HOUSE BILL NO. 5949


A bill to amend 1991 PA 179, entitled
"Michigan telecommunications act,"
by amending sections 102, 103, 201, 202, 205, 210, 213, 303, 304, 305, 305a, 305b, 313, 353a, 401, 502, and 503 (MCL 484.2102, 484.2103, 484.2201, 484.2202, 484.2205, 484.2210, 484.2213, 484.2303, 484.2304, 484.2305, 484.2305a, 484.2305b, 484.2313, 484.2353a, 484.2401, 484.2502, and 484.2503), sections 102, 201, 202, 205, 210, 303, 305, 305a, 305b, 353a, 401, and 503 as amended by 2011 PA 58 and sections 103, 304, 313, and 502 as amended by 2014 PA 52, and by adding sections 301a, 306, 308, 309b,
THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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) "Broadband service" means a mass-market retail service capable of transmitting data over an access line at a rate greater than 200 kilobits per second by wire or radio provided to customers in this state that provides the capability to transmit data to, and receive data from, all or substantially all internet endpoints, including, but not limited to, any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. Broadband service includes any service provided to customers in this state that provides a functional equivalent of a service described in this subdivision or that is used to evade the protections of this act.

(d) "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.

(e) "Commission" means the Michigan public service commission.

(f) "Contested case" or "case" means a proceeding as defined

(g) "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.

(h) "End user" means the retail subscriber of a telecommunication service.

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

(j) "Exchange" means 1 or more contiguous central offices and all associated facilities within a geographical area in which basic local exchange service is offered by a provider.

(k) "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 that capability for the
management, control, or operation of a telecommunications system or
the management of a telecommunications service.

(l) "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.

(m) "License" means a license issued under this act.

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

(o) "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.

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

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

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

(s) "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.

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

(u) "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.

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

(w) "Person with disabilities" means an individual 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 individual's expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the individual's arterial oxygen tension is less than 60 mm/hg of room air at rest.
(w) A cardiovascular disease from which the individual measures between 3 and 4 on the New York Heart Association 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.

(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) "Public safety system" means a communication system operated by a public entity to provide emergency police, fire, medical, and other first responder services. Public safety system includes the Michigan state police communication system.

(z) "Reasonable rate" or "just and reasonable rate" means a rate that is not inadequate, excessive, or unreasonably discriminatory.

(aa) "Residential customer" means a person to whom telecommunication services are furnished predominantly for personal or domestic purposes at the person's dwelling.

(bb) "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.

(cc) "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.

(dd) "Telecommunications act of 1996" means Public Law 104-104.

(ee) "Telecommunication provider" or "provider" means a person that for compensation provides 1 or more telecommunication services. Telecommunication provider does not include a provider of commercial mobile service as defined in section 332(d)(1) of the telecommunications act of 1996, 47 USC 332.

(ff) "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.

(gg) "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.

(hh) "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.

(ii) "Wide area telecommunications service" or "WATS" means the transmission of 2-way interactive switched communication over a
Sec. 103. (1) Except as otherwise provided in this act, this act does not be construed to prevent any person from providing telecommunication services in competition with another telecommunication provider.

(2) The commission shall maintain a publicly available database of providers in each exchange that are licensed to or otherwise provide toll and local exchange service in this state. submit an annual report describing the status of competition in telecommunication services in this state, including, but not limited to, the toll and local exchange service markets in this state. The report required under this section must be submitted to the governor and the house and senate standing committees with oversight of telecommunication issues.

(3) A provider shall submit to the commission all information requested by the commission necessary for the preparation and maintenance of the database and annual report under this section.

Sec. 201. (1) Except as otherwise provided by this act or federal law, the commission has the jurisdiction and authority to administer this act and all federal telecommunications laws, rules, orders, and regulations that are delegated to the state, including, but not limited to, the authority to arbitrate and enforce interconnection agreements and to establish rates in accordance with the standards set forth by applicable law.

(2) The commission has the jurisdiction and authority to regulate all providers of broadband service.

(3) The commission shall exercise its jurisdiction and authority consistent with this act and all federal telecommunications laws, rules, orders, and regulations.
Sec. 202. (1) 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 cost 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) Except as otherwise provided in this subdivision, 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. Except for access service, a provider is exempt from any commission order requiring that provider to file with the commission its rates, services, and conditions of regulated service if the provider files a certification with the commission opting out of the filing requirement. A certification under this subdivision shall be signed by an officer of the provider.

(c) Promulgate rules under section 213 to establish and enforce quality standards for all of the following:

(i) The provision of basic local exchange service to end users.

(ii) The provision of unbundled network elements and local interconnection services to providers that are used in the provision of basic local exchange service.

(iii) The timely and complete transfer of an end user from 1
provider of basic local exchange service to another provider.

(iv) Providers of basic local exchange service that cease to provide the service to any segment of end users or geographic area, go out of business, or withdraw from the state, including the transfer of customers to other providers and the reclaiming of unused telephone numbers.

(v) The provision of broadband service in this state including, but not limited to, billing transparency, pricing, service quality, dispute resolution, nondiscriminatory treatment, service for vulnerable populations, and discontinuance of service.

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

(2) Rules promulgated under subsection (1)(c) must include remedies for the enforcement of the rules that are consistent with this act and federal law. Rules promulgated under subsection (1)(c)(ii) do not apply to the provision of unbundled network elements and local interconnection services subject to quality standards in an interconnection agreement approved by the commission. In promulgating any rules under subsection (1)(c), the commission shall consider to what extent current market conditions are sufficient to provide adequate service quality to basic local exchange service end users. Any service quality rules promulgated by the commission shall expire within 3 years of the effective date of the rules. The commission may, before the expiration of the rules, promulgate new rules under subsection (1)(c). However, the commission may promulgate new rules under subsection (1)(c)(iii) at any time. Any service quality rules promulgated by the commission under subsection (1)(c)(i) and any retail service quality rules
promulgated before January 1, 2006 shall expire on June 30, 2011.

(3) The commission shall permit the electronic filing of any pleadings, tariffs, or any other document required or allowed to be filed with the commission under this act.

Sec. 205. (1) The commission may investigate and resolve complaints under this act. The penalties under this act must 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 rates, quality, general availability, or conditions for a regulated service violate this act, 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. 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 disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) If information is disclosed under a mandatory protective order, then the information may be included in the commission's evidentiary record if admissible, but shall remain confidential.

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

(4) Information regarding settlement, including a recommended settlement issued by a mediator in a proceeding, shall be disclosed only to the parties to the proceeding unless all parties consent to disclosure. A mediator's recommended settlement may be disclosed to the commission after the commission has issued a final order. The administrative law judge assigned to any contested case proceeding arising from a mediation shall not be made aware of the acceptance or rejection by the parties of the recommended settlement, or the terms of the recommended settlement. The parties to the mediation shall not disclose or reveal the terms of the recommended settlement to anyone other than the parties to the mediation.

Sec. 213. (1) Subject to section 201, and limited to its specific authority over a service as provided under this act, the commission may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) A proceeding before the commission to promulgate rules under this act shall must be concluded within 180 days from after the date that the proceeding is initiated.

(3) The following administrative rules are rescinded:

(a) Privacy standards for telecommunication services, R 484.201 to R 484.208 of the Michigan administrative code.

(b) Billing standards for basic residential telecommunication service, R 484.301 to R 484.386 of the Michigan administrative code.

(c) Telecommunications service quality, R 484.519 to R 484.571 of the Michigan administrative code.

Sec. 301a. A provider licensed under this act shall offer primary basic local exchange service to each residential customer
within the provider's service area where the provider is offering
residential basic local exchange service.

Sec. 303. (1) The sale or transfer of shares of stock of a
provider of primary basic local exchange service is not a sale or
transfer of a license or a discontinuance of service.

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

(3) A license issued under this act is not transferable to an
unlicensed provider.

(4) In case of the bankruptcy of a licensed provider, the
commission shall establish the procedures for the transfer of the
license to another qualified provider.

Sec. 304. (1) The rates for primary basic local exchange
service must be just and reasonable. Each provider shall set the
initial rates for primary basic local exchange service. Except as
provided under section 310a or a higher rate approved by the
commission under subsection (2)(d), the initial rates may not
exceed the rates for the lowest cost calling plan that includes a
limited number of outgoing calls of the provider in place before
the rates are set under this subsection. If a provider does not
offer a calling plan with a limited number of outgoing calls, the
provider shall set the initial rate for primary basic local
exchange service that must be just and reasonable and is subject to
commission review.

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

(a) Filing with the commission a notice of a reduction in a primary basic local exchange rate. A rate alteration under this subdivision is effective without commission review or approval.

(b) Filing with the commission a notice of an increase in a primary basic local exchange rate to a level not to exceed the rate established under subsection (1) or subdivisions (c) and (d). A rate alteration under this subdivision is effective without commission review or approval.

(c) 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 takes effect 90 days after 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.

(d) Filing with the commission an application to increase a primary basic local exchange rate in an amount greater than that allowed under subsection (1) or subdivision (c). The application must 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)(c) or (d) and must be included in or on the bill of each affected customer of the provider at least 1 billing cycle before the effective date of the rate alteration.

(4) The notice required under subsection (3) must 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 must also include the telephone number and address of the commission. Complete details of the rate alteration must 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 primary basic local exchange rate takes effect 90 days after the date of the notice required by subsection (3).

(6) Upon receiving a complaint or pursuant to a determination under subsection (2)(d), the commission may require a filing under section 203 to review a proposed rate alteration under subsection (2)(d). 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 is allowed only 1 rate increase for each regulated service during any 12-month period.

(9) A call made to a local calling area adjacent to the caller's local calling area is considered a local call and shall be billed as a local call. Effective December 31, 2007, a call made to a called party who is not located within the geographic area of the caller's local calling area or an adjacent local calling area as defined by the commission's order in case numbers U-12515 and U-12528, dated February 5, 2001, is not a local call if the tariff, service guide, or similar document containing the terms and conditions of the provider originating the call does not classify the call as a local call.

(10) An alteration by a provider to the rate of a package, combination, or bundle of telecommunication or other services that includes primary basic local exchange service is not subject to this section as long as the primary basic local exchange service component of the package, combination, or bundle is available for purchase on a stand-alone basis.

(11) A provider shall offer its regulated calling features
on a stand-alone basis to its primary basic local exchange service customers. The purchase of a calling feature under this subsection does not affect the regulated rate of the primary basic local exchange service.

(12) A person with disabilities or who 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 person who provides a service for a congressionally chartered veterans organization or their duly authorized foundations, is exempt from the 100 calls per month limitation and must receive a flat rate allowing unlimited calls per month. A person exempt from the call cap under this subsection must not be charged a rate greater than the flat rate charged residential customers for primary basic local exchange service.

(13) Except as provided in subsection (14), 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.

(14) (2) A provider of basic local exchange service with less than 10,000-15,000 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.

(15) A provider shall file with the commission for review and approval of a tariff for the rates and charges for calls made that exceed the 100-call limit of primary basic local exchange service.
Sec. 305. 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.

Sec. 305a. (1) Except as otherwise provided by federal law, where technically feasible, a provider originating or forwarding an intrastate call that is terminated on the network of another provider shall do all of the following:

(a) For originated calls, transmit the telephone number of the party originating the call. The telephone number shall be transmitted without alteration in the network signaling information.

(b) For forwarded calls, transmit the telephone number of the party originating the call, to the extent that information has been
provided by the originating carrier. The telephone number shall be transmitted without alteration in the network signaling information.

(2) The commission shall investigate complaints alleging violations of this section and may initiate proceedings under section 203 to resolve disputes between providers regarding identification of traffic and disputes regarding compensation rights and obligations between providers who originate, forward, or terminate intrastate traffic.

(3) If the commission determines that the telephone number has not been transmitted as required by this section, the provider against whom the complaint was filed shall demonstrate that it was not technically feasible to transmit the information, or that it had a legitimate business or other good faith reason for not transmitting the telephone number.

(4) If the commission determines that a provider violated this section, the commission shall determine if the violation resulted in a nonpayment or underpayment of compensation to the complaining provider under the terms of the parties' compensation agreement or its intrastate access tariff. The commission shall determine the amount of the nonpayment or underpayment and order the violating provider to make payment. The commission shall assess a fine against the violating provider in an amount equal to 2 times the payment amount, and may take any other action authorized by Michigan law that it considers necessary.

(5) A provider that originates an intrastate call subject to section 251(b)(5) of the telecommunications act of 1996, 47 USC 251, shall agree to establish a reciprocal compensation arrangement for the termination of those calls. Originating and terminating
providers shall agree to begin negotiations no more than 30 days
after the originating provider receives a request from a
terminating provider to establish an arrangement. During the
negotiation period, reciprocal compensation rates shall be
assessed by the terminating carrier under an interim arrangement
with the originating carrier. Originating and terminating providers
shall use good faith efforts to conclude negotiations and finalize
an agreement within a reasonable time period.

(6) A provider that originates an intrastate intra-LATA call
subject to a terminating carrier's intrastate access tariffs shall
pay the tariffed rate for termination of the call.

(7) The commission may resolve disputes under this section
between originating and terminating providers related to
negotiation of the reciprocal compensation agreement and the
payment of the tariffed rates.

Sec. 305b. A provider of any telecommunication service shall
do all of the following:

(a) Upon request, provide each customer a clear and simple explanation of
the terms and conditions of the services purchased by the customer
including, but not limited to, a statement of all fees, charges,
and taxes that will be included in the customer's monthly bill.

(b) The statement required under subdivision (a) shall include
a good faith estimate by the provider of the actual monthly cost
that the customer will be required to pay if the service is
purchased.

(c) Comply with all federal and state requirements regarding
truth in billing, E 9-1-1 services, and primary basic local
exchange service.
(d) If E 9-1-1 service is not available to the customer, ensure that the customer has an alternative means to reach emergency service responders.

(e) Comply with sections 505 and 507.

Sec. 306. 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. 308. (1) Basic local exchange or access rates or proceeds from the sale, lease, or transfer of rate acquired assets must 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 may review the books and accounts of both the provider and affiliated entities of the provider.

Sec. 309b. A provider of a regulated service in this state 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 this state to prevent organizing.

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 must be made available for resale by the telecommunication provider offering the service.

Sec. 312. (1) The commission shall not review or set the rates for toll service.

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

(3) Upon commission review and approval, all providers of toll service shall make available to their customers adjacent exchange
toll calling plans. All providers of toll service shall inform
their customers of the available plans that provide a monthly
allowance of toll calling to adjacent exchanges for which there is
no local calling. All providers of toll service shall inform their
customers of the available plans. The plans required under this
subsection remain in effect under this act until altered by order
of the commission.

Sec. 313. (1) A telecommunication provider that provides
either basic local exchange or toll service, or both, shall not
discontinue either service to an exchange unless 1 or more
alternative telecommunication providers for toll service, or 2 or
more alternative providers for basic local exchange service, are
furnishing the same telecommunication service to the customers in the exchange. A comparable voice service includes
any 2-way voice service offered through any form of technology that
is capable of placing and receiving calls from a provider of basic
local exchange service, including voice over internet protocol
services and wireless services.

(2) A telecommunication provider proposing to discontinue a
regulated service to an exchange shall file a notice of the
discontinuance of service with the commission, publish the notice
in a newspaper of general circulation within the exchange, provide
notice to each of its customers within the exchange by first-class
mail or within customer bills, and provide other reasonable notice
as required by the commission.

(3) Within 60-30 days after the date of publication or receipt
of the notice required by subsection (2), a person or other
telecommunication provider affected by a discontinuance of services
by a telecommunication provider may apply to the commission to
determine if the discontinuance of service is authorized under this act. Within 90 days after the date of publication of the notice required by subsection (2), the commission may, in response to a request or on its own initiative, commence a proceeding to determine if the discontinuance of service is authorized under this act. The commission has 180 days from the date any proceeding is initiated under this subsection to issue its final order. A provider shall not discontinue service unless it has provided at least 60 days' notice to each customer after a commission order has been issued under this subsection or after the last day for initiating a proceeding under this subsection.

(4) Discontinuance of basic local exchange service under this section by an incumbent local exchange carrier does not affect the requirements of that incumbent local exchange carrier under federal law and this act. As used in this subdivision, "incumbent local exchange carrier" means that term as defined in section 251(h) of the telecommunications act of 1996, 47 USC 251. This section does not create, restrict, or expand the commission's jurisdiction and authority for any of the following:

(a) The jurisdiction and authority established under section 201.

(b) The jurisdiction and authority to carry out the commission's obligations to enforce the rights, duties, and obligations of an entity that are established in sections 251 and 252 of the telecommunications act of 1996, 47 USC 251 and 252, and any applicable agreement or wholesale tariff or state law, rule, regulation, or order related to wholesale rights, duties, and obligations, including, but not limited to, interconnection and exchange voice traffic.
(c) The jurisdiction and authority to regulate switched access
rates, terms, and conditions, including the implementation of
federal or state law concerning intercarrier compensation.

(5) Subsections (1) to (3) do not apply after December 31,
2016. Beginning January 1, 2017, a telecommunication provider that
provides basic local exchange or toll service may discontinue that
service in an exchange by doing each of the following:

(a) At the same time as filing a petition under section 214 of
the telecommunications act of 1996, 47 USC 214, all of the
following:

(i) File a notice of the proposed discontinuance of service
with the commission.

(ii) Publish a notice of the proposed discontinuance of service
in a newspaper of general circulation within the exchange.

(iii) Provide notice of the proposed discontinuance of service
to each of the telecommunication provider's customers within the
exchange by first-class mail or within customer bills.

(iv) Provide notice of the proposed discontinuance of service
to any interconnecting telecommunication providers by first-class
mail or other notice permitted under the terms of the
interconnection agreement between the providers.

(b) Upon approval of the federal communications commission to
discontinue service, at least 90 days before discontinuing service,
all of the following:

(i) File a notice of the discontinuance of service with the
commission.

(ii) Publish a notice of the discontinuance of service in a
newspaper of general circulation within the exchange.

(iii) Provide notice of the discontinuance of service to each of


the telecommunication provider's customers within the exchange by
first-class mail or within customer bills.

(iv) Provide notice to any interconnecting telecommunication
providers by first-class mail or other notice permitted under the
terms of the interconnection agreement between the providers.

(6) After January 1, 2017, and only in an area in which a
telecommunication provider either has given notice of a proposed
disinuance of service under subsection (5) or has discontinued
service within the previous 90 days, a customer of that provider or
any interconnecting telecommunication provider may request the
commission to investigate the availability of comparable voice
service with reliable access to 9-1-1 and emergency services to
that customer or a customer of an interconnecting telecommunication
provider. If the commission, after conducting an investigation to
last no longer than 180 days regarding the availability of
comparable voice service with reliable access to 9-1-1 and
emergency services, determines that the federal communications
commission failed to make a finding that the present and future
public convenience and necessity is not adversely affected or has
not adequately addressed the issue, the commission shall declare by
order that an emergency exists in an area in this state that is not
served by at least 1 voice service provider offering comparable
voice service with reliable access to 9-1-1 and emergency services
through any technology or medium and shall conduct a request for
service process to identify a willing provider of comparable voice
service with reliable access to 9-1-1 and emergency services in
that area, including the current provider. A provider shall not be
required to participate in the request for service process. The
willing provider may utilize any form of technology that is capable
of providing comparable voice service with reliable access to 9-1-1 and emergency services, including voice over internet protocol services and wireless services. If the commission determines that another provider is not capable of providing comparable voice service with reliable access to 9-1-1 and emergency services in that area, the commission shall issue an order requiring the current telecommunication provider to provide comparable voice service with reliable access to 9-1-1 and emergency services in that area utilizing any form of technology that the commission determines is capable of providing comparable voice service with reliable access to 9-1-1 and emergency services, including voice over internet protocol services and wireless services, until another willing provider is available. An intrastate universal service fund under section 316a shall not be created or used to compensate or fund a willing provider or current telecommunication provider to provide service under this section. As used in this subsection:

(a) "Comparable voice service" includes any 2-way voice service offered through any form of technology, including voice over internet protocol services and wireless services, that is capable of placing calls to and receiving calls from a provider of basic local exchange service.

(b) "Emergency services" means services provided to the public by police, fire, ambulance, or other first responders.

(c) "Reliable access to 9-1-1" means the rules, regulations, and guidelines set forth in the FCC trials order, including all appendices, that provide comparable and reliable consumer access to emergency services.

(d) "Willing provider" means a provider that voluntarily
(7) Beginning January 1, 2017, a telecommunication provider that discontinues service under this section shall adhere to all rules, regulations, and guidelines set forth in the FCC trials order, including all appendices, for each of that telecommunication provider's exchanges in this state, whether or not the discontinuance is undertaken pursuant to an official trial under the FCC trials order, except that all notices or reports to be filed with the federal communications commission shall be submitted to the Michigan public service commission for its information. This subsection is effective until the federal communications commission determines the legal and policy framework and establishes the requirements for the IP-transition including emergency connectivity requirements that provide comparable and reliable consumer access to emergency services.

(8) As used in this section, "FCC trials order" means the order of the federal communications commission, GN docket nos. 13-5 and 12-353, adopted January 30, 2014, and any subsequent order of the federal communications commission modifying or revising that order that includes emergency connectivity requirements that provide comparable and reliable consumer access to emergency services.

Sec. 314. (1) A provider of a regulated service shall not discontinue the regulated service for failure by a customer to pay a rate or charge imposed for an unregulated service. For the purposes of this section, the commission may determine how payments are allocated between regulated and unregulated services.

(2) The commission shall determine when and under what conditions a provider of basic local exchange service may
Sec. 321. 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.

Sec. 353a. (1) When negotiating a successor interconnection agreement, unless the parties agree otherwise, the parties shall use an interconnection agreement which has been approved by the commission in the 3-year period immediately preceding the commencement of negotiations as the baseline document. A party requesting the adoption of language different than that found in the baseline document in an arbitration proceeding bears the burden of persuasion that the requested change is lawful and appropriate.

(2) If a party negotiating an interconnection agreement takes a position that the opposing party believes is contrary to a prior ruling of the commission in an arbitration proceeding, the opposing party may file a motion with the commission for a determination under this section. The motion shall be filed no later than 90 days from the commencement of negotiations. The commission shall rule upon the motion within 21 days of the date the motion is filed, and the commission shall determine the extent to which the issue may be relitigated.

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 must 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.

Sec. 401. (1) Except as otherwise provided by law or preempted by federal law, the commission does not have authority over enhanced services, paging, cellular, mobile, answering services, retail broadband service, 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, interconnected voice over internet protocol service, and the reselling of an unlicensed telecommunication service. The services listed in this subsection shall are not be considered part of basic local exchange service.

(2) The commission has authority over the telecommunication services specifically provided for in this act.

(3) This section does not modify or affect either of the following:
(a) The authority of a provider or the commission to act pursuant to or enforce 47 USC 251, 47 USC 252, any lawful and applicable tariff, or any state law, regulation, or order related to wholesale rights and obligations, including the rights and obligations of local exchange carriers to interconnect and exchange voice traffic.

(b) The payment of switched access rates or other intercarrier compensation rates, as applicable.

Sec. 502. (1) A provider of a basic local exchange 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 intentionally false, misleading, or deceptive. As used in this subdivision, "material information" includes, but is not limited to, a good faith estimate of all applicable fees, taxes, and charges that will be billed to the end-user, regardless of whether the fees, taxes, or charges are authorized by state or federal law.

(b) Charge an end-user for a subscribed service for which 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.

(f) Disparage the services, business, or reputation of another by false, deceptive, or misleading representation of fact.

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

(h) Cause a probability of confusion or a misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction by making an intentionally false, deceptive, or misleading statement or by failing to inform the customer of a material fact, the omission of which is deceptive or misleading.

(i) Represent or imply that the subject of a transaction will be provided promptly, or at a specified time, or within a reasonable time, if the provider knows or has reason to know it will not be so provided.

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

(k) Require the purchase of a regulated service of the provider as a condition of purchasing an unregulated service.

(l) If a bona fide dispute exists between a customer and the provider, disconnect the service to the customer for nonpayment of that disputed amount.

(2) When the commission has authority to bring a proceeding for a violation of this section, the commission may accept an assurance of discontinuance of a method, act, or practice that is alleged to be unlawful under this section from the person who is alleged to have engaged, be engaging, or be about to engage in the method, act, or practice. The assurance of discontinuance is not an
admission of guilt and shall not be introduced in any other proceeding. Unless rescinded by the parties or voided by the court for good cause, the parties to the assurance of discontinuance may enforce the assurance in circuit court. The assurance of discontinuance may include a stipulation for any of the following:

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

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

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

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

(2) The rules promulgated under this section must 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 telecommunication provider doing business in this state shall file with the commission a small and minority owned telecommunication business, as defined by the department of
management and budget, participation plan. A new provider seeking
to do business in this state shall file a small and minority owned
telecommunication business participation plan with the commission
with its application for license. The plan must contain the
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 small and minority
telecommunications businesses.

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