

MICHIGAN TELECOMMUNICATIONS ACT (EXCERPT)
Act 179 of 1991

484.2310 Rates for toll access services; intrastate switched toll access rate; restructuring mechanism; establishment; administration; report; size; mandatory monthly contributions; modifications to size, operation, or composition of restructuring mechanism; proceedings; disputes; resolution; enforcement; information to be provided by providers; definitions.

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

(2) A provider of toll access services shall set the rates for intrastate switched toll access services at rates that do not exceed the rates allowed for the same interstate services by the federal government and shall use the access rate elements for intrastate switched toll access services that are in effect for that provider and are allowed for the same interstate services by the federal government. Eligible providers shall comply with this subsection as of the date established for the commencement of the operation of the restructuring mechanism under subsection (9). Providers other than eligible providers shall not charge intrastate toll access service rates in excess of those rates in effect as of July 1, 2009 and shall reduce the differential, if any, between intrastate and interstate switched toll access service rates in effect as of July 1, 2009 in no more than 5 steps of at least 20% each of the differential on the following dates: January 1, 2011; January 1, 2012; January 1, 2013; January 1, 2014; and January 1, 2015. Providers may agree to a rate that is less than the rate allowed by the federal government.

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

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

(5) A provider of toll access service, whether under tariff or contract, shall offer the services under the same rates, terms, and conditions, without unreasonable discrimination, to all providers. All pricing of special toll access services and switched access services, including volume discounts, shall be offered to all providers under the same rates, terms, and conditions.

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

(7) In order to restructure intrastate switched toll access service rates, there is hereby established in the department of licensing and regulatory affairs an intrastate switched toll access rate restructuring mechanism as a separate interest-bearing fund. The state treasurer shall direct the investment of the restructuring mechanism. Money in the restructuring mechanism shall remain in the restructuring mechanism at the close of the fiscal year and shall not revert to the general fund.

(8) An eligible provider is entitled to receive monthly disbursements from the restructuring mechanism as provided in subsection (11) in order to recover the lost intrastate switched toll access service revenues resulting from rate reductions under subsection (2).

(9) The restructuring mechanism shall be administered by the commission. The restructuring mechanism shall be established and shall begin operation by September 13, 2010. Subject to the preceding sentence, the commission shall establish the date for commencing the operation of the restructuring mechanism and shall notify the participants in the restructuring mechanism at least 30 days in advance of that date. The commission shall recover its actual costs of administering the restructuring mechanism from assessments collected for the operation of the restructuring mechanism.

(10) The commission shall establish the procedures and timelines for organizing, funding, and administering the restructuring mechanism. The commission shall report to the legislature and the governor annually regarding the administration of the restructuring mechanism. The report shall include the total amount of money collected from contributing providers, the total amount of money disbursed from the restructuring mechanism annually to each eligible provider, the costs of administration, and any other information considered relevant by the commission. The report shall also identify any duplicative costs or revenues that are already being recovered by eligible providers through federal access recovery charges or the connect America fund. If the commission identifies duplicative recovery, the commission shall notify the federal communications commission and all contributing providers. Any duplicative recovery identified by the commission is not exempt from public disclosure under section 210. Beginning with the first report following the recalculation required under subsection (16), the annual report shall include recommendations

for altering the restructuring mechanism, based on the results of the recalculation and the state and federal regulations in effect at the time, to ensure that the restructuring mechanism is still achieving the purposes for which it was originally established. Any company-specific information pertaining to access lines, switched toll access services minutes of use, switched toll access demand quantities, contributions, and intrastate telecommunication services revenues submitted to the commission under this subsection are confidential commercial or financial information and exempt from public disclosure under section 210.

(11) The initial size of the restructuring mechanism shall be calculated as follows:

(a) By February 15, 2010 each eligible provider shall submit to the commission information and all the supporting documentation that establishes the amount of the reduction in annual intrastate switched toll access revenues that will result from the reduction in rates required in subsection (2). The reduction shall be calculated for each eligible provider as the difference between intrastate and interstate switched toll access service rates in effect as of July 1, 2009, multiplied by the intrastate switched access minutes of use and other switched access demand quantities for the calendar year 2008.

(b) The commission shall compute the size of the initial restructuring mechanism disbursements for each eligible provider and shall inform each eligible provider of that computation within 60 days after receiving the information and supporting documentation from the eligible providers under subdivision (a).

(12) The restructuring mechanism shall be created and supported by a mandatory monthly contribution by all providers of retail intrastate telecommunication services and all providers of commercial mobile service. Interconnected voice over internet protocol services shall not be considered an intrastate telecommunication service for the purposes of this section and interconnected voice over internet protocol service providers shall not be required to pay, directly or indirectly, the mandatory monthly contributions established in this subsection. A provider of telecommunication services to a provider of interconnected voice over internet protocol services shall not pay a mandatory monthly contribution related to those interconnected voice over internet protocol services or attempt to pass through any mandatory monthly contributions, directly or indirectly, to a provider of interconnected voice over internet protocol services. Nothing in this act grants the commission authority over commercial mobile service providers or voice over internet protocol service providers except as is strictly necessary for administration of the restructuring mechanism.

(13) By February 15, 2010, each contributing provider shall report its 2008 intrastate retail telecommunication services revenues to the commission. Notwithstanding anything in subsection (12), if the federal communications commission determines that interconnected voice over internet protocol services may be subject to state regulation for universal services purposes, the commission may open a proceeding to determine who is required to participate in a universal service fund.

(14) The initial contribution assessment percentage shall be a uniform percentage of retail intrastate telecommunication services revenues determined by projecting the total amount necessary to cover the initial intrastate switched toll access rate restructuring mechanism disbursement levels for 12 months, including projected cash reserve requirements, actual and projected administrative costs, and projected uncollectible contribution assessments, divided by the 2008 calendar year total retail intrastate telecommunication services revenues in this state, less projected uncollectible revenues, reported to the commission. The commission shall issue an order establishing the initial calculation of the contribution assessment percentage by May 16, 2010. The commission may increase or decrease the contribution assessment on a quarterly or other basis as necessary to maintain sufficient funds for disbursements.

(15) Each contributing provider shall remit to the commission on a monthly basis an amount equal to its intrastate retail telecommunication services revenues, less uncollectible revenues, multiplied by the contribution assessment percentage determined under subsection (14), according to a time frame established by the commission. These contributions shall continue until the end of the period for which eligible providers are entitled to receive monthly disbursements from the restructuring mechanism under subsections (11) and (16).

(16) The commission shall recalculate the size of the restructuring mechanism for each eligible provider on March 13, 2018. The recalculation process shall be as follows:

(a) The restructuring mechanism shall be recalculated as the difference between the intrastate switched toll access rates in effect as of July 1, 2009 and the interstate switched toll access rates in effect at the time of the recalculation, multiplied by the intrastate switched toll access minutes of use and other switched access demand quantities for the calendar year 2008.

(b) The recalculated restructuring mechanism shall be further adjusted during the recalculation by the percentage change, if any, in the number of access lines in service for each eligible provider from December 31, 2008 to December 31 of the year immediately preceding the year in which the adjustment is made.

(c) Each eligible provider is entitled to receive monthly disbursements from the restructuring mechanism for a period of no more than 12 years from the date the restructuring mechanism is established under

subsection (9), at which time the restructuring mechanism shall cease to exist.

(d) The commission shall reduce the amount of the monthly disbursement to an eligible provider from the restructuring mechanism on a pro rata basis for each exchange in which the provider discontinues basic local exchange service under section 313. A reduction under this subsection is effective on the date of the discontinuance of service.

(17) The money received and administered by the commission for the support and operation of the restructuring mechanism created by 2009 PA 182 shall not be used by the commission or any department, agency, or branch of the government of this state for any other purpose, and that money is not subject to appropriation, allocation, assignment, expenditure, or other use by any department, agency, or branch of the government of this state.

(18) If the federal government adopts intercarrier compensation reforms or takes any action that causes or requires a significant change in interstate switched toll access service rates, the commission may initiate, or any interested party may file an application for, a proceeding under section 203 within 60 days of that action to determine whether any modifications to the size, operation, or composition of the restructuring mechanism are warranted. During the pendency of that proceeding, the requirement in subsection (2) for eligible providers to set intrastate switched toll access service rates equal to interstate switched toll access service shall be temporarily suspended by those providers. Intrastate access rates may not be increased above the levels that exist at the time of the suspension. Following notice and hearing, upon a showing of good cause, the commission may stop or place certain conditions on the temporary suspension.

(19) If the federal government changes the federal universal service contribution methodology so that it is not based on a percentage of total interstate telecommunication services revenues, the commission shall modify the contribution methodology for the restructuring mechanism to be consistent with the federal methodology. The commission shall initiate a proceeding to modify the contribution methodology for the restructuring mechanism and to establish a reasonable time period for transition to the new contribution methodology.

(20) Disputes arising under this section may be submitted to the commission for resolution under sections 203 and 204.

(21) If any contributing provider subject to this section fails to make the required contributions or fails to provide required information to the commission, the commission shall initiate an enforcement proceeding under section 203. If the commission finds that a contributing provider has failed to make contributions or to perform any act required under this section, a contributing provider is subject to the remedies and penalties under section 601.

(22) Eligible providers and contributing providers shall provide information to the commission that is required for the administration of the restructuring mechanism. Company-specific information pertaining to access lines, switched toll access services minutes of use, switched toll access demand quantities, contributions, and intrastate telecommunication services revenues submitted to the commission under this subsection is confidential commercial or financial information and exempt from public disclosure under section 210.

(23) As used in this section:

(a) "Commercial mobile service" means that term as defined in section 332(d)(1) of the telecommunications act of 1996, 47 USC 332.

(b) "Contributing provider" means an entity required to pay into the restructuring mechanism.

(c) "Eligible provider" means an incumbent local exchange carrier as defined in section 251(h) of the telecommunications act of 1996, 47 USC 251, that as of January 1, 2009 had rates for intrastate switched toll access services higher than its rates for the same interstate switched toll access services, and that provides the services and functionalities identified by rules of the federal communications commission described at 47 CFR 54.101(a).

(d) "Interconnected voice over internet protocol service" means that term as defined in 47 CFR 9.3.

(e) "Restructuring mechanism" means the intrastate switched toll access rate restructuring mechanism established in this section.

History: 1991, Act 179, Imd. Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000;—Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005;—Am. 2009, Act 182, Imd. Eff. Dec. 17, 2009;—Am. 2014, Act 52, Imd. Eff. Mar. 25, 2014.