

HOUSE BILL No. 4314

February 22, 2011, Introduced by Reps. Horn and Roy Schmidt and referred to the Committee on Energy and Technology.

A bill to amend 1991 PA 179, entitled
"Michigan telecommunications act,"
by amending sections 101, 102, 103, 202, 205, 210, 211a, 213, 303,
305, 305b, 309, 310a, 313, 315, 316, 401, 503, and 601 (MCL
484.2101, 484.2102, 484.2103, 484.2202, 484.2205, 484.2210,
484.2211a, 484.2213, 484.2303, 484.2305, 484.2305b, 484.2309,
484.2310a, 484.2313, 484.2315, 484.2316, 484.2401, 484.2503, and
484.2601), sections 101, 102, 103, 202, 205, 210, 213, 303, 305,
309, 315, 316, and 401 as amended and sections 211a, 305b, and 310a
as added by 2005 PA 235 and sections 503 and 601 as amended by 2000
PA 295; 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".

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

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

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

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

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

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

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

23 (E) ~~(g)~~ Encourage the use of existing educational
24 telecommunication networks and networks established by other
25 commercial providers as building blocks for a cooperative and
26 efficient statewide educational telecommunication system.

27 (F) ~~(h)~~ Ensure effective and timely review and disposition of

1 disputes between telecommunication providers.

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

4 Sec. 102. As used in this act:

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

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

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

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

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

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

25 (g) "Educational institution" means a public educational
26 institution or a private non-profit educational institution
27 approved by the department of education to provide a program of

1 primary, secondary, or higher education, a public library, or a
2 nonprofit association or consortium whose primary purpose is
3 education. A nonprofit association or consortium under this
4 subdivision shall consist of 2 or more of the following:

5 (i) Public educational institutions.

6 (ii) Nonprofit educational institutions approved by the
7 department of education.

8 (iii) The state board of education.

9 (iv) Telecommunication providers.

10 (v) A nonprofit association of educational institutions or
11 consortium of educational institutions.

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

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

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

21 (k) "Information services" or "enhanced services" means the
22 offering of a capability for generating, acquiring, storing,
23 transforming, processing, retrieving, utilizing, or making
24 available information, including energy management services, that
25 is conveyed by telecommunications. Information services or enhanced
26 services do not include the use of ~~such~~**THAT** capability for the
27 management, control, or operation of a telecommunications system or

1 the management of a telecommunications service.

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

7 (m) "License" means a license issued pursuant to this act.

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

10 (o) "Local calling area" means a geographic area encompassing
11 1 or more local communities as described in maps, tariffs, or rate
12 schedules filed with and approved by the commission.

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

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

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

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

27 (i) Automatic completion with billing to the telephone from

1 which the call originated.

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

5 (iii) Completion in association with directory assistance
6 services.

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

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

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

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

18 (i) Blindness.

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

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

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

25 (v) A lung disease from which the person's expiratory volume
26 for 1 second, when measured by spirometry, is less than 1 liter, or
27 from which the person's arterial oxygen tension is less than 60

1 mm/hg of room air at rest.

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

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

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

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

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

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

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

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

24 (Y) ~~(aa)~~ "Reasonable rate" or "just and reasonable rate" means
25 a rate that is not inadequate, excessive, or unreasonably
26 discriminatory. A rate is inadequate if it is less than the total
27 service long run incremental cost of providing the service.

1 **(Z)** ~~(bb)~~ "Residential customer" means a person to whom
2 telecommunication services are furnished predominantly for personal
3 or domestic purposes at the person's dwelling.

4 **(AA)** ~~(ee)~~ "Special access" means the provision of access
5 service, other than switched access service, to a local exchange
6 network for the purpose of enabling a provider to originate or
7 terminate telecommunication service within the exchange, including
8 the use of local private lines.

9 **(BB)** ~~(dd)~~ "State institution of higher education" means an
10 institution of higher education described in sections 4, 5, and 6
11 of article VIII of the state constitution of 1963.

12 **(CC)** ~~(ee)~~ "Telecommunications act of 1996" means Public Law
13 104-104.

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

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

23 **(FF)** ~~(hh)~~ "Toll service" means the transmission of 2-way
24 interactive switched communication between local calling areas.
25 Toll service does not include individually negotiated contracts for
26 similar telecommunication services or wide area telecommunications
27 service.

1 **(GG)** ~~(ii)~~—"Total service long run incremental cost" means,
2 given current service demand, including associated costs of every
3 component necessary to provide the service, 1 of the following:

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

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

11 **(HH)** ~~(jj)~~—"Wide area telecommunications service" or "WATS"
12 means the transmission of 2-way interactive switched communication
13 over a dedicated access line.

14 Sec. 103. ~~(1)~~—Except as otherwise provided in this act, this
15 act shall not be construed to prevent any person from providing
16 telecommunication services in competition with another
17 telecommunication provider.

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

24 ~~—(3) A provider shall submit to the commission all information~~
25 ~~requested by the commission necessary for the preparation of the~~
26 ~~annual report under this section.~~

27 Sec. 202. (1) In addition to the other powers and duties

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

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

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

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

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

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

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

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

1 unused telephone numbers.

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

4 (2) Rules promulgated under subsection ~~(1)(e)~~ **(1)(B)** shall
5 include remedies for the enforcement of the rules that are
6 consistent with this act and federal law. Rules promulgated under
7 subsection ~~(1)(e)(ii)~~ **(1)(B)(ii)** shall not apply to the provision of
8 unbundled network elements and local interconnection services
9 subject to quality standards in an interconnection agreement
10 approved by the commission. In promulgating any rules under
11 subsection ~~(1)(e)~~ **(1)(B)(i)**, the commission shall consider to what
12 extent current market conditions are sufficient to provide adequate
13 service quality to basic local exchange service end users. Any
14 service quality rules promulgated by the commission **UNDER**
15 **SUBSECTION (1)(B)** shall expire within 3 years of the effective date
16 of the rules. The commission may, prior to the expiration of the
17 rules, promulgate new rules under subsection ~~(1)(e)~~ **(1)(B)**. **ANY**
18 **SERVICE QUALITY RULES PROMULGATED BY THE COMMISSION UNDER**
19 **SUBSECTION (1)(B)(i) SHALL EXPIRE ON JUNE 30, 2011.**

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

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

27 ~~—— (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 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) If information is disclosed pursuant to a mandatory protective order, then the information may be included in the commission's evidentiary record if admissible, 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. 211a. A provider of any telecommunication service utilizing a new or emerging technology shall register with the commission. The registration shall include all of the following information:

(a) The name of the provider.

(b) A description of the services provided.

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

(d) The address and telephone number of the provider's registered agent authorized to receive service in this state.

~~———— (e) Any other information the commission considers necessary.~~

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) The following administrative rules shall not apply to telecommunication providers or telecommunication services:~~

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

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

~~———— (c) Filing procedures for communications common carriers~~

1 ~~tariffs: R 460.2051 to R 460.2057.~~

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

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

6 (2) ~~(3)~~ A proceeding before the commission to promulgate rules
 7 under this act shall be concluded within 180 days from the date
 8 that the proceeding is initiated.

9 (3) ANY RULES PROMULGATED BY THE COMMISSION UNDER THIS SECTION
 10 BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
 11 SUBSECTION THAT ARE INCONSISTENT WITH THE LIMITED RULE-MAKING
 12 AUTHORITY IN THIS SECTION ARE RESCINDED.

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

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

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

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

27 Sec. 305. A provider of basic local exchange service shall not

1 do any of the following:

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

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

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

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

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

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

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

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

22 (i) Discriminate against any provider or any party who
23 requests the information for commercial purposes in the
24 dissemination of customer proprietary information. A provider shall
25 provide without unreasonable discrimination or delay telephone
26 directory listing information and related services to persons
27 purchasing telephone directory listing information to the same

1 extent and in the same quality as provided to the provider,
2 affiliates of the provider, or any other listing information
3 purchaser.

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

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

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

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

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

16 (M) ~~(e)~~ Sell services or products, extend credit, or offer
17 other terms and conditions on more favorable terms to an affiliate
18 of the provider than the provider offers to other providers.

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

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

23 ~~—— (a) Prior to the customer purchasing the service or upon~~
24 ~~request, provide each customer a clear and simple explanation of~~
25 ~~the terms and conditions of the services purchased by the customer~~
26 ~~including, but not limited to, a statement of all fees, charges,~~
27 ~~and taxes that will be included in the customer's monthly bill.~~

~~1 (b) The statement required under subdivision (a) shall include~~
~~2 a good faith estimate by the provider of the actual monthly cost~~
~~3 that the customer will be required to pay if the service is~~
~~4 purchased.~~

5 (A) ~~(e)~~ Comply with all federal and state requirements
 6 regarding truth in billing, E 9-1-1 services, and primary basic
 7 local exchange service.

8 (B) ~~(d)~~ If E 9-1-1 service is not available to the customer,
 9 ensure that the customer has an alternative means to reach
 10 emergency service responders.

~~11 (e) Comply with sections 505 and 507.~~

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

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

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

~~(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 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, and provide other reasonable notice as required by the commission.

(3) Within 30 days after the date of publication 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 pursuant to this

1 act.

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

10 (2) The commission shall require each provider of basic local
11 exchange service to provide a telecommunication relay service
12 whereby persons using a text telephone-telecommunications device
13 for the deaf can communicate with persons using a voice telephone
14 through the use of third party intervention or automated
15 translation. Each provider of basic local exchange service shall
16 determine whether to provide a telecommunication relay service on
17 its own, jointly with other basic local exchange providers, or by
18 contract with other telecommunication providers. The commission
19 shall determine the technical standards and essential features of
20 text telephone and telecommunication relay service to ensure their
21 compatibility and reliability.

22 ~~—— (3) The Michigan telecommunication relay service advisory~~
23 ~~board is created within the department. The board shall consist of~~
24 ~~9 members. One member shall be the chair of the commission or his~~
25 ~~or her designated representative. One member shall be the director~~
26 ~~of the division on deaf and hard of hearing within the department~~
27 ~~or his or her designated representative. One member shall be a deaf~~

~~consumer appointed by the director of the department upon the
recommendation of the Michigan deaf association. One member shall
be a hard of hearing consumer appointed by the department upon the
recommendation of Michigan self help for hard of hearing. One
member shall be a speech impaired consumer appointed by the
director of the department. Four members shall be appointed by the
director of the department to represent telecommunication
providers. Appointed members shall be appointed for terms of 4
years. A vacancy on the board shall be filled in the same manner as
the original appointment for the remainder of the unexpired term.~~

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

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

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

~~—— (7) A majority of the members appointed to and serving on the
board constitute a quorum. A majority vote of the members voting~~

1 ~~shall be required to pass upon any question, action, or business of~~
2 ~~the board.~~

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

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

11 (3) ~~(10)~~ Rates and charges for calls placed through a
12 telecommunication relay service shall not exceed the rates and
13 charges for calls placed directly from the same originating
14 location to the same terminating location. Unless ordered by the
15 commission, a provider of a telecommunications relay service shall
16 not be required to handle calls from public telephones except for
17 calls charged collect **,OR TO** cash, ~~to~~ a credit card, or **A** third
18 party number.

19 (4) ~~(11)~~ Notwithstanding any other provision of this act, a
20 provider may offer discounts on toll calls where a text telephone-
21 telecommunications device for the deaf is used. The commission
22 shall not prohibit such discounts on toll calls placed through a
23 telecommunication relay service.

24 (5) ~~(12)~~ The commission shall establish a rate for each
25 subscriber line of a provider to allow the provider to recover
26 costs incurred under this section and may waive the costs assessed
27 under this section to individuals who are deaf or severely hearing

1 impaired or speech impaired. **THE RATE ESTABLISHED BY THE COMMISSION**
 2 **UNDER THIS SUBSECTION MAY BE ASSESSED AS A LINE ITEM ON AN END-**
 3 **USER'S BILL.**

4 ~~—— (13) No later than January 1, 2008, the board shall conduct a~~
 5 ~~study and report to the governor and the house and senate standing~~
 6 ~~committees with oversight of telecommunication issues on the~~
 7 ~~ability for deaf, hard of hearing, and speech impaired customers to~~
 8 ~~access telecommunication services. The report shall include, but is~~
 9 ~~not limited to, activities by the commission to ensure reasonable~~
 10 ~~access, impediments to access, identification of activities in~~
 11 ~~other states to improve access, and recommendations for~~
 12 ~~legislation, if any.~~

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

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

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

18 Sec. 316. (1) The commission shall require each provider of
 19 residential basic local exchange service to offer certain low
 20 income customers the availability of basic local exchange service
 21 and access service at reduced rates as described in subsections (2)
 22 and (3).

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

27 (3) ~~IF~~ **EXCEPT AS PROVIDED UNDER SUBSECTION (4), IF** the low

1 income customer is 65 years of age or ~~more~~ **OLDER**, the rate
 2 reduction shall be, at a minimum, 25% of the basic local exchange
 3 rate or \$12.35, which shall be inclusive of any federal
 4 contribution, whichever is greater.

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

10 (5) To qualify for the reduced rate under this section, the
 11 person's annual income shall not exceed 150% of the federal poverty
 12 ~~income standards as determined by the United States office of~~
 13 ~~management and budget~~ **GUIDELINES PUBLISHED ANNUALLY IN THE FEDERAL**
 14 **REGISTER BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN**
 15 **SERVICES** and as approved by the state treasurer, or the person must
 16 participate in 1 of the following federal assistance programs:

17 (a) Medicaid.

18 (b) Food stamps.

19 (c) Supplemental security income.

20 (d) Federal public housing assistance.

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

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

23 (g) Temporary assistance for needy families.

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

1 **BILL.**

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

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

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

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

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

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

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

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

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

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

17 (a) Except as provided in subdivision (b), **ORDERING** the person
18 to pay a fine for the first offense of not less than \$1,000.00 nor
19 more than \$20,000.00 per day that the person is in violation of
20 this act, and for each subsequent offense, a fine of not less than
21 \$2,000.00 nor more than \$40,000.00 per day.

22 (b) If the provider has less than 250,000 access lines,
23 **ORDERING** the provider to pay a fine for the first offense of not
24 less than \$200.00 or more than \$500.00 per day that the provider is
25 in violation of this act, and for each subsequent offense a fine of
26 not less than \$500.00 or more than \$1,000.00 per day.

27 (c) ~~A—ORDERING A~~ refund to the ratepayers of the provider of

1 any collected excessive rates.

2 (d) If the person is a licensee under this act, **ORDERING** that
3 the person's license is revoked.

4 (e) Cease ~~ISSUING CEASE~~ and desist orders.

5 ~~----- (f) Except for an arbitration case under section 252 of part~~
6 ~~II of title II of the communications act of 1934, chapter 622, 110~~
7 ~~Stat. 66, attorney fees and actual costs of a person or a provider~~
8 ~~of less than 250,000 end users.~~

9 Enacting section 1. Sections 301a, 304, 306, 308, 309a, 309b,
10 311, 312, 314, 321, 351, 352, 353, 355, 356, 357, 358, 359, 362,
11 363, 375, 376, 402, 502, 504, and 602 of the Michigan
12 telecommunications act, 1991 PA 179, MCL 484.2301a, 484.2304,
13 484.2306, 484.2308, 484.2309a, 484.2309b, 484.2311, 484.2312,
14 484.2314, 484.2321, 484.2351, 484.2352, 484.2353, 484.2355,
15 484.2356, 484.2357, 484.2358, 484.2359, 484.2362, 484.2363,
16 484.2375, 484.2376, 484.2402, 484.2502, 484.2504, and 484.2602, are
17 repealed.