

SENATE BILL No. 1193

March 30, 2000, Introduced by Senators DUNASKISS and YOUNG and referred to the Committee on Technology and Energy.

A bill to ensure the availability of certain communication services; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 101. This act shall be known and may be cited as the
2 "Michigan communication act of 2000".

3 Sec. 102. As used in this act:

4 (a) "Access service" means access to a local exchange net-
5 work for the purpose of enabling a communication provider to
6 originate or terminate communication services within the local
7 exchange. Except for end-user common line services, access serv-
8 ice does not include access service to a person who is not a
9 provider.

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

5 (c) "Commission" means the Michigan public service commis-
6 sion in the department of consumer and industry services.

7 (d) "Communication provider" or "provider" means a person or
8 an affiliate of the person each of which provides 1 or more com-
9 munication services.

10 (e) "Communication services" or "services" includes all
11 services offered to persons in this state for the transmission of
12 2-way interactive communication and associated usage utilizing
13 any medium or technology, including, but not limited to, telecom-
14 munication, cable modem, cellular, wireless, and computer. A
15 communication service is not a public utility service.

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

19 (g) "Line" or "access line" means the medium over which a
20 communication services user connects into the local exchange.

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

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

1 (j) "Residential customer" means a person to whom
2 communication services are furnished predominantly for personal
3 or domestic purposes at the person's dwelling.

4 (k) "Telecommunications act of 1996" means Public Law
5 104-104, 110 Stat. 56.

6 (l) "Toll service" means the transmission of 2-way interac-
7 tive switched communication between local calling areas. Toll
8 service does not include individually negotiated contracts for
9 similar communication services or wide area communications
10 service.

11 Sec. 201. (1) The Michigan public service commission shall
12 have the jurisdiction and authority to administer this act.

13 (2) The commission shall issue orders and promulgate rules
14 to implement the requirement of the telecommunications act of
15 1996, and the rules and regulations of the federal communications
16 commission issued under that act.

17 (3) The commission does not have authority or jurisdiction
18 to adopt or impose requirements that exceed or differ from the
19 requirement of the telecommunications act of 1996, and the rules
20 and regulations of the federal communications commission involv-
21 ing services included under this act.

22 Sec. 301. (1) An end user of a communication provider shall
23 not be switched to another provider without the authorization of
24 the end user.

25 (2) The commission shall issue orders to ensure that an end
26 user of a communication provider is not switched to another
27 provider without the end user's oral authorization, written

1 confirmation, confirmation through an independent third party, or
2 other verification procedures subject to commission approval,
3 confirming the end user's intent to make a switch and that the
4 end user has approved the specific details of the switch. The
5 order issued under this section shall require that all communica-
6 tion providers comply with the regulations established by the
7 federal communications commission on verification procedures for
8 the switching of an end user's communications provider.

9 (3) Upon the receipt of a complaint filed by a person alleg-
10 ing a violation of this section, an end user who has been
11 switched to another provider in violation of this section, or a
12 provider who has been removed as an end user's provider without
13 the end user's authorization, or upon the commission's own
14 motion, the commission may conduct a contested case under the
15 administrative procedures act of 1969, MCL 24.201 to 24.328.

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

22 (a) Order the person to pay a fine for the first offense of
23 not less than \$10,000.00 or more than \$20,000.00. For a second
24 and any subsequent offense, the commission shall order the person
25 to pay a fine of not less than \$25,000.00 or more than
26 \$40,000.00. If the commission finds that the second or any of
27 the subsequent offenses were knowingly made in violation of this

1 section, the commission shall order the person to pay a fine of
2 not more than \$50,000.00. Each switch made in violation of this
3 section shall be a separate offense under this subdivision.

4 (b) Order an unauthorized provider to refund to the end user
5 any amount greater than the end user would have paid to an autho-
6 rized provider.

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

10 (d) If the person is licensed to do business in this state,
11 revoke the license if the commission finds a pattern of viola-
12 tions of this section.

13 (e) Issue cease and desist orders.

14 (5) Notwithstanding subsection (4), a fine shall not be
15 imposed for a violation of this section if the provider has oth-
16 erwise fully complied with this section and shows that the viola-
17 tion was an unintentional and bona fide error notwithstanding the
18 maintenance of procedures reasonably adopted to avoid the error.
19 Examples of a bona fide error include clerical, calculation, com-
20 puter malfunction, programming, or printing errors. An error in
21 legal judgment with respect to a person's obligations under this
22 section is not a bona fide error. The burden of proving that a
23 violation was an unintentional and bona fide error is on the
24 provider.

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

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

3 (7) As used in this section, "end user" means a retail cus-
4 tomer of a communication service.

5 Sec. 302. (1) The commission shall require each communica-
6 tion provider of basic local exchange service to provide a text
7 telephone-telecommunications device for the deaf at costs to each
8 individual who is certified as deaf or severely hearing- or
9 speech-impaired by a licensed physician, audiologist, or quali-
10 fied state agency, and to each public safety answering point as
11 defined in section 102 of the emergency telephone service ena-
12 bling act, 1986 PA 32, MCL 484.1102.

13 (2) The commission shall require each communication provider
14 of basic local exchange service to provide a telecommunication
15 relay service whereby persons using a text
16 telephone-telecommunications device for the deaf can communicate
17 with persons using a voice telephone through the use of third
18 party intervention or automated translation. Each communication
19 provider of basic local exchange service shall determine whether
20 to provide a telecommunication relay service on its own, jointly
21 with other basic local exchange providers, or by contract with
22 other communication providers. The commission shall determine
23 the technical standards and essential features of text telephone
24 and telecommunication relay service to ensure their compatibility
25 and reliability.

26 (3) The commission shall appoint a 3-person advisory board
27 consisting of a representative of the deaf community, the

1 commission staff, and communication providers of basic local
2 exchange service to assist in administering this section. The
3 advisory board shall hold meetings, open to the public, at least
4 once each 3 months, shall periodically seek input on the adminis-
5 tration of this section from members of the deaf, hearing, or
6 speech impaired community, and shall report to the commission at
7 least annually. The advisory board shall investigate and make
8 recommendations on the feasibility of hiring a reasonably prudent
9 number of people from the deaf or hearing impaired and speech
10 impaired community to work in the provision of telecommunication
11 relay service.

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

20 (5) A communication provider may offer discounts on toll
21 calls where a text telephone-telecommunications device for the
22 deaf is used. The commission shall not prohibit such discounts
23 on toll calls placed through a telecommunication relay service.

24 (6) The commission shall establish a rate for each sub-
25 scriber line of a communication provider to allow the communica-
26 tion provider to recover costs incurred under this section and

1 may waive the costs assessed under this section to individuals
2 who are deaf or severely hearing impaired or speech impaired.

3 Sec. 303. (1) The commission shall require each communica-
4 tion provider of residential basic local exchange service to
5 offer certain low income customers the availability of basic
6 local exchange service and access service at reduced rates as
7 described in subsections (2) and (3).

8 (2) Except as provided under subsections (3) and (4), the
9 rate reductions for low income customers shall be at a minimum,
10 20% of the basic local exchange rate or \$8.25, which shall be
11 inclusive of any federal contribution, whichever is greater.

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

16 (4) The total reduction under subsection (2) or (3) shall
17 not exceed 100% of all end-user common line charges and the basic
18 local exchange rate.

19 (5) To qualify for the reduced rate under this section, the
20 person's annual income shall not exceed 150% of the federal pov-
21 erty income standards as determined by the United States office
22 of management and budget and as approved by the state treasurer.

23 (6) The commission shall establish a rate for each sub-
24 scriber line of a communication provider to allow the communica-
25 tion provider to recover costs incurred under this section.

26 (7) The commission shall take necessary action to notify the
27 general public of the availability of lifeline services

1 including, but not limited to, public service announcements,
2 newspaper notices, and such other notice reasonably calculated to
3 reach those who may benefit from the services.

4 Enacting section 1. This act takes effect January 1, 2001.

5 Enacting section 2. This act is repealed effective December
6 31, 2002.

7 Enacting section 3. The Michigan telecommunications act,
8 1991 PA 179, MCL 484.2101 to 484.2604, is repealed.