

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

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

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

(3) Except as provided in subsection (6), educational institutions may only sell telecommunication services required for, or useful in, the instruction and training, including work 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 areas.

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

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

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

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

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

(2) A provider of basic local exchange service shall not sell or transfer capital assets used to provide the service for an amount less than

the fair market value to any other provider or affiliated entity for the purpose of providing an unregulated service.

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

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

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

(2) A provider of interzone service, as defined in tariffs on file with the commission on December 31, 1991, shall continue to provide the service pursuant to the terms of the tariffs. A provider may alter interzone service rates pursuant to provisions of section 304.

(3) A provider of basic local exchange service shall provide each subscriber an additional charge the option of having access to 900 prefix numbers accessed through the customer's exchange service.

210. (1) A provider of telecommunication service, including, but not limited to, exchange service, may provide cable service if the provider has obtained a license or agreement from the local unit of government to provide such service.

(2) A provider of cable service shall provide the service in an area that has an incumbent provider of cable service operating under a franchise agreement, by negotiating a franchise agreement with the incumbent provider. Any agreement entered into prior to July 1, 1993, shall be subject to review by the commission. The commission shall consider the public interest in the negotiation, approval and implementation of such agreements. The commission shall have the authority to require any franchise agreement to include provisions that are necessary to protect the public interest.

209b. The commission shall encourage all providers in Michigan shall take steps to ensure that their services are not used to discourage or obstruct the free flow of interstate and intrastate commerce, including, but not limited to, the use of their services for the purpose of promoting collective bargaining, or other activities, including, but not limited to, the use of their services for the purpose of preventing the free flow of interstate and intrastate commerce.

3. TOLL ACCESS SERVICE

310. (1) Except as provided by this act, the commission shall not have authority to set the rates for toll access services.

(2) A provider of toll access services shall set the rates for toll access services. Access service rates and charges set by a provider that exceed the rates allowed for the same interstate services by the federal government are not just and reasonable. Providers may agree to a rate that is less than the rate allowed by the federal government. If the providers cannot agree on a rate, a provider may apply to the commission under section 204.

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

(4) A provider of toll access service shall make available for intrastate access services any technical interconnection arrangements, including, but not limited to, those 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. Any discounts by the federal communications commission, volume discounts on toll access are prohibited under this subsection.

(6) If a toll access service rate is reduced under section 301a, then the provider of such service shall reduce its rate to its customers accordingly.

(7) A telecommunications provider of both basic local telephone service and toll service shall impute as provided under section 367 the cost of providing special toll access service and switched access for toll access services. If the provider of toll, WATS, or switched access service is a competitor.

(8) Providers of both special toll access service, toll access services, toll or WATS shall impute to themselves in the same manner as provided in this section their individual cost of special toll access services and switched access services in their pricing.

(9) Toll communication services that utilize special or switched toll access services shall be available for resale by the telecommunications providers of the service.

C. TOLL SERVICE

(1) Except as provided by this act, the commission shall not regulate toll rates for toll service.

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

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

(4) All toll exchange toll calling plans as ordered by the commission shall remain in effect under this act until altered by order of the commission. A provider of toll service shall implement an optional plan for calling to exchanges within 20 miles of a customer's home. The plan shall not violate the conditions delineated in the commission's order in case number U-9153, dated September 26, 1989.

(5) 312a. Effective January 1, 1996, if a waiver to the inter-LATA prohibitions has been granted for a specific service area and the service area has 2 or more providers of local exchange service, the provider of basic local

exchange service shall provide 1+intra-LATA toll dialing parity within the service area that is subject to the waiver.

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

- (a) To 10% of the customers by January 1, 1996.
- (b) To 20% of the customers by February 1, 1996.
- (c) To 30% of the customers by March 1, 1996.
- (d) To 40% of the customers by April 1, 1996.
- (e) To 50% of the customers by May 1, 1996.

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

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

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

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

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

D. DISCONTINUANCE OF SERVICE

Sec. 313 (1) A telecommunication 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 customers in the exchange.

(2) A telecommunication provider proposing to discontinue a regulated service shall file a notice of the discontinuance of service with the commission, publish the notice in a newspaper of general circulation within the exchange, and provide other reasonable notice as required by the commission.

(3) Within 30 days after the date of publication of the notice required by subsection (2), a person or other telecommunication provider affected by a discontinuance of services by a telecommunication provider may apply to the commission to determine if the discontinuance is authorized pursuant to this act.

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 at a rate below the regulated rate.

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

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

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

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

G. OPERATOR SERVICE PROVIDERS

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

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

(b) Prior to the connection of each call, the operator service provider shall do all of the following:

(i) Announce the operator service provider's name.

(ii) Quote, at the caller's request and without charge, the rate and any other fees or surcharges applicable to the call charged by the operator service provider.

(c) Allow a caller to choose the carrier of his or her choice by doing either of the following:

(i) After informing the caller that the rates for the call may not reflect the rates for a call from the location of the caller and receiving the caller's consent, transfer the caller to the carrier of his or her choice without charge.

(ii) Instruct the caller how to reach his or her carrier of choice by dialing the carrier's 950, 1-800, or 10-xxx access service method.

(d) Allow callers to the operator service provider to reach emergency services without charge.

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

(a) The name of the provider.

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

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

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

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

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

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

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

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

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

H. PAYPHONE SERVICES

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

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

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

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

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

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

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

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

(a) The name of the provider.

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

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

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

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

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

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

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

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

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

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

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

I. REGULATED RATES

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

ARTICLE 3A

INTERCONNECTION OF TELECOMMUNICATION PROVIDERS WITH THE BASIC LOCAL EXCHANGE SERVICE

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

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

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

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

A. JOINT MARKETING

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

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

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

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

B. SERVICE UNBUNDLING

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

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

Sec. 356. A provider of local exchange service shall allow and provide for virtual co-location with other providers at or near the central office of the provider of local exchange service of transmission equipment that the provider has exclusive physical control over and is necessary for efficient interconnection of the unbundled services. Provider 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 service the intended end user, or any service offered for the first time subsequent to March 1, 1996.

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

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

D. NUMBER PORTABILITY

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

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

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

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

E. TERMINATION RATES

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

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

F. DIRECTORY ASSISTANCE

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

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

G. ATTACHMENT RATES

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

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

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

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

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

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

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

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

H. IMPUTATION

Sec. 362. (1) The rate of a provider of local exchange services 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 for 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 the other components of the provider of local exchange service.

I. CUSTOMER DATA BASE

Sec. 363. Provider 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 4

UNREGULATED SERVICES

Sec. 501. (1) Except as otherwise provided by law or preempted by federal law, the commission shall not have authority over enhanced services, paging, cellular, mobile, and answering services, video, cable service, pay-per-view, shared tenant, private networks, financial services networks, radio and television, WATS, personal communication networks, municipally owned telecommunication system, 800 prefix services, burglar and fire alarm services, energy management services, except for state institutions of higher education, the reselling of centrex or its equivalent, payphone services, and the reselling of an unlicensed telecommunication service. The foregoing services shall not be considered part of basic local exchange service.

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

Sec. 502. (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 the information contained in the tariff available to the public.

Sec. 503. A provider of unregulated telecommunication services shall not refuse, delay, or impair the speed of the connecting of a telecommunication emergency service.

ARTICLE 5

PROHIBITED ACTIVITY

Sec. 501. A provider of a telecommunication service shall not do any of the following:

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

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

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

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

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

Sec. 503. (1) The commission shall promulgate rules under section 213

that establish privacy guidelines in the providing of telecommunication services.

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

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

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

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

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

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

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 ratepayers of the provider of any collected excessive rates.

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

(e) Cease and desist orders.

Sec. 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 (1979)</u>
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. (1) This act is repealed effective January 1, 2001.

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

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

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

Attachment 2
RECEIVED

MAY 20 1995
FCC MAIL ROOM

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of MCI)
TELECOMMUNICATIONS CORPORATION against)
AMERITECH MICHIGAN and GTE NORTH)
INCORPORATED relative to their not making)
intraLATA equal access available in the State)
of Michigan.)
_____)

Case No. U-10138
Remand

At the March 10, 1995 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. Ronald E. Russell, Commissioner
Hon. John L. O'Donnell, Commissioner

OPINION AND ORDER

I.

HISTORY OF PROCEEDINGS

On February 24, 1994, the Commission issued an order in which it determined that
intraLATA dialing parity¹ is necessary for effective competition and, therefore, it is in the
public interest. The Commission ordered that intraLATA dialing parity be implemented in
Michigan when Ameritech Michigan² and GTE North Incorporated (GTE) are authorized and

¹IntraLATA dialing parity is the capability to dial a single digit to initiate an intraLATA
long distance call. IntraLATA dialing parity is also known as intraLATA equal access and
intraLATA presubscription. As a result, those terms are used interchangeably in this order.

²Michigan Bell Telephone Company is now referred to as Ameritech Michigan.

able to provide interLATA toll service, but no later than January 1, 1996. Toward that end, the Commission found that a task force should be established to work out the procedure for the interexchange carriers (IXCs) to be in a position to fully and fairly compete in the intraLATA toll market.

The Commission directed the Commission Staff (Staff) to coordinate the formation of the task force to address all factors necessary to establish full intrastate toll competition including, but not limited to, the following issues: (1) If the two-PIC option³ is pursued, a deployment schedule must be developed, and all offices in which that technology can be implemented as of January 1, 1996 must be delineated along with a deployment schedule for all other central offices that cannot immediately convert to intraLATA dialing parity; (2) costs for the two-PIC option must be identified and cost recovery methodologies delineated; and (3) the effect the options available to Ameritech Michigan and GTE for intraLATA dialing parity will have on other local exchange carriers (LECs) must be evaluated.

On July 19, 1994, the Commission issued another order denying the petitions for rehearing filed by Ameritech Michigan and GTE. In that order, the Commission directed the task force to address the issues raised by the Michigan Exchange Carriers Association (MECA) regarding company-by-company implementation of intraLATA dialing parity in secondary exchange carrier (SEC) exchanges and proposed safeguards.

On September 23, 1994, the Report of the Dialing Parity Task Force (the report) was submitted to the Commission. Ameritech Michigan, GTE, MECA, MCI Communications Corporation (MCI), AT&T Communications of Michigan, Inc., (AT&T), and the Staff filed

³PIC is an acronym for primary interexchange carrier.

comments on the report on October 24, 1994. Attorney General Frank J. Kelley (Attorney General) and Mr. Jack Decker also submitted letters regarding the report.

II.

DISCUSSION

The Task Force Process

By letter dated March 16, 1994, the Staff requested interested parties to submit proposed issues to be addressed by the task force. Ameritech Michigan, GTE, MECA, AT&T, MCI, and LCI International Telecom Corp. (LCI) submitted proposals, while the Attorney General submitted a response. After reviewing the proposals, the Staff prepared a list of issues to be addressed, which was mailed to the parties on May 3, 1994. Ameritech Michigan, GTE, MECA, AT&T, MCI, LCI, Sprint, the Attorney General, the American Association of Retired Persons, and the Staff participated in the task force. On May 18, 1994, an initial task force meeting was held to discuss the issues and to coordinate the formation of committees to address the issues. Seven committees were formed to provide information and recommendations on the issues, which was then divided into the seven chapters that make up the report.

Each of the seven chapters of the report identifies the issues addressed by the applicable committee, the process used to complete the committee's report, and the committee's recommendations. The chapters also indicate the areas in which parties did not agree on the issues.

The task force requests that the Commission adopt the committees' unanimous recommendations. In those areas in which a consensus was not reached, the report indicates that further Commission action is necessary.

In its comments, Ameritech Michigan argues that, lacking specific direction from the Commission, the task force followed an arbitrary and skewed process. The company contends that, despite the fact that the Commission's order expressly stated that the task force was to address all factors necessary to establish full intrastate toll competition, the Staff arbitrarily excluded from consideration 13 issues that are critical to the successful implementation of intraLATA dialing parity. MECA adds that the task force focused on factual and technical implementation matters, but it did not address policy or legal issues. According to MECA, two important issues were explicitly excluded: (1) the impact of the potential withdrawal of service by the primary exchange carriers (PECs), i.e., Ameritech Michigan and GTE, from SEC exchanges and (2) MECA's recommended safeguards and standards for withdrawal of service from an area.

Additionally, Ameritech Michigan and MECA argue that the task force process and, ultimately, the report were further skewed by the composition of committee membership. They submit that because an unlimited number of IXCs were allowed to separately participate, the IXCs represented the majority membership of almost every committee. According to Ameritech Michigan, this ensured that the majority positions contained in each committee report were IXC positions because they were determined by a simple majority vote. For example, MECA points out that, while it represents 36 individual SECs in Michigan, MECA had only a single vote, whereas the IXCs had several votes because they had more individual participants.

Ameritech Michigan further argues that the report does not provide an evidentiary record because the information presented was not developed subject to any due process safeguards. At best, Ameritech Michigan submits, the report could be described as an advisory opinion

on intraLATA dialing parity issues from which the Commission may be able to identify areas that require further investigation. Ameritech Michigan maintains that serious legal issues remain regarding the legal status of the task force, the lawful procedures for implementation of the recommendations, and the Commission's jurisdiction in general over intraLATA dialing parity issues. To resolve those issues and implement the findings in the report, Ameritech Michigan states, it is likely that the Commission must comply with the contested case provisions of the Administrative Procedures Act (APA).

Finally, Ameritech Michigan argues that although the Commission's January 1, 1996 implementation date has been viewed as a deadline, the task force report demonstrates that virtually all of the implementation issues that existed on February 24, 1994 are still unresolved. Ameritech Michigan states that it would be appropriate to extend the implementation deadline to January 1, 1997 to allow time to correct the report's deficiencies and satisfy the legal requirements. Ameritech Michigan therefore requests that the Commission order supplemental proceedings consistent with the APA and due process to gather the information necessary to develop a record.

The Commission finds that all of Ameritech Michigan's, MECA's, and GTE's arguments should be rejected. First, a review of the issues excluded from consideration by the Staff reveals that they either represent an effort to relitigate whether intraLATA dialing parity should be implemented, or they are beyond the scope of this proceeding. For example, one of Ameritech Michigan's proposed issues is whether there are any legal obstacles to intraLATA presubscription. The Commission thoroughly analyzed that issue in its prior orders when it rejected the argument that the Commission does not have authority to order intraLATA dialing parity. Another proposed issue is the impact of intraLATA dialing parity

on pay telephone service, availability and cost of coin telephones, extended area service, flat rate calling, local calling areas, and resale of service. However, those considerations are outside the scope of the Commission's directions to the task force. In its February 24, 1994 order, the Commission intended that the task force's responsibility should be technical and administrative in nature. As the Staff correctly points out, it was not to determine the impact, prudence, or legality of the Commission's decision to implement intraLATA dialing parity. The Commission has already made those determinations. Therefore, the Commission believes that the Staff's narrowing of the issues was appropriate.

Second, the Commission is persuaded that the process used in the formation of the task force fairly represented all positions. Contrary to MECA's suggestion, there is no indication that the task force prevented MECA from having multiple representatives from its member companies participate in the task force. Rather, MECA chose to present a unified position on behalf of its member companies. As a result, it is only logical that more IXCs than LECs participated in the task force. However, that does not lead to the conclusion that the process was inherently unfair. In fact, the report indicates that Ameritech Michigan and MECA chaired some of the committees and, along with the other parties, participated in every other committee. Furthermore, all of the parties had the opportunity to file comments on the report, which the Commission will consider in rendering its decisions regarding the implementation of intraLATA dialing parity.

Third, Ameritech Michigan's argument that the report does not provide a sufficient legal basis upon which the Commission can make its final decisions lacks merit. In raising this issue for the first time in these proceedings, Ameritech Michigan ignores the fact that it has consistently favored the use of a task force on the issue of intraLATA dialing parity. In fact,

in its December 9, 1992 brief submitted in the first phase of this proceeding, Ameritech Michigan stated:

"Both under the MTA and under prior law, the Commission recognized that far-reaching policy evaluations are best conducted outside of the strict confines of a contested case proceeding. Both under the MTA and prior law, the Commission has used an informal 'legislative inquiry' process to gather the necessary factual information upon which to base its policy decisions. See, e.g., Cases Nos. U-10049, U-10064, U-9316, and U-8716." (p. 41.)

In making that statement, Ameritech Michigan apparently believed that the Commission could base its decisions regarding intraLATA dialing parity, which involves far-reaching policy evaluations, on information gathered by a task force. Furthermore, Section 203 of Act 179 does not require the Commission to hold a hearing in every case. That section provides that the Commission may also conduct an investigation, which it has done through the task force process. Moreover, Ameritech Michigan's position ignores the extensive evidentiary records that were, in fact, created during both the first phase and the remand phase of this case. To now argue that the Commission should order supplemental proceedings to gather even more information merely reflects Ameritech Michigan's desire to delay implementation of intraLATA dialing parity.

Fourth, the Commission rejects Ameritech Michigan's contention that implementation of intraLATA dialing parity should be delayed until January 1, 1997. Contrary to Ameritech Michigan's assertion, the task force resolved numerous issues regarding the implementation of intraLATA dialing parity. Given Ameritech Michigan's and GTE's strong opposition to the implementation of intraLATA dialing parity by January 1, 1996, the Commission did not expect that the industry could resolve all of the issues. Furthermore, in its July 19, 1994 order, the Commission recognized Ameritech Michigan's propensity to change the date by which it maintains that intraLATA dialing parity can or should be implemented. In the first phase of

this case, Ameritech Michigan stated that two-PIC technology could not reasonably be deployed until 1999. In the second phase of this case, Ameritech Michigan argued that implementation should begin on January 1, 1998. Although Ameritech Michigan has added another reason for delaying implementation, i.e.; to satisfy claimed legal requirements, it now submits that January 1, 1997 is an appropriate implementation date. However, Ameritech Michigan's position only reinforces the Commission's belief that the company will advance any argument to delay the implementation of intraLATA dialing parity.

The Commission will now discuss the issues identified by the task force.

IntraLATA Dialing Parity Options

The cost and availability of intraLATA dialing parity committee addressed whether the software necessary to implement the different PIC options is available. Most of the information developed by this committee came from central office equipment switch manufacturers and vendors.

The committee agreed that only two of the intraLATA dialing parity options are currently viable, i.e., two-PIC and modified two-PIC. The two-PIC option allows subscribers to presubscribe to separate toll providers for intraLATA and interLATA toll service. The modified two-PIC option allows subscribers to select either their interLATA PIC or their current PEC, i.e., Ameritech Michigan or GTE, as their designated intraLATA PIC.

The first issue in dispute is whether the Commission should mandate one statewide dialing parity PIC option or leave the decision to the LECs.

Ameritech Michigan and GTE argue that the decision regarding the form of presubscription is a day-to-day management decision properly left to the discretion of the LECs. They maintain that, because either the modified two-PIC or two-PIC option is

consistent with the Commission's order in this case, the LECs should be free to choose the option that best suits their needs.

If the Commission mandates one statewide option, Ameritech Michigan favors the modified two-PIC option. Ameritech Michigan states that the modified two-PIC option offers the customer the ability to retain either the status quo or to select a single IXC to handle all toll calling. The company further states that this option is less expensive, faster to implement, more efficient, easier to administer, and easier for customers to understand, and it should result in lower toll rates.

GTE adds that the IXCs should be indifferent to the LECs' choice of PIC options because they will still have the opportunity to offer service in every exchange and customers will have a choice of carriers. GTE also points out that the IXCs and the Staff overlook the fact that, in the February 24, 1994 order, the Commission ruled that the PECs may implement the one-PIC option.⁴

The Staff agrees that the modified two-PIC option would be less expensive for Ameritech Michigan and GTE to implement, although it would not provide the options available with the two-PIC option. The Staff also points out that because GTE cannot provide the modified two-PIC option through translation changes, it would not be possible to implement statewide dialing parity any faster by favoring one two-PIC option over another. Nevertheless, the Staff, supported by the IXCs and Mr. Decker, favors statewide deployment of the two-PIC option because it will result in more customer options than the modified two-PIC option. MCI points

⁴The one-PIC option limits the customer's choice of an intraLATA toll carrier to that customer's presubscribed interLATA toll carrier if implemented before Ameritech Michigan and GTE are released from the interLATA restrictions.

out that no other state commission or task force has recommended the modified two-PIC option over the two-PIC option.

On January 4, 1995, Ameritech Michigan filed a motion for leave to file a supplemental response, a supplemental response, and an affidavit of Daniel J. Kocher. In its supplemental response, Ameritech Michigan states that it has continued to monitor developments regarding the cost, availability, and capability of both two-PIC and modified two-PIC software for the Northern Telecom, AT&T, and Siemens switches used in its network. Ameritech Michigan represents that recent developments demonstrate that there are significant technical problems with the two-PIC option. For example, Ameritech Michigan states that on November 29, 1994, AT&T attempted to provide a software update containing the two-PIC feature. However, the company submits, that version of the software contained errors and was subsequently cancelled. In addition, Ameritech Michigan says that it has also determined that AT&T's intraLATA PIC feature will not work with the most recent software generic update presently installed in Ameritech Michigan's AT&T switches. As to the Northern Telecom software, Ameritech Michigan maintains that, for certain intraLATA traffic, Northern Telecom switches cannot provide intraLATA PIC capability. According to Ameritech Michigan, as of December 1, 1994, Northern Telecom has not proposed changes to the software or recommended alternative procedures to address this situation.

Ameritech Michigan contends that the foregoing problems, among others, contradict the determination in the report that full two-PIC software is presently available and ready for implementation. As a result, Ameritech Michigan asserts that, prior to making any determinations regarding the report, the Commission should initiate a further task force investigation into the two-PIC software problems.

On January 27, 1995, MCI filed a response in opposition to Ameritech Michigan's motion for leave to file a supplemental response. MCI asserts that Ameritech Michigan had access to some of the information contained in its motion prior to filing its October 24, 1994 comments. Furthermore, MCI claims that Ameritech Michigan's filing is misleading and misrepresents the facts. Consequently, MCI submits that the filing is an improper, thinly disguised attempt to block or delay intraLATA dialing parity.

More specifically, MCI responds that Ameritech Michigan fails to mention that the problems with the Northern Telecom software were resolved after December 1, 1994. As to the alleged AT&T problems, MCI states that they also have been resolved. Attached to MCI's response is a copy of a memorandum from Howard Bell, AT&T's manager of state governmental affairs, to AT&T's counsel. Mr. Bell indicates that, while an error did occur during the loading of the initial release of the feature package, it has been corrected and the currently available version should perform all features and functions as intended. Mr. Bell further indicates that he contacted AT&T Network Systems regarding the status of the two-PIC compatibility problem cited in Ameritech Michigan's supplemental comments. However, Mr. Bell states that he was advised that AT&T Network Systems was not aware of any such problem, and it could not identify any operational shortcomings.

On February 17, 1995, MCI and AT&T also filed a joint supplemental response relative to the report. Their response references Ameritech Michigan's most recent position before the Illinois Commerce Commission as embodied in its exceptions and brief on exceptions filed with that commission on February 7, 1995 in Dockets Nos. 94-0048, 94-0096, 94-0017, 94-0146, and 94-031. MCI and AT&T point out that, during the evidentiary hearings in those dockets, Ameritech had aggressively argued that intraLATA dialing parity must be linked to relief from