

SENATE BILL No. 715

August 31, 2005, Introduced by Senator PATTERSON and referred to the Committee on Technology and Energy.

A bill to amend 1991 PA 179, entitled
"Michigan telecommunications act,"
by amending sections 102, 202, 304, 305, and 352 (MCL 484.2102,
484.2202, 484.2304, 484.2305, and 484.2352), section 102 as amended
by 1998 PA 41, sections 202 and 305 as amended by 1995 PA 216,
section 304 as amended by 2000 PA 295, and section 352 as added by
1995 PA 216; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 102. As used in this act:

2 (a) "Access service" means access to a local exchange network
3 for the purpose of enabling a provider to originate or terminate
4 telecommunication services within the local exchange. Except for
5 end-user common line services, access service does not include

1 access service to a person who is not a provider.

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

6 (c) "Cable service" means 1-way transmission to subscribers of
7 video programming or other programming services and subscriber
8 interaction for the selection of video programming or other
9 programming services.

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

11 (e) "Contested case" or "case" means a proceeding as defined
12 in section 3 of the administrative procedures act of 1969, 1969 PA
13 306, MCL 24.203.

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

21 (i) Public educational institutions.

22 (ii) Nonprofit educational institutions approved by the
23 department of education.

24 (iii) The state board of education.

25 (iv) Telecommunication providers.

26 (v) A nonprofit association of educational institutions or
27 consortium of educational institutions.

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

5 (h) "Exchange" means 1 or more contiguous central offices and
6 all associated facilities within a geographical area in which local
7 exchange telecommunication services are offered by a provider.

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

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

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

27 ~~—— (l) "LATA" means the local access and transport area as defined~~

1 ~~in United States v American Telephone and Telegraph Co., 569 F.~~
2 ~~Supp. 990 (D.D.C. 1983).~~

3 (K) ~~—(m)—~~ "License" means a license issued pursuant to this
4 act.

5 (I) ~~—(n)—~~ "Line" or "access line" means the medium over which a
6 telecommunication user connects into the local exchange.

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

11 (N) ~~—(p)—~~ "Local directory assistance" means the provision by
12 telephone of a listed telephone number within the caller's area
13 code.

14 (O) ~~—(q)—~~ "Local exchange rate" means the monthly and usage
15 rate, including all necessary and attendant charges, imposed for
16 basic local exchange service to customers.

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

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

25 (i) Automatic completion with billing to the telephone from
26 which the call originated.

27 (ii) Completion through an access code or a proprietary account

1 number used by the person, with billing to an account previously
2 established with the provider by the person.

3 (iii) Completion in association with directory assistance
4 services.

5 (R) ~~—(t)—~~ "Operator service provider" or "OSP" means a
6 provider of operator service.

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

12 (T) ~~—(v)—~~ "Person" means an individual, corporation,
13 partnership, association, governmental entity, or any other legal
14 entity.

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

17 (i) Blindness.

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

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

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

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

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

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

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

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

17 (X) ~~—(z)—~~ "Residential customer" means a person to whom
18 telecommunication services are furnished predominantly for personal
19 or domestic purposes at the person's dwelling.

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

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

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

4 **(BB)** ~~—(dd)—~~ "Telecommunication services" or "services"
5 includes regulated and unregulated services offered to customers
6 for the transmission of 2-way interactive communication and
7 associated usage. A telecommunication service is not a public
8 utility service.

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

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

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

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

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

27 Sec. 202. In addition to the other powers and duties

1 prescribed by this act, the commission shall do all of the
2 following:

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

11 (b) Require by order that a provider of a regulated service,
12 including access service, make available for public inspection and
13 file with the commission a schedule of the provider's rates,
14 services, and conditions of service, including access service
15 provided by contract.

16 (c) Promulgate rules under section 213 and issue orders to
17 establish and enforce quality standards for providing
18 telecommunication services in this state.

19 (d) Preserve the provision of high quality basic local
20 exchange service.

21 ~~—— (e) Create a task force to study changes occurring in the~~
22 ~~federal universal service fund and the need for the establishment~~
23 ~~of a state universal service fund to promote and maintain basic~~
24 ~~local exchange service in high cost rural areas at affordable~~
25 ~~rates. The task force shall issue a report to the legislature and~~
26 ~~governor on or before December 31, 1996 containing its findings and~~
27 ~~recommendations. The task force shall consist of all of the~~

1 ~~following members:~~

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

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

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

8 ~~—— (iv) Two representatives of other providers of regulated~~
9 ~~services.~~

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

11 ~~—— (f) On or before January 1, 1997, the commission shall study~~
12 ~~and report to the legislature and governor on the following matters~~
13 ~~that have impact on the basic local exchange calling activities of~~
14 ~~all residential customers in the state.~~

15 ~~—— (i) The percentage of intra LATA calls and minutes of usage~~
16 ~~which are charged as basic local exchange calls.~~

17 ~~—— (ii) The average size and range of sizes of basic local~~
18 ~~exchange calling areas.~~

19 ~~—— (iii) The ability of customers to contact emergency services,~~
20 ~~school districts, and county, municipal, and local units of~~
21 ~~government without a toll call.~~

22 ~~—— (iv) Whether there are significant differences in basic local~~
23 ~~exchange calling patterns between urban, suburban, and rural areas.~~

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

26 ~~—— (vi) The impact when basic local exchange calling areas overlap~~
27 ~~LATA boundaries.~~

~~1 (vii) The impact on basic local exchange rates which would
2 occur if basic local exchange calling areas are expanded within
3 LATA boundaries.~~

~~4 (g) On or before January 1, 1997, conduct a study of internet
5 access provider locations to determine which exchanges can reach
6 the nearest location only by making a toll call. The commission
7 shall then gather input from internet access providers, local
8 exchange providers, and other interested parties and make a
9 recommendation to the legislature as to the steps needed to allow
10 all local exchange customers to access an internet provider by
11 making a local call.~~

12 Sec. 304. (1) Except as provided in section 304a, the rates
13 for basic local exchange service shall be just and reasonable.

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

16 (a) Filing with the commission notice of a decrease, discount,
17 or other rate reduction in a basic local exchange rate. A rate
18 alteration under this subdivision shall become effective without
19 commission review or approval.

20 (b) Filing with the commission notice of an increase in a
21 basic local exchange rate that does not exceed 1% less than the
22 consumer price index. Unless the commission determines that the
23 rate alteration exceeds the allowed increase under this
24 subdivision, the rate alteration shall take effect 90 days from the
25 date of the notice required under subsection (3). As used in this
26 subdivision, "consumer price index" means the most recent reported
27 annual average percentage increase in the Detroit consumer price

1 index for all items for the prior 12-month period by the United
2 States department of labor.

3 (c) Filing with the commission an application to increase a
4 basic local exchange rate in an amount greater than that allowed
5 under subdivision (b). The application shall be accompanied with
6 sufficient documentary support that the rate alteration is just and
7 reasonable. The commission shall make a determination within the
8 90-day period provided for in subsection (5) of 1 of the following:

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

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

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

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

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

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

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

27 (5) Except as otherwise provided in subsections (2) and (6),

1 an altered basic local exchange rate shall take effect 90 days from
2 the date of the notice required by subsection (3).

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

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

11 (a) Total service long run incremental cost of basic local
12 exchange services.

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

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

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

20 (e) Whether the provider's further investment in the network
21 infrastructure of the geographic area of the proposed rate is
22 economically justifiable without the proposed rate.

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

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

27 (9) ~~—(10)—~~ The commission shall exempt a provider from this

1 section and section 310(2) if it finds all of the following:

2 (a) The provider provides basic local exchange service or
3 basic local exchange and toll service to less than 250,000 end-
4 users in this state.

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

9 (c) The provider provides dialing parity access to operator,
10 telecommunication relay, and emergency services to all basic local
11 exchange end-users.

12 (10) ~~—(11)—~~ A call made to a local calling area adjacent to
13 the caller's local calling area shall be considered a local call
14 and shall be billed as a local call.

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

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

19 (b) Refuse or delay interconnections or provide inferior
20 connections to another provider.

21 (c) Degrade the quality of access service provided to another
22 provider.

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

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

27 (f) Refuse or delay a request of another provider for

1 information regarding the technical design, equipment capabilities
2 and features, geographic coverage, and traffic patterns of the
3 local exchange network.

4 (g) Refuse or delay access service or be unreasonable in
5 connecting another provider to the local exchange whose product or
6 service requires novel or specialized access service requirements.

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

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

19 (j) Refuse or delay access service by any person to another
20 provider.

21 (k) Sell, lease, or otherwise transfer an asset to an
22 affiliate for an amount less than the fair market value of the
23 asset.

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

27 (m) Bundle unwanted services or products for sale or lease to

1 another provider.

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

4 (o) Sell services or products, extend credit, or offer other
5 terms and conditions on more favorable terms to an affiliate of the
6 provider than the provider offers to other providers.

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

9 (2) A provider of cellular telecommunication services shall
10 not do either of the following:

11 (a) Unreasonably provide services, extend credit, or offer
12 other terms and conditions on more favorable terms to an affiliate
13 of the provider or to its retail department that sells to end users
14 than the provider offers to other providers.

15 (b) Unreasonably use rates or proceeds from providers,
16 directly or indirectly, to subsidize or offset the costs of
17 cellular service offered by the provider, or an affiliate of the
18 provider, to other providers or to end-users.

19 ~~— (3) Until a provider has complied with section 304a, the~~
20 ~~provider of a rate regulated service shall not provide that service~~
21 ~~in combination with an unregulated service in section 401 or an~~
22 ~~unbundled or resold service under section 357 at a price that does~~
23 ~~not exceed the total service long run incremental cost of each~~
24 ~~service.~~

25 Sec. 352. ~~—(1)~~ Until January 1, 1997, the rates of a provider
26 of basic local exchange service for interconnection under this
27 article shall be at the provider's total service long run

1 incremental cost of providing the service. After January 1, 1997,
2 the rate for interconnection shall be just and reasonable as
3 determined by the commission.

4 ~~—— (2) The rates for unbundled loops, number portability, and the~~
5 ~~termination of local traffic shall be the rates established under~~
6 ~~commission case U-10647 and shall remain in effect until new total~~
7 ~~service long run incremental cost studies for such services have~~
8 ~~been approved by the commission.~~

9 Enacting section 1. Sections 312a, 322, 351, 353, 354, and
10 701 of the Michigan telecommunications act, 1991 PA 179, MCL
11 484.2312a, 484.2322, 484.2351, 484.2353, 484.2354, and 484.2701,
12 are repealed.