

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4314**

A bill to amend 1991 PA 179, entitled
"Michigan telecommunications act,"
by amending sections 101, 102, 103, 201, 202, 205, 210, 213, 303,
304, 305, 305a, 305b, 309, 310a, 313, 315, 316, 353a, 401, 502, and
503 (MCL 484.2101, 484.2102, 484.2103, 484.2201, 484.2202,
484.2205, 484.2210, 484.2213, 484.2303, 484.2304, 484.2305,
484.2305a, 484.2305b, 484.2309, 484.2310a, 484.2313, 484.2315,
484.2316, 484.2353a, 484.2401, 484.2502, and 484.2503), sections
101, 102, 103, 201, 202, 205, 210, 213, 303, 304, 305, 309, 315,
316, 401, and 502 as amended and sections 305a, 305b, 310a, and
353a as added by 2005 PA 235 and section 503 as amended by 2000 PA
295, and by adding section 305c; and to repeal acts and parts of
acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

4 (a) Ensure that every person has access to just, reasonable,
5 and affordable basic residential telecommunication service.

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

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

14 (C) ~~(d)~~ Encourage the introduction of new services, the entry
15 of new providers, the development of new technologies, and increase
16 investment in the telecommunication infrastructure in this state
17 through incentives to providers to offer the most efficient
18 services and products.

19 (D) ~~(e)~~ Improve the opportunities for economic development and
20 the delivery of essential services including education and health
21 care.

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

25 (E) ~~(g)~~ Encourage the use of existing educational
26 telecommunication networks and networks established by other
27 commercial providers as building blocks for a cooperative and

1 efficient statewide educational telecommunication system.

2 (F) ~~(h)~~—Ensure effective and timely review and disposition of
3 disputes between telecommunication providers.

4 (G) ~~(i)~~—Authorize actions to encourage the development of a
5 competitive telecommunication industry.

6 Sec. 102. As used in this act:

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

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

16 (c) "Broadband service" means a retail service capable of
17 transmitting data over an access line at a rate greater than 200
18 kilobits per second.

19 (d) "Cable service" means 1-way transmission to subscribers of
20 video programming or other programming services and subscriber
21 interaction for the selection of video programming or other
22 programming services.

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

24 (f) "Contested case" or "case" means a proceeding as defined
25 in section 3 of the administrative procedures act of 1969, 1969 PA
26 306, MCL 24.203.

27 (g) "Educational institution" means a public educational

1 institution or a private non-profit educational institution
2 approved by the department of education to provide a program of
3 primary, secondary, or higher education, a public library, or a
4 nonprofit association or consortium whose primary purpose is
5 education. A nonprofit association or consortium under this
6 subdivision shall consist of 2 or more of the following:

7 (i) Public educational institutions.

8 (ii) Nonprofit educational institutions approved by the
9 department of education.

10 (iii) The state board of education.

11 (iv) Telecommunication providers.

12 (v) A nonprofit association of educational institutions or
13 consortium of educational institutions.

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

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

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

23 (k) "Information services" or "enhanced services" means the
24 offering of a capability for generating, acquiring, storing,
25 transforming, processing, retrieving, utilizing, or making
26 available information, including energy management services, that
27 is conveyed by telecommunications. Information services or enhanced

1 services do not include the use of ~~such~~**THAT** capability for the
2 management, control, or operation of a telecommunications system or
3 the management of a telecommunications service.

4 (l) "Interconnection" means the technical arrangements and
5 other elements necessary to permit the connection between the
6 switched networks of 2 or more providers to enable a
7 telecommunication service originating on the network of 1 provider
8 to terminate on the network of another provider.

9 (m) "License" means a license issued ~~pursuant to~~**UNDER** this
10 act.

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

13 (o) "Local calling area" means a geographic area encompassing
14 1 or more local communities as described in maps, tariffs, or rate
15 schedules filed with and approved by the commission.

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

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

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

25 (s) "Operator service" means a telecommunication service that
26 includes automatic or live assistance to a person to arrange for
27 completion and billing of a telephone call originating within this

1 state that is specified by the caller through a method other than 1
2 of the following:

3 (i) Automatic completion with billing to the telephone from
4 which the call originated.

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

8 (iii) Completion in association with directory assistance
9 services.

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

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

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

19 (w) "Person with disabilities" means ~~a person~~ **AN INDIVIDUAL**
20 who has 1 or more of the following physical characteristics:

21 (i) Blindness.

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

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

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

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

(vi) A cardiovascular disease from which the ~~person~~ **INDIVIDUAL** 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.

(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) "Primary basic local exchange service" means the provision of 1 primary access line to a residential customer for voice communication and shall include all of the following:~~

~~—— (i) Not fewer than 100 outgoing calls per month.~~

~~—— (ii) Not less than 12,000 outgoing minutes per month.~~

~~—— (iii) Unlimited incoming calls.~~

(Y) ~~(z)~~ "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) ~~(aa)~~ "Reasonable rate" or "just and reasonable rate" means

1 a rate that is not inadequate, excessive, or unreasonably
2 discriminatory. ~~A rate is inadequate if it is less than the total~~
3 ~~service long run incremental cost of providing the service.~~

4 (AA) ~~(bb)~~ "Residential customer" means a person to whom
5 telecommunication services are furnished predominantly for personal
6 or domestic purposes at the person's dwelling.

7 (BB) ~~(cc)~~ "Special access" means the provision of access
8 service, other than switched access service, to a local exchange
9 network for the purpose of enabling a provider to originate or
10 terminate telecommunication service within the exchange, including
11 the use of local private lines.

12 (CC) ~~(dd)~~ "State institution of higher education" means an
13 institution of higher education described in sections 4, 5, and 6
14 of article VIII of the state constitution of 1963.

15 (DD) ~~(ee)~~ "Telecommunications act of 1996" means Public Law
16 104-104.

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

22 (FF) ~~(gg)~~ "Telecommunication services" or "services" includes
23 regulated and unregulated services offered to customers for the
24 transmission of 2-way interactive communication and associated
25 usage. A telecommunication service is not a public utility service.

26 (GG) ~~(hh)~~ "Toll service" means the transmission of 2-way
27 interactive switched communication between local calling areas.

1 Toll service does not include individually negotiated contracts for
2 similar telecommunication services or wide area telecommunications
3 service.

4 (HH) ~~(ii)~~—"Total service long run incremental cost" means,
5 given current service demand, including associated costs of every
6 component necessary to provide the service, 1 of the following:

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

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

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

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

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

27 (3) A provider shall submit to the commission all information

1 requested by the commission necessary for the preparation of the
2 annual report under this section.

3 **(4) SUBSECTIONS (2) AND (3) DO NOT APPLY AFTER THE COMMISSION**
4 **ISSUES ITS ANNUAL REPORT UNDER SUBSECTION (2) IN 2013.**

5 Sec. 201. (1) Except as otherwise provided by this act or
6 federal law, the ~~Michigan public service commission shall have~~ **HAS**
7 the jurisdiction and authority to administer this act and all
8 federal telecommunications laws, rules, orders, and regulations
9 that are delegated to the state, **INCLUDING, BUT NOT LIMITED TO, THE**
10 **AUTHORITY TO ARBITRATE AND ENFORCE INTERCONNECTION AGREEMENTS AND**
11 **TO ESTABLISH RATES IN ACCORDANCE WITH THE STANDARDS SET FORTH BY**
12 **APPLICABLE LAW.**

13 (2) The commission shall exercise its jurisdiction and
14 authority consistent with this act and all federal
15 telecommunications laws, rules, orders, and regulations.

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

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

27 (b) ~~Require~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION,**

1 **REQUIRE** by order that a provider of a regulated service, including
 2 access service, make available for public inspection and file with
 3 the commission a schedule of the provider's rates, services, and
 4 conditions of service, including access service provided by
 5 contract. **EXCEPT FOR ACCESS SERVICE, A PROVIDER IS EXEMPT FROM ANY**
 6 **COMMISSION ORDER REQUIRING THAT PROVIDER TO FILE WITH THE**
 7 **COMMISSION ITS RATES, SERVICES, AND CONDITIONS OF REGULATED SERVICE**
 8 **IF THE PROVIDER FILES A CERTIFICATION WITH THE COMMISSION OPTING**
 9 **OUT OF THE FILING REQUIREMENT. A CERTIFICATION UNDER THIS**
 10 **SUBDIVISION SHALL BE SIGNED BY AN OFFICER OF THE PROVIDER.**

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

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

14 (ii) The provision of unbundled network elements and local
 15 interconnection services to providers ~~which~~**THAT** are used in the
 16 provision of basic local exchange service.

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

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

24 ~~—— (d) Preserve the provision of high quality basic local~~
 25 ~~exchange service.~~

26 (2) Rules promulgated under subsection (1)(c) shall include
 27 remedies for the enforcement of the rules that are consistent with

1 this act and federal law. Rules promulgated under subsection
 2 (1)(c)(ii) shall not apply to the provision of unbundled network
 3 elements and local interconnection services subject to quality
 4 standards in an interconnection agreement approved by the
 5 commission. In promulgating any rules under subsection (1)(c), the
 6 commission shall consider to what extent current market conditions
 7 are sufficient to provide adequate service quality to basic local
 8 exchange service end users. Any service quality rules promulgated
 9 by the commission shall expire within 3 years of the effective date
 10 of the rules. The commission may, ~~prior to~~ **BEFORE** the expiration of
 11 the rules, promulgate new rules under subsection (1)(c). **HOWEVER,**
 12 **THE COMMISSION MAY PROMULGATE NEW RULES UNDER SUBSECTION (1)(C)(iii)**
 13 **AT ANY TIME. ANY SERVICE QUALITY RULES PROMULGATED BY THE**
 14 **COMMISSION UNDER SUBSECTION (1)(C)(i) AND ANY RETAIL SERVICE QUALITY**
 15 **RULES PROMULGATED BEFORE JANUARY 1, 2006 SHALL EXPIRE ON JUNE 30,**
 16 **2011.**

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

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

24 ~~—— (2) If the commission finds, after notice and hearing, that~~
 25 ~~the rates, quality, general availability, or conditions for a~~
 26 ~~regulated service violate this act, an order of the commission~~
 27 ~~under this act, or is adverse to the public interest, the~~

1 ~~commission may require changes in how the telecommunication~~
2 ~~services are provided. The commission's authority includes, but is~~
3 ~~not limited to, the revocation of a license and issuing cease and~~
4 ~~desist orders.~~

5 Sec. 210. (1) Except under the terms of a mandatory protective
6 order, trade secrets and commercial or financial information
7 submitted under this act are exempt from the freedom of information
8 act, 1976 PA 442, MCL 15.231 to 15.246.

9 (2) If information is disclosed ~~pursuant to~~ **UNDER** a mandatory
10 protective order, then the information may be included in the
11 commission's evidentiary record if admissible, but shall remain
12 confidential.

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

19 **(4) INFORMATION REGARDING SETTLEMENT, INCLUDING A RECOMMENDED**
20 **SETTLEMENT ISSUED BY A MEDIATOR IN A PROCEEDING, SHALL BE DISCLOSED**
21 **ONLY TO THE PARTIES TO THE PROCEEDING UNLESS ALL PARTIES CONSENT TO**
22 **DISCLOSURE. A MEDIATOR'S RECOMMENDED SETTLEMENT MAY BE DISCLOSED TO**
23 **THE COMMISSION AFTER THE COMMISSION HAS ISSUED A FINAL ORDER. THE**
24 **ADMINISTRATIVE LAW JUDGE ASSIGNED TO ANY CONTESTED CASE PROCEEDING**
25 **ARISING FROM A MEDIATION SHALL NOT BE MADE AWARE OF THE ACCEPTANCE**
26 **OR REJECTION BY THE PARTIES OF THE RECOMMENDED SETTLEMENT, OR THE**
27 **TERMS OF THE RECOMMENDED SETTLEMENT. THE PARTIES TO THE MEDIATION**

1 SHALL NOT DISCLOSE OR REVEAL THE TERMS OF THE RECOMMENDED
 2 SETTLEMENT TO ANYONE OTHER THAN THE PARTIES TO THE MEDIATION.

3 Sec. 213. (1) Subject to section 201 **AND LIMITED TO ITS**
 4 **SPECIFIC AUTHORITY OVER A SERVICE AS PROVIDED UNDER THIS ACT**, the
 5 commission may promulgate rules under the administrative procedures
 6 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

7 ~~—— (2) The following administrative rules shall not apply to~~
 8 ~~telecommunication providers or telecommunication services.~~

9 ~~—— (a) Electric power and communication lines: R 460.581 to R~~
 10 ~~460.592.~~

11 ~~—— (b) Intrastate telephone services and facilities: R 460.1951~~
 12 ~~to R 460.1968.~~

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

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

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

19 (2) ~~(3)~~ A proceeding before the commission to promulgate rules
 20 under this act shall be concluded within 180 days from the date
 21 that the proceeding is initiated.

22 (3) **THE FOLLOWING ADMINISTRATIVE RULES ARE RESCINDED:**

23 (A) **PRIVACY STANDARDS FOR TELECOMMUNICATION SERVICES, R**
 24 **484.201 TO R 484.208 OF THE MICHIGAN ADMINISTRATIVE CODE.**

25 (B) **BILLING STANDARDS FOR BASIC RESIDENTIAL TELECOMMUNICATION**
 26 **SERVICE, R 484.301 TO R 484.386 OF THE MICHIGAN ADMINISTRATIVE**
 27 **CODE.**

1 (C) TELECOMMUNICATIONS SERVICE QUALITY, R 484.519 TO R 484.571
2 OF THE MICHIGAN ADMINISTRATIVE CODE.

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

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

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

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

17 Sec. 304. ~~(1) The rates for primary basic local exchange~~
18 ~~service shall be just and reasonable. Each provider shall set the~~
19 ~~initial rates for primary basic local exchange service to be~~
20 ~~effective no later than April 1, 2006. Except as provided under~~
21 ~~section 310a or a higher rate approved by the commission under~~
22 ~~subsection (2)(d), the initial rates may not exceed the rates for~~
23 ~~the lowest cost calling plan that includes a limited number of~~
24 ~~outgoing calls of the provider in place before the rates are set~~
25 ~~under this subsection. If a provider does not offer a calling plan~~
26 ~~with a limited number of outgoing calls, the provider shall set the~~
27 ~~initial rate for primary basic local exchange service which shall~~

~~be just and reasonable and may be 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 notice of a reduction in a primary basic local exchange rate. A rate alteration under this subdivision shall become effective without commission review or approval.~~

~~———— (b) Filing with the commission 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 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.~~

~~———— (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 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)(c) or (d) and shall be included in or on the bill of each affected customer of the provider at least 1 billing cycle before the effective date of the rate alteration.~~

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

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

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

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

~~—— (5) Except as otherwise provided in subsections (2) and (6), an altered primary 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)(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 shall be allowed only 1 rate increase for each regulated service during any 12 month period.~~

(1) ~~(9)~~ A call made to a local calling area adjacent to the caller's local calling area shall be ~~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 of the provider originating the call does not

1 classify the call as a local call. ~~The commission shall convene a~~
2 ~~workgroup of interested parties for the purpose of resolving issues~~
3 ~~surrounding virtual NXX. Virtual NXX is the assignment of a~~
4 ~~telephone number to customers who are not physically located in the~~
5 ~~exchange to which the NXX is assigned. The workgroup shall consider~~
6 ~~the utilization of virtual NXX services to transport interexchange~~
7 ~~traffic and the associated inter-carrier compensation. Prior to~~
8 ~~July 1, 2006, the commission shall submit a report to the governor~~
9 ~~and the house and senate standing committees with oversight of~~
10 ~~telecommunication issues on the progress of workgroup discussions.~~
11 ~~The report shall include a commission policy statement relating to~~
12 ~~the provision of virtual NXX services, and recommendations for~~
13 ~~legislation, if any.~~

14 ~~—— (10) A provider not in compliance with subsection (9), or not~~
15 ~~already the subject of a commission order on adjacent local~~
16 ~~ealling, shall submit to the commission an adjacent local calling~~
17 ~~plan to implement subsection (9) no later than October 1, 2006. In~~
18 ~~reviewing the plan, the commission shall give consideration to the~~
19 ~~revenues lost and additional cost incurred by the provider in~~
20 ~~implementing the plan and shall approve or modify the plan or find~~
21 ~~that the plan is not required because a cost benefit analysis~~
22 ~~demonstrates that the plan is not in the best interest of the~~
23 ~~customers.~~

24 ~~—— (11) An alteration by a provider to the rate of a package,~~
25 ~~combination, or bundle of telecommunication or other services which~~
26 ~~includes primary basic local exchange service is not subject to~~
27 ~~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.~~

~~—— (12) A provider shall offer its unregulated calling features on a stand alone basis to its primary basic local exchange service customers. The purchase of a calling feature under this subsection shall not affect the regulated rate of the primary basic local exchange service.~~

~~—— (13) 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 shall receive a flat rate allowing unlimited calls per month. A person exempt from the call cap under this subsection shall not be charged a rate greater than the flat rate charged residential customers for primary basic local exchange service.~~

~~—— (14) Except as provided in subsection (15), 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.~~

~~(2) (15) A provider of basic local exchange service with less than 15,000~~ 10,000 end-users in this state may determine that their

1 total service long run incremental cost is the same as that of a
2 provider with more than 250,000 end-users.

3 ~~—— (16) A provider shall file with the commission for review and~~
4 ~~approval a tariff for the rates and charges for calls made that~~
5 ~~exceed the 100 call limit of primary basic local exchange service.~~

6 Sec. 305. A provider of basic local exchange service shall not
7 do any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

18 (K) ~~(m)~~ Bundle unwanted services or products for sale or lease
19 to another provider.

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

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

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

27 Sec. 305a. (1) Except as otherwise provided by federal law,

1 where technically feasible, a provider originating or forwarding an
2 intrastate call that is terminated on the network of another
3 provider shall do all of the following:

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

8 (b) For forwarded calls, transmit the telephone number of the
9 party originating the call to the extent ~~such~~**THAT** information has
10 been provided by the originating carrier. The telephone number
11 shall be transmitted without alteration in the network signaling
12 information.

13 (2) The commission ~~may~~**SHALL** investigate complaints alleging
14 violations of this section and may initiate proceedings under
15 section 203 to resolve disputes between providers regarding
16 identification of traffic and disputes regarding compensation
17 rights and obligations between providers who originate, forward, or
18 terminate intrastate traffic.

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

25 (4) If the commission determines that a provider violated this
26 section, the commission shall determine if the violation resulted
27 in a nonpayment or underpayment of compensation to the complaining

1 provider under the terms of the parties' compensation agreement or
2 its intrastate access tariff. The commission shall determine the
3 amount of the nonpayment or underpayment and order the violating
4 provider to make payment. The commission ~~may~~**SHALL** assess a fine
5 against the violating provider in an amount equal to 2 times the
6 payment amount, ~~or~~**AND** may take any other action authorized by
7 Michigan law that it considers necessary.

8 (5) A provider that originates an intrastate call subject to
9 section 251(b)(5) of the telecommunications act of 1996, 47 USC
10 251, shall agree to establish a reciprocal compensation arrangement
11 for the termination of those calls. Originating and terminating
12 providers shall agree to begin negotiations no more than 30 days
13 after the originating provider receives a request from a
14 terminating provider to establish an arrangement. During the
15 negotiation period, reciprocal compensation rates shall be assessed
16 by the terminating carrier under an interim arrangement with the
17 originating carrier. Originating and terminating providers shall
18 use good faith efforts to conclude negotiations and finalize an
19 agreement within a reasonable time period.

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

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

27 Sec. 305b. A provider of any telecommunication service shall

1 do all of the following:

2 (a) ~~Prior to the customer purchasing the service or upon~~ **UPON**
3 request, provide each customer a clear and simple explanation of
4 the terms and conditions of the services purchased by the customer
5 including, but not limited to, a statement of all fees, charges,
6 and taxes that will be included in the customer's monthly bill.

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

11 (c) Comply with all federal and state requirements regarding
12 truth in billing, E 9-1-1 services, and ~~primary~~ basic local
13 exchange service.

14 (d) If E 9-1-1 service is not available to the customer,
15 ensure that the customer has an alternative means to reach
16 emergency service responders.

17 ~~—— (e) Comply with sections 505 and 507.~~

18 **SEC. 305C. A PROVIDER OF BASIC LOCAL EXCHANGE SERVICE SHALL**
19 **COMPLY WITH THE FOLLOWING EMERGENCY POWER REQUIREMENTS:**

20 **(A) A FACILITIES-BASED PROVIDER SHALL EQUIP EACH CENTRAL**
21 **OFFICE, REMOTE SWITCH, REMOTE LINE UNIT, AND INTEREXCHANGE TOLL**
22 **SWITCHING OFFICE OR ACCESS TANDEM WITH A MINIMUM OF 3 HOURS OF PEAK**
23 **LOAD BATTERY RESERVE, IF PERMANENT AUXILIARY POWER IS INSTALLED,**
24 **AND 5 HOURS OF BATTERY RESERVE, IF PERMANENT EMERGENCY POWER IS NOT**
25 **INSTALLED, OR 8 HOURS OF BATTERY RESERVE IF THE CENTRAL OFFICE IS**
26 **IN A REMOTE LOCATION. A FACILITIES-BASED PROVIDER SHALL HAVE**
27 **AVAILABLE A MOBILE POWER UNIT TO BE DELIVERED AND CONNECTED TO**

1 CENTRAL OFFICES, REMOTE SWITCHES, AND REMOTE LINE UNITS WITHIN 8
2 HOURS.

3 (B) AN E 9-1-1 SERVICE SUPPLIER SHALL PROVIDE 24-HOUR, 7-DAY-
4 A-WEEK DATABASE ACCESS TO PERMIT INFORMATION TO BE ACQUIRED OR
5 CORRECTED.

6 (C) A PROVIDER, E 9-1-1 SERVICE SUPPLIER, PUBLIC SAFETY
7 ANSWERING POINT, OR ANY ENTITY PROVIDING OR MAINTAINING E 9-1-1
8 DATABASE INFORMATION SHALL CORRECT EACH ERROR IN THE 9-1-1 SYSTEM
9 OR DATABASE WITHIN 1 BUSINESS DAY.

10 Sec. 309. (1) A provider of basic local exchange service shall
11 provide to each customer local directory assistance and MAY
12 DISTRIBUTE A PRINTED TELEPHONE DIRECTORY TO EACH CUSTOMER. IF A
13 PROVIDER OF BASIC LOCAL EXCHANGE SERVICE ELECTS NOT TO DISTRIBUTE A
14 PRINTED TELEPHONE DIRECTORY TO EACH CUSTOMER, A CUSTOMER MAY
15 REQUEST EITHER A PRINTED TELEPHONE DIRECTORY OR AN ELECTRONIC
16 TELEPHONE DIRECTORY FROM THE PROVIDER THAT SHALL PROVIDE THAT
17 DIRECTORY at no additional charge to the customer. ~~, an annual~~
18 ~~printed telephone directory.~~

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

23 Sec. 310a. ~~(1)~~ After June 1, 2007, all providers of
24 telecommunication services in this state shall not charge, assess,
25 or impose on end-users an intrastate subscriber line charge or end-
26 user line charge.

27 ~~—— (2) If a provider is charging, assessing, or imposing an~~

~~intrastate subscriber line charge or end user line charge on July 1, 2005, the provider may no later than June 1, 2007 file with the commission under section 304(2)(d) notice of an increase in the primary basic local exchange rate in an amount not to exceed the provider's intrastate subscriber line charge or end user line charge in effect on July 1, 2005.~~

Sec. 313. (1) A telecommunication provider that provides either basic local exchange or toll service, or both, ~~may~~ **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~~ **A COMPARABLE VOICE** 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 ~~30~~ **60** 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

1 by a telecommunication provider may apply to the commission to
 2 determine if the discontinuance of service is authorized pursuant
 3 ~~to~~ UNDER this act. WITHIN 90 DAYS AFTER THE DATE OF PUBLICATION OF
 4 THE NOTICE REQUIRED BY SUBSECTION (2), THE COMMISSION MAY, IN
 5 RESPONSE TO A REQUEST OR ON ITS OWN INITIATIVE, COMMENCE A
 6 PROCEEDING TO DETERMINE IF THE DISCONTINUANCE OF SERVICE IS
 7 AUTHORIZED UNDER THIS ACT. THE COMMISSION HAS 180 DAYS FROM THE
 8 DATE ANY PROCEEDING IS INITIATED UNDER THIS SUBSECTION TO ISSUE ITS
 9 FINAL ORDER. A PROVIDER SHALL NOT DISCONTINUE SERVICE UNLESS IT HAS
 10 PROVIDED AT LEAST 60 DAYS' NOTICE TO EACH CUSTOMER AFTER A
 11 COMMISSION ORDER HAS BEEN ISSUED UNDER THIS SUBSECTION OR AFTER THE
 12 LAST DAY FOR INITIATING A PROCEEDING UNDER THIS SUBSECTION.

13 (4) DISCONTINUANCE OF BASIC LOCAL EXCHANGE SERVICE UNDER THIS
 14 SECTION BY AN INCUMBENT LOCAL EXCHANGE CARRIER DOES NOT AFFECT THE
 15 REQUIREMENTS OF THAT INCUMBENT LOCAL EXCHANGE CARRIER UNDER FEDERAL
 16 LAW. AS USED IN THIS SUBDIVISION, "INCUMBENT LOCAL EXCHANGE
 17 CARRIER" MEANS THAT TERM AS DEFINED IN SECTION 251(H) OF THE
 18 TELECOMMUNICATIONS ACT OF 1996, 47 USC 251.

19 Sec. 315. (1) The commission shall require each provider of
 20 basic local exchange service to provide a text telephone-
 21 telecommunications device for the deaf at ~~costs~~ COST to each
 22 individual who is certified as deaf or hard of hearing or speech-
 23 impaired by a licensed physician, licensed audiologist, or
 24 qualified state agency, and to each public safety answering point
 25 as defined in section 102 of the emergency telephone-9-1-1 service
 26 enabling act, 1986 PA 32, MCL 484.1102.

27 (2) The commission shall require each provider of basic local

1 exchange service to provide a telecommunication relay service
2 whereby persons using a text telephone-telecommunications device
3 for the deaf can communicate with persons using a voice telephone
4 through the use of third party intervention or automated
5 translation. Each provider of basic local exchange service shall
6 determine whether to provide a telecommunication relay service on
7 its own, jointly with other basic local exchange providers, or by
8 contract with other telecommunication providers. The commission
9 shall determine the technical standards and essential features of
10 text telephone and telecommunication relay service to ensure their
11 compatibility and reliability.

12 ~~—— (3) The Michigan telecommunication relay service advisory~~
13 ~~board is created within the department. The board shall consist of~~
14 ~~9 members. One member shall be the chair of the commission or his~~
15 ~~or her designated representative. One member shall be the director~~
16 ~~of the division on deaf and hard of hearing within the department~~
17 ~~or his or her designated representative. One member shall be a deaf~~
18 ~~consumer appointed by the director of the department upon the~~
19 ~~recommendation of the Michigan deaf association. One member shall~~
20 ~~be a hard of hearing consumer appointed by the department upon the~~
21 ~~recommendation of Michigan self help for hard of hearing. One~~
22 ~~member shall be a speech impaired consumer appointed by the~~
23 ~~director of the department. Four members shall be appointed by the~~
24 ~~director of the department to represent telecommunication~~
25 ~~providers. Appointed members shall be appointed for terms of 4~~
26 ~~years. A vacancy on the board shall be filled in the same manner as~~
27 ~~the original appointment for the remainder of the unexpired term.~~

~~1 (4) The board shall designate from among its appointed members
2 a chairperson and vice chairperson, who shall serve for 2 year
3 terms and who may be reelected. The board shall meet not less than
4 4 times each year. Special meetings may be called by the
5 chairperson, or upon written request of not less than 4 board
6 members. Meetings shall be held at a location designated by the
7 chairperson.~~

~~8 (5) Members of the board shall serve without compensation, but
9 shall be reimbursed for actual and necessary expenses.~~

~~10 (6) Staff services shall be performed by personnel of the
11 department. Assistance shall also be made available, as requested
12 by the board, from other agencies, departments, and authorities of
13 the state. The board may employ a staff to assist it in the
14 performance of its duties, subject to civil service rules and
15 within fiscal restraints.~~

~~16 (7) A majority of the members appointed to and serving on the
17 board constitute a quorum. A majority vote of the members voting
18 shall be required to pass upon any question, action, or business of
19 the board.~~

~~20 (8) The business performed by the board shall be conducted at
21 a public meeting of the board. The board shall keep minutes of its
22 proceedings, showing the vote of each member on each proposition or
23 question, or indicating if a member is absent or fails to vote. A
24 record of board action and business shall be made and maintained.~~

~~25 (9) A writing prepared, owned, used, in the possession of, or
26 retained by the board in the performance of an official function
27 shall be made available to the public.~~

1 (3) ~~(10)~~ Rates and charges for calls placed through a
2 telecommunication relay service shall not exceed the rates and
3 charges for calls placed directly from the same originating
4 location to the same terminating location. Unless ordered by the
5 commission, a provider of a telecommunications relay service shall
6 not be required to handle calls from public telephones except for
7 calls charged collect ~~, OR TO~~ cash, ~~to a~~ credit card, or **A** third
8 party number.

9 (4) ~~(11)~~ Notwithstanding any other provision of this act, a
10 provider may offer discounts on toll calls where a text telephone-
11 telecommunications device for the deaf is used. The commission
12 shall not prohibit such discounts on toll calls placed through a
13 telecommunication relay service.

14 (5) ~~(12)~~ The commission shall establish a rate for each
15 subscriber line of a provider to allow the provider to recover
16 costs incurred under this section and may waive the costs assessed
17 under this section to individuals who are deaf or severely hearing
18 impaired or speech impaired. **THE RATE ESTABLISHED BY THE COMMISSION**
19 **UNDER THIS SUBSECTION MAY BE ASSESSED AS A LINE ITEM ON AN END-**
20 **USER'S BILL.**

21 ~~—— (13) No later than January 1, 2008, the board shall conduct a~~
22 ~~study and report to the governor and the house and senate standing~~
23 ~~committees with oversight of telecommunication issues on the~~
24 ~~ability for deaf, hard of hearing, and speech impaired customers to~~
25 ~~access telecommunication services. The report shall include, but is~~
26 ~~not limited to, activities by the commission to ensure reasonable~~
27 ~~access, impediments to access, identification of activities in~~

~~other states to improve access, and recommendations for
legislation, if any.~~

~~———— (14) As used in this section:~~

~~———— (a) "Board" means the Michigan telecommunication relay service
advisory board created under subsection (3).~~

~~———— (b) "Department" means the department of labor and economic
growth.~~

Sec. 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
and access service at reduced rates as described in subsections (2)
and (3).

(2) Except as provided under subsections (3) and (4), the rate
reductions for low income customers shall be at a minimum, 20% of
the basic local exchange rate or \$8.25, which shall be, inclusive
of any federal contribution, whichever is greater.

(3) ~~IF~~ **EXCEPT AS PROVIDED UNDER SUBSECTION (4), IF** the low
income customer is 65 years of age or ~~more~~ **OLDER**, the rate
reduction shall be, at a minimum, 25% of the basic local exchange
rate or \$12.35, which shall be inclusive of any federal
contribution, whichever is greater.

(4) The total reduction under subsection (2) or (3) shall not
exceed 100% of all end-user common line charges and the basic local
exchange rate. The dollar amounts in subsections (2) and (3) shall
be adjusted annually to reflect any increases or decreases in the
federal contribution.

(5) To qualify for the reduced rate under this section, the

1 person's annual income shall not exceed 150% of the federal poverty
2 ~~income standards as determined by the United States office of~~
3 ~~management and budget~~ **GUIDELINES PUBLISHED ANNUALLY IN THE FEDERAL**
4 **REGISTER BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN**
5 **SERVICES** and as approved by the state treasurer, or the person must
6 participate in 1 of the following federal assistance programs:

7 (a) Medicaid.

8 (b) Food stamps.

9 (c) Supplemental security income.

10 (d) Federal public housing assistance.

11 (e) Low-income home energy assistance program.

12 (f) National school lunch program's free lunch program.

13 (g) Temporary assistance for needy families.

14 (6) The commission shall establish a rate for each subscriber
15 line of a provider to allow the provider to recover costs incurred
16 under this section. **THE RATE ESTABLISHED BY THE COMMISSION UNDER**
17 **THIS SUBSECTION MAY BE ASSESSED AS A LINE ITEM ON AN END-USER'S**
18 **BILL.**

19 (7) The commission shall take necessary action to notify the
20 general public of the availability of lifeline services including,
21 but not limited to, public service announcements, newspaper
22 notices, and ~~such~~ **ANY** other notice reasonably calculated to reach
23 those who may benefit from the services.

24 Sec. 353a. (1) When negotiating a successor interconnection
25 agreement, unless the parties agree otherwise, the parties shall
26 use an interconnection agreement which has been approved by the
27 commission in the 3-year period immediately preceding the

1 commencement of negotiations as the baseline document. ~~A party~~
2 ~~requesting the adoption of language different than that found in~~
3 ~~the baseline document in an arbitration proceeding bears the burden~~
4 ~~of persuasion that the requested change is lawful and appropriate.~~

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

14 Sec. 401. (1) Except as otherwise provided by law or preempted
15 by federal law, the commission ~~shall~~ **DOES** not have authority over
16 enhanced services, paging, cellular, mobile, answering services,
17 retail broadband service, video, cable service, pay-per-view,
18 shared tenant, private networks, financial services networks, radio
19 and television, WATS, personal communication networks, municipally
20 owned telecommunication system, 800 prefix services, burglar and
21 fire alarm services, energy management services, except for state
22 institutions of higher education the reselling of centrex or its
23 equivalent, payphone services, **INTERCONNECTED VOICE OVER INTERNET**
24 **PROTOCOL SERVICE**, and the reselling of an unlicensed
25 telecommunication service. The ~~foregoing~~ services **LISTED IN THIS**
26 **SUBSECTION** shall not be considered part of basic local exchange
27 service.

1 (2) The commission ~~shall have~~ **HAS** authority over the
2 telecommunication services specifically provided for in this act.

3 (3) **THIS SECTION DOES NOT MODIFY OR AFFECT EITHER OF THE**
4 **FOLLOWING:**

5 (A) **THE AUTHORITY OF A PROVIDER OR THE COMMISSION TO ACT**
6 **PURSUANT TO OR ENFORCE 47 USC 251, 47 USC 252, ANY LAWFUL AND**
7 **APPLICABLE TARIFF, OR ANY STATE LAW, REGULATION, OR ORDER RELATED**
8 **TO WHOLESALE RIGHTS AND OBLIGATIONS, INCLUDING THE RIGHTS AND**
9 **OBLIGATIONS OF LOCAL EXCHANGE CARRIERS TO INTERCONNECT AND EXCHANGE**
10 **VOICE TRAFFIC.**

11 (B) **THE PAYMENT OF SWITCHED ACCESS RATES OR OTHER INTERCARRIER**
12 **COMPENSATION RATES, AS APPLICABLE.**

13 Sec. 502. (1) A provider of a ~~telecommunication~~ **BASIC LOCAL**
14 **EXCHANGE** service shall not do any of the following:

15 (a) Make a statement or representation, including the omission
16 of material information, regarding the rates, terms, or conditions
17 of providing a ~~telecommunication~~ service that is **INTENTIONALLY**
18 false, misleading, or deceptive. As used in this subdivision,
19 "material information" includes, but is not limited to, **A GOOD**
20 **FAITH ESTIMATE OF** all applicable fees, taxes, and charges that will
21 be billed to the end-user, regardless of whether the fees, taxes,
22 or charges are authorized by state or federal law.

23 (b) Charge an end-user for a subscribed service ~~that~~ **FOR WHICH**
24 the end-user did not make an initial affirmative order. Failure to
25 refuse an offered or proposed subscribed service is not an
26 affirmative order for the service.

27 (c) If an end-user has canceled a service, charge the end-user

1 for service provided after the effective date the service was
2 canceled.

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

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

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

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

14 (D) ~~(h)~~ Cause a probability of confusion or a misunderstanding
15 as to the legal rights, obligations, or remedies of a party to a
16 transaction by making a **AN INTENTIONALLY** false, deceptive, or
17 misleading statement or by failing to inform the customer of a
18 material fact, the omission of which is deceptive or misleading.

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

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

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

27 (G) ~~(l)~~ If a **BONA FIDE** dispute exists between a customer and

1 the provider, disconnect **THE** service to the customer before the
2 resolution of a ~~THAT~~ dispute.

3 (2) When the commission has authority to bring a proceeding
4 for **A** violation of this section, the commission may accept an
5 assurance of discontinuance of a method, act, or practice ~~which~~
6 **THAT** is alleged to be unlawful under this section from the person
7 who is alleged to have engaged, be engaging, or be about to engage
8 in the method, act, or practice. The assurance ~~shall not be OF~~
9 **DISCONTINUANCE IS NOT** an admission of guilt ~~or AND SHALL NOT~~ be
10 introduced in any other proceeding. Unless rescinded by the parties
11 or voided by the court for good cause, the **PARTIES TO THE** assurance
12 **OF DISCONTINUANCE** may be ~~enforced~~ **ENFORCE THE ASSURANCE** in the
13 circuit court. ~~by the parties to the assurance.~~ The assurance **OF**
14 **DISCONTINUANCE** may include a stipulation for any of the following:

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

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

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

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

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

26 ~~— (3) A person who obtains an unpublished telephone number using~~
27 ~~a telephone caller identification service shall not do any of the~~

1 following without the written consent of the customer of the
2 unpublished telephone number:

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

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

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

9 Enacting section 1. Sections 301a, 306, 308, 309a, 309b, 311,
10 312, 314, 321, 362, 504, and 602 of the Michigan telecommunications
11 act, 1991 PA 179, MCL 484.2301a, 484.2306, 484.2308, 484.2309a,
12 484.2309b, 484.2311, 484.2312, 484.2314, 484.2321, 484.2362,
13 484.2504, and 484.2602, are repealed.