

HOUSE BILL No. 5237

September 27, 2005, Introduced by Reps. Nofs, Proos, Accavitti, Moore, Schuitmaker, Emmons, Baxter, Stahl, Drolet, LaJoy, Huizenga, Mayes, Clemente, Hunter, Hopgood, Murphy, Dillon and Palsrok 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, 203a, 204, 205, 209, 210, 211, 213, 214, 301, 302, 303, 304, 305, 306, 307, 309, 309a, 310, 312, 314a, 315, 316a, 317, 318, 320, 321, 322, 351, 352, 353, 355, 357, 358, 359, 401, 502, 503, 504, 505, and 604 (MCL 484.2101, 484.2102, 484.2103, 484.2201, 484.2202, 484.2203, 484.2203a, 484.2204, 484.2205, 484.2209, 484.2210, 484.2211, 484.2213, 484.2214, 484.2301, 484.2302, 484.2303, 484.2304, 484.2305, 484.2306, 484.2307, 484.2309, 484.2309a, 484.2310, 484.2312, 484.2314a, 484.2315, 484.2316a, 484.2317, 484.2318, 484.2320, 484.2321, 484.2322, 484.2351, 484.2352, 484.2353, 484.2355, 484.2357, 484.2358, 484.2359, 484.2401, 484.2502, 484.2503, 484.2504, 484.2505, and 484.2604), sections 101, 103, 201, 203, 203a, 302, 303, 304, 310, 312, 502, 503, and

604 as amended and sections 214, 316a, and 322 as added by 2000 PA 295, section 102 as amended by 1998 PA 41, sections 202, 205, 210, 301, 305, 306, 307, 309a, and 401 as amended and sections 317, 318, 320, 321, 351, 352, 353, 355, 357, 358, 359, and 504 as added by 1995 PA 216, section 213 as amended by 2004 PA 591, section 314a as added by 2003 PA 206, and section 505 as added by 1998 PA 260, and by adding section 252; 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 just, reasonable,
5 and affordable basic residential telecommunication service.

6 (b) Allow and encourage competition to determine the
7 availability, prices, terms, and other conditions of providing
8 telecommunication services.

9 (c) Restructure regulation to focus on price and quality of
10 service and not on the provider. Supplement existing state and
11 federal law regarding antitrust, consumer protection, and fair
12 trade to provide additional safeguards for competition and
13 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
18 services and products.

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

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

(g) Encourage the use of existing educational telecommunication networks and networks established by other commercial providers as building blocks for a cooperative and efficient statewide educational telecommunication system.

(h) Ensure effective **AND TIMELY** review and disposition of disputes between telecommunication providers.

(i) Authorize actions to encourage the development of a competitive telecommunication industry.

Sec. 102. As used in this act:

(a) "Access service" means access to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication services within the local exchange. ~~Except for end-user common line services, access~~ **ACCESS** service does not include access service to a person who is not a provider.

(b) "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 2-way interactive switched voice or data communication.

(C) "BROADBAND SERVICE" MEANS A SERVICE CAPABLE OF

1 TRANSMITTING DATA OVER AN ACCESS LINE AT A RATE GREATER THAN 200
2 KILOBITS PER SECOND.

3 (D) ~~-(e)-~~ "Cable service" means 1-way transmission to
4 subscribers of video programming or other programming services
5 and subscriber interaction for the selection of video programming
6 or other programming services.

7 (E) ~~-(d)-~~ "Commission" means the Michigan public service
8 commission.

9 (F) ~~-(e)-~~ "Contested case" or "case" means a proceeding as
10 defined in section 3 of the administrative procedures act of
11 1969, 1969 PA 306, MCL 24.203.

12 (G) ~~-(f)-~~ "Educational institution" means a public
13 educational institution or a private non-profit educational
14 institution approved by the department of education to provide a
15 program of primary, secondary, or higher education, a public
16 library, or a nonprofit association or consortium whose primary
17 purpose is education. A nonprofit association or consortium under
18 this subdivision shall consist of 2 or more of the following:

19 (i) Public educational institutions.

20 (ii) Nonprofit educational institutions approved by the
21 department of education.

22 (iii) The state board of education.

23 (iv) Telecommunication providers.

24 (v) A nonprofit association of educational institutions or
25 consortium of educational institutions.

26 (H) "END USER" MEANS THE RETAIL SUBSCRIBER OR CUSTOMER OF A
27 TELECOMMUNICATION SERVICE.

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

(J) ~~-(h)-~~ "Exchange" means 1 or more contiguous central offices and all associated facilities within a geographical area in which **BASIC** local exchange ~~telecommunication services are~~ **SERVICE IS** offered by a provider.

(K) ~~-(i)-~~ "Information services" or "enhanced services" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information, including energy management services, that is conveyed by telecommunications. Information services or enhanced services do not include the use of such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

(L) ~~-(j)-~~ "Interconnection" means the technical arrangements and other elements necessary to permit the connection between the switched networks of 2 or more providers to enable a telecommunication service originating on the network of 1 provider to terminate on the network of another provider.

~~————-(k) "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 United States v American Telephone and Telegraph Co., 552 F. Supp. 131 (D.D.C. 1982), and in the consent decree~~

1 approved in United States v CTE Corp., 603 F. Supp. 730 (D.D.C.
2 1984).

3 ~~—— (l) "LATA" means the local access and transport area as~~
4 ~~defined in United States v American Telephone and Telegraph Co.,~~
5 ~~569 F. Supp. 990 (D.D.C. 1983).~~

6 (m) "License" means a license issued pursuant to this act.

7 (n) "Line" or "access line" means the medium over which a
8 telecommunication user connects into the local exchange.

9 (o) "Local calling area" means a geographic area
10 encompassing 1 or more local communities as described in maps,
11 tariffs, or rate schedules filed with and approved by the
12 commission.

13 (p) "Local directory assistance" means the provision by
14 telephone of a listed telephone number within the caller's area
15 code.

16 (q) "Local exchange rate" means the monthly and usage rate,
17 including all necessary and attendant charges, imposed for basic
18 local exchange service to customers.

19 (r) "Loop" means the transmission facility between the
20 network interface on a subscriber's premises and the main
21 distribution frame in the servicing central office.

22 (s) "Operator service" means a telecommunication service
23 that includes automatic or live assistance to a person to arrange
24 for completion and billing of a telephone call originating within
25 this state that is specified by the caller through a method other
26 than 1 of the following:

27 (i) Automatic completion with billing to the telephone from

1 which the call originated.

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

5 (iii) Completion in association with directory assistance
6 services.

7 (t) "Operator service provider" or "OSP" means a provider of
8 operator service.

9 (u) "Payphone service" means a telephone call provided from
10 a public, semipublic, or individually owned and operated
11 telephone that is available to the public and is accessed by the
12 depositing of coin or currency or by other means of payment at
13 the time the call is made.

14 (v) "Person" means an individual, corporation, partnership,
15 association, governmental entity, or any other legal entity.

16 ~~—— (w) "Person with disabilities" means a person who has 1 or
17 more of the following physical characteristics:~~

18 ~~—— (i) Blindness.~~

19 ~~—— (ii) Inability to ambulate more than 200 feet without having
20 to stop and rest during any time of the year.~~

21 ~~—— (iii) Loss of use of 1 or both legs or feet.~~

22 ~~—— (iv) Inability to ambulate without the prolonged use of a
23 wheelchair, walker, crutches, braces, or other device required to
24 aid mobility.~~

25 ~~—— (v) A lung disease from which the person's expiratory volume
26 for 1 second, when measured by spirometry, is less than 1 liter,
27 or from which the person's arterial oxygen tension is less than~~

1 ~~60 mm/hg of room air at rest.~~

2 ~~—— (vi) A cardiovascular disease from which the person measures~~
 3 ~~between 3 and 4 on the New York heart classification scale, or~~
 4 ~~from which a marked limitation of physical activity causes~~
 5 ~~fatigue, palpitation, dyspnea, or anginal pain.~~

6 ~~—— (vii) Other diagnosed disease or disorder including, but not~~
 7 ~~limited to, severe arthritis or a neurological or orthopedic~~
 8 ~~impairment that creates a severe mobility limitation.~~

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

14 (X) "PRIMARY BASIC LOCAL EXCHANGE SERVICE" MEANS THE
 15 PROVISION OF 1 PRIMARY ACCESS LINE TO A RESIDENTIAL CUSTOMER FOR
 16 VOICE COMMUNICATION AND A MINIMUM AMOUNT OF LOCAL USAGE OF NOT
 17 FEWER THAN 100 OUTGOING CALLS OR MORE THAN 12,000 OUTGOING
 18 MINUTES PER MONTH.

19 (Y) "PUBLIC SAFETY SYSTEM" MEANS A COMMUNICATION SYSTEM
 20 OPERATED BY A PUBLIC ENTITY TO PROVIDE EMERGENCY POLICE, FIRE,
 21 AND MEDICAL SERVICES.

22 (Z) ~~-(y)-~~ "Reasonable rate" or "just and reasonable rate"
 23 means a rate that is not inadequate, excessive, or unreasonably
 24 discriminatory. A rate is inadequate if it is less than the total
 25 service long run incremental cost of providing the service.

26 (AA) ~~-(z)-~~ "Residential customer" means a person to whom
 27 telecommunication services are furnished predominantly for

1 personal or domestic purposes at the person's dwelling.

2 **(BB)** ~~—(aa)—~~ "Special access" means the provision of access
3 service, other than switched access service, to a local exchange
4 network for the purpose of enabling a provider to originate or
5 terminate telecommunication service within the exchange,
6 including the use of local private lines.

7 **(CC)** ~~—(bb)—~~ "State institution of higher education" means an
8 institution of higher education described in sections 4, 5, and 6
9 of article VIII of the state constitution of 1963.

10 **(DD)** **"TELECOMMUNICATION ACT OF 1996" MEANS PUBLIC LAW 104-**
11 **104, 110 STAT. 56.**

12 **(EE)** ~~—(cc)—~~ "Telecommunication provider" or "provider" means
13 a person ~~or an affiliate of the person each of which~~ **THAT** for
14 compensation provides 1 or more telecommunication services.

15 **(FF)** ~~—(dd)—~~ "Telecommunication services" or "services"
16 includes regulated and unregulated services offered to customers
17 for the transmission of 2-way interactive communication and
18 associated usage. A telecommunication service is not a public
19 utility service.

20 **(GG)** ~~—(ee)—~~ "Toll service" means the transmission of 2-way
21 interactive switched communication between local calling areas.
22 Toll service does not include individually negotiated contracts
23 for similar telecommunication services or wide area
24 telecommunications service.

25 **(HH)** ~~—(ff)—~~ "Total service long run incremental cost" means,
26 given current service demand, including associated costs of every
27 component necessary to provide the service, 1 of the following:

(i) 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.

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

(II) ~~—(gg)—~~ "Wide area telecommunications service" or "WATS" means the transmission of 2-way interactive switched communication over a dedicated access line.

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

(2) The commission shall submit an annual report describing the status of competition in telecommunication services in this state, including, but not limited to, the toll and local exchange service markets in this state. The report required under this section shall be submitted to the governor and the house and senate standing committees with oversight of telecommunication issues.

(3) A PROVIDER SHALL SUBMIT TO THE COMMISSION ALL INFORMATION REQUESTED BY THE COMMISSION NECESSARY FOR THE PREPARATION OF THE ANNUAL REPORT UNDER THIS SECTION.

Sec. 201. ~~—(1)—~~ Except as otherwise provided by this act **OR FEDERAL LAW**, the Michigan public service commission shall have the jurisdiction and authority to administer this act and all

1 federal telecommunications laws, rules, orders, and regulations
2 that are delegated to the state.

3 ~~—— (2) The commission shall exercise its jurisdiction and~~
4 ~~authority consistent with this act and all federal~~
5 ~~telecommunications laws, rules, orders, and regulations.~~

6 Sec. 202. (1) In addition to the other powers and duties
7 prescribed by this act, the commission shall do all of the
8 following:

9 (a) Establish by order the manner and form in which
10 telecommunication providers of regulated services within the
11 state keep accounts, books of accounts, and records in order to
12 determine the total service long run incremental costs and
13 imputation requirements of this act of providing a service. The
14 commission requirements under this subdivision shall be
15 consistent with any regulations covering the same subject matter
16 made by the federal communications commission.

17 (b) Require by order that a provider of a regulated service,
18 including access service, make available for public inspection
19 and file with the commission a schedule of the provider's rates,
20 services, and conditions of service, including access service
21 provided by contract.

22 (c) Promulgate rules under section 213 ~~and issue orders to~~
23 ~~establish and enforce quality standards for providing~~
24 ~~telecommunication services in this state.~~ **TO ESTABLISH AND**
25 **ENFORCE QUALITY STANDARDS FOR ALL OF THE FOLLOWING:**

26 (i) **THE PROVISION OF BASIC LOCAL EXCHANGE SERVICE.**

27 (ii) **THE PROVISION OF UNBUNDLED NETWORK ELEMENTS AND LOCAL**

1 INTERCONNECTION SERVICES TO PROVIDERS WHICH ARE USED IN THE
2 PROVISION OF BASIC LOCAL EXCHANGE SERVICE.

3 (iii) THE TIMELY TRANSFER OF AN END USER FROM 1 PROVIDER OF
4 BASIC LOCAL EXCHANGE SERVICE TO ANOTHER PROVIDER.

5 (iv) PROVIDERS OF BASIC LOCAL EXCHANGE SERVICE THAT CEASE TO
6 PROVIDE THE SERVICE TO ANY SEGMENT OF END USERS OR GEOGRAPHIC
7 AREA, GO OUT OF BUSINESS, OR WITHDRAW FROM THE STATE.

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

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

18 ~~—— (i) The chairperson of the commission.~~

19 ~~—— (ii) One representative from each basic local exchange~~
20 ~~provider with 250,000 or more access lines.~~

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

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

26 ~~—— (v) One representative of the general public.~~

27 ~~—— (f) On or before January 1, 1997, the commission shall study~~

1 ~~and report to the legislature and governor on the following~~
2 ~~matters that have impact on the basic local exchange calling~~
3 ~~activities of all residential customers in the state:~~
4 ~~—— (i) The percentage of intra LATA calls and minutes of usage~~
5 ~~which are charged as basic local exchange calls.~~
6 ~~—— (ii) The average size and range of sizes of basic local~~
7 ~~exchange calling areas.~~
8 ~~—— (iii) The ability of customers to contact emergency services,~~
9 ~~school districts, and county, municipal, and local units of~~
10 ~~government without a toll call.~~
11 ~~—— (iv) Whether there are significant differences in basic local~~
12 ~~exchange calling patterns between urban, suburban, and rural~~
13 ~~areas.~~
14 ~~—— (v) The impact on basic local exchange rates which would~~
15 ~~occur if basic local exchange calling areas are altered.~~
16 ~~—— (vi) The impact when basic local exchange calling areas~~
17 ~~overlap LATA boundaries.~~
18 ~~—— (vii) The impact on basic local exchange rates which would~~
19 ~~occur if basic local exchange calling areas are expanded within~~
20 ~~LATA boundaries.~~
21 ~~—— (g) On or before January 1, 1997, conduct a study of~~
22 ~~internet access provider locations to determine which exchanges~~
23 ~~can reach the nearest location only by making a toll call. The~~
24 ~~commission shall then gather input from internet access~~
25 ~~providers, local exchange providers, and other interested parties~~
26 ~~and make a recommendation to the legislature as to the steps~~
27 ~~needed to allow all local exchange customers to access an~~

1 ~~internet provider by making a local call.~~

2 (2) RULES PROMULGATED UNDER SUBSECTION (1)(C) SHALL INCLUDE
3 REMEDIES FOR THE ENFORCEMENT OF THE RULES THAT ARE CONSISTENT
4 WITH THIS ACT AND FEDERAL LAW. RULES PROMULGATED UNDER SUBSECTION
5 (1)(C)(ii) SHALL NOT APPLY TO THE PROVISION OF UNBUNDLED NETWORK
6 ELEMENTS AND LOCAL INTERCONNECTION SERVICES SUBJECT TO QUALITY
7 STANDARDS IN AN INTERCONNECTION AGREEMENT APPROVED BY THE
8 COMMISSION. IN PROMULGATING ANY RULES UNDER SUBSECTION (1)(C),
9 THE COMMISSION SHALL CONSIDER TO WHAT EXTENT CURRENT MARKET
10 CONDITIONS ARE SUFFICIENT TO PROVIDE ADEQUATE SERVICE QUALITY TO
11 BASIC LOCAL EXCHANGE SERVICE. ANY SERVICE QUALITY RULES
12 PROMULGATED BY THE COMMISSION SHALL EXPIRE WITHIN 3 YEARS OF THE
13 EFFECTIVE DATE OF THE RULES. THE COMMISSION MAY, PRIOR TO THE
14 EXPIRATION OF THE RULES, PROMULGATE NEW RULES UNDER SUBSECTION
15 (1)(C).

16 (3) THE COMMISSION SHALL PERMIT THE ELECTRONIC FILING OF ANY
17 PLEADINGS, TARIFFS, OR ANY OTHER DOCUMENT REQUIRED OR ALLOWED TO
18 BE FILED WITH THE COMMISSION UNDER THIS ACT.

19 Sec. 203. (1) Upon receipt of an application or complaint
20 filed under this act, or on its own motion, the commission may
21 conduct an investigation, hold hearings, and issue its findings
22 and order under the contested hearings provisions of the
23 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
24 24.328.

25 (2) If a complaint filed under this section alleges facts
26 that warrant emergency relief, the complainant may request an
27 emergency relief order. On the date of filing, the complaint and

1 request for emergency relief shall be hand-delivered to the
2 respondent at its principal place of business in Michigan. The
3 commission shall allow 5 business days for a filing in response
4 to the request for emergency relief. The commission shall review
5 the complaint, the request for emergency relief, the response,
6 and all supporting materials and determine whether to deny the
7 request for emergency relief or to conduct an initial evidentiary
8 hearing. The initial evidentiary hearing shall be conducted
9 within 5 business days from the date of the notice of hearing and
10 the commission shall issue an order granting or denying the
11 request for emergency relief. An order for emergency relief may
12 require a party to act or refrain from action to protect
13 competition. Any action required by an order for emergency relief
14 shall be technically feasible and economically reasonable and the
15 respondent shall be given a reasonable period of time to comply
16 with the order. At the hearing for emergency relief, the
17 respondent has the burden of showing that the order is not
18 technically feasible and not economically reasonable. If the
19 commission finds that extraordinary circumstances exist that
20 warrant expedited review before the commission's issuance of a
21 final order, it shall set a schedule providing for the issuance
22 of a partial final order as to all or part of the issues for
23 which emergency relief was granted within 90 days of the issuance
24 of the emergency relief order.

25 (3) An order for emergency relief may be granted under
26 subsection (2) if the commission finds all of the following:

27 (a) That the party has demonstrated exigent circumstances

1 that warrant emergency relief.

2 (b) That the party seeking relief will likely succeed on the
3 merits.

4 (c) That the party will suffer irreparable harm in its
5 ability to serve customers if emergency relief is not granted.

6 (d) That the order is not adverse to the public interest.

7 (4) The commission may require the complainant to post a
8 bond in an amount sufficient to make whole the respondent in the
9 event that the order for emergency relief is later found to have
10 been erroneously granted.

11 (5) An order for emergency relief shall expire upon the
12 sooner of any of the following:

13 (a) Ninety days after its issuance.

14 (b) Issuance of the commission's partial final order.

15 (c) An earlier date set by the commission. Notwithstanding
16 this subsection, the commission may extend the emergency relief
17 order to a date no later than the date on which the final order
18 in the proceeding is issued.

19 (6) An order granting or denying emergency relief under
20 subsection (2) shall be subject to immediate review in the court
21 of appeals as a matter of right by the party aggrieved. The
22 review shall be de novo and shall comply with Michigan court rule
23 7.211(c)(6). The court may stay an order granting emergency
24 relief upon the posting of a bond or other security in an amount
25 and on terms set by the court. Regardless of whether an appeal is
26 made under this subsection, the commission shall proceed with the
27 case and issue a final order as otherwise required under this

1 section.

2 (7) An application or complaint filed under this section
3 shall contain all information, testimony, exhibits, or other
4 documents and information within the person's possession on which
5 the person intends to rely to support the application or
6 complaint. Applications or complaints that do not meet the
7 requirements of this subsection shall be dismissed or suspended
8 pending the receipt by the commission of the required
9 information. If the complainant or applicant requires information
10 in the possession of the respondent, not within the complainant's
11 or applicant's possession, the commission may allow a reasonable
12 opportunity for discovery to allow the complainant or applicant
13 to provide all relevant information, testimony, exhibits, or
14 other documents on which the complainant or applicant intends to
15 rely to support its application or complaint.

16 (8) The burden of proving a case filed under this act is
17 with the party filing the application or complaint.

18 (9) In a contested case under this section, the commission
19 can administer oaths, certify all official acts, and compel the
20 attendance of witnesses and the production of papers, books,
21 accounts, documents, and testimony.

22 (10) Except as otherwise provided in this section, the
23 commission shall issue a final order in a case filed under this
24 section within 90 days from the date the application or complaint
25 is filed.

26 (11) Except as provided for a hearing involving a request
27 for emergency relief, if a hearing is required, the applicant or

1 complainant shall publish a notice of hearing as required by the
 2 commission within 7 days of the date the application or complaint
 3 was filed or as required by the commission. The first hearing
 4 shall be held within 10 days after the date of the notice. If a
 5 hearing is held, the commission shall have 180 days from the date
 6 the application or complaint was filed to issue its final order.
 7 If the principal parties of record agree that the complexity of
 8 issues involved requires additional time, the commission may have
 9 up to 210 days from the date the application or complaint was
 10 filed to issue its final order. If the application or complaint
 11 is subject to section 203a, the commission shall have an
 12 additional ~~45~~ 60 days to issue its final order.

13 (12) An order of the commission ~~shall be subject to review~~
 14 ~~as provided by section 26 of 1909 PA 300, MCL 462.26~~ **UNDER THIS**
 15 **ACT IS SUBJECT TO APPELLATE REVIEW AS OF RIGHT IN THE COURT OF**
 16 **APPEALS. THE APPEAL SHALL BE INITIATED BY THE FILING OF A CLAIM**
 17 **OF APPEAL WITH THE COURT OF APPEALS WITHIN 30 DAYS OF THE**
 18 **ISSUANCE OF AN ORDER OR WITHIN 30 DAYS OF AN ORDER ISSUED ON A**
 19 **PETITION FOR REHEARING OF AN ORDER.**

20 (13) If a complaint is filed under this section by a
 21 provider against another provider, the provider of service shall
 22 not discontinue service during the period of the contested case,
 23 including the alternative dispute process, if the provider
 24 receiving the service has posted a surety bond, provided an
 25 irrevocable letter of credit, or provided other adequate security
 26 in an amount and on a form as determined by the commission.

27 (14) Except if there is a request for emergency relief under

1 this section, if the complaint filed under this section involves
 2 an interconnection dispute between providers, the commission
 3 shall require the parties to utilize the alternative dispute
 4 process under section 203a.

5 (15) In addition to any other relief provided by this act,
 6 the commission or a party may seek to compel compliance with a
 7 commission order by proceedings in mandamus, injunction, or by
 8 other appropriate civil remedies in the circuit court or other
 9 court of proper jurisdiction.

10 (16) ~~The amendatory act that added this subsection does not~~
 11 ~~amend, alter, or limit any case or proceeding commenced before~~
 12 ~~the effective date of this subsection.~~ **UPON THE FILING OF A**
 13 **MOTION FOR STAY, THE COMMISSION MAY, ON TERMS AS IT CONSIDERS**
 14 **JUST, STAY THE EFFECT OR ENFORCEMENT OF AN ORDER, EXCEPT AN ORDER**
 15 **REGARDING RATES OR COST STUDIES. A MOTION FOR STAY, INCLUDING A**
 16 **REQUEST FOR SETTING THE AMOUNT OF ANY APPEAL BOND, ARE GOVERNED**
 17 **BY THE PROVISIONS FOR OBTAINING A STAY OF A CIVIL ACTION SET**
 18 **FORTH IN RULE 7.209 OF THE MICHIGAN COURT RULES. THE COMMISSION**
 19 **SHALL DECIDE A MOTION FOR STAY WITHIN 10 DAYS FROM THE DATE THE**
 20 **MOTION IS FILED WITH THE COMMISSION.**

21 Sec. 203a. (1) For all complaints involving a dispute of
 22 ~~\$1,000.00~~ **\$25,000.00** or less, a dispute under section 203(14),
 23 ~~or at the option of the complainant~~ **UPON THE CONSENT OF ALL**
 24 **PARTIES AFTER THE COMPLAINT IS FILED**, for a period of ~~45~~ **60**
 25 days after the date the complaint is filed under section 203, the
 26 parties shall attempt alternative means of resolving the
 27 complaint.

1 (2) Any alternative means that will result in a recommended
2 settlement may be used that is agreed to by the principal parties
3 of record, including, but not limited to, settlement conferences,
4 mediation, and other informal dispute resolution methods. If the
5 parties cannot agree on an alternative means within ~~20~~ 10 days
6 after the date the complaint is filed, the commission shall order
7 mediation. Within the ~~45-day~~ **60-DAY** period required under
8 subsection (1), a recommended settlement shall be made to the
9 parties.

10 (3) Within 7 days after the date of the recommended
11 settlement, each party shall file with the commission a written
12 acceptance or rejection of the recommended settlement. If the
13 parties accept the recommendation, then the recommendation shall
14 become the final order in the contested case under section 203.

15 (4) If a party rejects **OR FAILS TO RESPOND WITHIN 7 DAYS TO**
16 the recommended settlement, then the application or complaint
17 shall proceed to a contested case hearing under section 203.

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

25 (6) If the recommendation is not accepted under subsection
26 (3), the individual commissioners shall not be informed of the
27 recommended settlement until they have issued their final order

1 under section 203.

2 (7) An attempt to resolve a contested case under this
3 section is exempt from the requirements of section 203 and the
4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
5 24.328.

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

9 Sec. 204. If 2 or more telecommunication providers are
10 unable to agree on a matter relating to a regulated
11 ~~telecommunication issue between the parties, including but not~~
12 ~~limited to,~~ **SERVICE OR** a matter prohibited by section 305, then
13 either telecommunication provider may file with the commission an
14 application for resolution of the matter.

15 Sec. 205. (1) The commission may investigate and resolve
16 complaints under this act. The penalties under this act shall not
17 be imposed for a violation that occurred more than 2 years before
18 the date the complaint was filed.

19 (2) If the commission finds, after notice and hearing, that
20 the **RATES**, quality, general availability, or conditions for ~~the~~
21 **A** regulated service violate this act, ~~or~~ an order of the
22 commission under this act, or is adverse to the public interest,
23 the commission may require changes in how the telecommunication
24 services are provided. The commission's authority includes, but
25 is not limited to, the revocation of a license and issuing cease
26 and desist orders.

27 Sec. 209. (1) If the commission finds that a party's

1 position in a proceeding under this act was frivolous, the
 2 commission shall award to the prevailing party the costs,
 3 including reasonable attorney fees, against the nonprevailing
 4 party and their attorney.

5 (2) As used in this section:

6 (a) "Frivolous" means that at least 1 of the following
 7 conditions is met:

8 (i) The party's primary purpose in initiating the proceeding
 9 or asserting the defense was to harass, embarrass, or injure the
 10 prevailing party.

11 (ii) The party had no reasonable basis to believe that the
 12 facts underlying that party's legal position were true.

13 (iii) The party's legal position was devoid of arguable legal
 14 merit.

15 (b) "Frivolous" does not mean a complaint filed to challenge
 16 a rate alteration increase for basic local service if the
 17 complaint has been reviewed by the commission and has not been
 18 dismissed by the commission ~~pursuant to~~ **UNDER** section ~~203(2)~~
 19 **203.**

20 (c) "Prevailing party" means a party who wins in the
 21 proceeding.

22 Sec. 210. (1) Except under the terms of a mandatory
 23 protective order, trade secrets and commercial or financial
 24 information submitted under this act are exempt from the freedom
 25 of information act, ~~Act No. 442 of the Public Acts of 1976,~~
 26 ~~being sections 15.231 to 15.246 of the Michigan Compiled Laws~~
 27 **1976 PA 442, MCL 15.231 TO 15.246.**

(2) If information is disclosed pursuant to a mandatory protective order, then the information may be included in the commission's evidentiary record if admissible, ~~and remains~~ **BUT SHALL REMAIN** confidential.

(3) There is a rebuttable presumption that cost studies, customer usage data, marketing studies, and contracts between providers are trade secrets or commercial or financial information protected under subsection (1). The burden of removing the presumption under this subsection is with the party seeking to have the information disclosed.

Sec. 211. Each telecommunication provider of a regulated service in this state shall pay an assessment in an amount equal to the expenses of the commission pursuant to ~~Act No. 299 of the Public Acts of 1972, being sections 460.111 to 460.120 of the Michigan Compiled Laws~~ **1972 PA 299, MCL 460.111 TO 460.120.**

Sec. 213. (1) Subject to section 201, the commission may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) ~~Effective September 1, 1996, the~~ **THE** following administrative rules shall not apply to telecommunication providers or telecommunication services:

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

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

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

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

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

5 ~~—— (3) Rules promulgated after January 1, 1996 under this act~~
6 ~~are considered to have been promulgated under the authority~~
7 ~~granted under subsection (1). R 484.453(5), 484.455(2),~~
8 ~~484.455(3), 484.457(3), and 484.458(4) of the Michigan~~
9 ~~administrative code may not be enforced until a court determines~~
10 ~~that the rules do not exceed the commission's authority under~~
11 ~~this act. It is the legislature's intent that providers~~
12 ~~voluntarily comply with the rules until a court makes a~~
13 ~~determination. A provider that voluntarily agrees to abide by the~~
14 ~~rules does not relinquish its rights to challenge the legality of~~
15 ~~the rules.~~

16 (3) ~~—(4)—~~ A proceeding before the commission to promulgate
17 rules under this act shall be concluded within 180 days from the
18 date that the proceeding is initiated.

19 Sec. 214. (1) The commission shall issue orders that assign
20 the telephone digits 2-1-1 to community resource information and
21 referral answering points established under subsection (3) and
22 prescribe appropriate interconnection orders to carry out the
23 intent of this section.

24 (2) Each provider of basic local exchange service in this
25 state shall assign the telephone number 2-1-1 only to a community
26 resource information and referral answering point established
27 under subsection (3).

1 (3) The commission shall designate a community resource
2 information and referral entity to be the 2-1-1 answering point
3 for various geographical areas within this state. In making its
4 determination, the commission shall consider all of the
5 following:

6 (a) The recommendations of ~~the Michigan alliance for~~
7 ~~information and referral systems~~ **2-1-1, INC.**

8 (b) Whether the relevant state-endorsed ~~multipurpose~~
9 **COMMUNITY** collaborative bodies are in agreement.

10 (c) Whether the entity has established a framework to assure
11 the provision of coverage of the 2-1-1 telephone number 24 hours
12 per day, 7 days per week.

13 (d) Whether the entity meets 2-1-1 standards adopted by the
14 Michigan alliance for information and referral systems.

15 (4) Each community resource information and referral entity
16 designated by the commission to be the 2-1-1 answering point for
17 a particular geographical area within the state shall establish
18 the framework to provide sufficient resources to operate the 2-1-
19 1 telephone number 24 hours per day, 7 days per week.

20 **(5) WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY**
21 **ACT THAT ADDED THIS SUBSECTION, THE COMMISSION SHALL DESIGNATE AN**
22 **ENTITY TO SERVE AS THE STATE 2-1-1 COORDINATING AGENCY. THE**
23 **DESIGNATED AGENCY SHALL ASSIST AND PROVIDE INFORMATION AND**
24 **RESOURCES IN IMPLEMENTING 2-1-1 SERVICE IN THIS STATE. THE**
25 **DESIGNATED AGENCY SHALL ALSO COORDINATE THE PROVIDING OF 2-1-1**
26 **SERVICES OF THE COMMUNITY RESOURCE INFORMATION AND REFERRAL**
27 **ENTITIES DESIGNATED UNDER SUBSECTION (3).**

1 (6) BEFORE A STATE AGENCY OR LOCAL UNIT OF GOVERNMENT
2 IMPLEMENTS A COMMUNITY RESOURCE INFORMATION OR REFERRAL SERVICE,
3 THE STATE AGENCY OR LOCAL UNIT OF GOVERNMENT SHALL CONSULT WITH
4 THE STATE 2-1-1 COORDINATING AGENCY DESIGNATED BY THE COMMISSION
5 UNDER SUBSECTION (5).

6 (7) BY 2008, THE MPSC SHALL ISSUE ORDERS THAT ASSIGN THE
7 TELEPHONE DIGITS 2-1-1 TO A STATEWIDE CENTRAL ROUTING SYSTEM
8 CONNECTING REGIONAL COMMUNITY RESOURCE INFORMATION AND REFERRAL
9 ANSWERING POINTS ESTABLISHED UNDER SUBSECTION (3). EACH PROVIDER
10 OF BASIC LOCAL EXCHANGE SERVICE IN THE STATE WILL REASSIGN THE
11 TELEPHONE NUMBER 2-1-1 TO THE CENTRAL SYSTEM WITHOUT ADDITIONAL
12 CHARGE.

13 SEC. 252. (1) A PUBLIC ENTITY MAY PROVIDE TELECOMMUNICATION
14 SERVICES WITHIN ITS INCORPORATED BOUNDARIES IF ALL OF THE
15 FOLLOWING APPLY:

16 (A) THE PUBLIC ENTITY HAS ISSUED A REASONABLE REQUEST FOR
17 BIDS TO PROVIDE TELECOMMUNICATION SERVICES.

18 (B) THE PUBLIC ENTITY HAS RECEIVED LESS THAN 2 BIDS FROM
19 QUALIFIED PRIVATE PROVIDERS.

20 (C) IT IS MORE THAN 90 DAYS FROM THE DATE THE REQUEST FOR
21 BIDS WAS ISSUED.

22 (2) A PROVIDER AWARDED A CONTRACT TO PROVIDE SERVICES UNDER
23 SUBSECTION (1) SHALL BEGIN TO OFFER THE SERVICES WITHIN 12 MONTHS
24 OF THE DATE OF THE CONTRACT. IF THE PROVIDER FAILS TO OFFER
25 SERVICES AS REQUIRED BY THIS SUBSECTION, THE CONTRACT IS VOID AND
26 SHALL BE AWARDED TO THE NEXT HIGHER QUALIFIED BIDDER. IF THE
27 CONDITIONS OF SUBSECTION (1) ARE MET, THE PUBLIC ENTITY MAY OFFER

1 THE SERVICES.

2 (3) A PUBLIC ENTITY SHALL NOT PROVIDE TELECOMMUNICATION
3 SERVICES OUTSIDE ITS INCORPORATED BOUNDARIES.

4 (4) TWO OR MORE PUBLIC ENTITIES MAY JOINTLY PROVIDE
5 TELECOMMUNICATION SERVICES IF ALL PARTICIPATING PUBLIC ENTITIES
6 MEET THE REQUIREMENTS OF THIS SECTION.

7 (5) A PUBLIC ENTITY SHALL NOT ESTABLISH A BOARD OR OTHER
8 ENTITY FOR THE PURPOSE OF PROVIDING OVERSIGHT OF A PRIVATE
9 PROVIDER OF SERVICES UNDER THIS SECTION.

10 (6) THIS SECTION DOES NOT APPLY TO ALL OF THE FOLLOWING:

11 (A) PUBLIC SAFETY SYSTEMS.

12 (B) SYSTEMS USED ONLY FOR THE INTERNAL USE OF THE PUBLIC
13 ENTITY.

14 (C) A PUBLIC ENTITY THAT IS OFFERING TELECOMMUNICATION
15 SERVICES TO 10% OR MORE OF ITS POPULATION ON THE EFFECTIVE DATE
16 OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

17 (7) AS USED IN THIS SECTION, "PUBLIC ENTITY" MEANS A COUNTY,
18 CITY, VILLAGE, TOWNSHIP, OR ANY AGENCY OR SUBDIVISION OF THE
19 PUBLIC ENTITY.

20 A. PRIMARY BASIC LOCAL EXCHANGE

21 Sec. 301. (1) A telecommunication provider shall not provide
22 or resell **PRIMARY** basic local exchange service in this state,
23 without a license issued from the commission ~~pursuant to~~ **UNDER**
24 this act.

25 (2) Pending the determination of an application for a
26 license, the commission without notice and hearing may issue a
27 temporary license for a period not to exceed 1 year.

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

4 (a) The applicant possesses sufficient technical, financial,
5 and managerial resources and abilities to provide **PRIMARY** basic
6 local exchange service ~~to all residential and commercial~~
7 ~~customers~~ within the geographic area of the license and that the
8 applicant intends to provide service within 1 year from the date
9 the license is granted.

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

12 (2) The commission shall retain a copy of all granted
13 licenses and make all information contained in the licenses
14 available to the public.

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

18 Sec. 303. ~~(1) The commission may alter or amend the~~
19 ~~geographic area of a license, grant a competing license, or~~
20 ~~revoke a license of a provider if within 2 years from the date~~
21 ~~the license was granted the provider has not marketed its~~
22 ~~services to all potential customers or has refused to provide~~
23 ~~services to certain customers.~~

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

(1) ~~-(3)-~~ The sale or transfer of shares of stock of a provider of **PRIMARY** basic local exchange service is not a sale or transfer of a license or a discontinuance of service.

(2) ~~-(4)-~~ The commission has the authority to approve or deny a proposed addition, elimination, or modification of an area code in this state. The commission shall give public notice and shall conduct a public hearing in the affected geographic area before an addition, elimination, or modification of an area code is made in this state.

~~—— (5) To the extent that it is technically and economically feasible, the commission shall issue orders requiring the modification of all area code boundaries in this state to insure that they conform to county lines.~~

Sec. 304. (1) ~~Except as provided in section 304a, the~~ **THE** rates for **PRIMARY** basic local exchange service shall be just and reasonable. **EACH PROVIDER SHALL SET THE INITIAL RATES FOR PRIMARY BASIC LOCAL EXCHANGE SERVICE TO BE EFFECTIVE NO LATER THAN APRIL 1, 2006. THE INITIAL RATES MAY NOT EXCEED THE RATES FOR THE LOWEST COST CALLING PLAN OF THE PROVIDER IN PLACE BEFORE THE RATES ARE SET UNDER THIS SUBSECTION UNLESS THE RATES IN PLACE DO NOT EXCEED THE TOTAL SERVICE LONG RUN INCREMENTAL COSTS OF THE RATES.**

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

(a) Filing with the commission notice of a ~~decrease, discount, or other rate~~ reduction in a **PRIMARY** basic local exchange rate. A rate alteration under this subdivision shall

become effective without commission review or approval.

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

(B) FILING WITH THE COMMISSION A NOTICE OF AN INCREASE IN A PRIMARY BASIC LOCAL EXCHANGE RATE TO A LEVEL NOT TO EXCEED THE RATE ESTABLISHED UNDER SUBSECTION (1) OR SUBDIVISION (C). A RATE ALTERATION UNDER THIS SUBDIVISION IS EFFECTIVE WITHOUT COMMISSION REVIEW OR APPROVAL.

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

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

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

(3) Notice to customers of a rate alteration is required for

a rate alteration under subsection ~~—(2)(b) or (c) and section~~
~~304a— (2)(C)~~ and shall be included in or on the bill of each
 affected customer of the provider **AT LEAST 1 BILLING CYCLE** before
 the effective date of the rate alteration.

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

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

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

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

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

~~—— (6) Upon receiving a complaint or pursuant to a
 determination under subsection (2)(c), the commission may require
 a filing under section 203 to review a proposed rate alteration
 under subsection (2)(c). The commission's final order may
 approve, modify, or reject the rate alteration.~~

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

~~1 (a) Total service long run incremental cost of basic local
2 exchange services.~~

~~3 (b) Comparison of the proposed rate to the rates charged by
4 other providers in this state for the same service.~~

~~5 (c) Whether a new function, feature, or capability is being
6 offered as a component of basic local exchange service.~~

~~7 (d) Whether there has been an increase in the costs to
8 provide basic local exchange service in the geographic area of
9 the proposed rate.~~

~~10 (e) Whether the provider's further investment in the network
11 infrastructure of the geographic area of the proposed rate is
12 economically justifiable without the proposed rate.~~

~~13 (8) A provider shall be allowed only 1 rate increase for
14 each class or type of service during any 12-month period.~~

~~15 (9) A provider shall not make a rate alteration under this
16 section until the rate has been restructured under section 304a.~~

~~17 (10) The commission shall exempt a provider from this
18 section and section 310(2) if it finds all of the following:~~

~~19 (a) The provider provides basic local exchange service or
20 basic local exchange and toll service to less than 250,000 end-
21 users in this state.~~

~~22 (b) The provider offers to end users single party basic
23 local exchange service, tone dialing, toll access service,
24 including end-user common line services and dialing parity at a
25 total price of no higher than the amount charged as of May 1,
26 2000.~~

~~27 (c) The provider provides dialing parity access to operator,~~

1 ~~telecommunication relay, and emergency services to all basic~~
2 ~~local exchange end users.~~

3 (5) A PROVIDER MAY CHARGE A LATE PAYMENT FEE TO CUSTOMERS
4 WHO DO NOT MAKE TIMELY PAYMENTS OF THE OUTSTANDING BALANCE OF
5 THEIR ACCOUNT AS PROVIDED IN TARIFFS FILED WITH THE COMMISSION.

6 (6) ~~-(11)-~~ A call made to a local calling area adjacent to
7 the caller's local calling area shall be considered a local call
8 and shall be billed as a local call.

9 (7) A PROVIDER NOT IN COMPLIANCE WITH SUBSECTION (6), OR NOT
10 ALREADY THE SUBJECT OF A COMMISSION ORDER ON ADJACENT CALLING,
11 SHALL SUBMIT TO THE COMMISSION AN ADJACENT CALLING PLAN TO
12 IMPLEMENT SUBSECTION (6) NO LATER THAN OCTOBER 1, 2006. IN
13 REVIEWING THE PLAN, THE COMMISSION SHALL GIVE CONSIDERATION TO
14 THE REVENUES LOST AND ADDITIONAL COST INCURRED BY THE PROVIDER IN
15 IMPLEMENTING THE PLAN AND SHALL APPROVE OR MODIFY THE PLAN OR
16 FIND THAT THE PLAN IS NOT REQUIRED BECAUSE A COST BENEFIT
17 ANALYSIS DEMONSTRATES THAT THE PLAN IS NOT IN THE BEST INTEREST
18 OF THE CUSTOMERS.

19 (8) AN ALTERATION BY A PROVIDER TO THE RATE OF A PACKAGE,
20 COMBINATION, OR BUNDLE OF TELECOMMUNICATION OR OTHER SERVICES
21 WHICH INCLUDES PRIMARY BASIC LOCAL EXCHANGE SERVICE IS NOT
22 SUBJECT TO THIS SECTION AS LONG AS THE PRIMARY BASIC LOCAL
23 EXCHANGE SERVICE COMPONENT OF THE PACKAGE, COMBINATION, OR BUNDLE
24 IS AVAILABLE FOR PURCHASE ON A STAND-ALONE BASIS.

25 (9) A PERSON WITH DISABILITIES OR WHO IS VOLUNTARILY
26 PROVIDING A SERVICE FOR AN ORGANIZATION CLASSIFIED BY THE
27 INTERNAL REVENUE SERVICE AS A SECTION 501(C)(3) OR (19)

1 ORGANIZATION, OR A CONGRESSIONALLY CHARTERED VETERANS
2 ORGANIZATION OR THEIR DULY AUTHORIZED FOUNDATIONS, IS EXEMPT FROM
3 THE 100 CALLS PER MONTH LIMITATION AND SHALL RECEIVE A FLAT RATE
4 ALLOWING UNLIMITED CALLS PER MONTH. A PERSON EXEMPT FROM THE CALL
5 CAP UNDER THIS SUBSECTION SHALL NOT BE CHARGED A RATE GREATER
6 THAN THE FLAT RATE CHARGED RESIDENTIAL CUSTOMERS FOR PRIMARY
7 BASIC LOCAL EXCHANGE SERVICE.

8 Sec. 305. (1) A provider of basic local exchange service
9 shall not do any of the following:

10 (a) Discriminate against another provider by refusing or
11 delaying access service to the local exchange.

12 (b) Refuse or delay interconnections or provide inferior
13 connections to another provider.

14 (c) Degrade the quality of access service provided to
15 another provider.

16 (d) Impair the speed, quality, or efficiency of lines used
17 by another provider.

18 (e) Develop new services to take advantage of planned but
19 not publicly known changes in the underlying network.

20 (f) Refuse or delay a request of another provider for
21 information regarding the technical design, equipment
22 capabilities and features, geographic coverage, and traffic
23 patterns of the local exchange network.

24 (g) Refuse or delay access service or be unreasonable in
25 connecting another provider to the local exchange whose product
26 or service requires novel or specialized access service
27 requirements.

1 (h) Upon a request, fail to fully disclose in a timely
2 manner all available information necessary for the design of
3 equipment that will meet the specifications of the local exchange
4 network.

5 (i) Discriminate against any provider or any party who
6 requests the information for commercial purposes in the
7 dissemination of customer proprietary information. A provider
8 shall provide without unreasonable discrimination or delay
9 telephone directory listing information and related services to
10 persons purchasing telephone directory listing information to the
11 same extent and in the same quality as provided to the provider,
12 affiliates of the provider, or any other listing information
13 purchaser.

14 (j) Refuse or delay access service by any person to another
15 provider.

16 (k) Sell, lease, or otherwise transfer an asset to an
17 affiliate for an amount less than the fair market value of the
18 asset.

19 (l) Buy, lease, or otherwise acquire an asset from an
20 affiliate of the provider for an amount greater than the fair
21 market value of the asset.

22 (m) Bundle unwanted services or products for sale or lease
23 to another provider.

24 (n) Perform any act that has been prohibited by this act or
25 an order of the commission.

26 (o) Sell services or products, extend credit, or offer other
27 terms and conditions on more favorable terms to an affiliate of

1 the provider than the provider offers to other providers.

2 (p) Discriminate in favor of an affiliated burglar and fire
3 alarm service over a similar service offered by another provider.

4 ~~—— (2) A provider of cellular telecommunication services shall~~
5 ~~not do either of the following:~~

6 ~~—— (a) Unreasonably provide services, extend credit, or offer~~
7 ~~other terms and conditions on more favorable terms to an~~
8 ~~affiliate of the provider or to its retail department that sells~~
9 ~~to end users than the provider offers to other providers.~~

10 ~~—— (b) Unreasonably use rates or proceeds from providers,~~
11 ~~directly or indirectly, to subsidize or offset the costs of~~
12 ~~cellular service offered by the provider, or an affiliate of the~~
13 ~~provider, to other providers or to end users.~~

14 (2) ~~—(3) Until a provider has complied with section 304a,~~
15 ~~the~~ **THE** provider of a rate regulated service shall not provide
16 that service in combination with an unregulated service in
17 section 401 or an unbundled or resold service under section 357
18 at a price that does not exceed the total service long run
19 incremental cost of each service.

20 Sec. 306. ~~Except as provided in section 312b, a~~ **A**
21 telecommunication provider of basic local exchange service is not
22 required to provide toll services. If a telecommunication
23 provider that provides basic local exchange service does not
24 offer toll or have interconnection with a toll provider, the
25 commission shall order a toll provider to interconnect with the
26 telecommunication provider upon terms that are fair to both
27 providers.

1 Sec. 307. (1) Educational institutions shall have the
2 authority to own, construct, and operate a telecommunication
3 system or to purchase telecommunication services or facilities
4 from an entity capable of providing the service or facility.

5 (2) Educational institutions that provide telecommunication
6 services offered in subsection (3) shall not be subject to
7 regulation under this act or by any other governmental unit.

8 (3) ~~Except as provided in subsection (6), educational~~
9 **EDUCATIONAL** institutions may only sell telecommunication services
10 required for, or useful in, the instruction and training,
11 including worker training, of students and other people utilizing
12 the institution's educational services, the conducting of
13 research, or the operation of the institution. The services shall
14 not be considered basic local exchange services as long as they
15 are used for the instruction and training of students and other
16 people utilizing the institution's education services, the
17 conducting of research, or the operation of the institution.
18 Educational institutions may initiate and maintain cooperative
19 arrangements with telecommunication providers without the
20 institutions being subject to this act.

21 (4) Upon the request of an educational institution,
22 telecommunication providers may provide to an educational
23 institution services for the transmission of interactive data,
24 voice and video communications between the institution's
25 facilities or to the homes of students or employees of the
26 institution, regardless of whether the exchanges are in the same
27 or different LATAs.

1 (5) The rates for services provided to an educational
2 institution by a provider under this section shall be determined
3 by an open bid process.

4 ~~—— (6) Except for a state institution of higher education, if~~
5 ~~an educational institution has excess capacity, it may sell the~~
6 ~~excess capacity subject to subsection (3) and to both of the~~
7 ~~following:~~

8 ~~—— (a) The amount of capacity sold shall not exceed 25% of the~~
9 ~~institution's total capacity.~~

10 ~~—— (b) The capacity shall not be sold below the total service~~
11 ~~long run incremental cost of the provider of basic local exchange~~
12 ~~service in the service area of the educational institution. If~~
13 ~~there is more than 1 provider in the service area, the~~
14 ~~educational institution shall use the lowest total service long~~
15 ~~run incremental cost.~~

16 **(6) AFTER JULY 1, 2006, AN EDUCATIONAL INSTITUTION SHALL NOT**
17 **SELL ANY EXCESS CAPACITY FOR PURPOSES OTHER THAN AS ALLOWED UNDER**
18 **THIS SECTION.**

19 Sec. 309. (1) A provider of basic local exchange service
20 shall provide to each customer local directory assistance and, at
21 no additional charge to the customer, an annual printed telephone
22 directory.

23 ~~—— (2) A provider of interzone service, as defined in tariffs~~
24 ~~on file with the commission on December 31, 1991, shall continue~~
25 ~~to provide the service pursuant to the terms of the tariffs. A~~
26 ~~provider may alter interzone service rates pursuant to provisions~~
27 ~~of section 304.~~

(2) ~~-(3)-~~ A provider of basic local exchange service shall provide each customer at no additional charge the option of having access to 900 prefix services blocked through the customer's exchange service.

Sec. 309a. ~~-(1)-~~ A provider of telecommunication service, including, basic local exchange service, may provide cable service if the provider has received a franchise agreement from the local unit of government to provide cable service.

~~----- (2) If a new provider of cable service seeks to offer the service in an area that has an incumbent provider of cable service operating under a franchise agreement, in negotiating a franchise agreement during the term of a franchise agreement entered into prior to July 1, 1995, the local government unit may consider terms and conditions of the franchise agreement of the incumbent provider, existing cable franchise fees, development of new services, the state of technology, and other factors.~~

Sec. 310. (1) Except as provided by this ~~act~~ **SECTION**, the commission shall not review or set the rates for toll access services.

(2) ~~Except as otherwise provided under subsection (7), a~~ **A** provider of toll access services shall set the rates for toll access services. Access service rates and charges set by a provider that **DO NOT** exceed the rates allowed for the same interstate services by the federal government are ~~not~~ just and reasonable. ~~In no event may end user or subscriber line charges exceed the rates allowed for the same interstate services by the federal government as of May 1, 2000.~~ Providers may agree to a

1 rate that is less than the rate allowed by the federal
2 government. ~~If the providers cannot agree on a rate, a provider~~
3 ~~may apply to the commission under section 204.~~

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

7 (4) A provider of toll access services shall make available
8 for intrastate access services any technical interconnection
9 arrangements, including colocation required by the federal
10 government for the identical interstate access services.

11 (5) A provider of toll access service, whether under tariff
12 or contract, shall offer the services under the same rates, terms
13 and conditions, without unreasonable discrimination, to all
14 providers. All pricing of special toll access services and
15 switched access services, including volume discounts, shall be
16 offered to all providers under the same rates, terms, and
17 conditions. ~~Until allowed by the federal communications~~
18 ~~commission, volume discounts on switched access are prohibited~~
19 ~~under this subsection.~~

20 (6) If a toll access service rate is reduced, then the
21 provider receiving the reduced rate shall reduce its rate to its
22 customers by an equal amount. The commission shall investigate
23 and ensure that the provider has complied with this subsection.

24 (7) ~~A~~ **AFTER JANUARY 1, 2007, A** provider of basic local
25 exchange service shall not assess or impose on end-users an
26 intrastate subscriber line charge or end-user line charge.

27 (8) **IF A PROVIDER IS ASSESSING OR IMPOSING AN INTRASTATE**

1 SUBSCRIBER LINE CHARGE OR END USER LINE CHARGE ON JULY 1, 2005,
 2 THE PROVIDER MAY NO LATER THAN JANUARY 1, 2007 FILE WITH THE
 3 COMMISSION UNDER SECTION 304(2)(C) NOTICE OF AN INCREASE IN THE
 4 BASIC LOCAL EXCHANGE RATE IN AN AMOUNT NOT TO EXCEED THE
 5 PROVIDER'S INTRASTATE SUBSCRIBER LINE CHARGE OR END USER LINE
 6 CHARGE IN EFFECT ON JULY 1, 2005. AN INCREASE UNDER THIS
 7 SUBSECTION IS CONSIDERED JUST AND REASONABLE UNDER SECTION
 8 304(2)(C)(i).

9 (9) ~~-(8)-~~ This section shall not apply to basic local
 10 exchange providers that have 250,000 or fewer customers in this
 11 state.

12 Sec. 312. (1) ~~Except as provided by this act, the~~ **THE**
 13 commission shall not review or set the rates for toll service.

14 ~~—— (2) A provider of toll service may charge the same rate for~~
 15 ~~the service on its routes of similar distance.~~

16 (2) ~~-(3)-~~ The commission shall require that toll service is
 17 universally available to all persons within the state.

18 (3) ~~-(4)-~~ Upon commission review and approval, all providers
 19 of toll service shall make available to their customers adjacent
 20 exchange toll calling plans. All providers of toll service shall
 21 inform their customers of the available plans **THAT PROVIDE A**
 22 **MONTHLY ALLOWANCE OF TOLL CALLING TO ADJACENT EXCHANGES FOR WHICH**
 23 **THERE IS NO LOCAL CALLING.** All providers of toll service shall
 24 inform their customers of the available plans. The plans **REQUIRED**
 25 **UNDER THIS SUBSECTION** shall remain in effect under this act until
 26 altered by order of the commission. ~~A provider of toll service~~
 27 ~~shall implement an optional discount plan for calling to~~

~~exchanges within 20 miles of a customer's home exchange. The plan shall not violate the conditions delineated in the commission's order in case number U-9153, dated September 26, 1989.~~

~~—— (5) Except as otherwise approved by the commission, a provider shall not charge a mandatory minimum monthly or mandatory flat rate charge for toll calls except in connection with an optional discount toll calling plan.~~

Sec. 314a. (1) Except as otherwise provided by this section, a telecommunication provider shall not discontinue basic local exchange telecommunication service to the residence of a qualifying customer who has made a filing under this section.

(2) A qualifying customer may apply for shut-off protection for telecommunication service under this section by notifying the provider that the qualifying customer is in need of assistance caused by a reduction in household income through a call to active duty status in the military.

(3) A provider of service may request verification of the call to active duty status from the qualifying customer. A provider of service may also request verification of the qualified customer's reduction in household income.

(4) A provider of service may require restrictions or elimination of calling features or toll service as a condition of granting a qualifying customer's request for shut-off protection under this section.

(5) A qualifying customer may receive shut-off protection from the provider of service under this section for up to 90 days. Upon application to the provider, the provider may grant

1 the qualifying customer 1 or more extensions.

2 (6) A qualifying customer receiving assistance under this
3 section shall notify the provider of the end of the call to
4 active duty status as soon as that status is known.

5 (7) Unless waived by the provider, the shut-off protection
6 provided under this section does not void or limit the obligation
7 of the qualifying customer to pay for telecommunication services
8 received during the time of assistance.

9 (8) Within 48 hours of receiving all information requested
10 of the qualifying customer, a provider shall do all of the
11 following:

12 (a) Create a repayment plan requiring minimum monthly
13 payments that allows the qualifying customer to pay any past due
14 amounts over a reasonable time period not to exceed 1 year.

15 (b) Provide a qualifying customer with information regarding
16 any governmental, provider, or other assistance programs.

17 (9) This section does not affect or amend any commission
18 rules or orders pertaining to billing standards. If the terms and
19 conditions arranged by the provider with the qualifying customer
20 under subsection (8) are not followed by the customer, then the
21 provider shall follow procedures as set forth in the commission's
22 billing standards for basic residential telecommunication
23 service.

24 (10) As used in this section, "qualifying customer" means
25 all of the following:

26 (a) A residential household where the income is reduced
27 because the customer of record, or the spouse of the customer of

1 record, is called to active military service by the president of
 2 the United States or the governor of this state during a time of
 3 declared national or state emergency or war.

4 (b) Assistance is needed by the residential household to
 5 maintain telecommunication service.

6 (c) The residential household notifies the provider of the
 7 need for assistance and provides verification of the call to
 8 active duty status.

9 (D) SERVICES FOR THE DEAF, HARD OF HEARING, AND SPEECH
 10 IMPAIRED.

11 E. SERVICES FOR THE **HARD OF HEARING** ~~IMPAIRED~~

12 Sec. 315. (1) The commission shall require each provider of
 13 basic local exchange service to provide a text telephone-
 14 telecommunications device for the deaf at costs to each
 15 individual who is certified as deaf or ~~severely hearing~~ **HARD**
 16 **OF HEARING** or speech-impaired by a licensed physician, **LICENSED**
 17 audiologist, or qualified state agency, and to each public safety
 18 answering point as defined in section 102 of the emergency
 19 telephone service enabling act, ~~Act No. 32 of the Public Acts of~~
 20 ~~1986, being section 484.1102 of the Michigan Compiled Laws~~ **1986**
 21 **PA 32, MCL 484.1102.**

22 (2) The commission shall require each provider of basic
 23 local exchange service to provide a telecommunication relay
 24 service whereby persons using a text telephone-telecommunications
 25 device for the deaf can communicate with persons using a voice
 26 telephone through the use of third party intervention or
 27 automated translation. Each provider of basic local exchange

1 service shall determine whether to provide a telecommunication
2 relay service on its own, jointly with other basic local exchange
3 providers, or by contract with other telecommunication providers.
4 The commission shall determine the technical standards and
5 essential features of text telephone and telecommunication relay
6 service to ensure their compatibility and reliability.

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

19 **(3) THE MICHIGAN TELECOMMUNICATION RELAY SERVICE ADVISORY**
20 **BOARD IS CREATED WITHIN THE DEPARTMENT. THE BOARD SHALL CONSIST**
21 **OF 9 MEMBERS. ONE MEMBER SHALL BE THE CHAIR OF THE COMMISSION OR**
22 **HIS OR HER DESIGNATED REPRESENTATIVE. ONE MEMBER SHALL THE**
23 **DIRECTOR OF THE DIVISION ON DEAF AND HARD OF HEARING WITHIN THE**
24 **DEPARTMENT OR HIS OR HER DESIGNATED REPRESENTATIVE. ONE MEMBER**
25 **SHALL BE A DEAF CONSUMER APPOINTED BY THE DIRECTOR OF THE**
26 **DEPARTMENT UPON THE RECOMMENDATION OF THE MICHIGAN DEAF**
27 **ASSOCIATION. ONE MEMBER SHALL BE A HARD OF HEARING CONSUMER**

1 APPOINTED BY THE DEPARTMENT UPON THE RECOMMENDATION OF MICHIGAN
2 SELF-HELP FOR HARD OF HEARING. ONE MEMBER SHALL BE A SPEECH
3 IMPAIRED CONSUMER APPOINTED BY THE DIRECTOR OF THE DEPARTMENT.
4 FOUR MEMBERS SHALL BE APPOINTED BY THE DIRECTOR OF THE DEPARTMENT
5 TO REPRESENT TELECOMMUNICATION PROVIDERS. APPOINTED MEMBERS SHALL
6 BE APPOINTED FOR TERMS OF 4 YEARS. A VACANCY ON THE BOARD SHALL
7 BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT FOR THE
8 REMAINDER OF THE UNEXPIRED TERM.

9 (4) THE BOARD SHALL DESIGNATE FROM AMONG ITS APPOINTED
10 MEMBERS A CHAIRPERSON AND VICE-CHAIRPERSON, WHO SHALL SERVE FOR
11 2-YEAR TERMS AND WHO MAY BE REELECTED. THE BOARD SHALL MEET NOT
12 LESS THAN 4 TIMES EACH YEAR. SPECIAL MEETINGS MAY BE CALLED BY
13 THE CHAIRPERSON, OR UPON WRITTEN REQUEST OF NOT LESS THAN 4 BOARD
14 MEMBERS. MEETINGS SHALL BE HELD AT A LOCATION DESIGNATED BY THE
15 CHAIRPERSON.

16 (5) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION,
17 BUT SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES.

18 (6) STAFF SERVICES SHALL BE PERFORMED BY PERSONNEL OF THE
19 DEPARTMENT. ASSISTANCE SHALL ALSO BE MADE AVAILABLE, AS REQUESTED
20 BY THE BOARD, FROM OTHER AGENCIES, DEPARTMENTS, AND AUTHORITIES
21 OF THE STATE. THE BOARD MAY EMPLOY A STAFF TO ASSIST IT IN THE
22 PERFORMANCE OF ITS DUTIES, SUBJECT TO CIVIL SERVICE RULES AND
23 WITHIN FISCAL RESTRAINTS.

24 (7) A MAJORITY OF THE MEMBERS APPOINTED TO AND SERVING ON
25 THE BOARD CONSTITUTE A QUORUM. A MAJORITY VOTE OF THE MEMBERS
26 VOTING SHALL BE REQUIRED TO PASS UPON ANY QUESTION, ACTION, OR
27 BUSINESS OF THE BOARD.

1 (8) THE BUSINESS PERFORMED BY THE BOARD SHALL BE CONDUCTED
2 AT A PUBLIC MEETING OF THE BOARD. THE BOARD SHALL KEEP MINUTES OF
3 ITS PROCEEDINGS, SHOWING THE VOTE OF EACH MEMBER ON EACH
4 PROPOSITION OR QUESTION, OR INDICATING IF A MEMBER IS ABSENT OR
5 FAILS TO VOTE. A RECORD OF BOARD ACTION AND BUSINESS SHALL BE
6 MADE AND MAINTAINED.

7 (9) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF,
8 OR RETAINED BY THE BOARD IN THE PERFORMANCE OF AN OFFICIAL
9 FUNCTION SHALL BE MADE AVAILABLE TO THE PUBLIC.

10 (10) ~~-(4)-~~ Rates and charges for calls placed through a
11 telecommunication relay service shall not exceed the rates and
12 charges for calls placed directly from the same originating
13 location to the same terminating location. Unless ordered by the
14 commission, a provider of a telecommunications relay service
15 shall not be required to handle calls from public telephones
16 except for calls charged collect, cash, to a credit card, or
17 third party number.

18 (11) ~~-(5)-~~ Notwithstanding any other provision of this act,
19 a provider may offer discounts on toll calls where a text
20 telephone-telecommunications device for the deaf is used. The
21 commission shall not prohibit such discounts on toll calls placed
22 through a telecommunication relay service.

23 (12) ~~-(6)-~~ The commission shall establish a rate for each
24 subscriber line of a provider to allow the provider to recover
25 costs incurred under this section and may waive the costs
26 assessed under this section to individuals who are deaf or
27 severely hearing impaired or speech impaired.

(13) NO LATER THAN JANUARY 1, 2008, THE BOARD SHALL CONDUCT A STUDY AND REPORT TO THE GOVERNOR AND THE HOUSE AND SENATE STANDING COMMITTEES WITH OVERSIGHT OF TELECOMMUNICATION ISSUES ON THE ABILITY FOR DEAF, HARD OF HEARING, AND SPEECH IMPAIRED CUSTOMERS TO ACCESS TELECOMMUNICATION SERVICES. THE REPORT SHALL INCLUDE, BUT IS NOT LIMITED TO, ACTIVITIES BY THE COMMISSION TO ENSURE REASONABLE ACCESS, IMPEDIMENTS TO ACCESS, IDENTIFICATION OF ACTIVITIES IN OTHER STATES TO IMPROVE ACCESS, AND RECOMMENDATIONS FOR LEGISLATION, IF ANY.

(14) AS USED IN THIS SECTION:

(A) "BOARD" MEANS THE MICHIGAN TELECOMMUNICATION RELAY SERVICE ADVISORY BOARD CREATED UNDER SUBSECTION (3).

(B) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND ECONOMIC GROWTH.

Sec. 316a. (1) As used in this section:

(a) "Affordable rates" means, at a minimum, rates in effect on January 1, ~~2001~~ 2006 or as determined by the commission.

(b) "Intrastate universal service fund" means a fund created by the commission to provide a subsidy to customers for the provision of supported telecommunication services provided by any telecommunication carrier.

(c) "Supported telecommunication services" means primary residential access lines and a minimum level of local usage on those lines, as determined by the commission.

(d) "Universal service" shall mean the provision of supported telecommunication services by any carrier.

~~(2) No sooner than July 1, 2002, the commission shall~~

~~1 initiate an investigation to determine whether an intrastate
2 universal service fund should be created. The commission shall
3 complete the investigation no sooner than December 1, 2002. All
4 providers shall be made respondents in the proceeding and any
5 other interested party may participate and intervene in the
6 proceeding.~~

7 (2) ~~-(3)-~~ The commission shall determine for each provider
8 whether and to what extent the affordable rate level to provide
9 supported telecommunication services is below each provider's
10 forward looking economic cost of the supported telecommunication
11 services.

12 (3) ~~-(4)-~~ If ~~a~~ **AN INTRASTATE UNIVERSAL** fund is created
13 under this section, to the extent providers provide supported
14 telecommunication services at an affordable rate that is below
15 the forward looking economic cost of the supported
16 telecommunication services, the fund shall provide a subsidy for
17 customers in an amount which is equal to the difference between
18 the affordable rate as determined by the commission and the
19 forward looking economic cost of the supported services, less any
20 federal universal service support received for those supported
21 services.

22 (4) ~~-(5)-~~ Eligibility for customers to receive intrastate
23 universal service support under subsection ~~-(4)-~~ (3) shall be
24 consistent with the eligibility guidelines of section 254(e) of
25 the telecommunications act of 1996 and the rules and regulations
26 of the federal communications commission. The state fund shall be
27 administered by an independent third-party administrator selected

1 by the commission.

2 (5) ~~—(6)—~~ To the extent an intrastate universal service fund
3 is established, the commission shall require that the costs of
4 the fund be recovered from all telecommunication providers on a
5 competitively neutral basis. Providers contributing to the
6 intrastate universal service fund may recover from end-users the
7 costs of the financial support through surcharges assessed on
8 end-users' bills.

9 (6) ~~—(7)—~~ Upon request or on its own motion, the commission,
10 after notice and hearing, shall determine if, based upon changes
11 in technology or other factors, the findings made under this
12 section should be reviewed.

13 (7) ~~—(8)—~~ This section does not apply if an interstate
14 universal service fund exists on the federal level unless
15 otherwise approved by the commission.

16 Sec. 317. ~~—(1) The commission shall adopt operating~~
17 ~~requirements for operator service providers. The requirements~~
18 ~~shall include the following:~~

19 ~~—— (a) That an OSP shall furnish each entity with which the OSP~~
20 ~~contracts to provide operator service a sticker, card, or other~~
21 ~~form of information for each telephone that has access to the~~
22 ~~operator service. The information shall include the name of the~~
23 ~~operator service provider, a toll-free customer service telephone~~
24 ~~number, and a statement that charges imposed by the operator~~
25 ~~service provider may be obtained by calling the toll-free~~
26 ~~telephone number. The operator service provider shall require by~~
27 ~~contract that the entity receiving the information display the~~

~~information on or near each of the telephones that has access to the service.~~

~~—— (b) Prior to the connection of each call, the operator service provider shall do all of the following:~~

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

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

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

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

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

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

~~(1) —(2)—~~ An operator service provider shall not provide operator services in this state without first registering with the commission. The registration shall include the following information:

(a) The name of the provider.

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

(c) If the provider is not located in this state, the address of the registered office and the name of the registered

1 agent authorized to receive service of process in this state.

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

3 (2) ~~—(3)—~~ The registration shall be accompanied with a
4 registration fee of \$100.00.

5 (3) ~~—(4)—~~ The registration is effective immediately upon
6 filing with the commission and the payment of the registration
7 fee and shall remain in effect for 1 year from its effective
8 date.

9 (4) ~~—(5)—~~ A registration may be renewed for 1 year by filing
10 with the commission a renewal registration on a form provided by
11 the commission and the payment of a renewal fee of \$100.00.

12 ~~——(6) Except as otherwise authorized by the commission, a~~
13 ~~provider under this section shall not charge a rate for operator~~
14 ~~services or toll service that is greater than 300% of the state~~
15 ~~average rate for operator or toll service by providers of~~
16 ~~regulated toll service.~~

17 ~~——(7) A provider shall not discontinue basic local exchange~~
18 ~~service for failure by a person to pay an OSP charge.~~

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

25 Sec. 318. (1) A provider of basic local exchange service
26 shall not discriminate in favor of its or an affiliate's payphone
27 service over similar services offered by another provider.

1 (2) A provider of payphone service shall comply with all
2 nonstructural safeguards adopted by the federal communications
3 commission for payphone service.

4 Sec. 320. (1) A person shall not provide payphone service in
5 this state without first registering with the commission. The
6 registration shall include all of the following information:

7 (a) The name of the provider.

8 (b) The address and telephone number of the provider's
9 principal office.

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

14 (d) The specific location of each payphone in this state
15 owned or operated by the provider. Information required under
16 this subdivision shall be made available to the local unit of
17 government solely for the enforcement of the reporting,
18 repairing, and replacement standards under subsection (8). The
19 information required to be provided under this subsection shall
20 be considered commercial information under section 210, and the
21 information submitted shall be exempt from the freedom of
22 information act, ~~Act No. 442 of the Public Acts of 1976, being~~
23 ~~sections 15.231 to 15.246 of the Michigan Compiled Laws~~ **1976 PA**
24 **442, MCL 15.231 TO 15.246.**

25 (2) The registration shall be accompanied by a registration
26 fee of \$100.00.

27 (3) The registration is effective immediately upon filing

1 with the commission and the payment of the registration fee and
2 shall remain in effect for 1 year from its effective date.

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

6 (5) The commission shall establish a toll-free number that
7 can be dialed to report to the commission a payphone that is
8 inoperative. The toll-free number shall be conspicuously
9 displayed by the provider on or near each payphone.

10 (6) If the commission receives a report pursuant to
11 subsection (5), it shall immediately notify the provider of the
12 inoperative payphone.

13 (7) After consulting with providers of payphone service,
14 local units of government, and other interested parties, the
15 commission shall promulgate rules or issue orders under section
16 213 to establish and enforce quality standards in the providing
17 of payphone service.

18 (8) Except as provided in subsection (9), a local unit of
19 government shall not regulate payphone service.

20 (9) A local unit of government may enforce the reporting,
21 repairing, and replacement of inoperative payphones within its
22 jurisdiction by adopting an ordinance that conforms to the
23 standards established by the commission under subsection (7). A
24 local unit of government shall not impose standards greater than
25 these established by the commission.

26 Sec. 321. ~~Except as otherwise provided under section 304a,~~
27 a A provider of a regulated telecommunication service shall not

1 charge a rate for the service that is less than the total service
2 long run incremental cost of providing the service.

3 Sec. 351. ~~Until January 1, 2000 and except~~ **EXCEPT** for
4 section 361, this article does not apply to providers who,
5 together with any affiliated providers, provide basic local
6 exchange service or basic local exchange and toll service to less
7 than 250,000 end-users in this state on January 1, 1996.

8 Sec. 352. (1) ~~Until January 1, 1997, the~~ **THE** rates of a
9 provider of basic local exchange service for interconnection
10 under this article shall be at the provider's total service long
11 run incremental cost of providing the service. ~~After January 1,~~
12 ~~1997, the~~ **THE** rate for interconnection shall be just and
13 reasonable as determined by the commission.

14 (2) The rates for unbundled loops, number portability, and
15 the termination of local traffic shall be the rates established
16 under commission case U-10647 and shall remain in effect until
17 new total service long run incremental cost studies for such
18 services have been approved by the commission.

19 Sec. 353. The commission shall issue a report and make
20 recommendations to the legislature and the governor on or before
21 January 1, ~~1998~~ **2007** involving the issues, scope, terms, and
22 conditions of interconnection of telecommunication providers with
23 the basic local exchange service.

24 Sec. 355. (1) ~~On or before January 1, 1996, a~~ **A** provider
25 of basic local exchange service shall unbundle and separately
26 price each basic local exchange service offered by the provider
27 into the loop and port components and allow other providers to

1 purchase such services on a nondiscriminatory basis.

2 (2) Unbundled services and points of interconnection shall
3 include at a minimum the loop and the switch port.

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

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

12 (3) A provider of local exchange service is not required to
13 offer for resale either of the following:

14 (a) A package of services where basic local exchange service
15 is jointly marketed or combined with other services, or for any
16 promotional or discounted offering of basic local exchange
17 service.

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

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

27 (5) ~~After January 1, 2000, wholesale~~ **WHOLESALE** rates shall

1 not be less than the provider's total service long run
2 incremental cost of the services.

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

10 (2) ~~No later than January 1, 1999, a~~ **A** provider of basic
11 local exchange service shall provide number portability **AT A RATE**
12 **APPROVED BY THE COMMISSION.**

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

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

21 Sec. 359. (1) ~~No later than January 1, 1996~~ **EXCEPT AS**
22 **OTHERWISE PROVIDED BY FEDERAL LAW**, a provider of basic local
23 exchange service shall establish a rate charge for other
24 providers of basic local exchange service for the termination of
25 local traffic on its network as provided under section 352.

26 (2) This section does not prohibit providers of basic local
27 exchange service from entering into an agreement to provide for

1 the exchange of local traffic on other terms and conditions. Any
 2 compensation arrangements agreed to between providers under this
 3 subsection shall be available to other providers with the same
 4 terms and conditions on a nondiscriminatory basis.

5 Sec. 401. (1) Except as otherwise provided by law or
 6 preempted by federal law, the commission shall not have authority
 7 over enhanced services, **SERVICES OTHER THAN BASIC LOCAL EXCHANGE**
 8 **SERVICES**, paging, cellular, mobile, ~~and~~ answering services,
 9 **BROADBAND**, video, cable service, pay-per-view, shared tenant,
 10 private networks, financial services networks, radio and
 11 television, WATS, personal communication networks, municipally
 12 owned telecommunication system, 800 prefix services, burglar and
 13 fire alarm services, energy management services, except for state
 14 institutions of higher education the reselling of centrex or its
 15 equivalent, payphone services, and the reselling of an unlicensed
 16 telecommunication service. The foregoing services shall not be
 17 considered part of basic local exchange service.

18 (2) ~~Except as otherwise provided by this act, the~~ **THE**
 19 commission shall ~~not~~ have ~~the~~ authority over ~~a~~ **ONLY THE**
 20 telecommunication ~~service not~~ **SERVICES** specifically provided
 21 for in this act.

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

24 (a) Make a statement or representation, including the
 25 omission of material information, regarding the rates, terms, or
 26 conditions of providing a telecommunication service that is
 27 false, misleading, or deceptive.

1 (b) Charge an end-user for a subscribed service that the
2 end-user did not make an initial affirmative order. Failure to
3 refuse an offered or proposed subscribed service is not an
4 affirmative order for the service.

5 (c) If an end-user has canceled a service **IN COMPLIANCE WITH**
6 **A TARIFF OR CONTRACT**, charge the end-user for service provided
7 after the effective date the service was canceled.

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

11 (e) State to an end-user that their basic local exchange
12 service or other regulated service will be discontinued unless
13 the end-user pays a charge that is due for an unregulated
14 service.

15 (f) Disparage the services, business, or reputation of
16 another by false, **DECEPTIVE**, or misleading representation of
17 fact.

18 (g) Represent to a party to whom services are supplied that
19 the services are being supplied in response to a request made by
20 or on behalf of the party when they are not.

21 (h) Cause a probability of confusion or a misunderstanding
22 as to the legal rights, obligations, or remedies of a party to a
23 transaction **BY MAKING A FALSE, DECEPTIVE, OR MISLEADING**
24 **STATEMENT**.

25 (i) Represent or imply that the subject of a transaction
26 will be provided promptly, or at a specified time, or within a
27 reasonable time, if the provider knows or has reason to know it

1 will not be so provided.

2 (j) Cause coercion and duress as a result of the time and
3 nature of a sales presentation.

4 (K) MAKE THE AVAILABILITY OF AN UNREGULATED SERVICE
5 CONTINGENT ON THE PURCHASE OF A REGULATED SERVICE.

6 (l) IMPOSE FINES OR CHARGES FOR EARLY TERMINATION OF A
7 SERVICE CONTRACT THAT EXCEED THE AMOUNT OF PROFITS THAT THE
8 PROVIDER WOULD HAVE RECEIVED HAD THE CONTRACT BEEN FULLY
9 COMPLETED.

10 (2) When the commission has authority to bring a proceeding
11 for violation of this section, the commission may accept an
12 assurance of discontinuance of a method, act, or practice which
13 is alleged to be unlawful under this section from the person who
14 is alleged to have engaged, be engaging, or be about to engage in
15 the method, act, or practice. The assurance shall not be an
16 admission of guilt or be introduced in any other proceeding.
17 Unless rescinded by the parties or voided by the court for good
18 cause, the assurance may be enforced in the circuit court by the
19 parties to the assurance. The assurance may include a stipulation
20 for any of the following:

21 (a) The voluntary payment by the person for the cost of
22 investigation.

23 (b) An amount to be held in escrow pending the outcome of an
24 action.

25 (c) An amount for restitution to an aggrieved person.

26 Sec. 503. (1) The commission shall promulgate rules that
27 establish privacy guidelines in the providing of

1 ~~telecommunication services~~ **BASIC LOCAL EXCHANGE SERVICE.**

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

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

9 (a) Disclose the unpublished telephone number to another
10 person for commercial gain.

11 (b) Use the unpublished telephone number to solicit
12 business.

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

16 Sec. 505. (1) An end user of a telecommunications provider
17 shall not be switched to another provider without the
18 authorization of the end user.

19 (2) The commission shall issue orders to ensure that an end
20 user of a telecommunications provider is not switched to another
21 provider without the end user's oral authorization, written
22 confirmation, confirmation through an independent third party, or
23 other verification procedures subject to commission approval,
24 confirming the end user's intent to make a switch and that the
25 end user has approved the specific details of the switch. The
26 order issued under this section shall require that all providers
27 comply with the regulations established by the federal

1 communications commission on verification procedures for the
2 switching of an end user's telecommunications provider.

3 ~~—— (3) As used in this section and section 506:~~

4 ~~—— (a) "End user" means the retail subscriber of a~~
5 ~~telecommunications service.~~

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

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

18 (a) Except as provided in subdivision (b), the person to pay
19 a fine for the first offense of not less than \$1,000.00 nor more
20 than \$20,000.00 per day that the person is in violation of this
21 act, and for each subsequent offense, a fine of not less than
22 \$2,000.00 nor more than \$40,000.00 per day.

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

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

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

(e) Cease and desist orders.

(f) Except for an arbitration case under section 252 of part II of title II of the communications act of 1934, chapter 622, 110 Stat. 66, attorney fees and actual costs of a person or a provider of less than 250,000 end-users.

Sec. 602. The commission shall assure that none of the amounts paid pursuant to section 601 or any other related defense costs are passed through to the provider's customers in any manner.

Sec. 603. The following acts and parts of acts are repealed:

Year	Public Act	Section	Compiled Law
<u>of Act</u>	<u>Number</u>	<u>Numbers</u>	<u>Sections (1979)</u>
1883	72		484.51
1913	206	1 to 3f	484.101 to 484.103f
		4 to 11a	484.104 to 484.111a
		12 to 14	484.112 to 484.114
		19 to 24	484.119 to 484.124
		26	484.126
1913	383		469.491 to 469.493

Sec. 604. This act is repealed effective December 31, ~~2005~~ 2009.

Enacting section 1. Sections 207, 208, 304a, 304b, 312a,

1 319, 322, 354, 360, 504, and 701 of the Michigan
2 telecommunications act, 1991 PA 179, MCL 484.2207, 484.2208,
3 484.2304a, 484.2304b, 484.2312a, 484.2319, 484.2322, 484.2354,
4 484.2360, 484.2504, and 484.2701, are repealed.