



# HOUSE BILL No. 5726

May 3, 2000, Introduced by Rep. Thomas 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, 203, 203a, 213, 302, 310,  
312, 315, 316, 317, 351, 401, 505, 506, and 604 (MCL 484.2101,  
484.2102, 484.2103, 484.2203, 484.2203a, 484.2213, 484.2302,  
484.2310, 484.2312, 484.2315, 484.2316, 484.2317, 484.2351,  
484.2401, 484.2505, 484.2506, and 484.2604), sections 101, 203,  
213, 310, 312, 401, and 604 as amended and sections 203a, 317,  
and 351 as added by 1995 PA 216, section 102 as amended by 1998  
PA 41, section 316 as amended by 1999 PA 31, section 505 as added  
by 1998 PA 260, and section 506 as added by 1998 PA 259, and by  
adding sections 210a, 303a, 313a, and 504a; 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 basic residential  
5 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 existing state and  
11 federal law regarding antitrust, consumer protection, and fair  
12 trade to provide safeguards for competition and consumers.

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

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

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

25       (g) Encourage the use of existing educational telecommunica-  
26 tion networks and networks established by other commercial

1 providers as building blocks for a cooperative and efficient  
2 statewide educational telecommunication system.

3 (h) Ensure effective review and disposition of disputes  
4 between telecommunication providers.

5 (I) ENSURE FAIR AND EFFECTIVE REVIEW AND DISPOSITION OF RES-  
6 IDENTIAL CUSTOMER COMPLAINTS.

7 Sec. 102. As used in this act:

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

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

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

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

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

1 (F) "COSTS", AS USED IN SECTIONS 312, 315, AND 316, MEANS  
2 ADMINISTRATIVE AND OPERATIONAL COSTS AND LOST REVENUES THAT A  
3 PROVIDER INCURS IN COMPLYING WITH SECTIONS 312, 315, AND 316.

4 (G) ~~-(f)-~~ "Educational institution" means a public educa-  
5 tional institution or a private ~~non-profit~~ NONPROFIT educa-  
6 tional institution approved by the department of education to  
7 provide a program of primary, secondary, or higher education, a  
8 public library, or a nonprofit association or consortium whose  
9 primary purpose is education. A nonprofit association or consor-  
10 tium under this subdivision shall consist of 2 or more of the  
11 following:

12 (i) Public educational institutions.

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

15 (iii) The state board of education.

16 (iv) Telecommunication providers.

17 (v) A nonprofit association of educational institutions or  
18 consortium of educational institutions.

19 (H) ~~-(g)-~~ "Energy management services" means a service of a  
20 public utility providing electric power, heat, or light for  
21 energy use management, energy use control, energy use informa-  
22 tion, and energy use communication.

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

1       (J) ~~(i)~~ "Information services" or "enhanced services"  
 2 means the offering of a capability for generating, acquiring,  
 3 storing, transforming, processing, retrieving, utilizing, or  
 4 making available information, including energy management serv-  
 5 ices, that is conveyed by ~~telecommunications~~ TELECOMMUNICATION  
 6 SERVICE. Information services or enhanced services do not  
 7 include the use of such capability for the management, control,  
 8 or operation of a ~~telecommunications~~ TELECOMMUNICATION system  
 9 or the management of a ~~telecommunications~~ TELECOMMUNICATION  
 10 service.

11       (K) ~~(j)~~ "Interconnection" means the technical arrangements  
 12 and other elements necessary to permit the connection between the  
 13 switched networks of 2 or more providers to enable a telecommuni-  
 14 cation service originating on the network of 1 provider to termi-  
 15 nate on the network of another provider.

16       ~~(k) "Inter-LATA prohibition" means the prohibitions on the~~  
 17 ~~offering of inter-exchange or inter-LATA service contained in the~~  
 18 ~~modification of final judgment entered pursuant to a consent~~  
 19 ~~decree in United States v American Telephone and Telegraph Co.,~~  
 20 ~~552 F. Supp. 131 (D.D.C. 1982), and in the consent decree~~  
 21 ~~approved in United States v GTE Corp., 603 F. Supp. 730~~  
 22 ~~(D.D.C. 1984).~~

23       ~~(l) "LATA" means the local access and transport area as~~  
 24 ~~defined in United States v American Telephone and Telegraph Co.,~~  
 25 ~~569 F. Supp. 990 (D.D.C. 1983).~~

26       (l) ~~(m)~~ "License" means a license issued ~~pursuant to~~  
 27 UNDER this act.

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

3 (N) ~~(o)~~ "Local calling area" means, FOR PURPOSES OF ESTAB-  
4 LISHING RATES TO BE CHARGED TO END USERS, a geographic area  
5 encompassing 1 or more local communities as described in maps,  
6 tariffs, or rate schedules filed with ~~and approved by~~ the  
7 commission.

8 (O) ~~(p)~~ "Local directory assistance" means the provision  
9 by ~~telephone~~ A TELECOMMUNICATION SERVICE of a listed telephone  
10 number within the caller's area code.

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

14 (Q) ~~(r)~~ "Loop" means the transmission facility between the  
15 network interface on a subscriber's premises and the main distri-  
16 bution frame in the servicing central office.

17 (R) ~~(s)~~ "Operator service" means a telecommunication serv-  
18 ice that includes automatic or live assistance to a person to  
19 arrange for completion and billing of a telephone call originat-  
20 ing within this state that is specified by the caller through a  
21 method other than 1 of the following:

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

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

1       (iii) Completion in association with directory assistance  
2 services.

3       (S) ~~-(t)-~~ "Operator service provider" or "OSP" means a pro-  
4 vider of operator service.

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

10       (U) ~~-(v)-~~ "Person" means an individual, corporation, part-  
11 nership, association, governmental entity, or any other legal  
12 entity.

13       (V) ~~-(w)-~~ "Person with disabilities" means a person who has  
14 1 or more of the following physical characteristics:

15       (i) Blindness.

16       (ii) Inability to ambulate more than 200 feet without having  
17 to stop and rest during any time of the year.

18       (iii) Loss of use of 1 or both legs or feet.

19       (iv) Inability to ambulate without the prolonged use of a  
20 wheelchair, walker, crutches, braces, or other device required to  
21 aid mobility.

22       (v) A lung disease from which the person's expiratory volume  
23 for 1 second, when measured by spirometry, is less than 1 liter,  
24 or from which the person's arterial oxygen tension is less than  
25 60 mm/hg of room air at rest.

26       (vi) A cardiovascular disease from which the person measures  
27 between 3 and 4 on the New York heart classification scale, or

1 from which a marked limitation of physical activity causes  
2 fatigue, palpitation, dyspnea, or anginal pain.

3 (vii) Other diagnosed disease or disorder including, but not  
4 limited to, severe arthritis or a neurological or orthopedic  
5 impairment that creates a severe mobility limitation.

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

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

16 (Y) ~~(z)~~ "Residential customer" means a person to whom  
17 telecommunication services are furnished predominantly for per-  
18 sonal or domestic purposes at the person's dwelling.

19 (Z) ~~(aa)~~ "Special access" means the provision of access  
20 service, other than switched access service, to a local exchange  
21 network for the purpose of enabling a provider to originate or  
22 terminate telecommunication service within the exchange, includ-  
23 ing the use of local private lines.

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



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

4 (CC) ~~(dd)~~ "Telecommunication services" or "services"  
5 includes regulated and unregulated services offered to customers  
6 for the transmission of 2-way interactive communication and asso-  
7 ciated usage. A telecommunication service is not a public util-  
8 ity service.

9 (DD) ~~(ee)~~ "Toll service" means the transmission of 2-way  
10 interactive switched communication between local calling areas.  
11 Toll service does not include individually negotiated contracts  
12 for similar telecommunication services or wide area telecommuni-  
13 cations service.

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

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

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

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

1       Sec. 103. (1) Except as otherwise provided in this act,  
2 this act shall not be construed to prevent any person from  
3 providing telecommunication services in competition with another  
4 telecommunication provider.

5       (2) THE AMENDATORY ACT THAT ADDED THIS SUBSECTION DOES NOT  
6 ADOPT, APPROVE, OR CODIFY ANY COURT DECISION, RULE, ORDER, REGU-  
7 LATION, PRACTICE, OR POLICY OF ANY COURT OR AGENCY RELATING TO  
8 THIS ACT.

9       Sec. 203. (1) ~~Upon~~ EXCEPT FOR A COMPLAINT FILED BY A RES-  
10 IDENTIAL CUSTOMER UNDER SECTION 203A, UPON receipt of an applica-  
11 tion or complaint filed under this act, or on its own motion, the  
12 commission may conduct an investigation, hold hearings, and issue  
13 its findings and order under the contested hearings provisions of  
14 the administrative procedures act of 1969, ~~Act No. 306 of the~~  
15 ~~Public Acts of 1969, being sections 24.201 to 24.328 of the~~  
16 ~~Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328.

17       (2) An application or complaint filed under this section  
18 shall contain all information, testimony, exhibits, or other doc-  
19 uments and information on which the person intends to rely to  
20 support the application or complaint. Applications or complaints  
21 that do not meet the requirements of this subsection shall be  
22 dismissed or suspended pending the receipt by the commission of  
23 the required information.

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

26       (4) In a contested case under this section, the commission  
27 can administer oaths, certify all official acts, and compel the

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

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

7       (6) If a hearing is required, the applicant or complainant  
8 shall publish a notice of hearing as required by the commission  
9 within 7 days of the date the application or complaint was filed  
10 or as required by the commission. The first hearing shall be  
11 held within 10 days after the date of the notice. If a hearing  
12 is held, the commission shall have 180 days from the date the  
13 application or complaint was filed to issue its final order. If  
14 the principal parties of record agree that the complexity of  
15 issues involved requires additional time, the commission may have  
16 up to 210 days from the date the application or complaint was  
17 filed to issue its final order.

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

22       (8) If a complaint is filed under this section by a provider  
23 against another provider, the provider of service shall not dis-  
24 continue service during the period of the contested case, includ-  
25 ing the alternative dispute process, if the provider receiving  
26 the service has posted a surety bond, provided an irrevocable

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

3       Sec. 203a. (1) For all complaints involving a dispute ~~of~~  
4 ~~\$1,000.00 or less~~ BETWEEN A PROVIDER AND A RESIDENTIAL CUSTOMER,  
5 or at the option of the complainant, for a period of 45 days  
6 after the date the complaint is filed under section 203, the par-  
7 ties shall attempt alternative means of resolving the complaint.

8       (2) Any alternative means that will result in a recommended  
9 settlement may be used that is agreed to by the principal parties  
10 of record, including, but not limited to, settlement conferences,  
11 mediation, and other informal dispute resolution methods. If the  
12 parties cannot agree on an alternative means within 20 days after  
13 the date the complaint is filed, the commission shall order  
14 mediation. Within the 45-day period required under subsection  
15 (1), a recommended settlement shall be made to the parties.

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

21       (4) If a party rejects the recommended settlement, then the  
22 application or complaint shall proceed to a contested case hear-  
23 ing under THIS section. ~~203.~~

24       (5) The party that rejects the recommended settlement shall  
25 pay the opposing party's actual costs of proceeding to a con-  
26 tested case hearing, including attorney fees, unless the final  
27 order of the commission is more favorable to the rejecting party

1 than the recommended settlement under this section. A final  
2 order is considered more favorable if it differs by 10% or more  
3 from the recommended settlement in favor of the rejecting party.

4 (6) If the recommendation is not accepted under  
5 subsection (3), the individual commissioners shall not be  
6 informed of the recommended settlement until they have issued  
7 their final order. ~~under section 203.~~

8 (7) An attempt to resolve a contested case under this sec-  
9 tion is exempt from the requirements of section 203 and the  
10 administrative procedures act of 1969, ~~Act No. 306 of the Public~~  
11 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~  
12 ~~Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328.

13 (8) SECTION 203 APPLIES TO ALL COMPLAINT PROCEEDINGS. IF  
14 THERE IS A CONFLICT BETWEEN THIS SECTION AND SECTION 203, THIS  
15 SECTION CONTROLS. This section shall ~~not~~ extend or toll the  
16 time within which the commission is required to issue its final  
17 order. ~~under section 203.~~

18 SEC. 210A. ALL TARIFFS FOR REGULATED SERVICES FILED WITH  
19 THE COMMISSION BY ANY PROVIDER SHALL ALSO BE PROVIDED IN ELEC-  
20 TRONIC FORM IN A MANNER DETERMINED BY THE COMMISSION. THE COM-  
21 MISSION SHALL MAKE ALL TARIFFS AVAILABLE ON ITS WORLDWIDE  
22 WEBSITE.

23 Sec. 213. (1) ~~No later than July 1, 1996, the~~ THE commis-  
24 sion shall promulgate rules for the implementation and adminis-  
25 tration of this act under the administrative procedures act of  
26 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~

1 ~~24.201 to 24.328 of the Michigan Compiled Laws 1969 PA 306, MCL~~  
2 ~~24.201 TO 24.328.~~

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

7       (a) Electric power and communication lines: R 460.581 to  
8 R 460.592.

9       (b) Intrastate telephone services and facilities:  
10 R 460.1951 to R 460.1968.

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

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

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

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

24 Subsection (2) does not apply if the commission is prohibited  
25 from promulgating rules under this subsection. BEGINNING IN THE  
26 YEAR 2000, AND IN EVERY EVEN NUMBERED YEAR THEREAFTER, THE  
27 COMMISSION SHALL DO ALL OF THE FOLLOWING:

1 (A) REVIEW ALL REGULATIONS ISSUED UNDER THIS ACT IN EFFECT  
2 AT THE TIME OF THE REVIEW THAT APPLY TO THE OPERATIONS OR ACTIVI-  
3 TIES OF ANY PROVIDER OF TELECOMMUNICATION SERVICE.

4 (B) DETERMINE WHETHER ANY OF THE REGULATIONS ARE STILL NEC-  
5 ESSARY AS THE RESULT OF ECONOMIC COMPETITION BETWEEN PROVIDERS OF  
6 THE SERVICE.

7 (C) REPEAL OR MODIFY ANY REGULATIONS IT DETERMINES TO BE NO  
8 LONGER NECESSARY IN THE PUBLIC INTEREST.

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

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

16 (B) THE APPLICANT HAS COMMITTED, UNDER A SPECIFIC SCHEDULE  
17 THAT IT HAS FILED WITH THE COMMISSION, TO OFFER ALL SERVICES ON A  
18 NONDISCRIMINATORY BASIS TO ALL CUSTOMERS AND CLASSES OF CUSTOMERS  
19 WHO ARE POTENTIAL USERS OF THE SERVICES WITHIN THE GEOGRAPHIC  
20 AREA OF THE LICENSE. THE SERVICES SHALL BE OFFERED WITHIN 2  
21 YEARS OF THE FILING OF THE APPLICATION.

22 (C) ~~-(b)-~~ The granting of a license to the applicant would  
23 not be contrary to the public interest.

24 (2) THE COMMISSION SHALL AS A CONDITION TO THE GRANTING OF A  
25 LICENSE REQUIRE THE PROCUREMENT OF A PERFORMANCE BOND SUFFICIENT  
26 TO GUARANTEE BOTH OF THE FOLLOWING:

1 (A) AMOUNTS DUE OR TO BECOME DUE TO OTHER PROVIDERS  
2 PROVIDING ACCESS TO THE LOCAL EXCHANGE NETWORKS.

3 (B) AMOUNTS SUFFICIENT TO PROTECT ANY ADVANCES OR DEPOSITS  
4 THE APPLICANT MAY COLLECT FROM ITS CUSTOMERS. ALTERNATIVELY, THE  
5 COMMISSION MAY ORDER THAT THE ADVANCES OR DEPOSITS BE HELD IN  
6 ESCROW OR TRUST.

7 (3) ~~-(2)-~~ The commission shall retain a copy of all granted  
8 licenses and make all information contained in the licenses  
9 available to the public.

10 (4) ~~-(3)-~~ Each provider granted a license shall retain a  
11 copy of the license at its principal place of business and make  
12 the license available for review to the public.

13 (5) AFTER GRANTING A LICENSE, THE COMMISSION SHALL ANNUALLY  
14 REVIEW WHETHER THE LICENSEE CONTINUES TO POSSESS THE RESOURCES  
15 AND ABILITIES SPECIFIED IN SUBSECTION (1)(A) AND IS IN COMPLIANCE  
16 WITH THE SCHEDULE REQUIRED UNDER SUBSECTION (1)(B).

17 (6) THE COMMISSION SHALL SUSPEND OR REVOKE THE LICENSE OF  
18 ANY PROVIDER IF, AFTER NOTICE AND A HEARING, IT FINDS THAT THE  
19 PROVIDER DOES NOT MEET THE REQUIREMENTS OF THIS SECTION.

20 SEC. 303A. (1) EACH PROVIDER OF TELECOMMUNICATION SERVICES  
21 SHALL ANNUALLY SUBMIT TO THE COMMISSION A REPORT CONTAINING ALL  
22 OF THE FOLLOWING:

23 (A) A DESCRIPTION OF ALL OF THE PROVIDER'S REGULATED BUSI-  
24 NESS CONDUCTED IN THIS STATE IN THE PREVIOUS YEAR.

25 (B) A DESCRIPTION OF THE INVESTMENTS AND CAPITAL EXPENDI-  
26 TURES THAT THE PROVIDER HAS MADE IN THIS STATE IN THE PREVIOUS  
27 YEAR IN CONNECTION WITH ITS REGULATED BUSINESS.



1 (C) THE NUMBER OF CUSTOMERS OF THE PROVIDER, AS OF THE END  
2 DATE OF THE REPORTING PERIOD, FOR EACH LINE OF REGULATED BUSINESS  
3 IN WHICH THE PROVIDER ENGAGED IN THIS STATE.

4 (D) THE PROVIDER'S TOTAL REVENUES DERIVED FROM ITS REGULATED  
5 BUSINESS IN THIS STATE IN THE PREVIOUS YEAR.

6 (2) A PROVIDER MAY SATISFY THIS SECTION BY SUBMITTING TO THE  
7 COMMISSION A COPY OF A DOCUMENT THAT IT SUBMITS TO AN AGENCY OF  
8 THE FEDERAL OR STATE GOVERNMENT IF IT SUBSTANTIALLY COMPLIES WITH  
9 THIS SECTION.

10 (3) THE INFORMATION PROVIDED UNDER THIS SECTION MAY BE PRO-  
11 TECTED FROM DISCLOSURE UNDER SECTION 210.

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

14 (2) A provider of toll access services shall set the rates  
15 for toll access services. Access service rates and charges set  
16 by a provider that exceed the rates allowed for the same inter-  
17 state services by the federal government are not just and  
18 reasonable. Providers may agree to a rate that is less than the  
19 rate allowed by the federal government. If the providers cannot  
20 agree on a rate, a provider may apply to the commission under  
21 section 204.

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

25 (4) A provider of toll access services shall make available  
26 for intrastate access services any technical interconnection

1 arrangements, including colocation required by the federal  
2 government for the identical interstate access services.

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

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

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

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

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

23       (4) ~~Adjacent~~ ALL PROVIDERS OF TOLL SERVICE SHALL MAKE  
24 AVAILABLE TO THEIR CUSTOMERS ADJACENT exchange toll calling plans  
25 as ordered by the commission on June 19, 1991. THE PLANS shall  
26 remain in effect under this act until altered by order of the  
27 commission. A provider of toll service shall implement an

1 optional discount plan for calling to exchanges within 20 miles  
2 of a customer's home exchange. The plan shall not violate the  
3 conditions delineated in the commission's order in case number  
4 U-9153, dated September 26, 1989. A PROVIDER MAY RECOVER FROM  
5 ITS CUSTOMERS THE COSTS OF COMPLYING WITH THIS SUBSECTION.

6 (5) A PROVIDER SHALL NOT CHARGE A MANDATORY MINIMUM MONTHLY  
7 OR MANDATORY FLAT-RATE CHARGE FOR INTRALATA OR INTERLATA TOLL  
8 CALLS EXCEPT IN CONJUNCTION WITH THE OFFERING OF AN OPTIONAL DIS-  
9 COUNT TOLL CALLING PLAN.

10 SEC. 313A. (1) THE PROLIFERATION OF CHARGES FOR SEPARATE  
11 SERVICES, PRODUCTS, SURCHARGES, FEES, AND TAXES ON A BILL FOR  
12 TELECOMMUNICATIONS PRODUCTS OR SERVICES HAS INCREASED THE COM-  
13 PLEXITY OF THOSE BILLS TO SUCH AN EXTENT THAT THE BILLS HAVE  
14 BECOME DIFFICULT FOR CUSTOMERS TO UNDERSTAND.

15 (2) A BILL FROM A PROVIDER OF BASIC LOCAL EXCHANGE SERVICE  
16 SHALL BE SIMPLIFIED INTO GENERAL CATEGORIES TO PROVIDE CUSTOMERS  
17 SUFFICIENT INFORMATION ABOUT THE CHARGES TO UNDERSTAND THE BASIS  
18 AND SOURCE OF THE CHARGES.

19 (3) THE MONTHLY BILL FROM A PROVIDER OF BASIC LOCAL EXCHANGE  
20 SERVICE SHALL INCLUDE AN AGGREGATE CHARGE FOR EACH OF THE FOLLOW-  
21 ING CATEGORIES:

22 (A) BASIC LOCAL SERVICE CHARGES AND FEES, WHICH INCLUDES  
23 CARRIER'S CHARGES FOR BASIC LOCAL EXCHANGE SERVICE AND RELATED  
24 FEES, ASSESSMENTS, AND SURCHARGES.

25 (B) OPTIONAL SERVICES.

26 (C) ALL TAXES, WHICH INCLUDES ANY TAXES APPLICABLE TO THE  
27 CHARGES DESCRIBED IN SUBDIVISIONS (A) AND (B).

1       Sec. 315. (1) The commission shall require each provider of  
2 ~~basic local exchange~~ TELECOMMUNICATION service to provide a  
3 text telephone-telecommunications device for the deaf at costs to  
4 each individual who is certified as deaf or severely hearing- or  
5 speech-impaired by a licensed physician, audiologist, or quali-  
6 fied state agency, and to each public safety answering point as  
7 defined in section 102 of the emergency telephone service ena-  
8 bling act, ~~Act No. 32 of the Public Acts of 1986, being section~~  
9 ~~484.1102 of the Michigan Compiled Laws~~ 1986 PA 32, MCL

10 484.1102. THE COMMISSION SHALL COORDINATE THE PROVISION OF  
11 DEVICES UNDER THIS SUBSECTION TO ENSURE THAT EACH ELIGIBLE PERSON  
12 AND PUBLIC SAFETY ANSWERING POINT IS PROVIDED WITH 1 DEVICE. THE  
13 COMMISSION SHALL ASSESS THE COSTS INCURRED UNDER THIS SUBSECTION  
14 TO ALL PROVIDERS IN THIS STATE ON A PRO RATA BASIS. ALL COSTS OF  
15 COMPLYING WITH THIS SECTION INCURRED BY ANY PROVIDER SHALL BE  
16 SHARED BY ALL PROVIDERS AND MAY BE RECOVERED FROM THE CUSTOMERS  
17 OF ALL PROVIDERS ON A PRO RATA, COMPETITIVELY NEUTRAL BASIS.

18       (2) The commission shall require each provider of basic  
19 local exchange service to provide a telecommunication relay serv-  
20 ice whereby persons using a text telephone-telecommunications  
21 device for the deaf can communicate with persons using a voice  
22 telephone through the use of third party intervention or auto-  
23 mated translation. Each provider of basic local exchange service  
24 shall determine whether to provide a telecommunication relay  
25 service on its own, jointly with other basic local exchange pro-  
26 viders, or by contract with other telecommunication providers.  
27 The commission shall determine the technical standards and

1 essential features of text telephone and telecommunication relay  
2 service to ensure their compatibility and reliability.

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

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

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

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

6       Sec. 316. (1) The commission shall require each provider of  
7 residential basic local exchange service to offer certain low  
8 income customers the availability of basic local exchange service  
9 and access service at reduced rates as described in subsections  
10 (2) and (3).

11       (2) Except as provided under subsections (3) and (4), the  
12 rate reductions for low income customers shall be at a minimum,  
13 20% of the basic local exchange rate or \$8.25, which shall be  
14 inclusive of any federal contribution, whichever is greater.

15       (3) If the low income customer is 65 years of age or more,  
16 the rate reduction shall be at a minimum, 25% of the basic local  
17 exchange rate or \$8.25, which shall be inclusive of any federal  
18 contribution, whichever is greater.

19       (4) The total reduction under subsection (2) or (3) shall  
20 not exceed ~~100%~~ 200% of all end-user common line charges and  
21 the basic local exchange rate.

22       (5) EACH PROVIDER OF BASIC LOCAL EXCHANGE SERVICE SHALL FILE  
23 WITH THE COMMISSION, NO LATER THAN APRIL 1, 2001, A PLAN TO  
24 IMPLEMENT THE REQUIREMENTS OF THIS SECTION BY OCTOBER 1, 2001,  
25 WHICH SHALL CONTAIN ALL OF THE FOLLOWING COMMITMENTS:

26       (A) THAT THE PROVIDER WILL OFFER PAYMENT ARRANGEMENTS TO  
27 ELIGIBLE CUSTOMERS WITH PAST-DUE BILLS, WITH INITIAL PAYMENTS NOT

1 TO EXCEED \$25.00 AND THE BALANCE TO BE PAID IN 6 EQUAL MONTHLY  
2 PAYMENTS.

3 (B) THAT THE PROVIDER WILL NOT REQUIRE CUSTOMERS ENROLLED IN  
4 PLANS REQUIRED UNDER THIS SECTION TO PAY A DEPOSIT FOR BASIC  
5 LOCAL EXCHANGE SERVICE. A PROVIDER MAY REQUEST A DEPOSIT UNLESS  
6 THE CUSTOMER ELECTS TOLL RESTRICTION SERVICE.

7 (C) THAT THE PROVIDER WILL PROVIDE CUSTOMERS WHO MAY BE ELI-  
8 GIBLE FOR SERVICE UNDER THIS SECTION WITH A WRITTEN FORM THAT  
9 WILL PERMIT CUSTOMERS TO VERIFY THEIR ELIGIBILITY, SUBJECT TO  
10 AUDIT BY THE PROVIDER. THE FORMS SHALL BE MADE AVAILABLE AT THE  
11 OFFICES OF APPROPRIATE STATE AGENCIES AS IDENTIFIED BY THE COM-  
12 MISSION, IN QUANTITIES SUFFICIENT TO SUPPLY THEM TO ALL POTEN-  
13 Tially ELIGIBLE PERSONS.

14 (D) THAT THE PROVIDER WILL NEGOTIATE IN GOOD FAITH WITH  
15 APPROPRIATE STATE AGENCIES TO ACQUIRE ON-LINE ACCESS TO THE  
16 AGENCIES' ELECTRONIC DATABASES FOR THE PURPOSE OF ACCESSING THE  
17 INFORMATION NECESSARY TO VERIFY A CUSTOMER'S ELIGIBILITY FOR  
18 SERVICE UNDER THIS SECTION. WHERE THE PROVIDER HAS SECURED THE  
19 NECESSARY ACCESS, IT SHALL OFFER CUSTOMERS ON-LINE VERIFICATION  
20 OF ELIGIBILITY.

21 (E) THAT THE PROVIDER WILL MAKE APPROPRIATE PROMOTIONAL  
22 EFFORTS TO MAKE POTENTIALLY ELIGIBLE CUSTOMERS AWARE OF THE PRO-  
23 GRAMS PROVIDED UNDER THIS SECTION.

24 (F) THAT THE PROVIDER WILL PROVIDE A TOLL-FREE TELEPHONE  
25 NUMBER ALLOWING CUSTOMERS TO SUBSCRIBE TO, OR ACCESS INFORMATION  
26 ABOUT, THE PROGRAMS PROVIDED UNDER THIS SECTION.

1 (G) THAT THE PROVIDER WILL PROVIDE A TOLL-FREE FAX LINE  
2 ALLOWING CUSTOMERS TO SUBMIT DOCUMENTATION ASSOCIATED WITH THE  
3 PROGRAMS PROVIDED UNDER THIS SECTION.

4 (H) IF THE PROVIDER UTILIZES A VOICE RESPONSE UNIT TO ANSWER  
5 CUSTOMER CALLS, THAT IT WILL INCLUDE INFORMATION ABOUT THE PRO-  
6 GRAMS PROVIDED UNDER THIS SECTION ON THE VOICE RESPONSE UNIT MENU  
7 AFTER THE CUSTOMER INDICATES AN INTEREST IN OBTAINING NEW  
8 SERVICE.

9 (6) ~~-(5)-~~ To qualify for the reduced rate under this sec-  
10 tion, the person's annual income shall not exceed 150% of the  
11 federal poverty income standards as determined by the United  
12 States office of management and budget and as approved by the  
13 state treasurer.

14 (7) ~~-(6)-~~ The commission shall establish a rate for each  
15 subscriber line of a provider to allow the provider to recover  
16 costs incurred under this section.

17 (8) ~~-(7)-~~ The commission shall take necessary action to  
18 notify the general public of the availability of lifeline serv-  
19 ices including, but not limited to, public service announcements,  
20 newspaper notices, and such other notice reasonably calculated to  
21 reach those who may benefit from the services.

22 (9) ALL COSTS OF COMPLYING WITH THIS SECTION INCURRED BY ANY  
23 PROVIDER SHALL BE SHARED BY ALL PROVIDERS AND MAY BE RECOVERED  
24 FROM THE CUSTOMERS OF ALL PROVIDERS ON A PRO RATA, COMPETITIVELY  
25 NEUTRAL BASIS.



1       Sec. 317. (1) The commission shall adopt operating  
2 requirements for operator service providers. The requirements  
3 shall include the following:

4       (a) That an OSP shall furnish each entity with which the OSP  
5 contracts to provide operator service a sticker, card, or other  
6 form of information for each telephone that has access to the  
7 operator service. The information shall include the name of the  
8 operator service provider, a toll-free customer service telephone  
9 number, and a statement that charges imposed by the operator  
10 service provider may be obtained by calling the toll-free tele-  
11 phone number. The operator service provider shall require by  
12 contract that the entity receiving the information display the  
13 information on or near each of the telephones that has access to  
14 the service.

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

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

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

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

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

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

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

6       (2) An operator service provider shall not provide operator  
7 services in this state without first registering with the  
8 commission. The registration shall include the following  
9 information:

10      (a) The name of the provider.

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

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

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

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

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

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

24      (6) Except as otherwise authorized by the commission, a pro-  
25 vider under this section shall not charge a rate for operator  
26 services or toll service that is greater than 300% of the state

1 average rate for operator or toll service by providers of  
2 regulated toll service.

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

5 (8) In addition to any other penalty under this act, a  
6 person who is charged for the use of an operator service provider  
7 or is denied access to emergency services in violation of this  
8 section may bring a civil action against the OSP to recover  
9 actual damages or ~~\$250.00~~ \$10,000.00, whichever is greater,  
10 plus all reasonable attorney fees.

11 Sec. 351. ~~Until January 1, 2000 and except for section~~  
12 ~~361, this article does not apply to providers who, together with~~  
13 ~~any affiliated providers, provide basic local exchange service or~~  
14 ~~basic local exchange and toll service to less than 250,000~~  
15 ~~end-users in this state on January 1, 1996.~~ NOTWITHSTANDING ANY  
16 PROVISION OF THIS ACT, THE COMMISSION SHALL NOT ADOPT ANY RULE OR  
17 ORDER THAT WOULD PRESCRIBE FOR ANY BASIC LOCAL EXCHANGE SERVICE  
18 PROVIDER ANY RULE REGARDING INTERCONNECTION, UNBUNDLING, OR  
19 RESALE, ANY COST ALLOCATION RULE, OR ANY STRUCTURAL SEPARATION  
20 RULE THAT IS MORE BURDENSOME THAN FEDERAL LAW OR APPLICABLE RULES  
21 OR ORDERS OF THE FEDERAL GOVERNMENT.

22 Sec. 401. (1) Except as otherwise provided by law or pre-  
23 empted by federal law, the commission shall not have authority  
24 over enhanced services, paging, cellular, mobile, and answering  
25 services, video, cable service, pay-per-view, shared tenant, pri-  
26 vate networks, financial services networks, radio and television,  
27 WATS, personal communication networks, municipally owned

1 telecommunication system, 800 prefix services, burglar and fire  
2 alarm services, energy management services, ~~except for~~ state  
3 institutions of higher education, ~~the reselling of centrex or~~  
4 ~~its equivalent,~~ payphone services, and the reselling of an unli-  
5 censed telecommunication service. The foregoing services shall  
6 not be considered part of basic local exchange service.

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

10 SEC. 504A. (1) A PROVIDER SHALL NOT PROVIDE A TELECOMMUNI-  
11 CATIONS SERVICE IN THIS STATE UNTIL IT HAS FILED A REGISTRATION  
12 WITH THE COMMISSION AND HAD THE REGISTRATION APPROVED BY THE  
13 COMMISSION. THE REGISTRATION SHALL INCLUDE ALL OF THE  
14 FOLLOWING:

15 (A) THE PROVIDER'S BUSINESS ADDRESS AND TELEPHONE NUMBER.

16 (B) THE NAMES, TITLES, ADDRESSES, AND TELEPHONE NUMBERS OF  
17 ALL OFFICERS, DIRECTORS, AND OTHER PRINCIPALS.

18 (C) THE NAME, TITLE, LOCATION, MAILING ADDRESS, AND TELE-  
19 PHONE NUMBER OF A MINIMUM OF 1 AGENT AUTHORIZED TO RECEIVE SERV-  
20 ICE OF PROCESS ON BEHALF OF THE PROVIDER.

21 (D) A STATEMENT OF THE PROVIDER'S FINANCIAL VIABILITY.

22 (E) ALL OTHER INFORMATION AS THE COMMISSION MAY REASONABLY  
23 REQUIRE.

24 (2) A REGISTRATION STATEMENT FILED UNDER THIS SECTION SHALL  
25 BE CONSIDERED APPROVED BY THE COMMISSION 30 DAYS AFTER FILING,  
26 UNLESS THE COMMISSION ENTERS AN ORDER REJECTING OR SUSPENDING THE  
27 REGISTRATION.

1 (3) AFTER NOTICE AND HEARING, THE COMMISSION MAY REVOKE OR  
2 SUSPEND THE AUTHORIZATION OF ANY PROVIDER TO PROVIDE SERVICE UPON  
3 ANY OF THE FOLLOWING:

4 (A) THE PROVIDER FAILS TO FILE OR UPDATE ITS REGISTRATION  
5 WITHIN A REASONABLE TIME PERIOD.

6 (B) THE PROVIDER PROVIDES FALSE OR INCOMPLETE INFORMATION IN  
7 A REGISTRATION STATEMENT FILED UNDER THIS SECTION.

8 (4) THE COMMISSION MAY REQUIRE THE PROVIDER TO POST A BOND  
9 TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

10 Sec. 505. (1) An end user of a telecommunications provider  
11 shall not be switched to another provider without the authoriza-  
12 tion of the end user.

13 (2) A PROVIDER THAT RESELLS SERVICES THAT UTILIZE THE FACIL-  
14 ITIES OR SERVICES OF OTHER PROVIDERS SHALL BE LIABLE FOR AN UNAU-  
15 THORIZED SWITCH OF AN END USER'S PROVIDER THAT IT INITIATES OR IN  
16 WHICH IT PARTICIPATES. UNLESS IT IS SHOWN BY CLEAR AND CONVINC-  
17 ING EVIDENCE TO HAVE HAD SPECIFIC, ADVANCE KNOWLEDGE THAT AN  
18 UNAUTHORIZED CHANGE OF AN END USER'S PROVIDER WOULD TAKE PLACE, A  
19 PROVIDER WHOSE FACILITIES OR SERVICES ARE UTILIZED OR RESOLD BY A  
20 RESELLER OF TELECOMMUNICATIONS SERVICES SHALL NOT BE LIABLE FOR  
21 AN UNAUTHORIZED PROVIDER CHANGE INITIATED BY THE RESELLER.

22 (3) ~~-(2)-~~ The commission shall issue orders to ensure that  
23 an end user of a telecommunications provider is not switched to  
24 another provider without the end user's oral authorization, writ-  
25 ten confirmation, confirmation through an independent third  
26 party, or other verification procedures subject to commission  
27 approval, confirming the end user's intent to make a switch and

1 that the end user has approved the specific details of the  
2 switch. The order issued under this section shall require that  
3 all providers comply with the regulations established by the fed-  
4 eral communications commission on verification procedures for the  
5 switching of an end user's telecommunications provider.

6 (4) ~~-(3)-~~ As used in this section and section 506:

7 (a) "End user" means the retail subscriber of a telecommuni-  
8 cations service.

9 (b) "Telecommunications provider" or "provider" means a  
10 person that provides 1 or more telecommunications services for  
11 compensation. Telecommunications provider does not include a  
12 provider of commercial mobile service as defined in section  
13 332(d)(1) ~~or~~ OF part I of title III of the communications act  
14 of 1934, chapter 652, 96 Stat. 1096, 47 U.S.C. 332.

15 Sec. 506. (1) Upon the receipt of a complaint filed by a  
16 person alleging a violation of section 505, an end user who has  
17 been switched to another provider in violation of section 505, or  
18 a provider who has been removed as an end user's provider without  
19 the end user's authorization, or upon the commission's own  
20 motion, the commission ~~may conduct a contested case as provided~~  
21 ~~under section 203~~ SHALL CONDUCT AN INFORMAL HEARING ON THE  
22 COMPLAINT. THE COMMISSION SHALL CREATE, AND SHALL SUPPLY UPON  
23 REQUEST, A FORM AFFIDAVIT DESIGNED TO ENABLE AN END USER TO PRO-  
24 VIDE ALL INFORMATION NECESSARY TO PROMOTE EFFICIENT RESOLUTION OF  
25 COMPLAINTS ALLEGING A VIOLATION OF SECTION 505. HEARINGS CON-  
26 DUCTED UNDER THIS SECTION SHALL COMPLY WITH THE FOLLOWING  
27 REQUIREMENTS:

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

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

8 (C) IF THE COMPLAINANT HAS SUBMITTED AN AFFIDAVIT, ON THE  
9 FORM SUPPLIED BY THE COMMISSION OR OTHERWISE, ALLEGING FACTS SUFFICIENT TO SUPPORT A FINDING OF A VIOLATION OF SECTION 505, THE  
10 RESPONDENT SHALL HAVE THE BURDEN OF PROVING THAT NO VIOLATION HAS  
11 OCCURRED.

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

18 (a) Order the person to pay a fine for the first offense of  
19 not less than \$10,000.00 or more than \$20,000.00. For a second  
20 and any subsequent offense, the commission shall order the person  
21 to pay a fine of not less than \$25,000.00 or more than  
22 \$40,000.00. If the commission finds that the second or any of  
23 the subsequent offenses were knowingly made in violation of  
24 section 505, the commission shall order the person to pay a fine  
25 of not more than \$50,000.00. Each switch made in violation of  
26 section 505 shall be a 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 an unauthorized provider to reimburse an autho-  
5 rized provider an amount equal to the amount paid by the end user  
6 that should have been paid to the authorized provider.

7 (d) If the person is licensed under this act, revoke the  
8 license if the commission finds a pattern of violations of  
9 section 505.

10 (e) Issue cease and desist orders.

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

22 (4) If the commission finds that a party's complaint or  
23 defense filed under this section is frivolous, the commission  
24 shall award to the prevailing party costs, including reasonable  
25 attorney fees, against the nonprevailing party and their  
26 attorney.



1       Sec. 604. (1) This act is repealed effective January 1,  
2 ~~2001~~ 2006.

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, is~~  
14 ~~repealed.~~

15       (4) SECTIONS 312A, 352, 353, 354, 355, 356, 357, 358, 359,  
16 360, 361, 362, AND 363 OF THE MICHIGAN TELECOMMUNICATIONS ACT,  
17 1991 PA 179, MCL 484.2312A, 484.2352, 484.2353, 484.2354,  
18 484.2355, 484.2356, 484.2357, 484.2358, 484.2359, 484.2360,  
19 484.2361, 484.2362, AND 484.2363, ARE REPEALED.