

Act No. 216  
Public Acts of 1995  
Approved by the Governor  
November 30, 1995  
Filed with the Secretary of State  
November 30, 1995

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1995**

Introduced by Senators Dunaskiss, Young, Cisky, Berryman, Byrum, Emmons, Hoffman, Schuette, Shugars, Stille, Steil, Gast, Hart, Vaughn, Schwarz, Dingell, North, Bennett, Miller, Gougeon and Stallings

# **ENROLLED SENATE BILL No. 722**

AN ACT to amend sections 101, 102, 202, 203, 205, 207, 208, 210, 213, 301, 303, 304, 305, 306, 307, 308, 309a, 310, 311, 312, 316, 401, 601, and 604 of Act No. 179 of the Public Acts of 1991, entitled "An act to regulate and insure the availability of certain telecommunication services; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; to repeal certain acts and parts of acts; and to repeal this act on a specific date," being sections 484.2101, 484.2102, 484.2202, 484.2203, 484.2205, 484.2207, 484.2208, 484.2210, 484.2213, 484.2301, 484.2303, 484.2304, 484.2305, 484.2306, 484.2307, 484.2308, 484.2309a, 484.2310, 484.2311, 484.2312, 484.2316, 484.2401, 484.2601, and 484.2604 of the Michigan Compiled Laws; to add sections 203a, 304a, 304b, 309b, 312a, 312b, 317, 318, 319, 320, 321, 502, 503, and 504 and articles 2a and 3a; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

Section 1. Sections 101, 102, 202, 203, 205, 207, 208, 210, 213, 301, 303, 304, 305, 306, 307, 308, 309a, 310, 311, 312, 316, 401, 601, and 604 of Act No. 179 of the Public Acts of 1991, being sections 484.2101, 484.2102, 484.2202, 484.2203, 484.2205, 484.2207, 484.2208, 484.2210, 484.2213, 484.2301, 484.2303, 484.2304, 484.2305, 484.2306, 484.2307, 484.2308, 484.2309a, 484.2310, 484.2311, 484.2312, 484.2316, 484.2401, 484.2601, and 484.2604 of the Michigan Compiled Laws, are amended and sections 203a, 304a, 304b, 309b, 312a, 312b, 317, 318, 319, 320, 321, 502, 503, and 504 and articles 2a and 3a are added to read as follows:

Sec. 101. (1) This act shall be known and may be cited as the "Michigan telecommunications act".

(2) The purpose of this act is to do all of the following:

- (a) Ensure that every person has access to basic residential telecommunication service.
- (b) Allow and encourage competition to determine the availability, prices, terms, and other conditions of providing telecommunication services.
- (c) Restructure regulation to focus on price and quality of service and not on the provider. Rely more on existing state and federal law regarding antitrust, consumer protection, and fair trade to provide safeguards for competition and consumers.
- (d) Encourage the introduction of new services, the entry of new providers, the development of new technologies, and increase investment in the telecommunication infrastructure in this state through incentives to providers to offer the most efficient 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 traditionally 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 review and disposition of disputes between telecommunication providers.

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 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) "Cable service" means 1-way transmission to subscribers of video programming or other programming services and subscriber interaction for the selection of video programming or other programming services.
- (d) "Commission" means the Michigan public service commission.
- (e) "Contested case" or "case" means a proceeding as defined in section 3 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.203 of the Michigan Compiled Laws.
- (f) "Educational institution" means a public educational institution or a private non-profit educational institution approved by the department of education to provide a program of primary, secondary, or higher education, a public library, or a nonprofit association or consortium whose primary purpose is education. A nonprofit association or consortium under this subdivision shall consist of 2 or more of the following:
  - (i) Public educational institutions.
  - (ii) Nonprofit educational institutions approved by the department of education.
  - (iii) The state board of education.
  - (iv) Telecommunication providers.
  - (v) A nonprofit association of educational institutions or consortium of educational institutions.
- (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.
- (h) "Exchange" means 1 or more contiguous central offices and all associated facilities within a geographical area in which local exchange telecommunication services are offered by a provider.
  - (i) "Handicapper" means a person who has 1 or more of the following physical characteristics:
    - (i) Blindness.
    - (ii) Inability to ambulate more than 200 feet without having to stop and rest during any time of the year.
    - (iii) Loss of use of 1 or both legs or feet.
    - (iv) Inability to ambulate without the prolonged use of a wheelchair, walker, crutches, braces, or other device required to aid mobility.
    - (v) A lung disease from which the person's expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the person's arterial oxygen tension is less than 60 mm/hg of room air at rest.
    - (vi) A cardiovascular disease from which the person measures between 3 and 4 on the New York heart classification scale, or from which a marked limitation of physical activity causes fatigue, palpitation, dyspnea, or anginal pain.
    - (vii) Other diagnosed disease or disorder including, but not limited to, severe arthritis or a neurological or orthopedic impairment that creates a severe mobility limitation.
  - (j) "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.
  - (k) "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.
  - (l) "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 approved in United States v GTE Corp., 603 F. Supp. 730 (D.D.C. 1984).
  - (m) "LATA" means the local access and transport area as defined in United States v American Telephone and Telegraph Co., 569 F. Supp. 990 (D.D.C. 1983).

- (n) "License" means a license issued pursuant to this act.
- (o) "Line" or "access line" means the medium over which a telecommunication user connects into the local exchange.
- (p) "Local calling area" means a geographic area encompassing 1 or more local communities as described in maps, tariffs, or rate schedules filed with and approved by the commission.
- (q) "Local directory assistance" means the provision by telephone of a listed telephone number within the caller's area code.
- (r) "Local exchange rate" means the monthly and usage rate, including all necessary and attendant charges, imposed for basic local exchange service to customers.
- (s) "Loop" means the transmission facility between the network interface on a subscriber's premises and the main distribution frame in the servicing central office.
- (t) "Operator service" means a telecommunication service that includes automatic or live assistance to a person to arrange for completion and billing of a telephone call originating within this state that is specified by the caller through a method other than 1 of the following:
- (i) Automatic completion with billing to the telephone from which the call originated.
  - (ii) Completion through an access code or a proprietary account number used by the person, with billing to an account previously established with the provider by the person.
  - (iii) Completion in association with directory assistance services.
- (u) "Operator service provider" or "OSP" means a provider of operator service.
- (v) "Payphone service" means a telephone call provided from a public, semipublic, or individually owned and operated telephone that is available to the public and is accessed by the depositing of coin or currency or by other means of payment at the time the call is made.
- (w) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.
- (x) "Port" except for the loop, means the entirety of local exchange, including dial tone, a telephone number, switching software, local calling, and access to directory assistance, a white pages listing, operator services, and interexchange and intra-LATA toll carriers.
- (y) "Reasonable rate" or "just and reasonable rate" means a rate that is not inadequate, excessive, or unreasonably discriminatory. A rate is inadequate if it is less than the total service long run incremental cost of providing the service.
- (z) "Residential customer" means a person to whom telecommunication services are furnished predominantly for personal or domestic purposes at the person's dwelling.
- (aa) "Special access" means the provision of access service, other than switched access service, to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication service within the exchange, including the use of local private lines.
- (bb) "State institution of higher education" means an institution of higher education described in sections 4, 5, and 6 of article VIII of the state constitution of 1963.
- (cc) "Telecommunication provider" or "provider" means a person or an affiliate of the person each of which for compensation provides 1 or more telecommunication services.
- (dd) "Telecommunication services" or "services" includes regulated and unregulated services offered to customers for the transmission of 2-way interactive communication and associated usage. A telecommunication service is not a public utility service.
- (ee) "Toll service" means the transmission of 2-way interactive switched communication between local calling areas. Toll service does not include individually negotiated contracts for similar telecommunication services or wide area telecommunications service.
- (ff) "Total service long run incremental cost" means, given current service demand, including associated costs of every 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.
- (gg) "Wide area telecommunications service" or "WATS" means the transmission of 2-way interactive switched communication over a dedicated access line.

Sec. 202. In addition to the other powers and duties prescribed by this act, the commission shall do all of the following:

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

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

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

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

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

(i) The chairperson of the commission.

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

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

(iv) Two representatives of other providers of regulated services.

(v) One representative of the general public.

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

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

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

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

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

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

(vi) The impact when basic local exchange calling areas overlap LATA boundaries.

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

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

Sec. 203. (1) Upon receipt of an application or complaint filed under this act, or on its own motion, the commission may conduct an investigation, hold hearings, and issue its findings and order under the contested hearings provisions of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) An application or complaint filed under this section shall contain all information, testimony, exhibits, or other documents and information on which the person intends to rely to support the application or complaint. Applications or complaints that do not meet the requirements of this subsection shall be dismissed or suspended pending the receipt by the commission of the required information.

(3) The burden of proving a case filed under this act shall be with the party filing the application or complaint.

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

(5) Except as otherwise provided in subsections (2) and (6), the commission shall issue a final order in a case filed under this section within 90 days from the date the application or complaint is filed.

(6) If a hearing is required, the applicant or complainant shall publish a notice of hearing as required by the commission within 7 days of the date the application or complaint was filed or as required by the commission. The first hearing shall be held within 10 days after the date of the notice. If a hearing is held, the commission shall have 180 days from the date the application or complaint was filed to issue its final order. If the principal parties of record agree that

the complexity of issues involved requires additional time, the commission may have up to 210 days from the date the application or complaint was filed to issue its final order.

(7) An order of the commission shall be subject to review as provided by section 26 of Act No. 300 of the Public Acts of 1909, being section 462.26 of the Michigan Compiled Laws.

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

Sec. 203a. (1) For all complaints involving a dispute of \$1,000.00 or less, or at the option of the complainant, for a period of 45 days after the date the complaint is filed under section 203, the parties shall attempt alternative means of resolving the complaint.

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

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

(4) If a party rejects the recommended settlement, then the application or complaint shall proceed to a contested case hearing under section 203.

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

(6) If the recommendation is not accepted under subsection (3), the individual commissioners shall not be informed of the recommended settlement until they have issued their final order under section 203.

(7) An attempt to resolve a contested case under this section is exempt from the requirements of section 203 and the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

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

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

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

Sec. 207. The commission shall determine the manner in which local directory assistance service to the end user is to be regulated under this act. The regulations shall include both rates and quality of service.

Sec. 208. (1) If a competitive market for a regulated telecommunication service in which the rate is regulated exists in this state, a provider may file with the commission to classify that service for all providers within the competitive market as a competitive service.

(2) Except as provided under section 321, if a regulated service is classified as competitive, the rate for the service shall be deregulated and not subject to review under this act.

(3) A service is competitive under this section if for an identifiable class or group of customers in an exchange, group of exchanges, or other clearly defined geographical area, the service is available from more than 1 unaffiliated provider and 3 or more of the following apply:

(a) Actual competition, including facilities based competition, exists within the local exchange, group of exchanges, or geographic area.

(b) Both residential and business end-users have service alternatives available from more than 1 unaffiliated provider or service reseller.

(c) Competition and end-user usage has been demonstrated and measured by independent and reliable methods.

(d) Rates and charges for the service have changed within the previous 12-month period.

(e) There is a functionally equivalent service, reasonably available to end users from an unaffiliated provider or supplier.

(4) Except as provided under subsection (5), a service is not competitive under this section if for an identifiable class or group of customers in an exchange, group of exchanges, or other clearly defined geographical area, 1 of the providers of the service is an unaffiliated provider of facilities based basic local exchange service to less than 250,000 end-users in this state. A provider may apply to the commission for a review of the service under section 203 to determine whether the service is competitive and the rate deregulated.

(5) Subsection (4) does not apply if there are 3 or more providers of facilities based basic local exchange service throughout the competitive market and 1 or more of the providers is a provider of facilities based basic local exchange service to less than 250,000 end-users in this state.

(6) A provider shall give notice to its customers if a service is to be classified as competitive and its rate deregulated. The notice shall be included in or on the bill of each affected customer of the provider before the effective date of the classification.

(7) The service classification under this section shall take effect 45 days from the date of the notice required by subsection (4).

(8) Upon receiving a complaint filed by a provider or consumer or on its own motion, the commission may require a filing under section 203 to review a competitive classification and issue an order approving, modifying, or rejecting the classification.

(9) A provider shall not file to have a service classified as competitive until the provider has received the approval of the commission of a total service long run incremental cost study for the service to be classified.

(10) Except as otherwise provided by law, the commission or a local unit of government does not have authority over a rate for a service classified as competitive under this section.

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

(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 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. 213. (1) No later than July 1, 1996, the commission shall promulgate rules for the implementation and administration of this act under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) Except as provided in subsection (3), effective September 1, 1996, 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.

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

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

(3) If the Michigan supreme court rules that sections 45 and 46 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.245 and 24.246 of the Michigan Compiled Laws, are unconstitutional, and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling, the commission shall not promulgate rules under this act. Subsection (2) does not apply if the commission is prohibited from promulgating rules under this subsection.

## ARTICLE 2A

### LOCAL UNITS OF GOVERNMENT

Sec. 251. (1) Except as provided in subsections (2) and (3), a local unit of government shall grant a permit for access to and the ongoing use of all right-of-ways, easements, and public places under its control and jurisdiction to providers of telecommunication services.

(2) This section shall not limit a local unit of government's right to review and approve a provider's access to and ongoing use of a right-of-way, easement, or public place or limit the unit's authority to ensure and protect the health, safety, and welfare of the public.

(3) A local unit of government shall approve or deny access under this section within 90 days from the date a provider files an application for a permit for access to a right-of-way, easement, or public place. A provider's right to access and use of a right-of-way, easement, or public place shall not be unreasonably denied by a local unit of government. A local unit of government may require as a condition of the permit that a bond be posted by the provider, which shall not exceed the reasonable cost, to ensure that the right-of-way, easement, or public place is returned to its original condition during and after the provider's access and use.

Sec. 252. Any conditions of a permit granted under section 251 shall be limited to the provider's access and usage of any right-of-way, easement, or public place.

Sec. 253. Any fees or assessments made under section 251 shall be on a nondiscriminatory basis and shall not exceed the fixed and variable costs to the local unit of government in granting a permit and maintaining the right-of-ways, easements, or public places used by a provider.

Sec. 254. A provider using the highways, streets, alleys, or other public places, shall obtain a permit pursuant to section 251.

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

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

Sec. 303. (1) The commission may alter or amend the geographic area of a license, grant a competing license, or authorize the sale or transfer of a license to another person.

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

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

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

(2) A provider may alter its rates for 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 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.

(c) Filing with the commission an application to increase a basic local exchange rate in an amount greater than that allowed under subdivision (b). 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 and shall be included in or on the bill of each affected customer of the provider 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 will 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:

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

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

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

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

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

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

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

Sec. 304a. (1) Upon filing with and the approval of the commission, a basic local exchange provider shall restructure its rates for basic local exchange, toll, and access services to ensure that the rates are not less than the total service long run incremental cost of providing each service.

(2) The provider may determine when each rate is restructured and may phase in the rate restructuring until January 1, 2000. After January 1, 2000, the provider's rates for basic local exchange, toll, and access services shall not be less than the total service long run incremental cost for each service.

(3) The rate restructuring may include, but is not limited to, 1 or more of the following:

(a) Touchtone capability and associated charges into basic local exchange services at rate levels no greater than the sum of the current basic local exchange service rates and the touchtone service rates. Residential customers with rotary dial service may retain such service at their current rate.

(b) Within basic local exchange rates, all or part of the existing rate elements and charges for other services that are designed to recover the costs associated with the local exchange network.

(c) Restructure existing basic local exchange rates to reflect the existing variations in costs to provide basic local exchange services based upon differences in geographic areas, classes of customers, calling patterns and volumes, technology, and other factors.

(4) The commission shall have 45 days from the date of a filing under this section to review the proposed rate restructuring to ensure that the rates are not less than the total service long run incremental costs of the service, or that the rate restructuring brings rates that are below such costs closer to the costs. If the commission is unable to make a determination within the allowed 45 days under this subsection, the commission shall have an additional 45 days to review the rate restructuring.

(5) If the commission does not complete its review within the time period required under subsection (4), the rate restructuring is considered approved under this section. The basic local exchange provider may implement the restructured rates 10 days following commission approval or the end of the period provided for commission review, whichever is earlier.

(6) Except as provided in subsection (7), for the purposes of this section and the act, providers who, together with any affiliated providers, provide basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state may determine total service long run incremental cost through preparation of a cost study or may determine that their total service long run incremental cost is the same as that of a provider with more than 250,000 end-users.

(7) A provider of basic local exchange service with less than 15,000 end-users in this state may determine that their total service long run incremental cost is the same as that of a provider with more than 250,000 end-users.



Sec. 304b. (1) A provider of basic local exchange service shall develop and offer various rate plans that reflect residential customer calling patterns that shall include, but not limited to, all of the following at the option of the customer unless it is not technologically feasible:

(a) A flat rate allowing unlimited personal and domestic outgoing calls.

(b) A flat rate allowing personal and domestic outgoing calls up to 400 calls per month per line. Calls in excess of 400 per month may be charged at an incremental rate as set by the provider under section 304. If a customer has more than 1 line at the same location that appears on the customer's bill, the allowable calls under this subdivision shall be the aggregate of all the lines regardless from which line the calls originate. A person who is handicapped or is voluntarily providing a service for an organization classified by the internal revenue service as a section 501(c)(3) or (19) organization, or a congressionally chartered veterans organization or their duly authorized foundations, is exempt from the 400 calls per month limitation and shall receive a flat rate allowing unlimited calls per month. A person exempt from the call cap under this subdivision shall not be charged a rate greater than the flat rate charged other residential customers for 400 calls.

(c) A flat rate allowing personal and domestic outgoing calls of not less than 50 nor more than 150 per month, per line. Providers may offer additional plans allowing personal and domestic outgoing calls of not less than 150 per month nor more than 400 per month, per line. Calls in excess of upper per call limit per month may be charged at an incremental rate as set by the provider under section 304. If a customer has more than 1 line at the same location that appears on the customer's bill, the allowable calls under this subdivision shall be the aggregate of all the lines regardless from which line the calls originate.

(d) A rate determined by the time duration of service usage or the distance between the points of service origination and termination.

(e) A rate determined by the number of times the service is used.

(f) A rate that includes 1 or more of the rates allowed by this section.

(g) A rate that includes toll-free calling to contiguous Michigan local calling exchanges.

(2) If an option required under subsection (1) is not being offered by the provider on January 1, 1996, the provider shall set the initial rate for the option.

(3) A provider who, together with any affiliated providers, provides basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state is not required to provide a rate plan required under subsection (1) if it is not economically feasible to provide the rate plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 308. (1) Basic local exchange or access rates or proceeds from the sale, lease, or transfer of rate acquired assets shall not be used, directly or indirectly, to subsidize or offset the costs of other products or services offered by the provider or an affiliate of the provider by providing such other products or services at less than the total service long-run incremental cost.

(2) A provider of basic local exchange service shall not sell or transfer capital assets used to provide the service for an amount less than the fair market value to any other provider or affiliated entity for the purpose of providing an unregulated service.

(3) A provider of basic local exchange service shall notify the commission when it transfers, in whole or in part, substantial assets, functions or employees associated with basic local exchange service to an affiliated entity, indicating the identity of the affiliated entity, description of the transaction and the impact on basic local exchange service.

(4) In an investigation under this section or under section 203, the commission shall have the authority to review the books and accounts of both the provider and affiliated entities of the provider.

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. 309b. A provider of inter-LATA toll service in Michigan shall take no action prohibited under state or federal labor laws to discourage or prevent its employees from seeking union representation, pursuing collective bargaining or engaging in any other activities protected, including, but not limited to, the closing of an office or facility in Michigan to prevent organizing.

## B. TOLL ACCESS SERVICE

Sec. 310. (1) Except as provided by this act, 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 toll access services. Access service rates and charges set by a provider that exceed the rates allowed for the same interstate services by the federal government are not just and reasonable. Providers may agree to a rate that is less than the rate allowed by the federal government. If the providers cannot agree on a rate, a provider may apply to the commission under section 204.

(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. Until allowed by the federal communications commission, volume discounts on switched access are prohibited under this subsection.

(6) If a toll access service rate is reduced under section 304a, then the provider receiving the reduced rate shall reduce its rate to its customers by an equal amount.

Sec. 311. (1) A telecommunication provider of both basic local exchange service and toll service shall impute as provided under section 362 to itself its prices of special toll access service and switched access for the use of essential facilities it uses in the provision of toll, WATS, or other service for which toll access service is a component.

(2) All other providers of intrastate special toll access service, switched toll access services, toll, or WATS shall impute to themselves in the aggregate on a service by service basis their individual cost of special or switched toll access service or its equivalent in their pricing.

(3) Telecommunication services that utilize special or switched toll access service shall be made available for resale by the telecommunication provider offering the service.

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

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

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

(4) Adjacent exchange toll calling plans as ordered by the commission on June 19, 1991 shall remain in effect under this act until altered by order of the commission. A provider of toll service 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.

Sec. 312a. Effective January 1, 1996, if a waiver to the inter-LATA prohibitions has been granted for a specific service area and the service area has 2 or more providers of local exchange service, the provider of basic local exchange service shall provide 1+intra-LATA toll dialing parity within the service area that is subject to the waiver.

Sec. 312b. (1) Except as otherwise provided in subsection (2) or (3), a provider of basic local exchange service shall provide 1+intra-LATA toll dialing parity and shall provide inter-LATA toll service to an equal percentage of customers within the same service exchange on the following dates:

(a) To 10% of the customers by January 1, 1996.

(b) To 20% of the customers by February 1, 1996.

(c) To 30% of the customers by March 1, 1996.

(d) To 40% of the customers by April 1, 1996.

(e) To 50% of the customers by May 1, 1996.

(2) If the inter-LATA prohibitions are removed, the commission shall immediately order the providers of basic local exchange service to provide 1+intra-LATA toll dialing parity.

(3) Except for subsection (1)(a), subsection (1) does not apply to the extent that a provider is prohibited by law from providing either 1+intra-LATA toll dialing parity or inter-LATA toll service as provided under subsection (1).

(4) Except as otherwise provided by this section, this section does not alter or void any orders of the commission regarding 1+intra-LATA toll dialing parity issued on or before June 1, 1995.

(5) The commission shall immediately take the necessary actions to receive the federal waivers needed to implement this section.

(6) This section does not apply to a provider of basic local exchange service with less than 250,000 access lines.

Sec. 316. (1) The commission shall require each provider of residential basic local exchange service to offer certain low income customers the availability of basic local exchange service at a rate below the regulated rate.

(2) The basic local exchange rate for low income customers, except for as provided in subsection (3), shall be 20% or \$4.00 which shall be inclusive of any federal contribution, whichever is greater, below the regulated rate. To qualify for the reduced rate under this subsection, the person's annual income shall not exceed 150% of the federal poverty income standards as determined by the United States office of management and budget and as approved by the state treasurer.

(3) The basic local exchange rate for low income customers 65 years of age or more shall be 25% or \$4.00 which shall be inclusive of any federal contribution, whichever is greater, below the regulated rate.

(4) The commission shall establish a rate for each subscriber line of a provider to allow the provider to recover costs incurred under this section.

(5) The commission shall take necessary action to notify the general public of the availability of lifeline services including, but not limited to, public service announcements, newspaper notices, and such other notice reasonably calculated to reach those who may benefit from the services.

## G. OPERATOR SERVICE PROVIDERS

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

(a) That an OSP shall furnish each entity with which the OSP contracts to provide operator service a sticker, card, or other form of information for each telephone that has access to the operator service. The information shall include the name of the operator service provider, a toll-free customer service telephone number, and a statement that charges imposed by the operator service provider may be obtained by calling the toll-free telephone number. The operator service provider shall require by 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.

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

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

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

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

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

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

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

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

#### H. PAYPHONE SERVICES

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

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

Sec. 319. (1) The commission shall determine the rate that a provider of toll service is to compensate a provider of payphone service for calls made on a payphone of the provider that utilizes the toll service and avoids customer direct compensation to the provider of the payphone service.

(2) The rate of compensation determined under subsection (1) shall be based on a per-call basis and shall be at the total service long run incremental cost of providing the payphone service.

(3) Until a determination can be made under subsection (1), the toll service provider shall compensate the provider of the payphone service on a per-call basis at a rate of 25 cents for each call.

(4) A provider of payphone service with less than 10,000 payphones may determine total service long run incremental cost through preparation of a cost study or may determine that their total service long run incremental cost is the same as that of a provider with more than 10,000 payphones.

(5) A provider of payphone service shall not receive compensation under this section unless the provider has registered under section 320.

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

(a) The name of the provider.

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

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

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

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

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

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

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

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

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

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

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

## I. REGULATED RATES

Sec. 321. Except as otherwise provided under section 304a, a provider of a regulated telecommunication service shall not charge a rate for the service that is less than the total service long run incremental cost of providing the service.

## ARTICLE 3A

### INTERCONNECTION OF TELECOMMUNICATION PROVIDERS WITH THE BASIC LOCAL EXCHANGE SERVICE

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

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

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

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

## A. JOINT MARKETING

Sec. 354. (1) Except as otherwise provided in subsection (2), until inter-LATA prohibitions are removed for providers of basic local exchange service, a provider of basic local exchange service shall not do any of the following:

(a) Jointly market or offer as a package a basic local exchange service together with an inter-LATA toll service or condition a rate for basic local exchange service on the customer also ordering an inter-LATA toll service.

(b) Discriminate against providers of toll service by not making available customer names and addresses that are available to an affiliate of the basic local exchange provider.

(2) Subsection (1)(a) does not apply to a Michigan facility based provider or to the extent that a provider is providing 1+intra-LATA toll dialing parity under section 312b.

## B. SERVICE UNBUNDLING

Sec. 355. (1) On or before January 1, 1996, a provider of basic local exchange service shall unbundle and separately price each basic local exchange service offered by the provider into the loop and port components and allow other providers to purchase such services on a nondiscriminatory basis.

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

Sec. 356. A provider of local exchange service shall allow and provide for virtual co-location with other providers at or near the central office of the provider of local exchange service of transmission equipment that the provider has exclusive physical control over and is necessary for efficient interconnection of the unbundled services. Providers may enter into an agreement that allows for interconnection on other terms and conditions than provided under this subsection.

## C. RESALE OF LOCAL EXCHANGE SERVICE

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

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

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

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

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

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

(5) After January 1, 2000, wholesale rates shall not be less than the provider's total service long run incremental cost of the services.

#### D. NUMBER PORTABILITY

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

(2) No later than January 1, 1999, a provider of basic local exchange service shall provide number portability.

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

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

#### E. TERMINATION RATES

Sec. 359. (1) No later than January 1, 1996, a provider of basic local exchange service shall establish a rate charge for other providers of basic local exchange service for the termination of local traffic on its network as provided under section 352.

(2) This section does not prohibit providers of basic local exchange service from entering into an agreement to provide for the exchange of local traffic on other terms and conditions. Any compensation arrangements agreed to between providers under this subsection shall be available to other providers with the same terms and conditions on a nondiscriminatory basis.

#### F. DIRECTORY ASSISTANCE

Sec. 360. (1) No later than January 1, 1996, a provider of basic local exchange service shall establish a rate to other providers of basic local exchange service for providing directory assistance.

(2) This section does not prohibit providers of basic local exchange service from entering into an agreement to provide for the exchange of providing directory assistance on other terms and conditions.

#### G. ATTACHMENT RATES

Sec. 361. (1) As used in this section:

(a) "Attachment" means any wire, cable, facility, or other apparatus installed upon any pole or in any duct or conduit, owned or controlled, in whole or in part, by a provider.

(b) "Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable grade clearance and includes the space which separates telecommunication and power lines.

(2) A provider shall establish the rates, terms, and conditions for attachments by another provider or cable service.

(3) The rates, terms, and conditions shall be just and reasonable. A rate shall be just and reasonable if it assures the provider recovery of not less than the additional costs of providing the attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the attachment, by the sum of the operating expenses and actual capital costs of the provider attributable to the entire pole, duct, or right-of-way.

(4) An attaching provider or cable service shall obtain any necessary authorization before occupying public ways or private rights-of-way with its attachment.

(5) A public utility that directly provides a regulated telecommunication service or cable service shall establish the rates, terms, and conditions for attachments as provided under this section.

(6) This section shall not be construed to limit the commission's authority to regulate the rates, terms, and conditions of attachments upon poles or in ducts or conduits owned or controlled by utilities engaged in the transmission of electricity for light, heat, or power.

## H. IMPUTATION

Sec. 362. (1) The rate of a provider of local exchange service is subject to subsection (2) if all of the following apply:

(a) The provider has a service that competes with a service of another provider.

(b) The other provider utilizes a service, including any unbundled service element or basic network component, from the provider of local exchange service that is not available within the relevant market or geographic area from any other provider of local exchange service.

(c) The provider of local exchange service uses that same noncompetitive service or its functional equivalent.

(2) The rate of a telecommunication service shall exceed the sum of both of the following:

(a) The tariffed rates, including access, carrier common line, residual interconnection, and similar charges, for the noncompetitive service or its functional equivalent that is actually used by the provider of local exchange service, as those rates would be charged a customer for the use of that service.

(b) The total service long run incremental costs of all other components of the provider of local exchange service.

## I. CUSTOMER DATA BASE

Sec. 363. Providers of basic local exchange service shall allow access by other providers, on a nondiscriminatory basis and in a timely and accurate manner, to data bases, including, but not limited to, the line information data base (LIDB), the 800 data base, and other information necessary to complete a call within the exchange, either on terms and conditions as the providers may agree or as otherwise ordered by the commission.

Sec. 401. (1) Except as otherwise provided by law or preempted by federal law, the commission shall not have authority over enhanced services, paging, cellular, mobile, and answering services, video, cable service, pay-per-view, shared tenant, private networks, financial services networks, radio and television, WATS, personal communication networks, municipally owned telecommunication system, 800 prefix services, burglar and fire alarm services, energy management services, except for state institutions of higher education the reselling of centrex or its equivalent, payphone services, and the reselling of an unlicensed telecommunication service. The foregoing services shall not be considered part of basic local exchange service.

(2) Except as otherwise provided by this act, the commission shall not have the authority over a telecommunication service not specifically provided for in this act.

Sec. 502. A provider of a telecommunication service shall not do any of the following:

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

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

(c) If an end-user has canceled a service, charge the end-user for service provided after the effective date the service was canceled.

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

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

Sec. 503. (1) The commission shall promulgate rules under section 213 that establish privacy guidelines in the providing of telecommunication services.

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

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

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

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



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

Sec. 504. Each regulated telecommunications provider shall file with the commission a small and minority owned telecommunication business, as defined by the department of management and budget, participation plan within 60 days of the effective date of this act. Competing telecommunication providers shall file such a plan with the commission with their application for license. Such plan shall contain such entity's plan for purchasing goods and services from small and minority telecommunications businesses and information on programs, if any, to provide technical assistance to such businesses.

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

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

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

Sec. 604. (1) This act is repealed effective January 1, 2001.

(2) Section 312b of Act No. 179 of the Public Acts of 1991, being section 484.2312b of the Michigan Compiled Laws, is repealed effective July 1, 1997.

(3) Sections 206, 207a, 212, 307a, 501, and 605 of Act No. 179 of the Public Acts of 1991, being sections 484.2206, 484.2207a, 484.2212, 484.2307a, 484.2501, and 484.2605 of the Michigan Compiled Laws, are repealed.

(4) Section 3g of Act No. 206 of the Public Acts of 1913, being section 484.103g of the Michigan Compiled Laws, is repealed.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved -----

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Governor.