscribers
2 of video programming or other programming services and subscriber
3 interaction for the selection of video programming or other pro-
4 gramming services.

5 (d) "Commission" means the Michigan public service commis-
6 sion IN THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES.

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

10 (F) "COMPETITIVE LOCAL EXCHANGE CARRIER" OR "CLEC" MEANS A
11 PROVIDER OF BASIC LOCAL EXCHANGE SERVICE AS DEFINED IN THE TELE-
12 COMMUNICATIONS ACT OF 1996 THAT IS NOT AN INCUMBENT LOCAL
13 EXCHANGE CARRIER.

14 (G) "DSL" MEANS DIGITAL SUBSCRIBER LINE.

15 (H) ~~-(f)-~~ "Educational institution" means a public educa-
16 tional institution or a private ~~non-profit~~ NONPROFIT educa-
17 tional institution approved by the department of education to
18 provide a program of primary, secondary, or higher education, a
19 public library, or a nonprofit association or consortium whose
20 primary purpose is education. A nonprofit association or consor-
21 tium under this subdivision shall consist of 2 or more of the
22 following:

23 (i) Public educational institutions.

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

26 (iii) The state board of education.

1 (iv) Telecommunication providers.

2 (v) A nonprofit association of educational institutions or
3 consortium of educational institutions.

4 (I) ~~(g)~~ "Energy management services" means a service of a
5 public utility providing electric power, heat, or light for
6 energy use management, energy use control, energy use informa-
7 tion, and energy use communication.

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

12 (K) "INCUMBENT LOCAL EXCHANGE CARRIER" OR "ILEC" HAS THE
13 SAME MEANING AS DEFINED IN THE TELECOMMUNICATIONS ACT OF 1996.

14 (l) ~~(i)~~ "Information services" or "enhanced services"
15 means the offering of a capability for generating, acquiring,
16 storing, transforming, processing, retrieving, utilizing, or
17 making available information, including energy management serv-
18 ices, that is conveyed by ~~telecommunications~~ TELECOMMUNICATION
19 SERVICES. Information services or enhanced services do not
20 include the use of such capability for the management, control,
21 or operation of a ~~telecommunications~~ TELECOMMUNICATION system
22 or the management of a ~~telecommunications~~ TELECOMMUNICATION
23 service.

24 (M) ~~(j)~~ "Interconnection" means the technical arrangements
25 and other elements necessary to permit the connection between the
26 switched networks of 2 or more providers to enable a

1 telecommunication service originating on the network of 1
2 provider to terminate on the network of another provider.

3 (N) ~~-(k)-~~ "Inter-LATA prohibition" means the prohibitions on
4 the offering of inter-exchange or inter-LATA service contained in
5 the ~~modification of final judgment entered pursuant to a consent~~
6 ~~decree in United States v American Telephone and Telegraph Co.,~~
7 ~~552 F. Supp. 131 (D.D.C. 1982), and in the consent decree~~
8 ~~approved in United States v GTE Corp., 603 F. Supp. 730~~
9 ~~(D.D.C. 1984)-~~ TELECOMMUNICATIONS ACT OF 1996.

10 (O) ~~-(i)-~~ "LATA" means the local access and transport area
11 as defined in ~~United States v American Telephone and Telegraph~~
12 ~~Co., 569 F. Supp. 990 (D.D.C. 1983)-~~ THE TELECOMMUNICATIONS ACT
13 OF 1996.

14 (P) ~~-(m)-~~ "License" means a license issued ~~pursuant to~~
15 UNDER this act.

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

18 (R) ~~-(o)-~~ "Local calling area" means a geographic area
19 encompassing 1 or more local communities as described in maps,
20 tariffs, or rate schedules filed with and approved by the
21 commission.

22 (S) ~~-(p)-~~ "Local directory assistance" means the provision
23 by ~~telephone~~ A TELECOMMUNICATION SERVICE of a listed telephone
24 number within the caller's area code.

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

1 (U) ~~-(r)-~~ "Loop" means the transmission facility between the
2 network interface on a subscriber's premises and the main distri-
3 bution frame in the servicing central office.

4 (V) ~~-(s)-~~ "Operator service" means a telecommunication serv-
5 ice that includes automatic or live assistance to a person to
6 arrange for completion and billing of a telephone call originat-
7 ing within this state that is specified by the caller through a
8 method other than 1 of the following:

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

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

14 (iii) Completion in association with directory assistance
15 services.

16 (W) ~~-(t)-~~ "Operator service provider" or "OSP" means a pro-
17 vider of operator service.

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

23 (Y) ~~-(v)-~~ "Person" means an individual, corporation, part-
24 nership, association, governmental entity, or any other legal
25 entity.

26 (Z) ~~-(w)-~~ "Person with disabilities" means a person who has
27 1 or more of the following physical characteristics:

- 1 (i) Blindness.
- 2 (ii) Inability to ambulate more than 200 feet without having
3 to stop and rest during any time of the year.
- 4 (iii) Loss of use of 1 or both legs or feet.
- 5 (iv) Inability to ambulate without the prolonged use of a
6 wheelchair, walker, crutches, braces, or other device required to
7 aid mobility.
- 8 (v) A lung disease from which the person's expiratory volume
9 for 1 second, when measured by spirometry, is less than 1 liter,
10 or from which the person's arterial oxygen tension is less than
11 60 mm/hg of room air at rest.
- 12 (vi) A cardiovascular disease from which the person measures
13 between 3 and 4 on the New York heart classification scale, or
14 from which a marked limitation of physical activity causes
15 fatigue, palpitation, dyspnea, or anginal pain.
- 16 (vii) Other diagnosed disease or disorder including, but not
17 limited to, severe arthritis or a neurological or orthopedic
18 impairment that creates a severe mobility limitation.
- 19 (AA) ~~-(x)-~~ "Port", except for the loop, means the entirety
20 of local exchange, including dial tone, a telephone number,
21 switching software, local calling, and access to directory
22 assistance, a white pages listing, operator services, and inter-
23 exchange and intra-LATA toll carriers.
- 24 (BB) ~~-(y)-~~ "Reasonable rate" or "just and reasonable rate"
25 means a rate that is not inadequate, excessive, or unreasonably
26 discriminatory. A rate is inadequate if it is less than the

1 total service long run incremental cost of providing the
2 service.

3 (CC) ~~-(z)-~~ "Residential customer" means a person to whom
4 telecommunication services are furnished predominantly for per-
5 sonal or domestic purposes at the person's dwelling.

6 (DD) ~~-(aa)-~~ "Special access" means the provision of access
7 service, other than switched access service, to a local exchange
8 network for the purpose of enabling a provider to originate or
9 terminate telecommunication service within the exchange, includ-
10 ing the use of local private lines.

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

14 (FF) ~~-(cc)-~~ "Telecommunication provider" or "provider" means
15 a person or an affiliate of the person each of which for compen-
16 sation provides 1 or more telecommunication services.

17 (GG) ~~-(dd)-~~ "Telecommunication services" or "services"
18 includes regulated and unregulated services offered to customers
19 for the transmission of 2-way interactive communication and asso-
20 ciated usage. A telecommunication service is not a public util-
21 ity service.

22 (HH) "TELECOMMUNICATIONS ACT OF 1996" MEANS PUBLIC LAW
23 104-104, 110 STAT. 56.

24 (II) ~~-(ee)-~~ "Toll service" means the transmission of 2-way
25 interactive switched communication between local calling areas.
26 Toll service does not include individually negotiated contracts

1 for similar telecommunication services or wide area
 2 telecommunications service.

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

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

11 (ii) The total cost that the provider would incur if the
 12 provider were to initially offer the service, group of services,
 13 or basic network component OR UNBUNDLED NETWORK ELEMENT.

14 (KK) "UNBUNDLED NETWORK ELEMENT" MEANS A NETWORK ELEMENT
 15 THAT AN INCUMBENT LOCAL EXCHANGE CARRIER CAN UNBUNDLE. UNBUNDLED
 16 NETWORK ELEMENTS INCLUDE, BUT ARE NOT LIMITED TO, THE LOCAL LOOP,
 17 NETWORK INTERFACE DEVICE, LOCAL SWITCHING CAPABILITY, TANDEM
 18 SWITCHING CAPABILITY, INTEROFFICE TRANSMISSION FACILITIES, SIG-
 19 NALING NETWORKS, CALL-RELATED DATABASES, SERVICE MANAGEMENT SYS-
 20 TEMS, OPERATIONS SUPPORT SYSTEMS FUNCTIONS, OPERATOR SERVICES,
 21 AND DIRECTORY ASSISTANCE.

22 (ll) ~~(gg)~~ "Wide area telecommunications service" or "WATS"
 23 means the transmission of 2-way interactive switched communica-
 24 tion over a dedicated access line.

25 Sec. 103. (1) Except as otherwise provided in this act,
 26 this act shall not be construed to prevent ~~any~~ A person from

1 providing telecommunication services in competition with another
2 telecommunication provider.

3 (2) THIS ACT SHALL NOT BE CONSTRUED TO EXEMPT A TELECOMMUNI-
4 CATION PROVIDER FROM THE REQUIREMENTS OF THE MICHIGAN ANTITRUST
5 REFORM ACT, 1984 PA 274, MCL 445.771 TO 445.788, AND THE MICHIGAN
6 CONSUMER PROTECTION ACT, 1976 PA 331, MCL 445.901 TO 445.922.

7 Sec. 201. (1) ~~The~~ EXCEPT AS OTHERWISE PROVIDED BY THIS
8 ACT, THE Michigan public service commission shall have the juris-
9 diction and authority to administer this act and the applicable
10 provisions of the telecommunications act of 1996.

11 (2) In administering this act, the commission shall ~~be~~
12 ~~limited to~~ HAVE the powers and duties prescribed by this act OR
13 THAT ARE NECESSARY TO IMPLEMENT THIS ACT.

14 Sec. 202. In addition to the other powers and duties pre-
15 scribed by this act, the commission shall do all of the
16 following:

17 (a) Establish by order the manner and form in which telecom-
18 munication providers of regulated services within the state keep
19 accounts, books of accounts, and records in order to determine
20 the total service long run incremental costs and imputation
21 requirements of this act of providing a service. The commission
22 requirements under this subdivision shall be consistent with any
23 regulations covering the same subject matter made by the federal
24 communications commission.

25 (b) Require by order that a provider of a regulated service,
26 including access service, make available for public inspection
27 and file with the commission a schedule of the provider's rates,

1 services, and conditions of service, including access service
2 provided by contract. THE COMMISSION SHALL MAKE ALL TARIFFS
3 AVAILABLE ON THE INTERNET.

4 (c) Promulgate rules under section 213 and issue orders to
5 establish and enforce quality standards for providing telecommu-
6 nication services in this state.

7 (d) Preserve the provision of high quality basic local
8 exchange service.

9 ~~(e) Create a task force to study changes occurring in the~~
10 ~~federal universal service fund and the need for the establishment~~
11 ~~of a state universal service fund to promote and maintain basic~~
12 ~~local exchange service in high cost rural areas at affordable~~
13 ~~rates. The task force shall issue a report to the legislature~~
14 ~~and governor on or before December 31, 1996 containing its find-~~
15 ~~ings and recommendations. The task force shall consist of all of~~
16 ~~the following members:~~

17 ~~(i) The chairperson of the commission.~~

18 ~~(ii) One representative from each basic local exchange pro-~~
19 ~~vider with 250,000 or more access lines.~~

20 ~~(iii) Four representatives from providers who, together with~~
21 ~~affiliated providers, provide basic local exchange or toll serv-~~
22 ~~ice to less than 250,000 end users in this state.~~

23 ~~(iv) Two representatives of other providers of regulated~~
24 ~~services.~~

25 ~~(v) One representative of the general public.~~

26 ~~(f) On or before January 1, 1997, the commission shall study~~
27 ~~and report to the legislature and governor on the following~~

1 ~~matters that have impact on the basic local exchange calling~~
2 ~~activities of all residential customers in the state:~~

3 ~~(i) The percentage of intra-LATA calls and minutes of usage~~
4 ~~which are charged as basic local exchange calls.~~

5 ~~(ii) The average size and range of sizes of basic local~~
6 ~~exchange calling areas.~~

7 ~~(iii) The ability of customers to contact emergency serv-~~
8 ~~ices, school districts, and county, municipal, and local units of~~
9 ~~government without a toll call.~~

10 ~~(iv) Whether there are significant differences in basic~~
11 ~~local exchange calling patterns between urban, suburban, and~~
12 ~~rural areas.~~

13 ~~(v) The impact on basic local exchange rates which would~~
14 ~~occur if basic local exchange calling areas are altered.~~

15 ~~(vi) The impact when basic local exchange calling areas~~
16 ~~overlap LATA boundaries.~~

17 ~~(vii) The impact on basic local exchange rates which would~~
18 ~~occur if basic local exchange calling areas are expanded within~~
19 ~~LATA boundaries.~~

20 (E) RESOLVE DISPUTES BETWEEN TELECOMMUNICATION PROVIDERS AND
21 LOCAL UNITS OF GOVERNMENT. THE COMMISSION MAY DESIGNATE 1 COM-
22 MISSIONER TO EXERCISE THE AUTHORITY GRANTED UNDER THIS
23 SUBDIVISION.

24 (F) ~~(g)~~ On or before January 1, ~~1997~~ 2002, conduct a
25 study of internet ~~access provider locations~~ SERVICE PROVIDERS
26 ON AN EXCHANGE-BY-EXCHANGE BASIS to determine which ~~exchanges~~
27 ~~can reach the nearest location only by making a toll call~~ END

1 USERS MAY MAKE A CALL PRICED EQUIVALENT TO A LOCAL CALL IN
2 REACHING AN INTERNET SERVICE PROVIDER. The commission shall
3 ~~then~~ gather input from internet ~~access~~ SERVICE providers,
4 local exchange providers, and other interested parties and make a
5 recommendation to the legislature as to the steps needed to allow
6 all local exchange customers to access an internet provider by
7 making A CALL PRICED EQUIVALENT TO a local call.

8 (G) SUBJECT TO SECTION 255, ENFORCE THE PROHIBITION IN THE
9 TELECOMMUNICATIONS ACT OF 1996 AGAINST A LOCAL STATUTE OR REGULA-
10 TION OR LOCAL LEGAL REQUIREMENT THAT MAY PROHIBIT OR HAVE THE
11 EFFECT OF PROHIBITING THE ABILITY OF AN ENTITY TO PROVIDE AN
12 INTERSTATE OR INTRASTATE TELECOMMUNICATION SERVICE.

13 (H) INSTITUTE AN ACTION BEFORE THE FEDERAL COMMUNICATIONS
14 COMMISSION TO SEEK A RULING UNDER 47 U.S.C. 253(D) THAT A LOCAL
15 UNIT HAS VIOLATED THE REQUIREMENTS OF 47 U.S.C. 253.

16 (I) ALLOW THE INTERVENTION OF A PARTY IN CONTESTED CASE PRO-
17 CEEDINGS BEFORE THE COMMISSION SO THAT PROVIDERS WHICH MAY BE
18 AFFECTED BY THE COMMISSION'S DECISION HAVE THE OPPORTUNITY TO
19 PARTICIPATE IN THE PROCEEDINGS.

20 (J) DETERMINE WHICH NETWORK ELEMENTS MUST BE UNBUNDLED IN
21 ADDITION TO THOSE LISTED IN THIS ACT.

22 Sec. 203. (1) Upon receipt of an application or complaint
23 filed under this act, or on its own motion, the commission may
24 conduct an investigation, hold hearings, and issue its findings
25 and order under the contested hearings provisions of the adminis-
26 trative procedures act of 1969, ~~Act No. 306 of the Public Acts~~
27 ~~of 1969, being sections 24.201 to 24.328 of the Michigan Compiled~~

1 ~~laws~~ 1969 PA 306, MCL 24.201 TO 24.328. THE COMMISSION MAY
2 CONDUCT A PROCEEDING UNDER THIS SECTION WITHOUT A SHOWING OF A
3 DIRECT INJURY RESULTING FROM AN ALLEGED VIOLATION.

4 (2) IF A COMPLAINT FILED UNDER THIS SECTION ALLEGES FACTS
5 THAT WARRANT EMERGENCY RELIEF, THE COMPLAINANT MAY REQUEST AN
6 EMERGENCY RELIEF ORDER. THE COMMISSION SHALL ISSUE AN ORDER
7 GRANTING OR DENYING THE REQUEST FOR EMERGENCY RELIEF WITHIN 7
8 BUSINESS DAYS FROM THE DATE THE COMPLAINT WAS FILED. IF AN ORDER
9 FOR EMERGENCY RELIEF IS GRANTED, IT SHALL INCLUDE THE BASIS FOR
10 THE FINDING THAT EXIGENT CIRCUMSTANCES EXIST THAT WARRANT EMER-
11 GENCY RELIEF. AN ORDER FOR EMERGENCY RELIEF MAY REQUIRE A PARTY
12 TO ACT OR REFRAIN FROM ACTION TO PROTECT THE PROVISION OF COMPET-
13 ITIVE SERVICE OFFERINGS PURSUANT TO THE STANDARDS UNDER SECTION
14 208 TO CUSTOMERS. IN ITS ORDER GRANTING OR DENYING THE REQUEST
15 FOR EMERGENCY RELIEF, THE COMMISSION MAY ORDER THE PAYMENT OF
16 REASONABLE ATTORNEY FEES AND COSTS TO THE PREVAILING PARTY.

17 (3) AN ORDER FOR TEMPORARY EMERGENCY RELIEF MAY BE GRANTED
18 UNDER SUBSECTION (2) WITHOUT AN EVIDENTIARY HEARING IF THE COM-
19 PLAINT INCLUDES A VERIFIED FACTUAL SHOWING OF ALL OF THE
20 FOLLOWING:

21 (A) THAT THE PARTY HAS DEMONSTRATED EXIGENT CIRCUMSTANCES
22 THAT WARRANT EMERGENCY RELIEF.

23 (B) THAT THE PARTY SEEKING RELIEF WILL LIKELY SUCCEED ON THE
24 MERITS.

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

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

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

(5) ~~-(2)-~~ An application or complaint filed under this section shall contain all information, testimony, exhibits, or other documents and information WITHIN THE PERSON'S POSSESSION on which the person intends to rely to support the application or complaint. Applications or complaints that do not meet the requirements of this subsection shall be dismissed or suspended pending the receipt by the commission of the required information. IN THE EVENT THE COMPLAINANT OR APPLICANT REQUIRES INFORMATION IN THE POSSESSION OF THE RESPONDENT, NOT WITHIN THE COMPLAINANT'S OR APPLICANT'S POSSESSION, THE COMMISSION SHALL ALLOW A REASONABLE OPPORTUNITY FOR DISCOVERY TO ALLOW THE COMPLAINANT OR APPLICANT TO PROVIDE ALL INFORMATION, TESTIMONY, EXHIBITS, OR OTHER DOCUMENTS ON WHICH THE COMPLAINANT OR APPLICANT INTENDS TO RELY TO SUPPORT ITS APPLICATION OR COMPLAINT.

(6) ~~-(3)-~~ The burden of proving a case filed under this act ~~shall be~~ IS with the party filing the application or complaint. A PARTY HAS THE BURDEN OF PROOF REGARDING FACTS WHICH ARE IN THE PERSON'S POSSESSION.

(7) ~~-(4)-~~ In a contested case under this section, the commission can administer oaths, certify all official acts, and

1 compel the attendance of witnesses and the production of papers,
2 books, accounts, documents, and testimony.

3 (8) ~~—(5)—~~ Except as otherwise provided in ~~—subsections (2)~~
4 ~~and (6)—~~ THIS SECTION, the commission shall issue a final order
5 in a case filed under this section within 90 days from the date
6 the application or complaint is filed.

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

19 (10) ~~—(7)—~~ An order of the commission shall be subject to
20 review as provided by section 26 of ~~—Act No. 300 of the Public~~
21 ~~Acts of 1909, being section 462.26 of the Michigan Compiled Laws—~~
22 1909 PA 300, MCL 462.26.

23 (11) ~~—(8)—~~ If a complaint is filed under this section by a
24 provider against another provider, the provider of service shall
25 not discontinue service during the period of the contested case,
26 including the alternative dispute process, if the provider
27 receiving the service has posted a surety bond, provided an

1 irrevocable letter of credit, or provided other adequate security
2 in an amount and on a form as determined by the commission.

3 (12) EXCEPT IF THERE IS A REQUEST FOR EMERGENCY RELIEF UNDER
4 THIS SECTION, IF THE COMPLAINT FILED UNDER THIS SECTION INVOLVES
5 AN INTERCONNECTION DISPUTE BETWEEN PROVIDERS, THE COMMISSION
6 SHALL REQUIRE THE PARTIES TO UTILIZE THE ALTERNATIVE DISPUTE PRO-
7 CESS UNDER SECTION 203A.

8 (13) IN ADDITION TO ANY OTHER RELIEF PROVIDED BY THIS ACT,
9 THE COMMISSION OR ANY OTHER INTERESTED PERSON MAY SEEK TO COMPEL
10 COMPLIANCE WITH THIS ACT AND WITH THE RULES OR ORDERS OF THE COM-
11 MISSION BY PROCEEDINGS IN MANDAMUS, INJUNCTION, OR BY OTHER
12 APPROPRIATE CIVIL REMEDIES IN THE CIRCUIT COURT OR OTHER COURT OF
13 PROPER JURISDICTION.

14 (14) A COURT SHALL NOT ISSUE A STAY ORDER PERTAINING TO ANY
15 COMMISSION ORDER UNTIL ALL OF THE FOLLOWING CONDITIONS ARE MET:

16 (A) AFTER HEARING ON THE WRITTEN MOTION FOR STAY THAT IS
17 SUPPORTED BY AFFIDAVIT AND STATES WITH PARTICULARITY THE GROUNDS
18 FOR THE STAY.

19 (B) ON FINDING, IN A WRITTEN OPINION AND ORDER, ALL OF THE
20 FOLLOWING:

21 (i) THAT THE APPLICANT SEEKING THE STAY WILL SUFFER IRREPA-
22 RABLE INJURY IF A STAY IS NOT ENTERED.

23 (ii) THAT THE APPLICANT SEEKING THE STAY HAS MADE A STRONG
24 SHOWING THAT IT IS LIKELY TO PREVAIL ON THE MERITS.

25 (iii) THAT THE PUBLIC INTEREST WILL BE ADVANCED IF A STAY IS
26 GRANTED.

1 (iv) THAT THE HARM TO THE APPLICANT SEEKING THE STAY IN THE
2 ABSENCE OF A STAY OUTWEIGHS THE HARM TO OTHER PARTIES TO THE
3 PROCEEDINGS IF A STAY IS GRANTED.

4 (C) ON THE FILING BY THE APPLICANT SEEKING THE STAY A BOND
5 IN THE AMOUNT REQUIRED TO PROTECT THE PUBLIC AND OTHER PARTIES,
6 CONDITIONED ON BOTH OF THE FOLLOWING:

7 (i) TO PROSECUTE THE REVIEW TO A DECISION AND TO OBEY AND
8 ACT IN ACCORDANCE WITH THE DECISION OR ORDER AS ENTERED BY THE
9 COURT.

10 (ii) TO OBEY AND ACT IN ACCORDANCE WITH THE ORDER OR DECI-
11 SION IF IT IS NOT SET ASIDE OR REVISED.

12 Sec. 208. (1) If a competitive market EXISTS IN THIS STATE
13 for a ~~regulated telecommunication~~ BASIC LOCAL EXCHANGE service
14 ~~in which the rate is regulated exists in this state, a provider~~
15 AN ILEC may file AN APPLICATION with the commission to classify
16 that service ~~for all providers~~ within the competitive market as
17 a competitive service. THE COMMISSION SHALL ISSUE NOTICE OF ANY
18 APPLICATION MADE UNDER THIS SUBSECTION AND HOLD HEARINGS TO
19 DETERMINE WHETHER THE SERVICE SHOULD BE RECLASSIFIED.

20 (2) ~~Except as provided under section 321, if a regulated~~
21 ~~service~~ IF A BASIC LOCAL EXCHANGE SERVICE OF AN INCUMBENT LOCAL
22 EXCHANGE CARRIER is classified as competitive, the rate for the
23 service shall be deregulated and not subject to review under this
24 act UNLESS THE SERVICE IS OFFERED AT A PRICE LOWER THAN ITS TOTAL
25 SERVICE LONG RUN INCREMENTAL COST.

26 (3) A service is competitive under this section if for an
27 identifiable class or group of customers in an exchange, group of

1 exchanges, or other clearly defined geographical area, the
2 service is available from more than 1 unaffiliated provider and
3 ~~3 or more~~ ALL of the following apply:

4 (a) ~~Actual~~ EFFECTIVE competition, including facilities
5 based competition, exists FOR THE SERVICES within the local
6 exchange, group of exchanges, or geographic area.

7 (b) ~~Both residential and business end-users have service~~
8 ~~alternatives available from more than 1 unaffiliated provider or~~
9 ~~service reseller.~~ THOSE CLASSES OF END USERS WHO WILL BE
10 IMPACTED BY COMPETITIVE CLASSIFICATION OF THE SERVICE HAVE SERV-
11 ICE SUBSTITUTES AVAILABLE FROM MORE THAN 1 PROVIDER OR SERVICE
12 RESELLER THAT IS NOT AFFILIATED, DIRECTLY OR INDIRECTLY, WITH THE
13 PARTY SEEKING COMPETITIVE CLASSIFICATION OF THE SERVICE.

14 (c) ~~Competition~~ EFFECTIVE COMPETITION FOR THE SERVICE and
15 end-user usage has been demonstrated and measured by independent
16 and reliable methods.

17 (d) Rates and charges for the service ~~have changed within~~
18 ~~the previous 12-month period~~ ARE NOT EXPECTED TO BE ADVERSELY
19 IMPACTED AS A RESULT OF COMPETITIVE CLASSIFICATION OF THE
20 SERVICE.

21 (e) There is a functionally equivalent service, reasonably
22 available to end users from an unaffiliated provider or
23 supplier.

24 (F) WITHIN THE PROPOSED COMPETITIVE SERVICE AREA 1 PROVIDER
25 OTHER THAN THE INCUMBENT LOCAL EXCHANGE CARRIER PROVIDES AT LEAST
26 20% OF THE SERVICE.

1 (G) NO INCUMBENT LOCAL EXCHANGE CARRIER HAS DOMINANT MARKET
2 POWER IN ANY PORTION OF THE SUBJECT MARKET AS MEASURED BY THE
3 HERFINDAHL/HIRSCHMANN INDEX AND OTHER APPROPRIATE FACTORS.

4 (4) Except as provided under subsection (5), a service is
5 not competitive under this section if for an identifiable class
6 or group of customers in an exchange, group of exchanges, or
7 other clearly defined geographical area, 1 of the providers of
8 the service is an unaffiliated provider of facilities based basic
9 local exchange service to less than 250,000 end-users in this
10 state. A provider may apply to the commission for a review of
11 the service under section 203 to determine whether the service is
12 competitive and the rate deregulated.

13 (5) Subsection (4) does not apply if there are 3 or more
14 providers of facilities based basic local exchange service
15 throughout the competitive market and 1 or more of the providers
16 is a provider of facilities based basic local exchange service to
17 less than 250,000 end-users in this state.

18 (6) ~~A provider~~ AN ILEC shall give notice to its customers
19 ~~if a service is to be~~ AND ALL OTHER PROVIDERS OF BASIC LOCAL
20 EXCHANGE SERVICE SERVING THE RELEVANT LOCAL EXCHANGE, GROUP OF
21 EXCHANGES, OR GEOGRAPHIC AREA IF THE ILEC FILES AN APPLICATION
22 SEEKING TO HAVE ITS BASIC LOCAL EXCHANGE classified as competi-
23 tive and its rate deregulated. The notice shall be included in
24 or on the bill of each affected customer of the ~~provider~~ ILEC
25 before the effective date of the classification.

1 ~~-(7) The service classification under this section shall~~
 2 ~~take effect 45 days from the date of the notice required by~~
 3 ~~subsection (4).~~

4 (7) ~~-(8)~~ Upon receiving a complaint OR APPLICATION filed by
 5 a provider or consumer or on its own motion, the commission may
 6 require a filing under section 203 to review a competitive clas-
 7 sification and issue an order approving, modifying, or rejecting
 8 the classification.

9 (8) ~~-(9)~~ A provider shall not file to have a service clas-
 10 sified as competitive until the provider has received the
 11 approval of the commission of a total service long run incremen-
 12 tal cost study for the service to be classified.

13 (9) ~~-(10)~~ Except as otherwise provided by law, the commis-
 14 sion or a local unit of government does not have authority over a
 15 rate for a service classified as competitive under this section.

16 (10) THE COMMISSION MAY RECLASSIFY A TELECOMMUNICATION SERV-
 17 ICE OR OTHER SERVICE OR BUSINESS ACTIVITY THAT IT HAS FOUND TO BE
 18 COMPETITIVE IF IT FINDS THAT SUFFICIENT COMPETITION IS NO LONGER
 19 PRESENT, THAT THE PROVIDER HAS ENGAGED IN UNFAIR COMPETITION WITH
 20 RESPECT TO THE SERVICE, OR THAT THE PROVIDER HAS FAILED TO PRO-
 21 VIDE NONDISCRIMINATORY ACCESS IN THE PROVISION OF THE SERVICE.

22 Sec. 213. ~~-(1) No later than July 1, 1996, the~~ THE commis-
 23 sion shall promulgate rules for the implementation and adminis-
 24 tration of this act under the administrative procedures act of
 25 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
 26 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA 306,
 27 MCL 24.201 TO 24.328.

1 ~~-(2) Except as provided in subsection (3), effective~~
2 ~~September 1, 1996, the following administrative rules shall not~~
3 ~~apply to telecommunication providers or telecommunication~~
4 ~~services:~~

5 ~~(a) Electric power and communication lines: R 460.581 to~~
6 ~~R 460.592.~~

7 ~~(b) Intrastate telephone services and facilities:~~
8 ~~R 460.1951 to R 460.1968.~~

9 ~~(c) Filing procedures for communications common carriers~~
10 ~~tariffs: R 460.2051 to R 460.2057.~~

11 ~~(d) Consumer standards and billing practices, residential~~
12 ~~telephone service: R 460.2211 to R 460.2279.~~

13 ~~(e) Uniform systems of accounts for class A and class B~~
14 ~~telephone companies: R 460.9041 and R 460.9059.~~

15 ~~(3) If the Michigan supreme court rules that sections 45 and~~
16 ~~46 of the administrative procedures act of 1969, Act No. 306 of~~
17 ~~the Public Acts of 1969, being sections 24.245 and 24.246 of the~~
18 ~~Michigan Compiled Laws, are unconstitutional, and a statute~~
19 ~~requiring legislative review of administrative rules is not~~
20 ~~enacted within 90 days after the Michigan supreme court ruling,~~
21 ~~the commission shall not promulgate rules under this act.~~
22 ~~Subsection (2) does not apply if the commission is prohibited~~
23 ~~from promulgating rules under this subsection.~~

24 SEC. 214. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
25 ACT, THE COMMISSION MAY REVIEW AND INVESTIGATE ANY RATE TO DETER-
26 MINE THE EFFECT THE RATE HAS ON THE DEVELOPMENT OF A COMPETITIVE
27 MARKET IN THIS STATE.

1 (2) IF AFTER NOTICE AND HEARING HELD UPON A COMPLAINT OR ITS
 2 OWN MOTION THE COMMISSION FINDS THAT A RATE IS NONCOMPETITIVE,
 3 EXCESSIVE, OR DISCRIMINATORY, IT SHALL ISSUE AN ORDER PROVIDING
 4 FOR SUCH REMEDIES AS ARE CONSISTENT WITH THIS ACT AND ALLOWED
 5 UNDER SECTION 602.

6 (3) IN ANY HEARING HELD UNDER SUBSECTION (2), THE PROVIDER
 7 SHALL HAVE THE BURDEN OF PROVING THAT THE RATE IS NOT NONCOMPETI-
 8 TIVE, EXCESSIVE, OR DISCRIMINATORY.

9 Sec. 251. (1) Except as provided in subsections (2) and
 10 (3), a local unit of government shall grant a permit for access
 11 to and the ongoing use of all ~~right-of-ways~~ PUBLIC
 12 RIGHT-OF-WAY, easements, and OTHER public places under its con-
 13 trol and jurisdiction to providers of telecommunication
 14 services.

15 (2) This section shall not limit a local unit of
 16 government's right to ~~review and approve~~ MANAGE a provider's
 17 access to and ongoing use of a PUBLIC right-of-way, easement, or
 18 OTHER public place ~~or limit the unit's authority to ensure and~~
 19 TO THE EXTENT NECESSARY TO protect the ~~health,~~ safety ~~—, and~~
 20 ~~welfare~~ of the public PROVIDED THAT THE MANAGEMENT IS COMPETI-
 21 TIVELY NEUTRAL AND NONDISCRIMINATORY AS TO ALL PROVIDERS.

22 (3) A local unit of government shall approve or deny access
 23 under this section within ~~90~~ 30 days from the date a provider
 24 files an application for a permit for access to a PUBLIC
 25 right-of-way, easement, or OTHER public place. A LOCAL UNIT OF
 26 GOVERNMENT MAY ONLY ASSESS A PROVIDER A FEE ONLY ON CONDITIONS
 27 THAT ARE NECESSARY TO PROTECT THE PUBLIC SAFETY AND PROVIDED THAT

1 SUCH FEE SHALL BE COMPETITIVELY NEUTRAL AND NONDISCRIMINATORY AS
2 TO ALL PROVIDERS. THE FEE SHALL BE BASED ONLY ON THE LOCAL UNIT
3 OF GOVERNMENT'S ACTUAL COSTS INCURRED IN GRANTING THE PERMIT. A
4 provider's right to access and use of a right-of-way, easement,
5 or public place shall not be unreasonably denied by a local unit
6 of government. A local unit of government may require as a con-
7 dition of the permit that a bond be posted by the provider, which
8 shall not exceed the reasonable cost, to ensure that the PUBLIC
9 right-of-way, easement, or OTHER public place is ~~returned~~
10 RESTORED to its original condition ~~during and~~ after the
11 provider's access and use.

12 (4) A MUNICIPALITY SHALL NOT CHARGE ANY FEES OR REQUIRE A
13 PERMIT TO USE THE RIGHT-OF-WAY WITHIN ITS JURISDICTIONAL BOUNDA-
14 RIES FROM A TELECOMMUNICATION PROVIDER OR RESELLER THAT IS USING
15 THE PUBLIC RIGHT-OF-WAY OF ANOTHER UNIT OF GOVERNMENT OR PRIVATE
16 RIGHT-OF-WAY OF A NONGOVERNMENTAL PERSON. IT IS UNLAWFUL FOR ANY
17 MUNICIPALITY TO CHARGE ANY CONSENT FEE, INSTALLATION PERMIT FEE,
18 REASONABLE CHARGE FOR THE GOVERNMENTAL FUNCTIONS, OR ANY OTHER
19 ASSESSMENT, FEE, OR COST FOR A TELECOMMUNICATION PROVIDER OR
20 RESELLER TO ENTER UPON, CONSTRUCT, OR MAINTAIN CABLES OR LINES
21 IN, ON, UNDER, OVER, OR UPON THE RIGHT-OF-WAY OF OTHERS.

22 Sec. 252. Any conditions of a permit granted under section
23 251 shall be limited to the provider's access and usage of any
24 PUBLIC right-of-way, easement, or OTHER public place PROVIDED
25 THAT THE CONDITIONS ARE COMPETITIVELY NEUTRAL AND NONDISCRIMINA-
26 TORY AS TO ALL PROVIDERS.

1 Sec. 253. (1) Any fees or assessments made under section
 2 251 shall be on a nondiscriminatory basis and shall not exceed
 3 the ~~fixed and variable~~ ACTUAL costs to the local unit of gov-
 4 ernment in granting a permit and ~~maintaining~~ RESTORING the
 5 ~~right-of-ways~~ PUBLIC RIGHTS-OF-WAY, easements, or OTHER public
 6 places used by a provider TO THE CONDITION THAT EXISTED IMMEDI-
 7 ATELY PRECEDING THE PROVIDER'S USE.

8 (2) A PROVIDER, INCLUDING A RESELLER, THAT DOES NOT OWN,
 9 OPERATE, MAINTAIN, INSTALL, CONSTRUCT, OR DISTURB THE PUBLIC
 10 RIGHTS-OF-WAY, EASEMENTS, OR OTHER PUBLIC PLACES SHALL NOT BE
 11 CHARGED ANY FEE OR BE REQUIRED TO OBTAIN ANY PERMIT TO ACCESS THE
 12 PUBLIC RIGHTS-OF-WAY, EASEMENTS, OR OTHER PUBLIC PLACES.

13 Sec. 303. (1) The commission may alter or amend the geo-
 14 graphic area of a license, grant a competing license, or autho-
 15 rize the sale or transfer of a license to another person.

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 (2) ~~(3) The~~ EXCEPT AS PROVIDED IN SUBSECTION (3), THE sale
 21 or transfer of shares of stock of a provider of basic local
 22 exchange service is not a sale or transfer of a license or a dis-
 23 continuance of service.

24 (3) IF THE SALE OR TRANSFER OF SHARES OF STOCK OF AN ILEC IS
 25 SUBJECT TO A PROCEEDING BY THE FEDERAL COMMUNICATIONS COMMISSION,
 26 THE COMMISSION SHALL MAKE AN INQUIRY UNDER THIS SUBSECTION. THE
 27 COMMISSION SHALL DO ALL OF THE FOLLOWING:

1 (A) CONDUCT AN INVESTIGATION, HOLD HEARINGS, AND EXAMINE
2 WITNESSES, BOOKS, PAPERS, DOCUMENTS, OR CONTRACTS THE COMMISSION
3 CONSIDERS OF IMPORTANCE IN ENABLING IT TO REACH A DETERMINATION.

4 (B) PERMIT THE INTERVENTION OF LOCAL UNITS OF GOVERNMENT,
5 COMPETING PROVIDERS, AND ORGANIZATIONS WHOSE MEMBERSHIP CONSISTS
6 OF A SUBSTANTIAL NUMBER OF RATEPAYERS OR PROVIDERS WITHIN THE
7 SERVICE AREA OF THE PROVIDER AS PROVIDED BY RULES OF THE
8 COMMISSION.

9 (C) ISSUE FINDINGS AND CONCLUSIONS ON THE IMPACT OF THE PRO-
10 POSED SALE, TRANSFER, OR MERGER ON THE STATE INCLUDING THE IMPACT
11 ON THE DEVELOPMENT OF A COMPETITIVE TELECOMMUNICATIONS MARKET,
12 THE POTENTIAL FOR ANTICOMPETITIVE ACTS, THE IMPACT ON PRICES,
13 COMPETITION, SERVICES LEVELS, AND QUALITY OF TELECOMMUNICATION
14 SERVICES IN THIS STATE AND IS NOT ADVERSE TO THE PUBLIC
15 INTEREST.

16 (D) INTERVENE IN PROCEEDINGS OF THE FEDERAL COMMUNICATIONS
17 COMMISSION AND DELIVER THE FINDINGS AND RECOMMENDATIONS OF THE
18 COMMISSION TO THE UNITED STATES DEPARTMENT OF JUSTICE.

19 Sec. 304. (1) Except as provided in ~~section~~ SECTIONS
20 208(2) AND 304a, the rates OF AN ILEC for basic local exchange
21 service shall be just and reasonable.

22 (2) ~~A provider~~ AN ILEC may alter its rates for basic local
23 exchange services by 1 or more of the following:

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

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

11 (c) Filing with the commission an application to increase a
12 basic local exchange rate in an amount greater than that allowed
13 under subdivision (b). The application shall be accompanied with
14 sufficient documentary support that the rate alteration is just
15 and reasonable. The commission shall make a determination within
16 the 90-day period provided for in subsection (5) of 1 of the
17 following:

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

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

21 (3) Notice to customers of a rate alteration is required for
22 a rate alteration under subsection (2)(b) or (c) and section 304a
23 and shall be included in or on the bill of each affected customer
24 of the provider before the effective date of the rate
25 alteration.

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

- 1 (a) A statement that the customer's rate may change.
- 2 (b) An estimate of the amount of the annual change for the
3 typical residential customer that would result by the rate
4 change.
- 5 (c) A statement that a customer may comment on or receive
6 complete details of the rate alteration by calling or writing the
7 commission. The statement shall also include the telephone
8 number and address of the commission. Complete details of the
9 rate alteration will be provided free of charge to the customer
10 at the expense of the provider.
- 11 (5) Except as otherwise provided in subsections (2) and (6),
12 an altered basic local exchange rate shall take effect 90 days
13 from the date of the notice required by subsection (3).
- 14 (6) Upon receiving a complaint or pursuant to a determina-
15 tion under subsection (2)(c), the commission may require a filing
16 under section 203 to review a proposed rate alteration under
17 subsection (2)(c). The commission's final order may approve,
18 modify, or reject the rate alteration.
- 19 (7) In reviewing a rate alteration under subsection (6), the
20 commission shall consider only 1 or more of the following factors
21 if relevant to the rate alteration as specified by the provider:
- 22 (a) Total service long run incremental cost of basic local
23 exchange services.
- 24 (b) Comparison of the proposed rate to the rates charged by
25 other providers in this state for the same service.
- 26 (c) Whether a new function, feature, or capability is being
27 offered as a component of basic local exchange service.

1 (d) Whether there has been an increase in the costs to
2 provide basic local exchange service in the geographic area of
3 the proposed rate.

4 (e) Whether the provider's further investment in the network
5 infrastructure of the geographic area of the proposed rate is
6 economically justifiable without the proposed rate.

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

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

11 (10) A CLEC MAY ALTER ITS RATES FOR BASIC LOCAL EXCHANGE
12 SERVICES BY FILING WITH THE COMMISSION NOTICE OF A RATE ALTER-
13 ATION UNDER THIS SUBSECTION WHICH SHALL BECOME EFFECTIVE WITHOUT
14 COMMISSION REVIEW OR APPROVAL. THE RATE ALTERATION SHALL TAKE
15 EFFECT 30 DAYS FROM THE DATE OF THE NOTICE REQUIRED UNDER SUBSEC-
16 TION (11).

17 (11) NOTICE TO CUSTOMERS OF A RATE ALTERATION IS REQUIRED
18 FOR A RATE ALTERATION UNDER SUBSECTION (10) AND SHALL BE INCLUDED
19 IN OR ON THE BILL OF EACH AFFECTED CUSTOMER OF THE PROVIDER
20 BEFORE THE EFFECTIVE DATE OF THE RATE ALTERATION.

21 (12) THE NOTICE REQUIRED UNDER SUBSECTION (11) SHALL CONTAIN
22 AT LEAST BOTH OF THE FOLLOWING INFORMATION:

23 (A) A STATEMENT THAT THE CUSTOMER'S RATE MAY CHANGE.

24 (B) A STATEMENT THAT A CUSTOMER MAY COMMENT ON OR RECEIVE
25 COMPLETE DETAILS OF THE RATE ALTERATION BY CALLING OR WRITING THE
26 COMMISSION. THE STATEMENT SHALL ALSO INCLUDE THE TELEPHONE
27 NUMBER AND ADDRESS OF THE COMMISSION. COMPLETE DETAILS OF THE

1 RATE ALTERATION WILL BE PROVIDED FREE OF CHARGE TO THE CUSTOMER
2 AT THE EXPENSE OF THE PROVIDER.

3 Sec. 304a. (1) ~~Upon filing with and the approval of the~~
4 ~~commission, a basic local exchange provider shall restructure~~ AN
5 ILEC SHALL CONTINUE TO ASSURE its rates for basic local exchange,
6 toll, and access services to ensure that the rates are not less
7 than the total service long run incremental cost of providing
8 each service.

9 (2) ~~The provider may determine when each rate is restruc-~~
10 ~~tured and may phase in the rate restructuring until January 1,~~
11 ~~2000. After January 1, 2000, the provider's~~ THE ILEC'S rates
12 for basic local exchange, toll, and access services shall not be
13 less than the total service long run incremental cost for each
14 service.

15 ~~(3) The rate restructuring may include, but is not limited~~
16 ~~to, 1 or more of the following:~~

17 ~~(a) Touchtone capability and associated charges into basic~~
18 ~~local exchange services at rate levels no greater than the sum of~~
19 ~~the current basic local exchange service rates and the touchtone~~
20 ~~service rates. Residential customers with rotary dial service~~
21 ~~may retain such service at their current rate.~~

22 ~~(b) Within basic local exchange rates, all or part of the~~
23 ~~existing rate elements and charges for other services that are~~
24 ~~designed to recover the costs associated with the local exchange~~
25 ~~network.~~

26 ~~(c) Restructure existing basic local exchange rates to~~
27 ~~reflect the existing variations in costs to provide basic local~~

1 ~~exchange services based upon differences in geographic areas,~~
2 ~~classes of customers, calling patterns and volumes, technology,~~
3 ~~and other factors.~~

4 ~~(4) The commission shall have 45 days from the date of a~~
5 ~~filing under this section to review the proposed rate restructur-~~
6 ~~ing to ensure that the rates are not less than the total service~~
7 ~~long run incremental costs of the service, or that the rate~~
8 ~~restructuring brings rates that are below such costs closer to~~
9 ~~the costs. If the commission is unable to make a determination~~
10 ~~within the allowed 45 days under this subsection, the commission~~
11 ~~shall have an additional 45 days to review the rate~~
12 ~~restructuring.~~

13 ~~(5) If the commission does not complete its review within~~
14 ~~the time period required under subsection (4), the rate restruc-~~
15 ~~turing is considered approved under this section. The basic~~
16 ~~local exchange provider may implement the restructured rates~~
17 ~~10 days following commission approval or the end of the period~~
18 ~~provided for commission review, whichever is earlier.~~

19 ~~(3) —(6)—~~ Except as provided in subsection (7), for the pur-
20 poses of this section and the act, ~~providers~~ ILEC who, together
21 with any affiliated providers, provide basic local exchange serv-
22 ice or basic local exchange and toll service to less than 250,000
23 end-users in this state may determine total service long run
24 incremental cost through preparation of a cost study or may
25 determine that their total service long run incremental cost is
26 the same as that of a provider with more than 250,000 end-users.

1 (4) ~~(7) A provider of basic local exchange service~~ AN ILEC
2 with less than 15,000 end-users in this state may determine that
3 their total service long run incremental cost is the same as that
4 of a provider with more than 250,000 end-users.

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

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

12 (b) A flat rate allowing personal and domestic outgoing
13 calls up to 400 calls per month per line. Calls in excess of 400
14 per month may be charged at an incremental rate as set by the
15 provider under section 304. If a customer has more than 1 line
16 at the same location that appears on the customer's bill, the
17 allowable calls under this subdivision shall be the aggregate of
18 all the lines regardless from which line the calls originate. A
19 person with disabilities or who is voluntarily providing a serv-
20 ice for an organization classified by the internal revenue serv-
21 ice as a section 501(c)(3) or (19) organization, or a congressio-
22 nally chartered veterans organization or their duly authorized
23 foundations, is exempt from the 400 calls per month limitation
24 and shall receive a flat rate allowing unlimited calls per
25 month. A person exempt from the call cap under this subdivision
26 shall not be charged a rate greater than the flat rate charged
27 other residential customers for 400 calls.

1 (c) A flat rate allowing personal and domestic outgoing
2 calls of not less than 50 nor more than 150 per month, per line.
3 Providers may offer additional plans allowing personal and domes-
4 tic outgoing calls of not less than 150 per month nor more than
5 400 per month, per line. Calls in excess of upper per call limit
6 per month may be charged at an incremental rate as set by the
7 provider under section 304. If a customer has more than 1 line
8 at the same location that appears on the customer's bill, the
9 allowable calls under this subdivision shall be the aggregate of
10 all the lines regardless from which line the calls originate.

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

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

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

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

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

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

1 Sec. 305. (1) ~~A provider of basic local exchange service~~

2 AN ILEC 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 (B) ~~(e)~~ Develop new services to take advantage of planned
12 but not publicly known changes in the underlying network.

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

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

21 (E) ~~(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 (F) ~~(k)~~ Sell, lease, or otherwise transfer an asset to an
10 affiliate for an amount less than the fair market value of the
11 asset.

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

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

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

19 (I) ~~(o)~~ Sell services or products, extend credit, or offer
20 other terms and conditions on more favorable terms to an affili-
21 ate of the provider than the provider offers to other providers.

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

25 (2) A PROVIDER OF BASIC LOCAL EXCHANGE SERVICE SHALL NOT DO
26 ANY OF THE FOLLOWING:

1 (A) REFUSE OR DELAY INTERCONNECTIONS OR PROVIDE INFERIOR
2 CONNECTIONS TO ANOTHER PROVIDER.

3 (B) DEGRADE THE QUALITY OF ACCESS SERVICE PROVIDED TO
4 ANOTHER PROVIDER.

5 (C) IMPAIR THE SPEED, QUALITY, OR EFFICIENCY OF LINES USED
6 BY ANOTHER PROVIDER.

7 (D) DISCRIMINATE AGAINST ANY PROVIDER OR ANY PARTY WHO
8 REQUESTS THE INFORMATION FOR COMMERCIAL PURPOSES IN THE DISSEMI-
9 NATION OF CUSTOMER PROPRIETARY INFORMATION. A PROVIDER SHALL
10 PROVIDE WITHOUT UNREASONABLE DISCRIMINATION OR DELAY TELEPHONE
11 DIRECTORY LISTING INFORMATION AND RELATED SERVICES TO PERSONS
12 PURCHASING TELEPHONE DIRECTORY LISTING INFORMATION TO THE SAME
13 EXTENT AND IN THE SAME QUALITY AS PROVIDED TO THE PROVIDER,
14 AFFILIATES OF THE PROVIDER, OR ANY OTHER LISTING INFORMATION
15 PURCHASER.

16 (E) REFUSE OR DELAY ACCESS SERVICE BY ANY PERSON TO ANOTHER
17 PROVIDER.

18 (F) PERFORM ANY ACT THAT HAS BEEN PROHIBITED BY THIS ACT OR
19 AN ORDER OF THE COMMISSION.

20 (G) VIOLATE THE TERMS OF AN INTERCONNECTION AGREEMENT
21 ENTERED INTO UNDER SECTIONS 351 TO 363 OR UNDER FEDERAL LAW.

22 (H) FAIL TO COMPLY WITH AN EMERGENCY RELIEF ORDER ISSUED
23 UNDER SECTION 203.

24 (3) ~~-(2)-~~ A provider of cellular telecommunication services
25 shall not do either of the following:

26 (a) Unreasonably provide services, extend credit, or offer
27 other terms and conditions on more favorable terms to an

1 affiliate of the provider or to its retail department that sells
2 to end users than the provider offers to other providers.

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

7 (4) ~~(3) Until a provider~~ AN ILEC has complied with
8 ~~section 304a~~ SECTIONS 304A AND 208, the ~~provider of~~ THE ILEC
9 THAT PROVIDES a rate regulated service shall not provide that
10 service in combination with an unregulated service in section 401
11 or an unbundled or resold service under section 357 at a price
12 that does not exceed the total service long run incremental cost
13 of each service.

14 Sec. 306. ~~Except as provided in section 312b, a~~ A tele-
15 communication provider of basic local exchange service is not
16 required to provide toll services. If a telecommunication pro-
17 vider that provides basic local exchange service does not offer
18 toll or have interconnection with a toll provider, the commission
19 shall order a toll provider to interconnect with the telecommuni-
20 cation provider upon terms that are fair to both providers.

21 Sec. 308. (1) ~~Basic~~ FOR AN ILEC, ITS BASIC local exchange
22 or access rates or proceeds from the sale, lease, or transfer of
23 rate acquired assets shall not be used, directly or indirectly,
24 to subsidize or offset the costs of other products or services
25 offered by the provider or an affiliate of the provider by pro-
26 viding such other products or services at less than the total
27 service long-run incremental cost.

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

6 (3) ~~A provider of basic local exchange service~~ AN ILEC
7 shall notify the commission when it transfers, in whole or in
8 part, substantial assets, functions or employees, INCLUDING THE
9 SHARING OR ASSIGNING OF EMPLOYEES, associated with basic local
10 exchange service to an affiliated entity, indicating the identity
11 of the affiliated entity, description of the transaction and the
12 impact on basic local exchange service. AS USED IN THIS SUBSEC-
13 TION, "SUBSTANTIAL ASSETS" MEANS ASSETS WITH A VALUE OF
14 \$100,000.00 OR MORE TRANSFERRED DURING ANY 3-MONTH PERIOD.

15 (4) In an investigation under this section or under
16 section 203, the commission shall have the authority to review
17 the books and accounts of both the provider and affiliated enti-
18 ties of the provider.

19 (5) AN ILEC SHALL REPORT THE VALUE OF ANY BRAND NAME, TRADE-
20 MARK, OR SERVICES MARK USED BY ANY OTHER PROVIDER OR AFFILIATED
21 ENTITY FOR THE PURPOSE OF PROVIDING AN UNREGULATED SERVICE.

22 Sec. 309b. A provider of ~~inter-LATA toll~~
23 TELECOMMUNICATION service in Michigan shall take no action pro-
24 hibited under state or federal labor laws to discourage or pre-
25 vent its employees from seeking union representation, pursuing
26 collective bargaining or engaging in any other activities

1 protected, including, but not limited to, the closing of an
2 office or facility in Michigan to prevent organizing.

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

5 (2) ~~A provider of toll access services~~ AN ILEC shall set
6 the rates for toll access services. ~~Access service rates and~~
7 ~~charges set by a provider that exceed the rates allowed for the~~
8 ~~same interstate services by the federal government are not just~~
9 ~~and reasonable. Providers may agree to a rate that is less than~~
10 ~~the rate allowed by the federal government. If the providers~~
11 ~~cannot agree on a rate, a provider may apply to the commission~~
12 ~~under section 204.~~ A PROVIDER SHALL NOT SET AN INTRASTATE ACCESS
13 SERVICE RATE OR CHARGE THAT EXCEEDS ITS TOTAL SERVICE LONG RUN
14 INCREMENTAL COST OF PROVIDING THE ACCESS SERVICE. A PROVIDER OF
15 TOLL ACCESS SERVICES MAY PETITION THE COMMISSION FOR APPROVAL OF
16 AN ACCESS SERVICE OR RATE CHARGE THAT EXCEEDS THE TOTAL SERVICE
17 LONG RUN INCREMENTAL COST OF PROVIDING THE ACCESS SERVICE. THE
18 COMMISSION MAY GRANT ITS APPROVAL AFTER NOTICE TO ALL INTERESTED
19 PARTIES AND A HEARING IF THE COMMISSION FINDS, BY CLEAR AND CON-
20 VINCING EVIDENCE, EACH OF THE FOLLOWING:

21 (A) THAT THE TELECOMMUNICATIONS PROVIDER HAS EXPERIENCED A
22 SUBSTANTIAL CHANGE IN ITS CIRCUMSTANCES THAT JUSTIFIES THE PRO-
23 POSED ACCESS SERVICE RATE OR CHARGE.

24 (B) THAT THE PROPOSED ACCESS SERVICE RATE OR CHARGE WILL NOT
25 HAVE AN ANTICOMPETITIVE EFFECT OR IMPACT ON ANY COMPETITOR OF THE
26 TELECOMMUNICATIONS PROVIDER.

1 (C) THAT THE PROPOSED ACCESS SERVICE RATE OR CHARGE WILL NOT
2 EXCEED THE RATES ALLOWED FOR THE SAME OR SIMILAR INTERSTATE
3 ACCESS SERVICES ALLOWED BY THE FEDERAL GOVERNMENT.

4 (D) THAT THE PROPOSED ACCESS SERVICE RATE OR CHARGE WILL NOT
5 EXCEED THE LOWEST COMPENSATION RATE OR COMBINATION OF RATES THAT
6 IT CHARGES, WHETHER TARIFF OR AGREEMENT, THAT IT CHARGES ITSELF,
7 AN AFFILIATE OF THE PROVIDER, OR ANY OTHER PROVIDER FOR THE SAME
8 OR SIMILAR SERVICE, BASIC NETWORK FUNCTION OR ELEMENT USED FOR
9 THE TERMINATION OR TRANSPORT OF A LOCAL EXCHANGE CALL.

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

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

17 (5) A provider of toll access service, whether under tariff
18 or contract, shall offer the services under the same rates, terms
19 and conditions, without unreasonable discrimination, to all
20 providers. All pricing of special toll access services and
21 switched access services, including volume discounts, shall be
22 offered to all providers under the same rates, terms, and
23 conditions. Until allowed by the federal communications commis-
24 sion, volume discounts on switched access are prohibited under
25 this subsection.

26 (6) If a toll access service rate is reduced under section
27 304a, then the provider receiving the reduced rate shall reduce

1 its rate to its customers ~~by an equal amount~~ IN A MANNER THAT
 2 SHALL REFLECT THAT REDUCTION.

3 Sec. 312a. ~~Effective January 1, 1996, if a waiver to the~~
 4 ~~inter-LATA prohibitions has been granted for a specific service~~
 5 ~~area and the service area has 2 or more providers of local~~
 6 ~~exchange service, the~~ A provider of basic local exchange service
 7 shall provide 1+intra-LATA toll dialing parity within ~~the~~ ITS
 8 service area. ~~that is subject to the waiver.~~

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

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

12 (B) "INTRASTATE UNIVERSAL SERVICE FUND" MEANS A FUND CREATED
 13 BY THE COMMISSION TO PROVIDE A SUBSIDY FOR THE PROVISION OF SUP-
 14 PORTED TELECOMMUNICATION SERVICES PROVIDED BY ANY TELECOMMUNICA-
 15 TION CARRIER FURNISHING SERVICE WITHIN A GEOGRAPHIC AREA CUR-
 16 RENTLY SERVED BY AN INCUMBENT LOCAL EXCHANGE CARRIER WHOSE BASIC
 17 LOCAL EXCHANGE AREA INCLUDES LESS THAN 35,000 SUBSCRIBER ACCESS
 18 LINES.

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

22 (D) "UNIVERSAL SERVICE" SHALL MEAN THE PROVISION OF SUP-
 23 PORTED TELECOMMUNICATION SERVICES BY ANY CARRIER SERVING CUSTOM-
 24 ERS IN A GEOGRAPHIC AREA CURRENTLY SERVED BY AN INCUMBENT LOCAL
 25 EXCHANGE CARRIER WHOSE BASIC LOCAL EXCHANGE AREA INCLUDES LESS
 26 THAN 35,000 SUBSCRIBER ACCESS LINES.

1 (2) NO LATER THAN JULY 1, 2001, THE COMMISSION SHALL
2 INITIATE AN INVESTIGATION TO DETERMINE WHETHER AN INTRASTATE
3 UNIVERSAL SERVICE FUND SHOULD BE CREATED. THE COMMISSION SHALL
4 COMPLETE THE INVESTIGATION NO LATER THAN DECEMBER 1, 2001. ALL
5 ILECS WITH LESS THAN 35,000 SUBSCRIBER ACCESS LINES SHALL BE MADE
6 RESPONDENTS IN THE PROCEEDING AND ANY OTHER INTERESTED PARTY MAY
7 PARTICIPATE AND INTERVENE IN THE PROCEEDING.

8 (3) THE COMMISSION SHALL DETERMINE FOR EACH PROVIDER WHETHER
9 AND TO WHAT EXTENT THE AFFORDABLE RATE LEVEL TO PROVIDE SUPPORTED
10 TELECOMMUNICATION SERVICES IS BELOW EACH PROVIDER'S FORWARD LOOK-
11 ING ECONOMIC COST OF THE SUPPORTED TELECOMMUNICATION SERVICES.

12 (4) TO THE EXTENT PROVIDERS PROVIDE SUPPORTED TELECOMMUNICA-
13 TION SERVICES AT AN AFFORDABLE RATE THAT IS BELOW THE FORWARD
14 LOOKING ECONOMIC COST OF THE SUPPORTED TELECOMMUNICATION SERV-
15 ICES, THE COMMISSION SHALL CREATE A UNIVERSAL SERVICE FUND TO
16 PROVIDE A SUBSIDY IN AN AMOUNT WHICH IS EQUAL TO THE DIFFERENCE
17 BETWEEN THE AFFORDABLE RATE AS DETERMINED BY THE COMMISSION AND
18 THE FORWARD LOOKING ECONOMIC COST OF THE SUPPORTED SERVICES, LESS
19 ANY FEDERAL UNIVERSAL SERVICE SUPPORT RECEIVED FOR THOSE SUP-
20 PORTED SERVICES.

21 (5) A CARRIER'S ELIGIBILITY TO RECEIVE INTRASTATE UNIVERSAL
22 SERVICE SUPPORT UNDER SUBSECTION (4) SHALL BE CONSISTENT WITH THE
23 ELIGIBILITY GUIDELINES OF SECTION 254(E) OF THE TELECOMMUNICA-
24 TIONS ACT OF 1996 AND THE RULES AND REGULATIONS OF THE FEDERAL
25 COMMUNICATIONS COMMISSION. THE STATE FUND SHALL BE ADMINISTERED
26 BY AN INDEPENDENT THIRD PARTY ADMINISTRATOR SELECTED BY THE

1 COMMISSION AFTER CONSULTATION WITH ALL TELECOMMUNICATION
2 CARRIERS.

3 (6) TO THE EXTENT AN INTRASTATE UNIVERSAL SERVICE FUND IS
4 ESTABLISHED, THE COMMISSION SHALL REQUIRE THAT THE COSTS OF THE
5 FUND BE RECOVERED FROM ALL TELECOMMUNICATION PROVIDERS ON A COM-
6 PETITIVELY NEUTRAL BASIS. PROVIDERS CONTRIBUTING TO THE INTRA-
7 STATE UNIVERSAL SERVICE FUND MAY RECOVER FROM END-USERS THE COSTS
8 OF THE FINANCIAL SUPPORT THROUGH SURCHARGES ASSESSED ON END-USERS
9 BILLS.

10 Sec. 317. (1) The commission shall adopt operating require-
11 ments for operator service providers. The requirements shall
12 include the following:

13 (a) That an OSP shall furnish each entity with which the OSP
14 contracts to provide operator service a sticker, card, or other
15 form of information for each telephone that has access to the
16 operator service. The information shall include the name of the
17 operator service provider, a toll-free customer service telephone
18 number, and a statement that charges imposed by the operator
19 service provider may be obtained by calling the toll-free tele-
20 phone number. The operator service provider shall require by
21 contract that the entity receiving the information display the
22 information on or near each of the telephones that has access to
23 the service.

24 (b) Prior to the connection of each call, the operator serv-
25 ice provider shall do all of the following:

26 (i) Announce the operator service provider's name.

1 (ii) Quote, at the caller's request and without charge, the
2 rate and any other fees or surcharges applicable to the call
3 charged by the operator service provider.

4 (c) Allow a caller to choose the carrier of his or her
5 choice by doing either of the following:

6 (i) After informing the caller that the rates for the call
7 may not reflect the rates for a call from the location of the
8 caller and receiving the caller's consent, transfer the caller to
9 the carrier of his or her choice without charge.

10 (ii) Instruct the caller how to reach his or her carrier of
11 choice by dialing the carrier's 950, 1-800, ~~or~~ 10-XXX, OR
12 SIMILAR access service method.

13 (d) Allow callers to the operator service provider to reach
14 emergency services without charge.

15 (2) An operator service provider shall not provide operator
16 services in this state without first registering with the
17 commission. The registration shall include the following
18 information:

19 (a) The name of the provider.

20 (b) The address of the provider's principal office.

21 (c) If the provider is not located in this state, the
22 address of the registered office and the name of the registered
23 agent authorized to receive service of process in this state.

24 (d) Any other information that the commission may require.

25 (3) The registration shall be accompanied with a registra-
26 tion fee of \$100.00.

1 (4) The registration is effective immediately upon filing
2 with the commission and the payment of the registration fee and
3 shall remain in effect for 1 year from its effective date.

4 (5) A registration may be renewed for 1 year by filing with
5 the commission a renewal registration on a form provided by the
6 commission and the payment of a renewal fee of \$100.00.

7 (6) Except as otherwise authorized by the commission, a pro-
8 vider under this section shall not charge a rate for operator
9 services or toll service that is greater than 300% of the state
10 average rate for operator or toll service by providers of regu-
11 lated toll service.

12 (7) A provider shall not discontinue basic local exchange
13 service for failure by a person to pay an OSP charge.

14 (8) In addition to any other penalty under this act, a
15 person who is charged for the use of an operator service provider
16 or is denied access to emergency services in violation of this
17 section may bring a civil action against the OSP to recover
18 actual damages or \$250.00, whichever is greater, plus all reason-
19 able attorney fees.

20 Sec. 352. ~~-(1) Until January 1, 1997, the rates of a pro-~~
21 ~~vider of basic local exchange service for interconnection under~~
22 ~~this article shall be at the provider's total service long run~~
23 ~~incremental cost of providing the service. After January 1,~~
24 ~~1997, the rate for interconnection shall be just and reasonable~~
25 ~~as determined by the commission.~~

26 (1) ~~-(2)-~~ The rates for INTERCONNECTION, unbundled ~~loops~~
27 NETWORK ELEMENTS, number portability, and the termination of

1 local traffic shall be the rates established ~~under~~ BY THE
2 commission ~~case U-10647 and shall remain in effect until new~~
3 ~~total service long run incremental cost studies for such services~~
4 ~~have been approved by the commission~~ AND SHALL BE SET AT THE
5 ILEC'S TOTAL SERVICE LONG RUN INCREMENTAL COST.

6 (2) THE RATES FOR THE TERMINATION OF LOCAL TRAFFIC SHALL BE
7 APPLICABLE TO ALL LOCAL CALLS AS DEFINED BY THE ORIGINATING
8 PROVIDER'S LOCAL CALLING AREA.

9 Sec. 353. The commission shall issue ~~a~~ AN ANNUAL report
10 NO LATER THAN JANUARY 1 OF EACH YEAR and make recommendations to
11 the legislature and the governor ~~on or before January 1, 1998~~
12 involving the issues, scope, terms, and conditions of intercon-
13 nection of telecommunication providers with the basic local
14 exchange service.

15 Sec. 354. ~~(1) Except as otherwise provided in~~
16 ~~subsection (2), until~~ UNTIL inter-LATA prohibitions are removed
17 for ~~providers of basic local exchange service, a provider of~~
18 ~~basic local exchange service~~ AN ILEC, AN ILEC shall not do ~~any~~
19 EITHER of the following:

20 (a) Jointly market or offer as a package a basic local
21 exchange service together with an inter-LATA toll service or con-
22 dition a rate for basic local exchange service on the customer
23 also ordering an inter-LATA toll service.

24 (b) Discriminate against providers of toll service by not
25 making available customer names and addresses that are available
26 to an affiliate of the basic local exchange provider.

1 ~~-(2) Subsection (1)(a) does not apply to a Michigan facility~~
 2 ~~based provider or to the extent that a provider is providing~~
 3 ~~1+intra-LATA toll dialing parity under section 312b.~~

4 Sec. 355. (1) ~~On or before January 1, 1996, a~~ A provider
 5 of basic local exchange service shall unbundle and separately
 6 price each basic local exchange service offered by the provider
 7 into the loop and port components, ~~and allow other providers to~~
 8 ~~purchase such services on a nondiscriminatory basis~~ INCLUDING
 9 ALL UNBUNDLED NETWORK ELEMENTS, AND ALLOW OTHER PROVIDERS TO PUR-
 10 CHASE SERVICES ON A NONDISCRIMINATORY BASIS FOR BASIC LOCAL
 11 EXCHANGE SERVICE, TOLL SERVICE, ACCESS, OR LONG DISTANCE.

12 (2) Unbundled services and points of interconnection shall
 13 include ~~at a minimum~~ the loop, ~~and~~ the switch port, AND OTHER
 14 UNBUNDLED NETWORK ELEMENTS.

15 (3) EACH INCUMBENT LOCAL EXCHANGE CARRIER SHALL INVENTORY
 16 ALL DSL CAPABLE LOOPS AND SHALL MAKE THIS INVENTORY AVAILABLE
 17 ELECTRONICALLY TO ANY OTHER PROVIDER.

18 (4) EACH INCUMBENT LOCAL EXCHANGE CARRIER SHALL PROVIDE ALL
 19 REQUESTED COMBINATIONS OF UNBUNDLED NETWORK ELEMENTS AT RATES TO
 20 BE DETERMINED BY THE COMMISSION BASED ON THE MOST RECENTLY
 21 APPROVED TOTAL SERVICE LONG RUN INCREMENTAL COST STUDIES.

22 Sec. 356. ~~A provider of local exchange service~~ AN ILEC
 23 shall allow and provide for virtual co-location with other pro-
 24 viders at or near the central office of the provider of local
 25 exchange service of transmission equipment that the provider has
 26 exclusive physical control over and is necessary for efficient
 27 interconnection of the unbundled services. Providers may enter

1 into an agreement that allows for interconnection on other terms
2 and conditions than provided under this subsection.

3 Sec. 357. (1) A provider of local exchange service shall
4 make available for resale on nondiscriminatory terms and condi-
5 tions all basic local exchange services that ~~on January 1, 1996~~
6 it is offering to its retail customers. Resale BY AN ILEC shall
7 be provided on a wholesale basis.

8 (2) Except for restrictions on resale, ~~a provider of local~~
9 ~~exchange service~~ AN ILEC may include in its wholesale tariffs
10 any use or class of customer restrictions it includes in its
11 retail tariffs.

12 (3) A provider of BASIC local exchange service is not
13 required to offer for resale ~~either of the following: (a) A~~ A
14 package of services where basic local exchange service is jointly
15 marketed or combined with other services, or for any promotional
16 or discounted offering of basic local exchange service.

17 ~~(b) Services for which the provider does not have existing~~
18 ~~facilities in place to serve the intended end user, or any serv-~~
19 ~~ice offered for the first time subsequent to March 1, 1996.~~

20 (4) ~~No later than January 1, 1996, each provider of local~~
21 ~~exchange service~~ EACH ILEC shall file tariffs with the commis-
22 sion which set forth the wholesale rates, terms, and conditions
23 for basic local exchange services. The wholesale rates shall be
24 set at levels no greater than the ~~provider's~~ ILEC'S current
25 retail rates less the ~~provider's~~ ILEC'S avoided costs.

1 (5) ~~After January 1, 2000, wholesale~~ WHOLESale rates shall
2 not be less than the ~~provider's~~ ILEC'S total service long run
3 incremental cost of the services.

4 Sec. 358. (1) As used in this section, "number portability"
5 means the capability for a local exchange customer at a particu-
6 lar location to change providers of basic local exchange service
7 without any change in the local exchange customer's telephone
8 number, while preserving the full range of functionality that the
9 customer could obtain by changing telephone numbers.

10 (2) ~~No later than January 1, 1999, a~~ A provider of basic
11 local exchange service shall provide number portability ON A NON-
12 DISCRIMINATORY BASIS IN ACCORDANCE WITH THE TELECOMMUNICATIONS
13 ACT OF 1996.

14 ~~(3) If the commission determines that it is economically~~
15 ~~and technologically feasible to provide number portability before~~
16 ~~the date required under subsection (2), the commission shall~~
17 ~~order providers of basic local exchange service to provide the~~
18 ~~service before that date.~~

19 ~~(4) Until number portability is available, a provider of~~
20 ~~basic local exchange service shall make available to other pro-~~
21 ~~viders direct inward dialing and remote call forwarding.~~

22 Sec. 362. (1) The rate of ~~a provider of local exchange~~
23 ~~service~~ AN ILEC is subject to subsection (2) if all of the fol-
24 lowing apply:

25 (a) The ~~provider~~ ILEC has a service that competes with a
26 service of another provider.

1 (b) The other provider utilizes a service, including any
2 unbundled service element or basic network component, from the
3 ~~provider of local exchange service~~ ILEC that is not available
4 within the relevant market or geographic area from any other
5 provider. ~~of local exchange service.~~

6 (c) The ~~provider of local exchange service~~ ILEC uses that
7 same noncompetitive service or its functional equivalent.

8 (2) The rate of a telecommunication service shall exceed the
9 sum of both of the following:

10 (a) The tariffed rates, including access, carrier common
11 line, residual interconnection, and similar charges, for the non-
12 competitive service or its functional equivalent that is actually
13 used by the ~~provider of local exchange service~~ ILEC, as those
14 rates would be charged a customer for the use of that service.

15 (b) The total service long run incremental costs of all
16 other components of the ~~provider of local exchange service~~
17 ILEC.

18 Sec. 401. (1) Except as otherwise provided by law or pre-
19 empted by federal law, the commission shall not have authority
20 over enhanced services, paging, cellular, mobile, and answering
21 services, video, cable service, pay-per-view, shared tenant, pri-
22 vate networks, financial services networks, radio and television,
23 WATS, personal communication networks, municipally owned telecom-
24 munication system, 800, 877, 888, AND SIMILAR prefix services,
25 burglar and fire alarm services, energy management services,
26 except for state institutions of higher education the reselling
27 of centrex or its equivalent, payphone services, and the

1 reselling of an unlicensed telecommunication service. The
2 foregoing services shall not be considered part of basic local
3 exchange service.

4 (2) Except as otherwise provided by this act, the commission
5 shall not have the authority over a telecommunication service not
6 specifically provided for in this act.

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

11 (2) The commission shall retain a tariff filed under this
12 section and make all information contained in the tariff avail-
13 able to the public, INCLUDING PUBLICATION ON THE INTERNET.

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

16 (a) Make a statement or representation, including the omis-
17 sion of material information, regarding the rates, terms, or con-
18 ditions of providing a telecommunication service that is false,
19 misleading, or deceptive.

20 (b) Charge an end-user for a subscribed service that the
21 end-user did not make an initial affirmative order. Failure to
22 refuse an offered or proposed subscribed service is not an affir-
23 mative order for the service.

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

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

4 (e) State to an end-user that their basic local exchange
5 service or other regulated service will be discontinued unless
6 the end-user pays a charge that is due for an unregulated
7 service.

8 (F) DISPARAGING THE SERVICES, BUSINESS, OR REPUTATION OF
9 ANOTHER BY FALSE OR MISLEADING REPRESENTATION OF FACT.

10 (G) REPRESENTING TO A PARTY TO WHOM SERVICES ARE SUPPLIED
11 THAT THE SERVICES ARE BEING SUPPLIED IN RESPONSE TO A REQUEST
12 MADE BY OR ON BEHALF OF THE PARTY WHEN THEY ARE NOT.

13 (H) CAUSING A PROBABILITY OF CONFUSION OR A MISUNDERSTANDING
14 AS TO THE LEGAL RIGHTS, OBLIGATIONS, OR REMEDIES OF A PARTY TO A
15 TRANSACTION.

16 (I) REPRESENTING OR IMPLYING THAT THE SUBJECT OF A TRANSAC-
17 TION WILL BE PROVIDED PROMPTLY, OR AT A SPECIFIED TIME, OR WITHIN
18 A REASONABLE TIME, IF THE PROVIDER KNOWS OR HAS REASON TO KNOW IT
19 WILL NOT BE SO PROVIDED.

20 (J) CAUSING COERCION AND DURESS AS A RESULT OF THE TIME AND
21 NATURE OF A SALES PRESENTATION.

22 (2) WHEN THE COMMISSION HAS AUTHORITY TO BRING A PROCEEDING
23 FOR VIOLATION OF THIS SECTION, THE COMMISSION MAY ACCEPT AN
24 ASSURANCE OF DISCONTINUANCE OF A METHOD, ACT, OR PRACTICE WHICH
25 IS ALLEGED TO BE UNLAWFUL UNDER THIS SECTION FROM THE PERSON WHO
26 IS ALLEGED TO HAVE ENGAGED, BE ENGAGING, OR BE ABOUT TO ENGAGE IN
27 THE METHOD, ACT, OR PRACTICE. THE ASSURANCE SHALL NOT BE AN

1 ADMISSION OF GUILT OR BE INTRODUCED IN ANY OTHER PROCEEDING.
2 UNLESS RESCINDED BY THE PARTIES OR VOIDED BY THE COURT FOR GOOD
3 CAUSE, THE ASSURANCE MAY BE ENFORCED IN THE CIRCUIT COURT BY THE
4 PARTIES TO THE ASSURANCE. THE ASSURANCE MAY INCLUDE A STIPULA-
5 TION FOR ANY OF THE FOLLOWING:

6 (A) THE VOLUNTARY PAYMENT BY THE PERSON FOR THE COST OF
7 INVESTIGATION.

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

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

11 (3) IT IS A DEFENSE TO ANY ALLEGED VIOLATION OF THIS SECTION
12 TO THE EXTENT THAT THE ALLEGED VIOLATION WAS CAUSED THROUGH THE
13 CONDUCT OF ANOTHER PROVIDER OR THIRD PARTY NOT UNDER THE DIREC-
14 TION OR CONTROL OF THE ALLEGED VIOLATOR.

15 SEC. 502A. (1) A CONTRACT, COMBINATION, OR CONSPIRACY
16 BETWEEN 2 OR MORE PERSONS IN RESTRAINT OF, OR TO MONOPOLIZE,
17 TRADE, OR COMMERCE IN TELECOMMUNICATION SERVICES IS UNLAWFUL.

18 (2) THE ESTABLISHMENT, MAINTENANCE, OR USE OF A MONOPOLY, OR
19 ANY ATTEMPT TO ESTABLISH A MONOPOLY, OF TRADE OR COMMERCE IN
20 TELECOMMUNICATION SERVICES BY ANY PERSON, FOR THE PURPOSE OF
21 EXCLUDING OR LIMITING COMPETITION OR CONTROLLING, FIXING, OR
22 MAINTAINING PRICES, IS UNLAWFUL.

23 (3) THIS SECTION SHALL NOT APPLY TO TRANSACTION OR CONDUCT
24 SPECIFICALLY AUTHORIZED UNDER THIS ACT OR THE TELECOMMUNICATIONS
25 ACT OF 1996.

26 (4) THE ATTORNEY GENERAL MAY BRING AN ACTION FOR APPROPRIATE
27 INJUNCTIVE OR EQUITABLE RELIEF AND CIVIL PENALTIES IN THE NAME OF

1 THE STATE FOR A VIOLATION OF THIS SECTION. THE COURT MAY ASSESS
2 FOR BENEFIT OF THE STATE A CIVIL FINE OF NOT MORE THAN
3 \$5,000,000.00 FOR EACH VIOLATION OF THIS SECTION.

4 (5) THE STATE, A POLITICAL SUBDIVISION, OR ANY PUBLIC AGENCY
5 THREATENED WITH INJURY OR INJURED DIRECTLY OR INDIRECTLY IN ITS
6 BUSINESS OR PROPERTY BY A VIOLATION OF THIS SECTION MAY BRING AN
7 ACTION FOR APPROPRIATE INJUNCTIVE OR OTHER EQUITABLE RELIEF,
8 ACTUAL DAMAGES SUSTAINED BY REASON OF A VIOLATION OF THIS ACT,
9 AND, AS DETERMINED BY THE COURT, INTEREST ON THE DAMAGES FROM THE
10 DATE OF THE COMPLAINT, TAXABLE COSTS, AND REASONABLE ATTORNEY
11 FEES.

12 (6) ANY OTHER PERSON THREATENED WITH INJURY OR INJURED
13 DIRECTLY OR INDIRECTLY IN HIS, HER, OR ITS BUSINESS OR PROPERTY
14 BY A VIOLATION OF THIS SECTION MAY BRING AN ACTION FOR APPROPRI-
15 ATE INJUNCTIVE OR OTHER EQUITABLE RELIEF AGAINST IMMEDIATE IRREP-
16 ARABLE HARM, ACTUAL DAMAGES SUSTAINED BY REASON OF A VIOLATION OF
17 THIS SECTION, AND, AS DETERMINED BY THE COURT, INTEREST ON THE
18 DAMAGES FROM THE DATE OF THE COMPLAINT, TAXABLE COSTS, AND REA-
19 SONABLE ATTORNEY FEES. IF THE TRIER OF FACT FINDS THAT THE VIO-
20 LATION IS FLAGRANT, IT MAY INCREASE RECOVERY TO AN AMOUNT NOT IN
21 EXCESS OF 3 TIMES THE ACTUAL DAMAGES SUSTAINED BY REASON OF A
22 VIOLATION OF THIS SECTION.

23 (7) THE ATTORNEY GENERAL SHALL HAVE THE AUTHORITY PROVIDED
24 UNDER SECTION 6 OF THE MICHIGAN ANTITRUST REFORM ACT, 1984
25 PA 274, MCL 445.776, TO CONDUCT AN INVESTIGATION FOR VIOLATION OF
26 THIS SECTION.

1 (8) THIS SECTION SHALL APPLY TO AN EMPLOYEE OR OFFICIAL OF A
2 LOCAL UNIT OF GOVERNMENT WHO ENTERS INTO AN AGREEMENT, DIRECTLY
3 OR INDIRECTLY, OR A CONSPIRACY WITH A TELECOMMUNICATIONS PROVIDER
4 TO VIOLATE THIS SECTION.

5 SEC. 507. (1) A TELECOMMUNICATION PROVIDER SHALL NOT ADD TO
6 OR ALTER AN END-USER'S SERVICE PACKAGE WITHOUT THE AUTHORIZATION
7 OF THE END-USER.

8 (2) THE COMMISSION SHALL ISSUE ORDERS ESTABLISHING PROCE-
9 DURES THAT TELECOMMUNICATIONS PROVIDERS SHALL ADOPT TO ENSURE
10 THAT SERVICES ARE NOT ADDED TO AN END-USER'S SERVICE PACKAGE
11 WITHOUT THE END-USER'S AUTHORIZATION.

12 (3) ALL BILLINGS BY A TELECOMMUNICATIONS PROVIDER SHALL BE
13 WRITTEN IN A CLEAR AND CONSPICUOUS MANNER AND PROVIDE THE NECES-
14 SARY INFORMATION TO ALLOW AN END-USER TO MAKE INFORMED DECISIONS
15 REGARDING SERVICES AND SERVICE PROVIDERS.

16 (4) ALL BILLINGS SHALL BE CLEARLY ORGANIZED AND SHALL
17 INCLUDE, BUT NOT BE LIMITED TO, ALL OF THE FOLLOWING:

18 (A) IDENTIFICATION OF ANY NEW CHARGES OR CHANGES TO THE
19 END-USER'S SERVICES FROM THE PREVIOUS BILLING PERIOD.

20 (B) COMPLETE DESCRIPTIONS OF ALL CHARGES AND THE SERVICE
21 PROVIDER RESPONSIBLE FOR EACH CHARGE, INCLUDING THE PROVIDER'S
22 ADDRESS AND TOLL-FREE TELEPHONE NUMBER.

23 (C) INFORMATION REGARDING HOW THE END-USER MAY DISPUTE A
24 CHARGE AND HOW TO FILE A COMPLAINT WITH THE COMMISSION UNDER THIS
25 ACT.

26 (5) UPON THE RECEIPT OF A COMPLAINT FILED BY A PERSON
27 ALLEGING A VIOLATION OF THIS SECTION OR UPON THE COMMISSION'S OWN

1 MOTION, THE COMMISSION MAY CONDUCT A CONTESTED CASE AS PROVIDED
2 UNDER SECTION 203.

3 (6) IF THE COMMISSION FINDS THAT A PERSON HAS VIOLATED THIS
4 SECTION, THE COMMISSION SHALL ORDER REMEDIES AND PENALTIES AS
5 PROVIDED BY THIS ACT.

6 (7) IF THE COMMISSION FINDS THAT A PARTY'S COMPLAINT OR
7 DEFENSE FILED UNDER THIS SECTION IS FRIVOLOUS, THE COMMISSION
8 SHALL AWARD TO THE PREVAILING PARTY COSTS, INCLUDING REASONABLE
9 ATTORNEY FEES, AGAINST THE NONPREVAILING PARTY AND THEIR
10 ATTORNEY.

11 (8) AS USED IN THIS SECTION:

12 (A) "END-USER" MEANS THE RETAIL SUBSCRIBER OF A TELECOMMUNI-
13 CATIONS SERVICE.

14 (B) "TELECOMMUNICATIONS PROVIDER" OR "PROVIDER" MEANS A
15 PERSON THAT PROVIDES 1 OR MORE TELECOMMUNICATIONS SERVICES FOR
16 COMPENSATION.

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

23 (a) Except as provided in subdivision (b), the person to pay
24 a fine for the first offense of not less than \$1,000.00 nor more
25 than \$20,000.00 per day that the person is in violation of this
26 act, and for each subsequent offense, a fine of not less than
27 \$2,000.00 nor more than \$40,000.00 per day.

1 (b) If the provider has less than 250,000 access lines, the
2 provider to pay a fine for the first offense of not less than
3 \$200.00 or more than \$500.00 per day that the provider is in vio-
4 lation of this act, and for each subsequent offense a fine of not
5 less than \$500.00 or more than \$1,000.00 per day.

6 (c) A refund to the ratepayers of the provider of any col-
7 lected excessive rates.

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

10 (e) Cease and desist orders.

11 (F) ATTORNEY FEES AND ACTUAL COSTS.

12 (G) WHEN DETERMINING WHETHER TO AWARD COMPENSATORY DAMAGES
13 AND DETERMINING THE AMOUNT OF COMPENSATORY DAMAGES SO AS TO MAKE
14 WHOLE RATEPAYERS AND OTHER PERSONS, DOUBTS AS TO THE CERTAINTY OF
15 DAMAGES MUST BE RESOLVED AGAINST THE WRONGDOER. THERE IS NO
16 RIGHT TO A JURY TRIAL IN ANY MATTER BEFORE THE COMMISSION.

17 (2) A PERSON WHO ENGAGES IN ANY VIOLATION OF SECTION 502A
18 WITH THE INTENT TO ACCOMPLISH A RESULT PROHIBITED BY THE SECTION
19 SHALL BE GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT OF
20 NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$100,000.00, OR
21 BOTH, IF AN INDIVIDUAL, OR NOT MORE THAN \$10,000,000.00 IF THE
22 PERSON IS OTHER THAN AN INDIVIDUAL. A CRIMINAL PROSECUTION SHALL
23 NOT BE BROUGHT UNDER THIS SECTION IF A PRIOR CRIMINAL PROSECUTION
24 HAS BEEN INITIATED UNDER THE FEDERAL SHERMAN ACT OR THE MICHIGAN
25 ANTITRUST REFORM ACT ARISING OUT OF THE SAME TRANSACTIONS OR
26 OCCURRENCES.

1 Sec. 604. (1) This act is repealed effective January 1,
2 ~~2001~~ 2005.

3 (2) Section 312b of ~~Act No. 179 of the Public Acts of 1991,~~
4 ~~being section 484.2312b of the Michigan Compiled Laws~~ THE
5 MICHIGAN TELECOMMUNICATIONS ACT, 1991 PA 179, MCL 484.2312B, is
6 repealed effective July 1, 1997.

7 (3) Sections 206, 207a, 212, 307a, 501, and 605 of ~~Act~~
8 ~~No. 179 of the Public Acts of 1991, being sections~~ THE MICHIGAN
9 TELECOMMUNICATIONS ACT, 1991 PA 179, MCL 484.2206, 484.2207a,
10 484.2212, 484.2307a, 484.2501, and 484.2605, ~~of the Michigan~~
11 ~~Compiled Laws,~~ are repealed.

12 (4) Section 3g of ~~Act No. 206 of the Public Acts of 1913,~~
13 ~~being section 484.103g of the Michigan Compiled Laws~~ 1913
14 PA 206, MCL 484.103G, is repealed.

15 (5) SECTIONS 311, 321, 351, 359, AND 360 OF THE MICHIGAN
16 TELECOMMUNICATIONS ACT, 1991 PA 179, MCL 484.2311, 484.2321,
17 484.2351, 484.2359, AND 484.2360, ARE REPEALED.