

MICHIGAN TELECOMMUNICATIONS ACT

Act 179 of 1991,
as amended by Act 216 of 1995,
Acts 96, 96, and 183 of 1997,
Acts 41, 159 and 160 of 1998,
Act 31 of 1999,
Act 295 of 2000,
Act 48 of 2002,
Act 235 of 2005,
and Act 52 of 2008

Compiled by Michigan Public Service Commission Staff

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ARTICLE 1
GENERAL PROVISIONS

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

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

- (a) Ensure that every person has access to just, reasonable, and affordable basic residential telecommunication service.
- (b) Allow and encourage competition to determine the availability, prices, terms, and other conditions of providing telecommunication services.
- (c) Restructure regulation to focus on price and quality of service and not on the provider. Supplement existing state and federal law regarding antitrust, consumer protection, and fair trade to provide additional safeguards for competition and consumers.
- (d) Encourage the introduction of new services, the entry of new providers, the development of new technologies, and increase investment in the telecommunication infrastructure in this state through incentives to providers to offer the most efficient services and products.
- (e) Improve the opportunities for economic development and the delivery of essential services including education and health care.
- (f) Streamline the process for setting and adjusting the rates for regulated services that will ensure effective rate review and reduce the costs and length of hearings associated with rate cases.
- (g) Encourage the use of existing educational telecommunication networks and networks established by other commercial providers as building blocks for a cooperative and efficient statewide educational telecommunication system.
- (h) Ensure effective and timely review and disposition of disputes between telecommunication providers.
- (i) Authorize actions to encourage the development of a competitive telecommunication industry.

Sec. 102. As used in this act:

- (a) "Access service" means access to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication services within the local exchange. Except for end-user common line services, access service does not include access service to a person who is not a provider.
- (b) "Basic local exchange service" or "local exchange service" means the provision of an access line and usage within a local calling area for the transmission of high-quality 2-way interactive switched voice or data communication.
- (c) "Broadband service" means a retail service capable of transmitting data over an access line at a rate greater than 200 kilobits per second.
- (d) "Cable service" means 1-way transmission to subscribers of video programming or other programming services and subscriber interaction for the selection of video programming or other programming services.
- (e) "Commission" means the Michigan public service commission.
- (f) "Contested case" or "case" means a proceeding as defined in section 3 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.203.

(g) "Educational institution" means a public educational institution or a private non-profit educational institution approved by the department of education to provide a program of primary, secondary, or higher education, a public library, or a nonprofit association or consortium whose primary purpose is education. A nonprofit association or consortium under this subdivision shall consist of 2 or more of the following:

- (i) Public educational institutions.
- (ii) Nonprofit educational institutions approved by the department of education.
- (iii) The state board of education.
- (iv) Telecommunication providers.
- (v) A nonprofit association of educational institutions or consortium of educational institutions.

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

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

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

(k) "Information services" or "enhanced services" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information, including energy management services, that is conveyed by telecommunications. Information services or enhanced services do not include the use of such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

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

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

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

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

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

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

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

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

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

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

(iii) Completion in association with directory assistance services.

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

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

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

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

(i) Blindness.

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

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

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

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

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

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

(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.

(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.

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

- (bb) "Residential customer" means a person to whom telecommunication services are furnished predominantly for personal or domestic purposes at the person's dwelling.
- (cc) "Special access" means the provision of access service, other than switched access service, to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication service within the exchange, including the use of local private lines.
- (dd) "State institution of higher education" means an institution of higher education described in sections 4, 5, and 6 of article VIII of the state constitution of 1963.
- (ee) "Telecommunications act of 1996" means Public Law 104-104.
- (ff) "Telecommunication provider" or "provider" means a person that for compensation provides 1 or more telecommunication services. Telecommunication provider does not include a provider of commercial mobile service as defined in section 332(d)(1) of the telecommunications act of 1996, 47 USC 332.
- (gg) "Telecommunication services" or "services" includes regulated and unregulated services offered to customers for the transmission of 2-way interactive communication and associated usage. A telecommunication service is not a public utility service.
- (hh) "Toll service" means the transmission of 2-way interactive switched communication between local calling areas. Toll service does not include individually negotiated contracts for similar telecommunication services or wide area telecommunications service.
- (ii) "Total service long run incremental cost" means, given current service demand, including associated costs of every component necessary to provide the service, 1 of the following:
- (i) The total forward-looking cost of a telecommunication service, relevant group of services, or basic network component, using current least cost technology that would be required if the provider had never offered the service.
 - (ii) The total cost that the provider would incur if the provider were to initially offer the service, group of services, or basic network component.
- (jj) "Wide area telecommunications service" or "WATS" means the transmission of 2-way interactive switched communication over a dedicated access line.

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

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

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

ARTICLE 2 MICHIGAN PUBLIC SERVICE COMMISSION

Sec. 201. (1) Except as otherwise provided by this act or federal law, the Michigan public service commission shall have the jurisdiction and authority to administer this act and all federal telecommunications laws, rules, orders, and regulations that are delegated to the state.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 203. (1) Upon receipt of an application or complaint filed under this act, or on its own motion, the commission may conduct an investigation, hold hearings, and issue its findings and order under the contested hearings provisions of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) If a complaint filed under this section alleges facts that warrant emergency relief, the complainant may request an emergency relief order. On the date of filing, the complaint and request for emergency relief shall be hand-delivered to the respondent at its principal place of business in Michigan. The commission shall allow 5 business days for a filing in response to the request for emergency relief. The commission shall review the complaint, the request for

emergency relief, the response, and all supporting materials and determine whether to deny the request for emergency relief or to conduct an initial evidentiary hearing. The initial evidentiary hearing shall be conducted within 5 business days from the date of the notice of hearing and the commission shall issue an order granting or denying the request for emergency relief. An order for emergency relief may require a party to act or refrain from action to protect competition. Any action required by an order for emergency relief shall be technically feasible and economically reasonable and the respondent shall be given a reasonable period of time to comply with the order. At the hearing for emergency relief, the respondent has the burden of showing that the order is not technically feasible and not economically reasonable. If the commission finds that extraordinary circumstances exist that warrant expedited review before the commission's issuance of a final order, it shall set a schedule providing for the issuance of a partial final order as to all or part of the issues for which emergency relief was granted within 90 days of the issuance of the emergency relief order.

(3) An order for emergency relief may be granted under subsection (2) if the commission finds all of the following:

- (a) That the party has demonstrated exigent circumstances that warrant emergency relief.
- (b) That the party seeking relief will likely succeed on the merits.
- (c) That the party will suffer irreparable harm in its ability to serve customers if emergency relief is not granted.
- (d) That the order is not adverse to the public interest.

(4) The commission may require the complainant to post a bond in an amount sufficient to make whole the respondent in the event that the order for emergency relief is later found to have been erroneously granted.

(5) An order for emergency relief shall expire upon the sooner of any of the following:

- (a) Ninety days after its issuance.
- (b) Issuance of the commission's partial final order.
- (c) An earlier date set by the commission. Notwithstanding this subsection, the commission may extend the emergency relief order to a date no later than the date on which the final order in the proceeding is issued.

(6) An order granting or denying emergency relief under subsection (2) shall be subject to immediate review in the court of appeals as a matter of right by the party aggrieved. The review shall be de novo and shall comply with Michigan court rule 7.211(c)(6). The court may stay an order granting emergency relief upon the posting of a bond or other security in an amount and on terms set by the court. Regardless of whether an appeal is made under this subsection, the commission shall proceed with the case and issue a final order as otherwise required under this section.

(7) An application or complaint filed under this section shall contain all information, testimony, exhibits, or other documents and information within the person's possession on which the person intends to rely to support the application or complaint. Applications or complaints that do not meet the requirements of this subsection shall be dismissed or suspended pending the receipt by the commission of the required information. If the complainant or applicant requires information in the possession of the respondent, not within the complainant's or applicant's possession, the commission may allow a reasonable opportunity for discovery to allow the complainant or applicant to provide all relevant information, testimony, exhibits, or other documents on which the complainant or applicant intends to rely to support its application or complaint.

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

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

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

(11) Except as provided for a hearing involving a request for emergency relief, if a hearing is required, the applicant or complainant shall publish a notice of hearing as required by the commission within 7 days of the date the application or complaint was filed or as required by the commission. The first hearing shall be held within 10 days after the date of the notice. If a hearing is held, the commission shall have 180 days from the date the application or complaint was filed to issue its final order. If the principal parties of record agree that the complexity of issues involved requires additional time, the commission may have up to 210 days from the date the application or complaint was filed to issue its final order. If the application or complaint is subject to section 203a, the commission shall have an additional 60 days to issue its final order.

(12) An order of the commission under this act is subject to appellate review as of right in the court of appeals. The appeal shall be initiated by the filing of a claim of appeal with the court of appeals within 30 days of the issuance of an order or within 30 days of an order issued on a petition for rehearing of an order.

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

(14) Except if there is a request for emergency relief under this section, if the complaint filed under this section involves an interconnection dispute between providers, the commission shall require the parties to utilize the alternative dispute process under section 203a.

(15) In addition to any other relief provided by this act, the commission or a party may seek to compel compliance with a commission order by proceedings in mandamus, injunction, or by other appropriate civil remedies in the circuit court or other court of proper jurisdiction.

(16) Upon the filing of a motion for stay, the commission may, on terms as it considers just, stay the effect or enforcement of an order, except an order regarding rates or cost studies. A motion for stay, including a request for setting the amount of any appeal bond, are governed by the provisions for obtaining a stay of a civil action set forth in R 7.209 of the Michigan court rules. The commission shall decide a motion for stay within 10 days from the date the motion is filed with the commission.

Sec. 203a. (1) For all complaints involving a dispute of \$1,000.00 or less, a dispute under section 203(14), or upon the consent of all parties after the complaint is filed, for a period of 60 days after the date the complaint is filed under section 203, the parties shall attempt alternative means of resolving the complaint.

(2) Any alternative means that will result in a recommended settlement may be used that is agreed to by the principal parties of record, including, but not limited to, settlement conferences, mediation, and other informal dispute resolution methods. If the parties cannot agree on an alternative means within 10 days after the date the complaint is filed, the commission shall order mediation. Within the 60-day period required under subsection (1), a recommended settlement shall be made to the parties.

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

(4) If a party rejects or fails to respond within 7 days to the recommended settlement, then the application or complaint shall proceed to a contested case hearing under section 203.

(5) The party that rejects the recommended settlement shall pay the opposing party's actual costs of proceeding to a contested case hearing, including attorney fees, unless the final order of the commission is more favorable to the

rejecting party than the recommended settlement under this section. A final order is considered more favorable if it differs by 10% or more from the recommended settlement in favor of the rejecting party.

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

(7) An attempt to resolve a contested case under this section is exempt from the requirements of section 203 and the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Sec. 204. If 2 or more telecommunication providers are unable to agree on a matter relating to a regulated telecommunication service or a matter prohibited by section 305, then either telecommunication provider may file with the commission an application for resolution of the matter.

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

(2) If the commission finds, after notice and hearing, that the 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. 209. (1) If the commission finds that a party's position in a proceeding under this act was frivolous, the commission shall award to the prevailing party the costs, including reasonable attorney fees, against the nonprevailing party and their attorney.

(2) As used in this section:

(a) "Frivolous" means that at least 1 of the following conditions is met:

(i) The party's primary purpose in initiating the proceeding or asserting the defense was to harass, embarrass, or injure the prevailing party.

(ii) The party had no reasonable basis to believe that the facts underlying that party's legal position were true.

(iii) The party's legal position was devoid of arguable legal merit.

(b) "Frivolous" does not mean a complaint filed to challenge a rate alteration increase for basic local service if the complaint has been reviewed by the commission and has not been dismissed by the commission pursuant to section 203(2).

(c) "Prevailing party" means a party who wins in the proceeding.

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.

Sec. 211. Each telecommunication provider of a regulated service in this state shall pay an assessment in an amount equal to the expenses of the commission pursuant to Act No. 299 of the Public Acts of 1972, being sections 460.111 to 460.120 of the Michigan Compiled Laws.

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, 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 tariffs: R 460.2051 to R 460.2057.
- (d) Consumer standards and billing practices, residential telephone service: R 460.2211 to R 460.2279.
- (e) Uniform systems of accounts for class A and class B telephone companies: R 460.9041 and R 460.9059.

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

Sec. 214. (1) The commission shall issue orders that assign the telephone digits 2-1-1 to community resource information and referral answering points established under subsection (3) and prescribe appropriate interconnection orders to carry out the intent of this section.

(2) Each provider of basic local exchange service in this state shall assign the telephone number 2-1-1 only to a community resource information and referral answering point established under subsection (3).

(3) The commission shall designate a community resource information and referral entity to be the 2-1-1 answering point for various geographical areas within this state. In making its determination, the commission shall consider all of the following:

- (a) The recommendations of Michigan 2-1-1, inc.
- (b) Whether the relevant state-endorsed community collaborative bodies are in agreement.
- (c) Whether the entity has established a framework to assure the provision of coverage of the 2-1-1 telephone number 24 hours per day, 7 days per week.
- (d) Whether the entity meets 2-1-1 standards adopted by the Michigan alliance for information and referral systems.

(4) Each community resource information and referral entity designated by the commission to be the 2-1-1 answering point for a particular geographical area within the state shall establish the framework to provide sufficient resources to operate the 2-1-1 telephone number 24 hours per day, 7 days per week.

(5) Not later than April 1, 2006, the commission shall designate an entity to serve as the state 2-1-1 coordinating agency. The designated agency shall assist and provide information and resources in implementing 2-1-1 service in this state. The designated agency shall also coordinate the providing of 2-1-1 services of the community resource information and referral entities designated under subsection (3).

(6) Before a state agency or local unit of government implements a community resource information or referral service, the state agency or local unit of government shall consult with the state 2-1-1 coordinating agency designated by the commission under subsection (5).

(7) By 2008, the commission shall issue orders that assign the telephone digits 2-1-1 to a statewide central routing system connecting regional community resource information and referral answering points established under subsection (3). Each provider of basic local exchange service in the state will reassign the telephone number 2-1-1 to the central system without additional charge.

ARTICLE 2A LOCAL UNITS OF GOVERNMENT

Sec. 252. (1) A public entity may provide telecommunication services within its boundaries if the public entity has complied with the requirements of section 14 of the metropolitan extension telecommunications right-of-way oversight act, 2002 PA 48, MCL 484.3114, and all of the following apply:

- (a) The public entity has issued a request for competitive sealed bids to provide telecommunication services.
- (b) The public entity has received less than 3 qualified bids from private providers.
- (c) It is more than 60 days from the date the request for bids was issued.
- (d) The public entity is providing the telecommunication services under the same terms and conditions as required under the request for bids issued pursuant to subdivision (a).

(2) Except as provided under subsection (3), a public entity shall not provide telecommunication services outside its boundaries.

(3) Two or more public entities may jointly request bids under subsection (1) and provide telecommunication services if all participating public entities meet the requirements of this section. If a public entity does not receive a qualified bid as required under subsection (1), the public entity may contract with another public entity to receive telecommunication services.

(4) A public entity shall not establish a board or other entity for the purpose of providing regulation of a private provider of services under this section.

(5) This section does not apply to all of the following:

- (a) Public safety systems.
- (b) Systems used only for the internal use of the public entity or for the sharing of information between the public entity and another public entity.
- (c) A public entity that is currently providing telecommunication services or that has held a public hearing by November 1, 2005 on a proposal to provide telecommunication services, or has issued a request for bids

by November 1, 2005 to provide telecommunication services, or has an enforceable contract to begin construction of a telecommunication system by November 1, 2005.

(d) A public entity that is currently providing service in another public entity's boundaries.

(e) Services offered by a public entity to the public within a facility owned and operated by the public entity.

(f) Systems or services used or offered by 1 or more public entities or consortiums to advance or promote the public health, safety, and provision of e-government services.

(6) This section may not be construed to prevent a municipally-owned utility from providing to its energy customers, either directly or indirectly, any energy related service involving the transfer or receipt of information or data concerning the use, measurement, monitoring, or management of energy services provided by the municipally-owned utility, including services such as load management or automated meter reading.

(7) As used in this section, "public entity" means a county, city, village, township, or any agency or subdivision of the public entity.

ARTICLE 3 REGULATED TELECOMMUNICATIONS SERVICES

A. BASIC LOCAL EXCHANGE

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

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

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

Sec. 302. (1) After notice and hearing, the commission shall approve an application for a license if the commission finds both of the following:

(a) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service within the geographic area of the license and that the applicant intends to provide service within 1 year from the date the license is granted.

(b) The granting of a license to the applicant would not be contrary to the public interest.

(2) The commission shall retain a copy of all granted licenses and make all information contained in the licenses available to the public.

(3) Each provider granted a license shall retain a copy of the license at its principal place of business and make the license available for review to the public.

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

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

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

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

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

(9) A call made to a local calling area adjacent to the caller's local calling area shall be 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 classify the call as a local call. The commission shall convene a workgroup of interested parties for the purpose of resolving issues surrounding virtual NXX. Virtual NXX is the assignment of a telephone number to customers who are not physically located in the exchange to which the NXX is assigned. The workgroup shall consider the utilization of virtual NXX services to transport interexchange traffic and the associated inter-carrier compensation. Prior to July 1, 2006, the commission shall submit a report to the governor and the house and senate standing committees with oversight of telecommunication issues on the progress of workgroup discussions. The report shall include a commission policy statement relating to the provision of virtual NXX services, and recommendations for legislation, if any.

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

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

(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.

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

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

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

- (a) Discriminate against another provider by refusing or delaying access service to the local exchange.
- (b) Refuse or delay interconnections or provide inferior connections to another provider.
- (c) Degrade the quality of access service provided to another provider.
- (d) Impair the speed, quality, or efficiency of lines used by another provider.
- (e) Develop new services to take advantage of planned but not publicly known changes in the underlying network.
- (f) Refuse or delay a request of another provider for information regarding the technical design, equipment capabilities and features, geographic coverage, and traffic patterns of the local exchange network.
- (g) Refuse or delay access service or be unreasonable in connecting another provider to the local exchange whose product or service requires novel or specialized access service requirements.
- (h) Upon a request, fail to fully disclose in a timely manner all available information necessary for the design of equipment that will meet the specifications of the local exchange network.
- (i) Discriminate against any provider or any party who requests the information for commercial purposes in the dissemination of customer proprietary information. A provider shall provide without unreasonable discrimination or delay telephone directory listing information and related services to persons purchasing telephone directory listing information to the same extent and in the same quality as provided to the provider, affiliates of the provider, or any other listing information purchaser.
- (j) Refuse or delay access service by any person to another provider.
- (k) Sell, lease, or otherwise transfer an asset to an affiliate for an amount less than the fair market value of the asset.
- (l) Buy, lease, or otherwise acquire an asset from an affiliate of the provider for an amount greater than the fair market value of the asset.
- (m) Bundle unwanted services or products for sale or lease to another provider.
- (n) Perform any act that has been prohibited by this act or an order of the commission.
- (o) Sell services or products, extend credit, or offer other terms and conditions on more favorable terms to an affiliate of the provider than the provider offers to other providers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Comply with sections 505 and 507.

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

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

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

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

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

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

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

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

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

(c) The educational institution has held not less than 1 public hearing on the proposed plan to sell the excess capacity. The educational institution shall give notice of the time and place of the public hearing not less than 15 days before the hearing by 1 publication in a newspaper of general circulation in the geographic area in which the excess capacity is to be sold. Notice shall also be provided on the educational institution's website.

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

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

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

indicating the identity of the affiliated entity, description of the transaction and the impact on basic local exchange service.

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

Sec. 309. (1) A provider of basic local exchange service shall provide to each customer local directory assistance and, at no additional charge to the customer, an annual printed telephone directory.

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

Sec. 309a. A provider of telecommunication service, including, basic local exchange service, may provide cable service if the provider has received a franchise agreement from the local unit of government to provide cable service.

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

B. TOLL ACCESS SERVICE

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

(2) A provider of toll access services shall set the rates for toll access services. Access service rates and charges set by a provider that do not exceed the rates allowed for the same interstate services by the federal government are just and reasonable. Providers may agree to a rate that is less than the rate allowed by the federal government.

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

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

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

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

(7) This section shall not apply to basic local exchange providers that have 250,000 or fewer customers in this state.

Sec. 310a. (1) After June 1, 2007, all providers of telecommunication services in this state shall not charge, assess, or impose on end-users an intrastate subscriber line charge or end-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. 311. (1) A telecommunication provider of both basic local exchange service and toll service shall impute as provided under section 362 to itself its prices of special toll access service and switched access for the use of

essential facilities it uses in the provision of toll, WATS, or other service for which toll access service is a component.

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

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

C. TOLL SERVICE

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

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

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

Sec. 312c. (1) Before connecting any call, the operator service provider that owns or operates the payphone or contracts to provide toll service for the pay phone provider shall at no charge disclose, audibly and distinctly, how the consumer may receive a rate quote.

(2) To receive a rate quote, the consumer shall have the option of either pressing a sequence of not more than 2 keys or staying on the line for assistance.

(3) The consumer shall not be assessed any charge for the use of the payphone or toll service if the consumer terminates the call after receiving the rate quote.

(4) This section does not apply to calls made by a consumer utilizing his or her toll provider of choice by dialing the provider's access service method.

(5) As used in this section, "consumer" means a person initiating a telephone call using an operator service. In collect calling arrangements handled by an operator service provider, the term consumer includes the party on the terminating end of the call. For bill-to-third party calling arrangements handled by an operator service provider, the term consumer includes the party to be billed for the call if that party is contacted by the operator service provider to secure billing approval.

D. DISCONTINUANCE OF SERVICE

Sec. 313. (1) A telecommunications provider that provides either basic local exchange or toll service, or both, may not discontinue either service to an exchange unless 1 or more alternative telecommunication providers are furnishing the same telecommunication service to the customer in the exchange.

(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 as 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 act.

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

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

Sec. 314a. (1) Except as otherwise provided by this section, a telecommunication provider shall not discontinue basic local exchange telecommunication service to the residence of a qualifying customer who has made a filing under this section. A customer making a filing under this section shall retain the telephone number assigned to the customer on the date of the filing.

(2) A qualifying customer may apply for shut-off protection for telecommunication service under this section by notifying the provider that the qualifying customer is in need of assistance caused by a reduction in household income through a call to active duty status in the military.

(3) A provider of service may request verification of the call to active duty status from the qualifying customer. A provider of service may also request verification of the qualified customer's reduction in household income.

(4) A provider of service may require restrictions or elimination of calling features or toll service as a condition of granting a qualifying customer's request for shut-off protection under this section.

(5) A qualifying customer may receive shut-off protection from the provider of service under this section for up to 90 days. Upon application to the provider, the provider may grant the qualifying customer 1 or more extensions.

(6) A qualifying customer receiving assistance under this section shall notify the provider of the end of the call to active duty status as soon as that status is known.

(7) Unless waived by the provider, the shut-off protection provided under this section does not void or limit the obligation of the qualifying customer to pay for telecommunication services received during the time of assistance.

(8) Within 48 hours of receiving all information requested of the qualifying customer, a provider shall do all of the following:

(a) Create a repayment plan requiring minimum monthly payments that allows the qualifying customer to pay any past due amounts over a reasonable time period not to exceed 1 year.

(b) Provide a qualifying customer with information regarding any governmental, provider, or other assistance programs.

(9) This section does not affect or amend any commission rules or orders pertaining to billing standards. If the terms and conditions arranged by the provider with the qualifying customer under subsection (8) are not followed by the customer, then the provider shall follow procedures as set forth in the commission's billing standards for basic residential telecommunication service.

(10) As used in this section, "qualifying customer" means all of the following:

(a) A residential household where the income is reduced because the customer of record, or the spouse of the customer of record, is called to active military service by the president of the United States or the governor of this state during a time of declared national or state emergency or war.

(b) Assistance is needed by the residential household to maintain telecommunication service.

(c) The residential household notifies the provider of the need for assistance and provides verification of the call to active duty status.

Sec. 314b. (1) Except as otherwise provided by this section, a telecommunication provider shall not discontinue basic local exchange telecommunication service to a residence of a person who is certified as deaf or hard of hearing, or speech-impaired by a licensed physician, licensed audiologist, or qualified state agency, who has made a filing under this section.

(2) A deaf or hard of hearing, or speech-impaired customer may apply for shut-off protection for telecommunication services under this section by notifying the provider that the deaf or hard of hearing, or speech-impaired customer is in need of assistance caused by a reduction in household income.

(3) A provider of service may request verification of the reduction in household income from the deaf or hard of hearing, or speech-impaired customer.

(4) A provider of service may require restrictions or elimination of calling features or toll service as a condition of granting a deaf or hard of hearing, or speech-impaired customer's request for shut-off protection under this section. The provider shall not restrict the deaf or hard of hearing, or speech-impaired customer's access to a telecommunication relay service required under section 315.

(5) A deaf or hard of hearing, or speech-impaired customer may receive shut-off protection from the provider of service under this section for up to 90 days. Upon application to the provider, the provider may grant the qualifying customer 1 or more extensions.

(6) Unless waived by the provider, the shut-off protection provided under this section does not void or limit the obligation of the qualifying customer to pay for telecommunication services received during the time of assistance.

(7) Within 48 hours of receiving all information requested of the deaf or hard of hearing, or speech-impaired customer, a provider shall do all of the following:

(a) Create a repayment plan requiring minimum monthly payments that allows the deaf or hard of hearing, or speech-impaired customer to pay any past due amounts over a reasonable time period not to exceed 1 year.

(b) Provide a deaf or hard of hearing, or speech-impaired customer with information regarding any governmental, provider, or other assistance programs.

(8) This section does not affect or amend any commission rules or orders pertaining to billing standards. If the terms and conditions arranged by the provider with the deaf or hard of hearing, or speech-impaired customer under subsection (7) are not followed by the customer, then the provider shall follow procedures as set forth in the commission's billing standards for basic residential telecommunication service.

E. SERVICES FOR THE HEARING IMPAIRED

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

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

- (3) The Michigan telecommunication relay service advisory board is created within the department. The board shall consist of 9 members. One member shall be the chair of the commission or his or her designated representative. One member shall be the director of the division on deaf and hard of hearing within the department 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 shall be required to pass upon any question, action, or business of the board.
- (8) The business performed by the board shall be conducted at a public meeting of the board. The board shall keep minutes of its proceedings, showing the vote of each member on each proposition or question, or indicating if a member is absent or fails to vote. A record of board action and business shall be made and maintained.
- (9) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public.
- (10) Rates and charges for calls placed through a telecommunication relay service shall not exceed the rates and charges for calls placed directly from the same originating location to the same terminating location. Unless ordered by the commission, a provider of a telecommunications relay service shall not be required to handle calls from public telephones except for calls charged collect, cash, to a credit card, or third party number.
- (11) Notwithstanding any other provision of this act, a provider may offer discounts on toll calls where a text telephone-telecommunications device for the deaf is used. The commission shall not prohibit such discounts on toll calls placed through a telecommunication relay service.
- (12) The commission shall establish a rate for each subscriber line of a provider to allow the provider to recover costs incurred under this section and may waive the costs assessed under this section to individuals who are deaf or severely hearing impaired or speech impaired.
- (13) No later than January 1, 2008, the board shall conduct a study and report to the governor and the house and senate standing committees with oversight of telecommunication issues on the ability for deaf, hard of hearing, and speech-impaired customers to access telecommunication services. The report shall include, but is not limited to, activities by the commission to ensure reasonable 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.

F. LIFELINE SERVICES

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 the low income customer is 65 years of age or more, 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 person's annual income shall not exceed 150% of the federal poverty income standards as determined by the United States office of management and budget and as approved by the state treasurer, or the person must participate in 1 of the following federal assistance programs:

- (a) Medicaid.
- (b) Food stamps.
- (c) Supplemental security income.
- (d) Federal public housing assistance.
- (e) Low-income home energy assistance program.
- (f) National school lunch program's free lunch program.
- (g) Temporary assistance for needy families.

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

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

Sec. 316a. (1) As used in this section:

- (a) "Affordable rates" means, at a minimum, rates in effect on January 1, 2006 or as determined by the commission.
- (b) "Intrastate universal service fund" means a fund created by the commission to provide a subsidy to customers for the provision of supported telecommunication services provided by any telecommunication carrier.
- (c) "Supported telecommunication services" means primary residential access lines and a minimum level of local usage on those lines, as determined by the commission.
- (d) "Universal service" shall mean the provision of supported telecommunication services by any carrier.

(2) The commission shall determine for each provider whether and to what extent the affordable rate level to provide supported telecommunication services is below each provider's forward looking economic cost of the supported telecommunication services.

(3) If an intrastate universal fund is created under this section, to the extent providers provide supported telecommunication services at an affordable rate that is below the forward looking economic cost of the supported telecommunication services, the fund shall provide a subsidy for customers in an amount which is equal to the difference between the affordable rate as determined by the commission and the forward looking economic cost of the supported services, less any federal universal service support received for those supported services.

(4) Eligibility for customers to receive intrastate universal service support under subsection (3) shall be consistent with the eligibility guidelines of section 254(e) of the telecommunications act of 1996 and the rules and regulations of the federal communications commission. The state fund shall be administered by an independent third-party administrator selected by the commission.

(5) To the extent an intrastate universal service fund is established, the commission shall require that the costs of the fund be recovered from all telecommunication providers on a competitively neutral basis. Providers contributing to the intrastate universal service fund may recover from end-users the costs of the financial support through surcharges assessed on end-users' bills.

(6) Upon request or on its own motion, the commission, after notice and hearing, shall determine if, based upon changes in technology or other factors, the findings made under this section should be reviewed.

(7) This section does not apply if an interstate universal service fund exists on the federal level unless otherwise approved by the commission.

G. OPERATOR SERVICE PROVIDERS

Sec. 317. (1) An operator service provider shall not provide operator services in this state without first registering with the commission. The registration shall include the following information:

- (a) The name of the provider.
- (b) The address of the provider's principal office.
- (c) If the provider is not located in this state, the address of the registered office and the name of the registered agent authorized to receive service of process in this state.
- (d) Any other information that the commission may require.

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

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

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

(5) At no charge, an operator service provider shall immediately connect a person making an emergency call to an emergency responder service.

H. PAYPHONE SERVICES

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

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

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

(a) The name of the provider.

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

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

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

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

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

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

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

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

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

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

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

I. REGULATED RATES

Sec. 321. A provider of a regulated telecommunication service shall not charge a rate for the service that is less than the total service long run incremental cost of providing the service.

ARTICLE 3A INTERCONNECTION OF TELECOMMUNICATION PROVIDERS WITH THE BASIC LOCAL EXCHANGE SERVICE

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

Sec. 352. (1) The rates of a provider of basic local exchange service for interconnection under this article shall be at the provider's total service long run incremental cost of providing the service.

(2) The rates for network elements and combinations of network elements, unbundled loops, number portability, and the termination of local traffic shall be the rates established by the commission.

(3) The rate of a network element shall not exceed either of the following:

(a) The tariffed or contract rate a retail customer or affiliate is or would be charged for the element, service, or its functional equivalent.

(b) The rate and other appropriate charges, or portions of charges, if any, to be determined by the commission, of a retail service which includes the same network element less the total service long run incremental costs of all other components that together form the same retail service.

(4) If the network element imputation test in subsection (3) is not met, the unbundled network element rate shall be reduced until the network element rate meets that standard.

(5) Existing network element rates may be revised or new network element rates established by the commission after notice and hearing. To initiate a proceeding under this subsection, a party shall file with the commission a petition to establish or alter network element rates. The petition shall clearly state the proposed rate or rates and include reasonable documentary support for the proposed rate or rates. If the petitioner seeks an increase to a previously commission ordered rate, the petitioner shall demonstrate that the proposed revision results from an increase in underlying cost and the increase in underlying cost has been reflected in retail rates.

Sec. 353. The commission shall issue a report and make recommendations to the legislature and the governor on or before January 1, 2007 involving the issues, scope, terms, and conditions of interconnection of telecommunication providers with the basic local exchange service.

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

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

B. SERVICE UNBUNDLING

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

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

Sec. 356. (1) A provider of local exchange service shall allow and provide for virtual co-location with other providers at or near the central office of the provider of local exchange service of transmission equipment that the provider has exclusive physical control over and is necessary for efficient interconnection of the unbundled services.

Providers may enter into an agreement that allows for interconnection on other terms and conditions than provided under this subsection.

C. RESALE OF LOCAL EXCHANGE SERVICE

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

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

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

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

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

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

(5) Wholesale rates shall not be less than the provider's total service long run incremental cost of the services.

(6) This section does not apply after December 31, 2007.

D. NUMBER PORTABILITY

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

(2) A provider of basic local exchange service shall provide number portability. The commission shall, consistent with federal law, enforce number portability, number administration, number reclamation, and number assignment between regulated and unregulated providers.

E. TERMINATION RATES

Sec. 359. (1) Except as otherwise provided by federal law, a provider of basic local exchange service shall establish a rate charge for other providers of basic local exchange service for the termination of local traffic on its network as provided under section 352.

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

G. ATTACHMENT RATES

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

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

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

(2) A provider shall allow and establish the rates, terms, and conditions for attachments by another provider, cable service, or an educational institution establishing a telecommunication system under section 307.

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

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

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

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

H. IMPUTATION

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

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

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

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

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

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

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

I. CUSTOMER DATA BASE

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

ARTICLE 3B FEDERAL PROGRAMS

Sec. 375. All providers of telecommunications services within this state that receive federal universal service support for telecommunications services provided to eligible elementary and secondary schools, under the telecommunications act of 1996, Public Law 104-104, 110 Stat. 56, shall provide those intrastate services at discounts equal to the discounts applicable for eligible interstate services.

Sec. 376. All providers of telecommunications services within this state that receive federal universal service support for telecommunications services provided to eligible libraries, under the telecommunications act of 1996, Public Law 104-104, 110 Stat. 56, shall provide those intrastate services at discounts equal to the discounts applicable for eligible interstate services.

ARTICLE 4 UNREGULATED SERVICES

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

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

Sec. 402. (1) A provider of an unregulated service may file with the commission a tariff which shall contain the information the provider determines to be appropriate regarding the offered service.

(2) The commission shall retain a tariff filed under this section and make all information contained in the tariff available to the public.

Sec. 403. A provider of unregulated telecommunication services shall not at any time refuse, charge, delay, or impair the speed of the connecting of a person to a telecommunication emergency system.

ARTICLE 5 PROHIBITED ACTIVITY

Sec. 502. (1) A provider of a telecommunication service shall not do any of the following:

(a) Make a statement or representation, including the omission of material information, regarding the rates, terms, or conditions of providing a telecommunication service that is false, misleading, or deceptive. As used in this subdivision, "material information" includes, but is not limited to, all applicable fees, taxes, and charges that will be billed to the end-user, regardless of whether the fees, taxes, or charges are authorized by state or federal law.

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

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

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

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

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- (f) Disparage the services, business, or reputation of another by false, deceptive, or misleading representation of fact.
 - (g) Represent to a party to whom services are supplied that the services are being supplied in response to a request made by or on behalf of the party when they are not.
 - (h) Cause a probability of confusion or a misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction by making a false, deceptive, or misleading statement or by failing to inform the customer of a material fact, the omission of which is deceptive or misleading.
 - (i) Represent or imply that the subject of a transaction will be provided promptly, or at a specified time, or within a reasonable time, if the provider knows or has reason to know it will not be so provided.
 - (j) Cause coercion and duress as a result of the time and nature of a sales presentation.
 - (k) Require the purchase of a regulated service of the provider as a condition of purchasing an unregulated service.
 - (l) If a dispute exists between a customer and the provider, disconnect service to the customer before the resolution of a dispute.

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

- (a) The voluntary payment by the person for the cost of investigation.
- (b) An amount to be held in escrow pending the outcome of an action.
- (c) An amount for restitution to an aggrieved person.

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

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

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

- (a) Disclose the unpublished telephone number to another person for commercial gain.
- (b) Use the unpublished telephone number to solicit business.
- (c) Intentionally disclose the unpublished telephone number through a computer data base, on-line bulletin board, or other similar mechanism.

Sec. 504. Each telecommunications provider doing business in this state shall file with the commission a small and minority owned telecommunication business, as defined by the department of management and budget, participation plan no later than March 1, 2006. A new provider seeking to do business in this state shall file such a plan with the commission with its application for license. The plan shall contain the entity's plan for purchasing goods and services from small and minority telecommunications businesses and information on programs, if any, to provide technical assistance to small and minority telecommunications businesses.

Sec. 505. (1) An end user of a telecommunications provider shall not be switched to another provider without the authorization of the end user.

(2) The commission shall issue orders to ensure that an end user of a telecommunications provider is not switched to another provider without the end user's oral authorization, written confirmation, confirmation through an independent third party, or other verification procedures subject to commission approval, confirming the end user's intent to make a switch and that the end user has approved the specific details of the switch. The order issued under this section shall require that all providers comply with the regulations established by the federal communications commission on verification procedures for the switching of an end user's telecommunications provider.

Sec. 506. (1) Upon the receipt of a complaint filed by a person alleging a violation of section 505 or 507, an end-user who has been switched to another provider or had services added in violation of section 505 or 507, or a provider who has been removed as an end-user's provider without the end-user's authorization, or upon the commission's own motion, the commission may conduct a contested case as provided under section 203. The commission shall create, and shall supply upon request, a form affidavit designed to enable an end-user to provide all information necessary to promote efficient resolution of complaints alleging a violation of section 505 or 507. Hearings conducted under this section shall comply with the following requirements:

(a) Hearings shall be conducted in a manner as to optimize expediency, convenience, and the ability of end-users to bring and prosecute, without the assistance of counsel, complaints alleging violations of section 505 or 507, while preserving the rights of the parties.

(b) If possible, the commission shall hold the hearing at a location near the end-user's residence or place of business.

(2) If the commission finds that a person has violated section 505 or 507 or an order issued under section 505 or 507, the commission shall order remedies and penalties to protect and make whole end-users and other persons who have suffered damages as a result of the violation, including, but not limited to, 1 or more of the following:

(a) Order the person to pay a fine for the first offense of not less than \$20,000.00 or more than \$30,000.00. For a second and any subsequent offense, the commission shall order the person to pay a fine of not less than \$30,000.00 or more than \$50,000.00. If the commission finds that the second or any of the subsequent offenses were knowingly made in violation of section 505 or 507, the commission shall order the person to pay a fine of not more than \$70,000.00. Each switch made in violation of section 505 or service added in violation of 507 shall be a separate offense under this subdivision.

(b) Order an unauthorized provider to refund to the end-user any amount greater than the end-user would have paid to an authorized provider.

(c) Order a portion between 10% to 50% of the fine assessed under subdivision (a) be paid directly to the customer who suffered the violation of section 505 or 507.

(d) Order an unauthorized provider to reimburse an authorized provider an amount equal to the amount paid by the end-user that should have been paid to the authorized provider.

(e) If the person is licensed under this act, revoke the license if the commission finds a pattern of violations of sections 505 or 507.

(f) Issue cease and desist orders.

(3) Notwithstanding subsection (2), a fine shall not be imposed for a violation of section 505 or 507 if the provider has otherwise fully complied with sections 505 and 507 and shows that the violation was an unintentional and bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error. Examples of bona fide error include clerical, calculation, computer malfunction, programming, or printing errors. An error in legal judgment with respect to a person's obligations under section 505 is not a bona fide error. The burden of proving that violation was an unintentional and bona fide error is on the provider.

(4) If the commission finds that a party's complaint or defense filed under this section is frivolous, the commission shall award to the prevailing party costs, including reasonable attorney fees, against the nonprevailing party and their attorney.

Sec. 507. (1) A telecommunications provider shall not include or add optional services in an end-user's telecommunications service package without the express oral or written authorization of the end-user.

(2) Upon the receipt of a complaint filed by a person alleging a violation of this section or upon the commission's own motion, the commission may conduct a contested case as provided under section 203.

ARTICLE 6
PENALTIES, REPEALS, AND EFFECTIVE DATES

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

- (a) Except as provided in subdivision (b), the person to pay a fine for the first offense of not less than \$1,000.00 nor more than \$20,000.00 per day that the person is in violation of this act, and for each subsequent offense, a fine of not less than \$2,000.00 nor more than \$40,000.00 per day.
- (b) If the provider has less than 250,000 access lines, the provider to pay a fine for the first offense of not less than \$200.00 or more than \$500.00 per day that the provider is in violation of this act, and for each subsequent offense a fine of not less than \$500.00 or more than \$1,000.00 per day.
- (c) A refund to the ratepayers of the provider of any collected excessive rates.
- (d) If the person is a licensee under this act, that the person's license be revoked.
- (e) Cease and desist orders.
- (f) Except for an arbitration case under 252 of part II of title II of the communications act of 1934, chapter 622, 110 Stat. 66, attorney fees and actual costs of a person or provider of less than 250,000 end-users.

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

Sec. 603. The following acts and parts of acts are repealed:

<u>Year of Act</u>	<u>Public Act Number</u>	<u>Section Numbers</u>	<u>Compiled Law Sections</u> (1979)
1883	72		484.51
1913	206	1 to 3f	484.101 to 484.103f
		4 to 11a	484.104 to 484.111a
		12 to 14	484.112 to 484.114
		19 to 24	484.119 to 484.124
		26	484.126
1913	383		469.491 to 469.493

Sec. 604. *Repealed*