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Senate Bill 715 (as introduced 8-31-05)
Sponsor: Senator Bruce Patterson
Committee: Technology and Energy

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CONTENT

The bill would amend the Michigan Telecommunications Act to eliminate provisions that no longer apply because of dates specified in the Act, and delete references to "local access and transport areas" (LATAs).

Local Access & Transport Areas

The bill would delete the definitions of "LATA" and "inter LATA prohibition". Under the Act, "LATA" means the local access and transport area as defined in United States v American Telephone and Telegraph Co.. "Inter LATA prohibition" means the prohibitions on the offering of inter exchange or inter LATA service contained in the modification of final judgment entered pursuant to a consent decree in that case, and in the consent decree approved in United States v CTE Corp..

The bill would repeal Section 312a, which provides that, effective January 1, 1996, if a waiver to the inter-LATA prohibitions has been granted for a specific service area and the service area has at least two local exchange service providers, the provider must provide 1+intra-LATA toll dialing parity with the service area subject to the waiver.

The bill also would delete Section 354. Under that section, until inter-LATA prohibitions are removed for providers of basic local exchange service, a provider may not do either of the following:

- Jointly market or offer as a package a basic local exchange service together with an inter-LATA toll service or condition a rate for basic local exchange service on the customer also ordering an inter-LATA toll service.
- Discriminate against providers of toll service by not making available customer names and addresses that are available to an affiliate of the basic local exchange service provider.

Under Section 354, the provision prohibiting joint marketing does not apply to a Michigan facility based provider or to the extent that a provider is providing 1+intra-LATA toll dialing parity.

Task Force

The bill would eliminate a provision requiring the Public Service Commission (PSC) to create a task force to study changes occurring in the Federal Universal Service Fund and the need to establish a State Universal Service Fund to promote and maintain basic local exchange service in high-cost rural areas at affordable rates. The Act required the task force, by December 31, 1996, to issue to the Legislature and the Governor a report containing its findings and recommendations.

PSC Studies

The bill would delete a requirement that the PSC study and report to the Legislature and Governor by January 1, 1997, on the following matters that have an impact on the basic local exchange calling activities of all residential customers in the State:

- The percentage of intra LATA calls and minutes of usage that were charged as basic local exchange calls.
- Customers' ability to contact emergency services, school districts, and county, municipal, and local units of government without a toll call.
- Whether there were significant differences in basic local exchange calling patterns between urban, suburban, and rural areas.
- The impact on basic local exchange rates that would occur if basic local exchange calling areas were altered.
- The impact when basic local exchange calling areas overlapped LATA boundaries.
- The impact on basic local exchange rates that would occur if basic local exchange calling areas were expanded within LATA boundaries.

(Under the Act, "basic local exchange service" or "local exchange service" means the provision of an access line and usage within a local calling area for the transmission of high-quality two-way interactive switched voice or data communication.)

The bill also would delete a requirement that the PSC, by January 1, 1997, conduct a study of internet access provider locations to determine which exchanges could reach the nearest location only by making a toll call. This provision required the PSC then to gather input from internet access providers, local exchange providers, and other interested parties and make a recommendation to the Legislature as to the steps needed to allow all local exchange customers to gain access to an internet provider by making a local call.

The bill would repeal Section 322. That section required the PSC to study whether the State should require each wireline broadband internet access transport provider who was, or was an affiliate of, an internet service provider (ISP) to provide any other requesting ISP access to its broadband internet access transport services, unbundled from the provision of content, on rates, terms, and conditions that were at least as favorable as those on which it provided the access to itself, to its affiliate, or to any other person. The PSC was required to report on its findings to the Legislature and the Governor by July 1, 2001.

The bill also would repeal Section 353, which required the PSC, by January 1, 1998, to issue a report and make recommendations to the Legislature and the Governor involving the issues, scope, terms, and conditions of interconnection of telecommunication providers with the basic local exchange service.

(The Act defines "telecommunication provider" or "provider" as a person or an affiliate of the person that provides at least one telecommunication service for compensation. "Telecommunication services" or "services" includes regulated and unregulated services offered to customers for the transmission of two-way interactive communication and associated usage. The Act specifies that a telecommunication service is not a public utility service.)

Rate Alteration

The bill would delete a provision prohibiting a provider from making a rate alteration under Section 304 until the rate was restructured under Section 304a.

(Under Section 304a, upon filing with and the approval of the PSC, a basic local exchange provider had to restructure its rates for basic local exchange, toll, and access services to ensure that the rates were not less than the total service long run incremental cost

(TSLRIC) of providing each service. The provider could determine when each rate would be restructured and could phase in the restructuring until January 1, 2000. After that date, the provider's rates for those services could not be less than the TSLRIC for each service.

Under the Act, "TSLRIC" means, given current service demand, including associated costs of every component necessary to provide the service, one of the following:

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

Under Section 304, a provider may alter its rates for basic local exchange services by one or more of the following:

- Filing with the PSC notice of a decrease, discount, or other rate reduction, which becomes effective without PSC review or approval.
- Filing notice of an increase that does not exceed 1% less than the consumer price index.
- Filing an application to increase a rate in an amount greater than 1% less than the consumer price index.

When a provider files notice of an increase that does not exceed 1% less than the consumer price index, unless the PSC determines that the rate alteration exceeds that amount, the alteration takes effect 90 days from the date of the required notice. If the provider applies to increase rates by more than that amount, the application must be accompanied with sufficient documentary support that the rate alteration is just and reasonable.

A provider must include notice of a rate increase in or on affected customers' bills before the effective date of the alteration. An altered basic local exchange rate takes effect 90 days from the date that customers are given notice.)

Regulated & Unregulated Service

The bill would delete a provision prohibiting a provider of a rate-regulated service, until it has complied with Section 304a, from providing that service in combination with an unregulated service in Section 401 or an unbundled or resold service under Section 357 at a price that does not exceed the TSLRIC of each service.

(Under Section 401, except as otherwise provided by law or preempted by Federal law, the PSC does not have authority over enhanced services, paging, cellular, mobile, and answering services, video, cable service, pay-per-view, shared tenant, private networks, financial services networks, radio and television, wide area telecommunications service (WATS), personal communication networks, municipally owned telecommunication systems, 800 prefix services, burglar and fire alarm services, energy management services, except for State institutions of higher education, the reselling of Centrex or its equivalent, payphone services, and the reselling of an unlicensed telecommunication service. Those services are not considered part of basic local exchange service. That section also provides that the PSC does not have the authority over a telecommunication service not specifically provided for in the Act.

Section 357 requires a local exchange service provider to make available for resale on nondiscriminatory terms and conditions all basic local exchange services that it offered to its retail customers on January 1, 1996. Section 357 requires resale to be provided on a wholesale basis.)

Unbundled Loops, Number Portability, & Termination of Local Traffic

The bill would delete a provision requiring the rates for unbundled loops, number portability, and the termination of local traffic to be the rates established under PSC case U-10647, and requiring those rates to remain in effect until new TSLRIC studies for those services have been approved by the PSC.

Article 3A Applicability

The bill would repeal Section 351, which provides that, until January 1, 2000, and except for Section 361, Article 3A (Interconnection of Telecommunication Providers with the Basic Local Exchange Service) of the Act did not apply to providers who, together with any affiliated providers, provided basic local exchange service or basic local exchange and toll service to fewer than 250,000 end-users in Michigan on January 1, 1996.

(Under Section 361, a provider must allow and establish the rates, terms, and conditions for attachments by another provider, cable service, or an educational institution establishing a telecommunication system under the Act.)

Rate Limitations

The bill would repeal Section 701, which limits the rate charged for every telecommunication service provided to an end-user in Michigan to no higher than the rate charged for the service as of May 1, 2000, subject to certain exceptions. Section 701 also provides that the rate for any new service not offered under a contract that is functionally equivalent or substantially similar to an existing service may be set no greater than the rate allowed for the existing service as of May 1, 2000.

Under Section 701, the rates were to remain in effect for each service until December 31, 2003, or until the PSC determined that a service was competitive for an identifiable class or group of customers in an exchange, group of exchanges, or other clearly defined geographical area, whichever was earlier.

Section 701 requires the PSC to issue a determination as to whether a service is competitive within 60 days from the date the application is filed. The service is considered competitive if the PSC does not make a determination within 60 days.

Section 701 also requires a complaint arising under it to be determined by the PSC under Section 203.

(Section 203 establishes the procedures by which the PSC may address a complaint filed under the Act. It allows the PSC to conduct an investigation, hold hearings, and issue its findings and order under the contested hearings provisions of the Administrative Procedures Act.)

MCL 484.2102 et al.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bill Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.