

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 84

Session of
1993

INTRODUCED BY D. R. WRIGHT, STEIGHNER, LLOYD, FREEMAN, DeLUCA,
VAN HORNE, STABACK, KREBS, FAIRCHILD, GORDNER, LaGROTTA,
HALUSKA, BEBKO-JONES, LEDERER, PESCI, TIGUE, TRELLO,
HENNESSEY, KUKOVICH, PISTELLA, KELLER, STEELMAN, ROONEY,
BLAUM, MIHALICH, COY, KAISER, LYNCH, HERMAN, CLARK, DALEY,
ARGALL, FAJT, GIGLIOTTI, MCCALL, JOSEPHS, YANDRISEVITS,
SCRIMENTI, BELFANTI, LAWLESS, JAMES AND ITKIN,
JANUARY 27, 1993

SENATOR BORTNER, COMMUNICATIONS AND HIGH TECHNOLOGY, IN SENATE,
RE-REPORTED AS AMENDED, JUNE 21, 1993

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, PROVIDING FOR AN ALTERNATIVE FORM OF <—
3 REGULATION OF TELECOMMUNICATIONS SERVICES; providing
4 protection for public utility employees who report a
5 violation or suspected violation of Federal, State or local
6 law; providing protection for such employees who participate
7 in investigations, hearings, inquiries or court actions; and
8 prescribing remedies and penalties.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 ~~Section 1. Title 66 of the Pennsylvania Consolidated~~ <—
12 ~~Statutes is amended by adding a section to read:~~

13 SECTION 1. TITLE 66 OF THE PENNSYLVANIA CONSOLIDATED <—
14 STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

15 CHAPTER 30

16 ALTERNATIVE FORM OF REGULATION

17 OF TELECOMMUNICATIONS SERVICES

1 SEC.

2 3001. DECLARATION OF POLICY.

3 3002. DEFINITIONS.

4 3003. LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY REQUEST FOR

5 ALTERNATIVE REGULATION AND NETWORK MODERNIZATION

6 IMPLEMENTATION PLAN.

7 3004. COMMISSION REVIEW AND APPROVAL OF PETITION AND PLAN.

8 3005. COMPETITIVE SERVICES.

9 3006. STREAMLINED FORM OF RATE REGULATION.

10 3007. DETERMINATION OF ACCESS CHARGES.

11 3008. INTEREXCHANGE TELECOMMUNICATIONS CARRIER.

12 3009. ADDITIONAL POWERS AND DUTIES.

13 § 3001. DECLARATION OF POLICY.

14 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS THE POLICY

15 OF THIS COMMONWEALTH TO:

16 (1) MAINTAIN UNIVERSAL TELECOMMUNICATIONS SERVICE AT

17 AFFORDABLE RATES WHILE ENCOURAGING THE ACCELERATED DEPLOYMENT

18 OF A UNIVERSALLY AVAILABLE, STATE-OF-THE-ART, INTERACTIVE,

19 PUBLIC-SWITCHED BROADBAND TELECOMMUNICATIONS NETWORK IN

20 RURAL, SUBURBAN AND URBAN AREAS, INCLUDING DEPLOYMENT OF

21 BROADBAND FACILITIES IN OR ADJACENT TO THE PUBLIC RIGHTS-OF-

22 WAY ABUTTING PUBLIC SCHOOLS, INCLUDING THE ADMINISTRATIVE

23 OFFICES SUPPORTING PUBLIC SCHOOLS; INDUSTRIAL PARKS; AND

24 HEALTH CARE FACILITIES, AS DEFINED IN THE ACT OF JULY 19,

25 1979 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE FACILITIES

26 ACT.

27 (2) ENSURE THAT CUSTOMERS PAY ONLY REASONABLE CHARGES

28 FOR LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES WHICH SHALL BE

29 AVAILABLE ON A NONDISCRIMINATORY BASIS.

30 (3) ENSURE THAT RATES FOR NONCOMPETITIVE

TELECOMMUNICATIONS SERVICES DO NOT SUBSIDIZE THE COMPETITIVE
VENTURES OF PROVIDERS OF TELECOMMUNICATIONS SERVICES.

(4) PROVIDE DIVERSITY IN THE SUPPLY OF EXISTING AND
FUTURE TELECOMMUNICATIONS SERVICES AND PRODUCTS IN
TELECOMMUNICATIONS MARKETS THROUGHOUT THIS COMMONWEALTH BY
ENSURING THAT RATES, TERMS AND CONDITIONS FOR NONCOMPETITIVE
SERVICES, INCLUDING ACCESS SERVICES, ARE REASONABLE AND DO
NOT IMPEDE THE DEVELOPMENT OF COMPETITION.

(5) ENSURE THE EFFICIENT DELIVERY OF TECHNOLOGICAL
ADVANCES AND NEW SERVICES THROUGHOUT THIS COMMONWEALTH IN
ORDER TO IMPROVE THE QUALITY OF LIFE FOR ALL PENNSYLVANIANS.

(6) ENCOURAGE THE PROVISION OF TELECOMMUNICATIONS
PRODUCTS AND SERVICES THAT ENHANCE THE QUALITY OF LIFE OF
PEOPLE WITH DISABILITIES.

(7) PROMOTE AND ENCOURAGE THE PROVISIONS OF COMPETITIVE
SERVICES BY A VARIETY OF SERVICE PROVIDERS ON EQUAL TERMS
THROUGHOUT ALL GEOGRAPHIC AREAS OF THIS COMMONWEALTH.

(8) ENCOURAGE THE COMPETITIVE SUPPLY OF ANY SERVICE IN
ANY REGION WHERE THERE IS MARKET DEMAND.

(9) ENCOURAGE JOINT VENTURES BETWEEN LOCAL EXCHANGE
TELECOMMUNICATIONS COMPANIES AND OTHER ENTITIES WHERE SUCH
JOINT VENTURES ACCELERATE, IMPROVE OR OTHERWISE ASSIST A
LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY IN CARRYING OUT ITS
NETWORK MODERNIZATION IMPLEMENTATION PLAN.

§ 3002. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
CONTEXT CLEARLY INDICATES OTHERWISE:

"AGGREGATOR TELEPHONE." A TELEPHONE WHICH IS MADE AVAILABLE
TO THE TRANSIENT PUBLIC, CUSTOMERS OR PATRONS, INCLUDING, BUT

1 NOT LIMITED TO, COIN TELEPHONES, CREDIT CARD TELEPHONES AND
2 TELEPHONES LOCATED IN HOTELS, MOTELS, HOSPITALS AND
3 UNIVERSITIES.

4 "ALTERNATIVE FORM OF REGULATION." A FORM OF REGULATION OF
5 TELECOMMUNICATIONS SERVICES OTHER THAN THE TRADITIONAL RATE
6 BASE/RATE OF RETURN REGULATION, TO BE DETERMINED BY THE
7 COMMISSION. THE TERM INCLUDES THE USE OF ANY INDEX, FORMULA,
8 RATE STABILITY PLAN, ZONE OF RATE FREEDOM OR STREAMLINED FORM OF
9 RATE REGULATION.

10 "BASIC SERVICE FUNCTIONS." THOSE BASIC COMPONENTS OF THE
11 LOCAL EXCHANGE CARRIER NETWORK WHICH ARE NECESSARY TO PROVIDE A
12 TELECOMMUNICATIONS SERVICE AND WHICH REPRESENT THE SMALLEST
13 FEASIBLE LEVEL OF UNBUNDLING CAPABLE OF BEING TARIFFED AND
14 OFFERED AS A SERVICE.

15 "BROADBAND." A COMMUNICATION CHANNEL USING ANY TECHNOLOGY
16 AND HAVING A BANDWIDTH EQUAL TO OR GREATER THAN 1.544 MEGABITS
17 PER SECOND.

18 "COMPETITIVE SERVICE." A SERVICE OR BUSINESS ACTIVITY
19 DETERMINED TO BE COMPETITIVE UNDER THIS CHAPTER OR ANY
20 TELECOMMUNICATIONS SERVICE DETERMINED BY THE COMMISSION TO BE
21 COMPETITIVE UNDER THIS CHAPTER.

22 "INTEREXCHANGE TELECOMMUNICATIONS CARRIER." A CARRIER OTHER
23 THAN A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY AUTHORIZED BY
24 THE COMMISSION TO PROVIDE LONG-DISTANCE TELECOMMUNICATIONS
25 SERVICES.

26 "LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY." A CARRIER
27 AUTHORIZED BY THE COMMISSION TO PROVIDE LOCAL TELECOMMUNICATIONS
28 SERVICES.

29 "NONCOMPETITIVE SERVICE." THE TERM INCLUDES ANY PROTECTED
30 TELEPHONE SERVICE AS DEFINED UNDER THIS CHAPTER OR A SERVICE

1 THAT HAS BEEN DETERMINED BY THE COMMISSION AS NOT A COMPETITIVE
2 SERVICE.

3 "OPTIONAL CALLING PLAN." A DISCOUNT TOLL PLAN REQUIRED BY
4 THE COMMISSION TO BE OFFERED BY EITHER A LOCAL EXCHANGE CARRIER
5 OR AN INTEREXCHANGE CARRIER WHEN JUSTIFIED BY CALL USAGE FOR A
6 TELEPHONE ROUTE. THE PROVISION OF SERVICE UNDER AN OPTIONAL
7 CALLING PLAN SHALL BE CONSIDERED NONCOMPETITIVE SERVICE UNLESS
8 DETERMINED OTHERWISE BY THE COMMISSION.

9 "PROTECTED TELEPHONE SERVICE." THE TERM INCLUDES THE
10 FOLLOWING TELECOMMUNICATIONS SERVICES PROVIDED BY A LOCAL
11 EXCHANGE TELECOMMUNICATIONS COMPANY, UNLESS THE COMMISSION
12 DETERMINES, AFTER NOTICE AND HEARING, THAT THE SERVICE IS
13 COMPETITIVE:

14 (1) TELECOMMUNICATIONS SERVICE PROVIDED TO BUSINESS OR
15 RESIDENTIAL CONSUMERS THAT IS NECESSARY FOR COMPLETING A
16 LOCAL EXCHANGE CALL.

17 (2) TOUCH TONE SERVICE.

18 (3) SWITCHED ACCESS SERVICE.

19 (4) SPECIAL ACCESS SERVICE.

20 (5) ORDERING, INSTALLATION, RESTORATION AND
21 DISCONNECTION OF THESE SERVICES.

22 "SPECIAL ACCESS SERVICE." SERVICE PROVIDED OVER DEDICATED,
23 NONSWITCHED FACILITIES BY LOCAL EXCHANGE TELECOMMUNICATIONS
24 COMPANIES TO INTEREXCHANGE CARRIERS OR OTHER LARGE VOLUME USERS
25 WHICH PROVIDE CONNECTION BETWEEN AN INTEREXCHANGE CARRIER OR
26 PRIVATE NETWORK AND A CUSTOMER'S PREMISES.

27 "STREAMLINED FORM OF RATE REGULATION." A SIMPLIFIED METHOD
28 OF RATE REGULATION OF SMALL LOCAL EXCHANGE TELECOMMUNICATIONS
29 COMPANIES SERVING LESS THAN 50,000 ACCESS LINES WHICH UTILIZES A
30 METHODOLOGY OTHER THAN TRADITIONAL RATE BASE/RATE OF RETURN

1 REGULATION AND PROCEDURES OTHER THAN THOSE PROVIDED IN CHAPTER
2 13 (RELATING TO RATES AND RATE MAKING). FORMS OF SIMPLIFIED
3 REGULATION MAY INCLUDE, BUT ARE NOT LIMITED TO, THE USE OF AN
4 INDEX, FORMULA, RATE STABILITY PLAN, ZONE OF RATE FREEDOM OR
5 OTHER ABBREVIATED RATE MAKING PROCEDURES.

6 "SWITCHED ACCESS SERVICE." A SERVICE WHICH PROVIDES FOR THE
7 USE OF COMMON TERMINATING, SWITCHING AND TRUNKING FACILITIES OF
8 A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S PUBLIC SWITCHED
9 NETWORK. THE TERM INCLUDES, BUT IS NOT LIMITED TO, THE RATES FOR
10 LOCAL SWITCHING, COMMON AND DEDICATED TRANSPORT AND THE CARRIER
11 COMMON LINE CHARGE.

12 "TELECOMMUNICATIONS SERVICE." A UTILITY SERVICE, INVOLVING
13 THE TRANSMISSION OF MESSAGES, WHICH IS SUBJECT TO THIS TITLE.

14 "UNIVERSAL BROADBAND AVAILABILITY." ACCESS TO BROADBAND
15 SERVICE BY EACH BONA FIDE TELEPHONE CUSTOMER OF A LOCAL EXCHANGE
16 TELECOMMUNICATIONS COMPANY WITHIN FIVE DAYS AFTER A REQUEST FOR
17 BROADBAND SERVICE IS RECEIVED BY ANY TELECOMMUNICATIONS COMPANY.

18 § 3003. LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY REQUEST FOR
19 ALTERNATIVE REGULATION AND NETWORK MODERNIZATION
20 IMPLEMENTATION PLAN.

21 (A) PETITION.--WHEN A LOCAL EXCHANGE TELECOMMUNICATIONS
22 COMPANY SEEKS TO BE REGULATED UNDER AN ALTERNATIVE FORM OF
23 REGULATION, IT SHALL SUBMIT TO THE COMMISSION A PETITION
24 REQUESTING THE ALTERNATIVE FORM OF REGULATION. IN THE PETITION,
25 THE COMPANY SHALL SUBMIT ITS PROPOSAL AND SUPPORTING DATA FOR AN
26 ALTERNATIVE FORM OF REGULATION. THE PETITION SHALL ALSO IDENTIFY
27 ALL COMPETITIVE SERVICES WHICH THE LOCAL EXCHANGE
28 TELECOMMUNICATIONS COMPANY PROPOSES AT THAT TIME.

29 (B) NETWORK MODERNIZATION IMPLEMENTATION PLAN.--THE PETITION
30 SHALL ALSO INCLUDE THE COMPANY'S NETWORK MODERNIZATION

1 IMPLEMENTATION PLAN UNDER WHICH:

2 (1) EACH LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL
3 COMMIT TO UNIVERSAL BROADBAND AVAILABILITY AND SHALL COMMIT
4 TO CONVERTING 100% OF ITS INTEROFFICE AND DISTRIBUTION
5 TELECOMMUNICATIONS NETWORK TO BROADBAND CAPABILITY BY
6 DECEMBER 31, 2015. THE PLAN SHALL IDENTIFY THE LOCAL EXCHANGE
7 TELECOMMUNICATIONS COMPANY'S PRESENT AND PROJECTED DEPLOYMENT
8 OF DIGITAL SWITCHES IN CENTRAL OFFICES, FIBER OPTIC TRUNK
9 LINE CAPABILITY BETWEEN CENTRAL OFFICES, INTELLIGENT NETWORK
10 SIGNALING CAPABILITY AND INTEGRATED SERVICES DIGITAL NETWORK
11 (ISDN) AVAILABILITY IN CENTRAL OFFICES.

12 (2) EACH LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL
13 REASONABLY BALANCE DEPLOYMENT OF ITS BROADBAND NETWORK
14 BETWEEN RURAL, URBAN AND SUBURBAN AREAS WITHIN ITS SERVICE
15 TERRITORY.

16 (3) THE DEPLOYMENT OF BROADBAND FACILITIES SHALL BE IN
17 OR ADJACENT TO PUBLIC RIGHTS-OF-WAY ABUTTING PUBLIC SCHOOLS,
18 INCLUDING THE ADMINISTRATIVE OFFICES SUPPORTING PUBLIC
19 SCHOOLS; INDUSTRIAL PARKS; AND HEALTH CARE FACILITIES, AS
20 DEFINED IN THE ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN
21 AS THE HEALTH CARE FACILITIES ACT.

22 (4) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL
23 FILE A NETWORK MODERNIZATION IMPLEMENTATION PLAN WITH ITS
24 PETITION FOR ALTERNATIVE FORM OF REGULATION WITH THE
25 COMMISSION WHICH IDENTIFIES AND DESCRIBES IN DETAIL THE
26 COMPANY'S IMPLEMENTATION PLAN FOR COMPLYING WITH PARAGRAPHS
27 (1), (2) AND (3). THE PLAN SHALL SPECIFY INTERIM TARGET DATES
28 AT NOT MORE THAN FIVE-YEAR INTERVALS FOR DEPLOYMENT OF ITS
29 BROADBAND NETWORK.

30 (5) JOINT VENTURES BETWEEN LOCAL EXCHANGE

1 TELECOMMUNICATIONS COMPANIES AND OTHER ENTITIES MAY BE
2 INCLUDED AS PART OF A LOCAL EXCHANGE TELECOMMUNICATIONS
3 COMPANY'S NETWORK MODERNIZATION IMPLEMENTATION PLAN WHERE THE
4 JOINT VENTURES ACCELERATE, IMPROVE OR OTHERWISE ASSIST A
5 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY IN CARRYING OUT ITS
6 NETWORK MODERNIZATION IMPLEMENTATION PLAN. THE JOINT VENTURES
7 MAY BE PROPOSED BY ANY INTERESTED PARTY. CONSISTENT WITH
8 PARALLEL PROVISIONS IN FEDERAL ANTITRUST STATUTES AND FEDERAL
9 JUDICIAL OPINIONS INTERPRETING THOSE FEDERAL STATUTES, NO
10 JOINT VENTURES BY PUBLIC UTILITIES OR OTHER ENTITIES ENGAGED
11 IN SUCH JOINT VENTURES SHALL CONSTITUTE A RESTRAINT OF TRADE
12 OR COMMERCE IN THIS COMMONWEALTH.

13 (6) THE NETWORK MODERNIZATION IMPLEMENTATION PLAN SHALL
14 BE UPDATED AND FILED WITH THE COMMISSION BIENNIALY. THE
15 COMMISSION SHALL REVIEW AND APPROVE THE PLAN UPDATES AS LONG
16 AS THE UPDATES ARE FOUND TO BE CONSISTENT WITH AND IN
17 FURTHERANCE OF THE LOCAL EXCHANGE TELECOMMUNICATIONS
18 COMPANY'S CURRENTLY EFFECTIVE IMPLEMENTATION PLAN.

19 (C) FILING.--THE COMPANY SHALL FILE ITS PETITION, PLAN AND
20 SUPPORTING DATA CONCURRENTLY WITH THE OFFICE OF CONSUMER
21 ADVOCATE, THE OFFICE OF SMALL BUSINESS ADVOCATE AND ANY
22 INTEREXCHANGE TELECOMMUNICATIONS CARRIER THAT HAS REQUESTED
23 NOTICE OF THE FILINGS FROM THE LOCAL EXCHANGE TELECOMMUNICATIONS
24 COMPANY. AT THE SAME TIME, THE COMPANY SHALL GIVE NOTICE TO ITS
25 RATEPAYERS THROUGH A BILLING INSERT OR BILL MESSAGE, TO ITS
26 EMPLOYEES AND TO THE PUBLIC OF THE FILING OF ITS PETITION FOR AN
27 ALTERNATIVE FORM OF REGULATION AND NETWORK MODERNIZATION
28 IMPLEMENTATION PLAN IN ACCORDANCE WITH THE COMMISSION'S RULES
29 AND REGULATIONS.

30 (D) UPDATING.--THE COMMISSION SHALL REQUIRE ANY LOCAL

1 EXCHANGE TELECOMMUNICATIONS COMPANY WHICH HAS NOT FILED A
2 PETITION AND PLAN WITHIN FIVE YEARS OF THE EFFECTIVE DATE OF
3 THIS CHAPTER TO SHOW CAUSE WHY IT HAS NOT DONE SO.

4 § 3004. COMMISSION REVIEW AND APPROVAL OF PETITION AND PLAN.

5 (A) AUTHORIZATION.--IN DETERMINING JUST AND REASONABLE RATES
6 IN ACCORDANCE WITH SECTION 1301 (RELATING TO RATES TO BE JUST
7 AND REASONABLE), THE COMMISSION MAY AUTHORIZE A LOCAL EXCHANGE
8 TELECOMMUNICATIONS COMPANY TO SET RATES BASED ON AN ALTERNATIVE
9 FORM OF REGULATION PURSUANT TO A PLAN APPROVED BY THE COMMISSION
10 UNDER THIS CHAPTER.

11 (B) REVIEW AND APPROVAL OF PETITION AND PLAN.--THE
12 COMMISSION SHALL, AFTER NOTICE AND HEARING, REVIEW THE PETITION
13 AND PLAN FOR AN ALTERNATIVE FORM OF REGULATION, AND APPROVE THE
14 PETITION AND PLAN, APPROVE THEM WITH MODIFICATIONS, OR DENY THEM
15 AS NOT REASONABLY DESIGNED TO MEET THE REQUIREMENTS OF THIS
16 CHAPTER. IF THE COMMISSION DENIES THE PETITION AND PLAN OR
17 APPROVES THEM WITH MODIFICATIONS, THE COMMISSION SHALL SET FORTH
18 IN ITS ORDER EACH SPECIFIC REASON FOR THE DENIAL OR
19 MODIFICATION. IF THE COMMISSION DOES NOT ACT WITHIN NINE MONTHS
20 OF THE FILING DATE OF THE PETITION AND PLAN, THE PETITION AND
21 PLAN SHALL BE DEEMED APPROVED. IF THE COMMISSION APPROVES THE
22 PETITION AND PLAN WITH MODIFICATIONS, THE LOCAL EXCHANGE
23 TELECOMMUNICATIONS COMPANY MAY, AT ITS OPTION, WITHDRAW ITS
24 PETITION AND PLAN AND CONTINUE TO BE REGULATED UNDER ITS
25 EXISTING FORM OF REGULATION OR A STREAMLINED FORM OF REGULATION
26 FOR WHICH IT QUALIFIES. IF A LOCAL EXCHANGE TELECOMMUNICATIONS
27 COMPANY'S PETITION AND PLAN ARE WITHDRAWN AND A SUBSEQUENT
28 PETITION AND PLAN ARE NOT SUBMITTED WITHIN FIVE YEARS FROM THE
29 EFFECTIVE DATE OF THIS CHAPTER, THE COMMISSION SHALL REQUIRE THE
30 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY TO SHOW CAUSE WHY IT

1 HAS NOT DONE SO. IF THE COMMISSION REJECTS A PETITION AND PLAN
2 SUBMITTED BY A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY, THAT
3 COMPANY SHALL FILE ANOTHER PETITION AND PLAN WITHIN SIX MONTHS
4 OF THE COMMISSION'S FINAL ORDER.

5 (C) COMMISSION REVIEW OF NETWORK MODERNIZATION
6 IMPLEMENTATION PLAN.--THE COMMISSION SHALL REVIEW EACH LOCAL
7 EXCHANGE TELECOMMUNICATIONS COMPANY'S NETWORK MODERNIZATION
8 IMPLEMENTATION PLAN TO DETERMINE IF THE PLAN IS CONSISTENT WITH
9 THE PROVISIONS OF THIS CHAPTER AND IN THE PUBLIC INTEREST. IN
10 REVIEWING A NETWORK MODERNIZATION IMPLEMENTATION PLAN, THE
11 COMMISSION MAY REQUIRE A LOCAL EXCHANGE TELECOMMUNICATIONS
12 COMPANY TO SHOW CAUSE WHY A SPECIFIC JOINT VENTURE OPPORTUNITY
13 HAS NOT BEEN INCLUDED IN THE PLAN. THE COMMISSION MAY REQUIRE
14 THAT A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY PROVIDE
15 UNIVERSAL BROADBAND AVAILABILITY HAVING A BANDWIDTH GREATER THAN
16 1.544 MEGABITS PER SECOND.

17 (D) CRITERIA FOR COMMISSION REVIEW.--THE COMMISSION SHALL
18 APPROVE THE PETITION, AFTER NOTICE AND HEARING, ONLY IF IT FINDS
19 THAT THE PETITION MEETS THE FOLLOWING CRITERIA:

20 (1) ENSURES THE CONTINUED AFFORDABILITY OF PROTECTED
21 TELEPHONE SERVICE.

22 (2) ASSURES THAT THE RATES FOR NONCOMPETITIVE SERVICES
23 ARE JUST, REASONABLE AND NOT UNDULY DISCRIMINATORY THROUGH
24 THE USE OF A PRICE STABILITY MECHANISM OR OTHER ALTERNATIVE
25 FORM WHICH MAY INCLUDE INDICES, FORMULAS, RATE STABILITY
26 PLANS, ZONES OF RATE FREEDOM OR STREAMLINED RATE MAKING
27 PLANS. SUBJECT TO COMMISSION APPROVAL, A PRICE STABILITY
28 MECHANISM THAT ALLOWS TOTAL ANNUAL REVENUES FROM
29 NONCOMPETITIVE SERVICES TO INCREASE OR DECREASE FROM THE
30 PREVIOUS YEAR'S TOTAL REVENUES FROM NONCOMPETITIVE SERVICES

1 AS A RESULT OF TARIFF RATE CHANGES BASED ON THE ANNUAL CHANGE
2 IN THE GROSS DOMESTIC PRODUCT PRICE INDEX, AS CALCULATED BY
3 THE UNITED STATES DEPARTMENT OF COMMERCE, MINUS 2.25% MAY
4 MEET THE REQUIREMENTS OF THIS SECTION. TARIFFS TO RECOVER THE
5 ADDITIONAL REVENUES SHALL BE SUBJECT TO COMMISSION APPROVAL
6 UNDER SECTION 1308 (RELATING TO VOLUNTARY CHANGES IN RATES).

7 (3) PROVIDES FOR THE RATE DEREGULATION OF ALL
8 COMPETITIVE SERVICES INCLUDING THE DEREGULATION OF RATES,
9 TOLLS, CHARGES, RATE STRUCTURES, RATE BASE, RATE OF RETURN OR
10 EARNINGS OF COMPETITIVE SERVICES. NOTWITHSTANDING THE
11 CLASSIFICATION OF A LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE
12 AS COMPETITIVE, A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY
13 MAY NOT DE-AVERAGE STANDARD MESSAGE TOLL SERVICE RATES UNLESS
14 AUTHORIZED TO DO SO BY THE COMMISSION.

15 (4) WILL NOT UNDULY OR UNREASONABLY PREJUDICE OR
16 DISADVANTAGE A CUSTOMER CLASS OR PROVIDERS OF COMPETITIVE
17 SERVICES.

18 (5) IS IN THE PUBLIC INTEREST.

19 (6) ENHANCES ECONOMIC DEVELOPMENT IN THIS COMMONWEALTH
20 WHILE MAINTAINING AFFORDABLE RATES.

21 (7) CONTAINS A COMPREHENSIVE PROGRAM OF SERVICE QUALITY
22 STANDARDS IN ACCORDANCE WITH SECTION 1501 (RELATING TO
23 CHARACTER OF SERVICE AND FACILITIES), INCLUDING PROCEDURES
24 FOR COMMISSION REVIEW.

25 (8) SPECIFICALLY IDENTIFIES THE BENEFITS TO BE DERIVED
26 FROM THE ALTERNATIVE FORM OF REGULATION, INCLUDING, BUT NOT
27 LIMITED TO, THE REDUCTION OF REGULATORY DELAYS AND COSTS.

28 (9) COMPLIES WITH SECTION 3007 (RELATING TO
29 DETERMINATION OF ACCESS CHARGES) UNDER THIS CHAPTER.

30 (10) WILL PERMIT THE DEPLOYMENT OF NEW VOICE, DATA AND

1 VIDEO SERVICES TO RURAL, SUBURBAN AND URBAN AREAS THROUGHOUT
2 THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SERVICE
3 TERRITORY.

4 (11) CONSIDERS THE ADEQUACY OF LOCAL CALLING AREAS IN
5 VIEW OF RELEVANT LOCAL COMMUNITIES OF INTEREST.

6 (12) ASSURES THAT LOW-INCOME INDIVIDUALS ARE ABLE TO
7 CONNECT TO AND MAINTAIN IN-HOME ACCESS TO PROTECTED TELEPHONE
8 SERVICES. THE RESIDENTIAL BUDGET USAGE OPTION SERVICE OFFERED
9 BY THE LOCAL EXCHANGE COMPANY ON THE EFFECTIVE DATE OF THIS
10 CHAPTER SHALL NOT BE ELIMINATED.

11 (13) ASSURES THAT THE PROVISION OF TELECOMMUNICATIONS
12 PRODUCTS AND SERVICES ENHANCES THE QUALITY OF LIFE OF PEOPLE
13 WITH DISABILITIES.

14 (14) ENSURES THAT THE ECONOMIC RISKS ASSOCIATED WITH THE
15 PROVISION OF A COMPETITIVE SERVICE BY A LOCAL EXCHANGE
16 TELECOMMUNICATIONS COMPANY OR ITS AFFILIATES SHALL NOT BE
17 BORNE BY THOSE CUSTOMERS WHO DO NOT PURCHASE SUCH SERVICES.

18 (15) ASSURES THAT A LOCAL EXCHANGE TELECOMMUNICATIONS
19 COMPANY SHALL PROVIDE AGGREGATE CUSTOMER AND NETWORK
20 INFORMATION ON A NONDISCRIMINATORY BASIS TO ANY OTHER
21 PROVIDER, UNLESS PROHIBITED BY LAW.

22 (E) BURDEN OF PROOF.--THE BURDEN OF PROOF SHALL BE ON THE
23 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY REQUESTING AN
24 ALTERNATIVE FORM OF REGULATION.

25 § 3005. COMPETITIVE SERVICES.

26 (A) IDENTIFICATION OF COMPETITIVE SERVICE.--THE COMMISSION
27 IS AUTHORIZED TO DETERMINE, AFTER NOTICE AND HEARING, WHETHER A
28 TELECOMMUNICATIONS SERVICE OR OTHER SERVICE OR BUSINESS ACTIVITY
29 OFFERED BY A LOCAL EXCHANGE COMPANY IS A COMPETITIVE SERVICE. A
30 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY MAY PETITION THE

1 COMMISSION FOR A DETERMINATION OF WHETHER A TELECOMMUNICATIONS
2 SERVICE OR OTHER SERVICE OR BUSINESS ACTIVITY OFFERED IS
3 COMPETITIVE, EITHER IN CONJUNCTION WITH A PETITION TO BE
4 REGULATED UNDER AN ALTERNATIVE FORM OF REGULATION OR AT ANY TIME
5 AFTER THE GRANTING OF THE PETITION. REQUESTS FOR A COMPETITIVE
6 CLASSIFICATION NOT FILED AS PART OF A PETITION FOR AN
7 ALTERNATIVE REGULATORY FRAMEWORK SHALL HAVE AN EFFECTIVE DATE OF
8 NOT LESS THAN 60 DAYS FROM THE FILING DATE. THE COMMISSION SHALL
9 ENTER AN ORDER APPROVING OR DISAPPROVING THE PETITION WITHIN 180
10 DAYS OF THE FILING DATE. IN MAKING THE DETERMINATION, THE
11 COMMISSION SHALL CONSIDER ALL RELEVANT EVIDENCE SUBMITTED TO IT,
12 INCLUDING EVIDENCE PRESENTED BY PROVIDERS OF COMPETITIVE
13 SERVICES. IN A PROCEEDING TO DETERMINE WHETHER A
14 TELECOMMUNICATIONS SERVICE OR OTHER SERVICE OR BUSINESS ACTIVITY
15 OFFERED IS A COMPETITIVE SERVICE, THE FOLLOWING SHALL APPLY:

16 (1) THE COMMISSION SHALL MAKE FINDINGS WHICH, AT A
17 MINIMUM, SHALL INCLUDE EVIDENCE OF EASE OF MARKET ENTRY,
18 INCLUDING THE EXISTENCE AND IMPACT OF CROSS-SUBSIDIZATION,
19 RIGHTS-OF-WAY, POLE ATTACHMENTS AND UNAVOIDED COSTS; PRESENCE
20 AND VIABILITY OF OTHER COMPETITORS, INCLUDING MARKET SHARES;
21 THE ABILITY OF COMPETITORS TO OFFER THOSE SERVICES OR OTHER
22 ACTIVITIES AT COMPETITIVE PRICES, TERMS AND CONDITIONS; THE
23 AVAILABILITY OF LIKE OR SUBSTITUTE SERVICES OR OTHER
24 ACTIVITIES IN THE RELEVANT GEOGRAPHIC AREA; THE EFFECT, IF
25 ANY, ON PROTECTED SERVICES; THE OVERALL IMPACT OF THE
26 PROPOSED REGULATORY CHANGES ON THE CONTINUED AVAILABILITY OF
27 EXISTING SERVICES; WHETHER THE CONSUMERS OF THE SERVICE WOULD
28 RECEIVE AN IDENTIFIABLE BENEFIT FROM THE PROVISION OF THE
29 SERVICE OR OTHER ACTIVITY ON A COMPETITIVE BASIS; THE DEGREE
30 OF REGULATION NECESSARY TO PREVENT ABUSES OR DISCRIMINATION

1 IN THE PROVISION OF THE SERVICE OR OTHER ACTIVITY AND ANY
2 OTHER RELEVANT FACTORS WHICH ARE IN THE PUBLIC INTEREST. IF A
3 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY INTRODUCES A
4 TELECOMMUNICATIONS SERVICE OR OTHER SERVICE OR BUSINESS
5 ACTIVITY THAT HAS NOT PREVIOUSLY BEEN OFFERED, THE SERVICE OR
6 OTHER ACTIVITY WILL NOT BE DEEMED COMPETITIVE UNLESS IT IS SO
7 DETERMINED BY THE COMMISSION UNDER THE PROVISIONS OF THIS
8 CHAPTER.

9 (2) THE BURDEN OF PROVING THAT A TELECOMMUNICATIONS
10 SERVICE OR OTHER SERVICE OR BUSINESS ACTIVITY OFFERED IS
11 COMPETITIVE RESTS ON THE PARTY SEEKING TO HAVE THE SERVICE
12 CLASSIFIED AS COMPETITIVE.

13 (B) REGULATIONS.--THE COMMISSION SHALL ESTABLISH REGULATIONS
14 TO PREVENT LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES FROM
15 ENGAGING IN UNFAIR COMPETITION AND REQUIRE THAT LOCAL EXCHANGE
16 TELECOMMUNICATIONS COMPANIES PROVIDE REASONABLE
17 NONDISCRIMINATORY ACCESS TO COMPETITORS FOR ALL SERVICES AND
18 FACILITIES NECESSARY TO PROVIDE COMPETING SERVICES TO CONSUMERS.

19 (C) REPORTS.--THE COMMISSION SHALL DETERMINE, BY RULE,
20 REGULATION OR ORDER, WHAT REPORTS ARE NECESSARY TO MONITOR THE
21 ACCOUNTING FOR, AND COMPETITIVENESS OF, A COMPETITIVE SERVICE.

22 (D) RECLASSIFICATION.--THE COMMISSION SHALL HAVE THE
23 AUTHORITY TO RECLASSIFY A TELECOMMUNICATIONS SERVICE OR OTHER
24 SERVICE OR BUSINESS ACTIVITY THAT IT HAS PREVIOUSLY FOUND TO BE
25 COMPETITIVE IF, AFTER NOTICE AND HEARING, IT DETERMINES, UPON
26 APPLICATION OF THE CRITERIA SET FORTH IN THIS CHAPTER, THAT
27 SUFFICIENT COMPETITION IS NO LONGER PRESENT, THAT THE LOCAL
28 EXCHANGE COMPANY HAS ENGAGED IN UNFAIR COMPETITION WITH RESPECT
29 TO THE SERVICE OR THAT THE LOCAL EXCHANGE COMPANY HAS FAILED TO
30 PROVIDE NONDISCRIMINATORY ACCESS IN THE PROVISION OF THE

1 SERVICE. IF THE COMMISSION FINDS THAT A RECLASSIFICATION IS
2 NECESSARY, THE COMMISSION MUST DETERMINE WHETHER THE RATE FOR
3 THE TELECOMMUNICATIONS SERVICE OR OTHER SERVICE OR BUSINESS
4 ACTIVITY IS JUST AND REASONABLE IN ACCORDANCE WITH SECTION 1301
5 (RELATING TO RATES TO BE JUST AND REASONABLE). IF THE
6 TELECOMMUNICATIONS SERVICE OR OTHER SERVICE OR BUSINESS ACTIVITY
7 SUBSEQUENTLY BECOMES COMPETITIVE, THE LOCAL EXCHANGE
8 TELECOMMUNICATIONS COMPANY SHALL PETITION THE COMMISSION TO MAKE
9 A DETERMINATION OF COMPETITIVENESS FOR THE SERVICE UNDER THE
10 PROVISIONS OF THIS CHAPTER.

11 (E) ADDITIONAL DETERMINATIONS.--THE COMMISSION SHALL
12 DETERMINE WHETHER LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES
13 ARE COMPLYING WITH THE FOLLOWING PROVISIONS:

14 (1) THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL
15 UNBUNDLE EACH BASIC SERVICE FUNCTION ON WHICH THE COMPETITIVE
16 SERVICE DEPENDS AND SHALL MAKE THE BASIC SERVICE FUNCTIONS
17 SEPARATELY AVAILABLE TO ANY CUSTOMER UNDER NONDISCRIMINATORY
18 TARIFFED TERMS AND CONDITIONS, INCLUDING PRICE, THAT ARE
19 IDENTICAL TO THOSE USED BY THE LOCAL EXCHANGE
20 TELECOMMUNICATIONS COMPANY AND ITS AFFILIATES IN PROVIDING
21 ITS COMPETITIVE SERVICE.

22 (2) THE PRICE WHICH A LOCAL EXCHANGE TELECOMMUNICATIONS
23 COMPANY CHARGES FOR A COMPETITIVE SERVICE SHALL NOT BE LESS
24 THAN THE RATES CHARGED TO OTHERS FOR ANY BASIC SERVICE
25 FUNCTIONS USED BY THE LOCAL EXCHANGE TELECOMMUNICATIONS
26 COMPANY OR ITS AFFILIATES TO PROVIDE THE COMPETITIVE SERVICE.
27 REVENUES FROM THE RATES FOR ACCESS SERVICES REFLECTED IN THE
28 PRICE OF COMPETITIVE SERVICES SHALL BE INCLUDED IN THE TOTAL
29 REVENUES PRODUCED BY THE NONCOMPETITIVE SERVICES.

30 (3) TARIFFS OR PRICE LISTS FOR COMPETITIVE SERVICES

1 FILED WITH THE COMMISSION SHALL EITHER BE IN THE PUBLIC
2 RECORDS OR, IF THE COMMISSION DETERMINES THAT THE RATES ARE
3 PROPRIETARY, BE FILED UNDER SEAL AND MADE AVAILABLE UNDER THE
4 TERMS OF AN APPROPRIATE PROTECTIVE AGREEMENT OF THE TYPE USED
5 IN CASES BEFORE THE COMMISSION.

6 (F) SERVICE AND NOTICE.--AT THE TIME A LOCAL EXCHANGE
7 TELECOMMUNICATIONS COMPANY FILES A PETITION FOR AN ALTERNATIVE
8 FORM OF REGULATION TO CLASSIFY ANY SERVICE OR OTHER ACTIVITY AS
9 COMPETITIVE OR TO RECLASSIFY AN EXISTING SERVICE OR OTHER
10 ACTIVITY AS COMPETITIVE OR FOR THE TRANSFER OF ANY ASSETS OF
11 SERVICES OR OTHER ACTIVITIES CLASSIFIED AS COMPETITIVE BY THE
12 COMMISSION, THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL
13 SERVE A COPY ON ALL INTEREXCHANGE TELECOMMUNICATIONS CARRIERS
14 WHO HAVE REQUESTED NOTICE OF THE FILINGS FROM THE LOCAL EXCHANGE
15 TELECOMMUNICATIONS COMPANY AS WELL AS THE OFFICE OF CONSUMER
16 ADVOCATE AND THE OFFICE OF SMALL BUSINESS ADVOCATE. AT THE SAME
17 TIME, THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY MUST GIVE
18 NOTICE TO THE PUBLIC, ITS EMPLOYEES AND ITS RATEPAYERS THROUGH A
19 BILLING INSERT OR BILL MESSAGE IN ACCORDANCE WITH THE
20 COMMISSION'S RULES AND REGULATIONS.

21 (G) PROHIBITIONS.--THE LOCAL EXCHANGE TELECOMMUNICATIONS
22 COMPANY SHALL BE PROHIBITED FROM ENGAGING IN THE FOLLOWING:

23 (1) THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL
24 NOT MAINTAIN OR IMPOSE ANY RESALE OR SHARING RESTRICTIONS ON
25 ANY SERVICE WHICH THE COMMISSION FINDS TO BE COMPETITIVE.

26 (2) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY MAY NOT
27 USE REVENUES EARNED OR EXPENSES INCURRED IN CONJUNCTION WITH
28 NONCOMPETITIVE SERVICES TO SUBSIDIZE OR SUPPORT ANY
29 COMPETITIVE SERVICES. THE COMMISSION SHALL ESTABLISH
30 REGULATIONS WHICH MUST BE FOLLOWED BY LOCAL EXCHANGE

1 TELECOMMUNICATIONS COMPANIES FOR THE PURPOSE OF ALLOCATING
2 COSTS FOR ACCOUNTING AND RATE MAKING AMONG TELEPHONE SERVICES
3 IN ORDER TO PREVENT SUBSIDIZATION OR SUPPORT FOR COMPETITIVE
4 SERVICES.

5 (H) SUBSIDIARY.--FOR LOCAL EXCHANGE TELECOMMUNICATIONS
6 COMPANIES SERVING OVER 1,000,000 ACCESS LINES, THE COMMISSION
7 MAY REQUIRE THAT A COMPETITIVE SERVICE BE PROVIDED THROUGH A
8 SUBSIDIARY WHICH IS FULLY SEPARATED FROM THE LOCAL EXCHANGE
9 TELECOMMUNICATIONS COMPANY IF THE COMMISSION FINDS THAT THERE IS
10 A SUBSTANTIAL POSSIBILITY THAT THE PROVISION OF THE SERVICE ON A
11 NONSEPARATED BASIS WILL RESULT IN UNFAIR COMPETITION.

12 § 3006. STREAMLINED FORM OF RATE REGULATION.

13 (A) STREAMLINED FORM OF RATE REGULATION PETITION.--IN
14 ACCORDANCE WITH SECTIONS 3003 (RELATING TO LOCAL EXCHANGE
15 TELECOMMUNICATIONS COMPANY REQUEST FOR ALTERNATIVE REGULATION
16 AND NETWORK MODERNIZATION IMPLEMENTATION PLAN) AND 3004
17 (RELATING TO COMMISSION REVIEW AND APPROVAL OF PETITION AND
18 PLAN), LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES SERVING LESS
19 THAN 50,000 ACCESS LINES WITHIN THIS COMMONWEALTH MAY PETITION
20 THE COMMISSION TO ESTABLISH A STREAMLINED FORM OF RATE
21 REGULATION TO BE APPLICABLE TO THEIR OPERATIONS. THE STREAMLINED
22 FORM OF RATE REGULATION SHALL BE DESIGNED TO DECREASE REGULATORY
23 DELAYS AND COSTS AND MAY INCLUDE, BUT IS NOT LIMITED TO, USE OF
24 AN INDEX FORMULA, PRICE STABILITY PLAN, ZONE OF RATE FREEDOM OR
25 A COMBINATION THEREOF. THE STREAMLINED FORM OF RATE REGULATION
26 MAY BE PROPOSED TO REVISE OR DECREASE NOTICE PERIODS, SUSPENSION
27 PERIODS AND OTHER PROCEDURES CURRENTLY REQUIRED BY CHAPTER 13
28 (RELATING TO RATES AND RATE MAKING) CONSISTENT WITH DUE PROCESS
29 REQUIREMENTS. THE STREAMLINED FORM OF RATE REGULATION SHALL BE
30 PROPOSED TO BE APPLICABLE TO ALL OF THE LOCAL EXCHANGE

1 COMPANIES' RATES AND SERVICES WITHIN THE COMMISSION'S
2 JURISDICTION.

3 (B) REQUIRED SERVICE.--PETITIONS FOR A STREAMLINED FORM OF
4 RATE REGULATION SHALL BE SERVED ON THE OFFICE OF CONSUMER
5 ADVOCATE, THE OFFICE OF SMALL BUSINESS ADVOCATE AND ANY
6 INTEREXCHANGE CARRIER THAT HAS REQUESTED NOTICE OF THE FILINGS
7 FROM THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY. AT THE SAME
8 TIME, THE COMPANY SHALL GIVE NOTICE TO ITS RATEPAYERS AND THE
9 PUBLIC OF THE FILING OF ITS PETITION.

10 (C) COMMISSION REVIEW.--THE COMMISSION SHALL REVIEW A
11 STREAMLINED FORM OF RATE REGULATION FOR A LOCAL EXCHANGE
12 TELECOMMUNICATIONS COMPANY WITHIN NINE MONTHS OF THE FILING OF
13 THE PETITION. IF THE COMMISSION DOES NOT ACT WITHIN NINE MONTHS
14 OF THE FILING OF THE PETITION, THE PLAN SHALL BE DEEMED
15 APPROVED. THE COMMISSION SHALL APPROVE A STREAMLINED FORM OF
16 RATE REGULATION FOR A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY
17 UPON REACHING THE FOLLOWING FINDINGS:

18 (1) THE PROPOSAL REDUCES REGULATORY DELAYS AND COSTS.

19 (2) THE PROPOSAL IS CONSISTENT WITH GENERAL DUE PROCESS
20 REQUIREMENTS.

21 (3) THE PROPOSAL IS CONSISTENT AND IN COMPLIANCE WITH
22 ALL OF THE PROVISIONS OF THIS CHAPTER.

23 (4) THE PROPOSAL IS IN THE PUBLIC INTEREST.

24 (D) FILING REQUIREMENTS.--FOR LOCAL EXCHANGE
25 TELECOMMUNICATIONS COMPANIES SERVING LESS THAN 50,000 ACCESS
26 LINES IN THIS COMMONWEALTH, FILING REQUIREMENTS AND AUDIT
27 REQUIREMENTS ARE LIMITED TO AN ANNUAL FINANCIAL REPORT,
28 INCLUDING RATE OF RETURN DATA FOR SURVEILLANCE PURPOSES; AN
29 ANNUAL DEAF, SPEECH-IMPAIRED AND HEARING-IMPAIRED RELAY
30 INFORMATION REPORT; AN ANNUAL SERVICE REPORT; AN ANNUAL ACCESS

1 LINE REPORT; AN ANNUAL STATE TAX ADJUSTMENT COMPUTATION FOR
2 YEARS IN WHICH A TAX CHANGE HAS OCCURRED; A BIENNIAL EXTENDED
3 AREA SERVICE TRAFFIC STUDY; AND ANY ADDITIONAL SPECIAL REPORTS
4 OR STUDIES FOR WHICH THE COMMISSION DETERMINES THAT THE BENEFITS
5 GENERATED WILL JUSTIFY THE ATTENDANT EXPENSE AND ADMINISTRATIVE
6 TIME REQUIREMENTS OF PREPARING THEM.

7 (E) IMPLEMENTATION.--UPON COMMISSION APPROVAL OF A
8 STREAMLINED FORM OF RATE REGULATION, THE STREAMLINED FORM OF
9 REGULATION SHALL BE IMPLEMENTED AND SHALL GOVERN THE REGULATION
10 OF THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY AND SHALL,
11 CONSISTENT WITH THE PROVISIONS OF THIS CHAPTER, SUPERSEDE ANY
12 CONFLICTING PROVISIONS OF THIS TITLE OR OTHER LAWS OF THIS
13 COMMONWEALTH.

14 (F) RATE INCREASES.--FOR LOCAL EXCHANGE TELECOMMUNICATIONS
15 COMPANIES SERVING LESS THAN 50,000 ACCESS LINES IN THIS
16 COMMONWEALTH, A FORMAL COMPLAINT TO DENY RATE INCREASES FOR
17 PROTECTED SERVICES, UNLESS SIGNED BY AT LEAST 20 CUSTOMERS OF
18 THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY, SHALL NOT STOP
19 THE IMPLEMENTATION OF THE RATE INCREASES, PENDING THE
20 ADJUDICATION OF THE FORMAL COMPLAINT BY THE COMMISSION.

21 § 3007. DETERMINATION OF ACCESS CHARGES.

22 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES SERVING MORE THAN
23 250,000 ACCESS LINES IN THIS COMMONWEALTH AS OF THE EFFECTIVE
24 DATE OF THIS CHAPTER SHALL COMPLY WITH THE FOLLOWING PROVISIONS:

25 (1) LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES SHALL
26 HAVE AN EFFECTIVE PER-MINUTE SWITCHED ACCESS SERVICE PRICE
27 THAT SHALL NOT EXCEED 12¢ FOR THE FIRST FIVE YEARS FROM THE
28 IMPLEMENTATION DATE OF THE PETITION AND PLAN, UNLESS THE
29 COMPANY CAN JUSTIFY A HIGHER RATE BASED ON THE TOTAL COST OF
30 SWITCHED ACCESS SERVICES. THE PER-MINUTE SWITCHED ACCESS

1 SERVICE PRICE INCLUDES BOTH ORIGINATING AND TERMINATING RATES
2 AND EXCLUDES NONRECURRING RATES. A LOCAL EXCHANGE
3 TELECOMMUNICATIONS COMPANY WITH AN EFFECTIVE PER-MINUTE
4 SWITCHED ACCESS SERVICE PRICE GREATER THAN 12¢ ON THE
5 IMPLEMENTATION DATE OF THE PETITION AND PLAN, SHALL PROVIDE
6 FOR A REVENUE-NEUTRAL PHASEDOWN TO NOT MORE THAN 12¢ IN NOT
7 MORE THAN THREE EQUAL ANNUAL INCREMENTS COMMENCING WITH THE
8 IMPLEMENTATION OF THE PETITION AND PLAN. UPON THE SIXTH YEAR
9 FROM THE IMPLEMENTATION DATE OF THE PLAN, THE COMMISSION
10 SHALL REVIEW THE PER-MINUTE SWITCHED ACCESS SERVICE PRICE
11 AND, AFTER NOTICE AND HEARING, DETERMINE A JUST AND
12 REASONABLE PER-MINUTE SWITCHED ACCESS SERVICE PRICE.

13 (2) LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES WITH AN
14 EFFECTIVE PER-MINUTE SWITCHED ACCESS SERVICE PRICE AT OR
15 BELOW 12¢, INCLUDING BOTH ORIGINATING AND TERMINATING RATES
16 AND EXCLUDING NONRECURRING RATES, MAY NOT INCREASE SWITCHED
17 ACCESS PRICES EITHER IN CONJUNCTION WITH THE FILING OR
18 CONSIDERATION OF A PETITION AND PLAN OR FOR FOUR YEARS FROM
19 THE APPROVAL DATE OF A PETITION, NOT TO EXTEND BEYOND
20 DECEMBER 31, 1999, UNLESS THE COMPANY CAN SHOW THAT, ABSENT
21 AN INCREASE, TOTAL SWITCHED ACCESS REVENUES WOULD BE BELOW
22 TOTAL SWITCHED ACCESS COST. REVENUE-NEUTRAL ACCESS TARIFF
23 RATE CHANGES AND RESTRUCTURES MAY BE PROPOSED SUBJECT TO
24 COMMISSION APPROVAL.

25 (3) UPON THE COMMISSION'S EVALUATION OF THE CONSISTENCY
26 OF TARIFF RATES AND STRUCTURES WITH THE INTERSTATE ACCESS
27 SERVICE TARIFF, REVENUE-NEUTRAL TARIFF RATE CHANGES AND
28 RESTRUCTURES MAY BE PROPOSED BY LOCAL EXCHANGE
29 TELECOMMUNICATIONS COMPANIES IN ORDER TO IMPLEMENT THE
30 RESULTS OF THE COMMISSION EVALUATION. NO RATE CHANGE OR

1 RESTRUCTURE SHALL BE APPROVED IF IT CONSTITUTES OR PROMOTES
2 UNFAIR COMPETITION. RATE CHANGES AND RESTRUCTURES FOR ACCESS
3 SERVICES SUBMITTED IN ACCORDANCE WITH THIS PARAGRAPH ARE
4 SUBJECT TO COMMISSION APPROVAL, AFTER NOTICE AND HEARING.

5 (4) ANY EXISTING LIMITS, BY TARIFF OR OTHERWISE, ON THE
6 AMOUNT OF REVENUE THAT A LOCAL EXCHANGE TELECOMMUNICATIONS
7 COMPANY MAY RECOVER FROM THE CARRIER COMMON LINE RATE SHALL
8 CONTINUE AT THE EFFECTIVE DATE OF THIS CHAPTER. AT THE
9 CONCLUSION OF ANY PHASEDOWN PERIOD PROVIDED IN PARAGRAPH (1),
10 THE ANNUAL REVENUES TO BE DERIVED FROM CARRIER COMMON LINE
11 RATES SHALL BE NO MORE THAN THE TOTAL CARRIER COMMON LINE
12 REVENUES APPLICABLE TO THE FINAL 12 MONTHS OF ANY PHASEDOWN
13 PERIOD.

14 § 3008. INTEREXCHANGE TELECOMMUNICATIONS CARRIER.

15 (A) COMPETITIVE AND NONCOMPETITIVE SERVICES.--
16 TELECOMMUNICATIONS SERVICES PROVIDED BY INTEREXCHANGE
17 TELECOMMUNICATIONS CARRIERS SHALL BE DEEMED TO BE COMPETITIVE
18 SERVICES AFTER JANUARY 1, 1994, EXCEPT FOR THE PROVISION OF THE
19 FOLLOWING INTEREXCHANGE SERVICES WHICH WILL BE DEEMED TO BE
20 NONCOMPETITIVE SERVICES UNLESS DETERMINED OTHERWISE BY THE
21 COMMISSION.

22 (1) INTEREXCHANGE SERVICE TO AGGREGATOR TELEPHONES.

23 (2) OPTIONAL CALLING PLANS REQUIRED BY THE COMMISSION TO
24 BE OFFERED WHEN JUSTIFIED BY USAGE OVER AN INTEREXCHANGE
25 ROUTE.

26 (B) RATE REGULATIONS.--THE COMMISSION SHALL NOT FIX OR
27 PRESCRIBE THE RATES, TOLLS, CHARGES, RATE STRUCTURES, RATE BASE,
28 RATE OF RETURN, OPERATING MARGIN OR EARNINGS FOR INTEREXCHANGE
29 COMPETITIVE SERVICES OR OTHERWISE REGULATE INTEREXCHANGE
30 COMPETITIVE SERVICES EXCEPT AS SET FORTH IN THIS CHAPTER. THE

1 COMMISSION MAY REQUIRE THAT THE INTEREXCHANGE TELECOMMUNICATIONS
2 CARRIERS FILE AND MAINTAIN TARIFFS OR PRICE LISTS FOR
3 COMPETITIVE TELECOMMUNICATIONS SERVICES. NOTHING IN THIS CHAPTER
4 SHALL LIMIT THE AUTHORITY OF THE COMMISSION TO REGULATE THE
5 PRIVACY OF INTEREXCHANGE SERVICE AND THE ORDERING, INSTALLATION,
6 RESTORATION AND DISCONNECTION OF INTEREXCHANGE SERVICE TO
7 CUSTOMERS.

8 (C) RECLASSIFICATION.--THE COMMISSION SHALL HAVE THE
9 AUTHORITY TO RECLASSIFY TELECOMMUNICATIONS SERVICES PROVIDED BY
10 AN INTEREXCHANGE TELECOMMUNICATIONS CARRIER AS NONCOMPETITIVE
11 IF, AFTER NOTICE AND HEARING, IT DETERMINES, UPON APPLICATION OF
12 THE CRITERIA SET FORTH IN THIS CHAPTER, THAT SUFFICIENT
13 COMPETITION IS NO LONGER PRESENT.

14 (D) SERVICE QUALITY STANDARDS.--THE COMMISSION MAY ESTABLISH
15 SERVICE QUALITY STANDARDS FOR INTEREXCHANGE TELECOMMUNICATIONS
16 CARRIERS. NOTHING IN THIS CHAPTER SHALL LIMIT THE AUTHORITY OF
17 THE COMMISSION TO PROMULGATE SERVICE QUALITY STANDARDS FOR
18 INTEREXCHANGE TELECOMMUNICATIONS CARRIERS OR TO RESOLVE
19 COMPLAINTS REGARDING THE QUALITY OF INTEREXCHANGE
20 TELECOMMUNICATIONS CARRIER SERVICE. NOTWITHSTANDING THE
21 CLASSIFICATION OF TELECOMMUNICATIONS SERVICES AS COMPETITIVE,
22 INTEREXCHANGE CARRIERS SHALL NOT BE PERMITTED TO DE-AVERAGE
23 STANDARD MESSAGE TOLL SERVICE RATES UNLESS AUTHORIZED TO DO SO
24 BY THE COMMISSION.

25 (E) AUTHORITY OF COMMISSION NOT LIMITED.--NOTHING IN THIS
26 CHAPTER SHALL LIMIT THE AUTHORITY OF THE COMMISSION TO DETERMINE
27 WHETHER AN INTEREXCHANGE TELECOMMUNICATIONS CARRIER SHOULD BE
28 EXTENDED THE PRIVILEGE OF OPERATING WITHIN THIS COMMONWEALTH OR
29 TO ORDER THE FILING OF SUCH REPORTS, DOCUMENTS AND INFORMATION
30 AS MAY BE NECESSARY TO MONITOR THE MARKET FOR AND

1 COMPETITIVENESS OF INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

2 § 3009. ADDITIONAL POWERS AND DUTIES.

3 (A) GENERAL RULE.--THE COMMISSION MAY CERTIFY MORE THAN ONE
4 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY TO PROVIDE LOCAL
5 TELECOMMUNICATIONS SERVICE. SUCH CERTIFICATION SHALL BE GRANTED
6 UPON A SHOWING THAT IT IS IN THE PUBLIC INTEREST AND THAT THE
7 APPLICANT POSSESSES SUFFICIENT TECHNICAL, FINANCIAL AND
8 MANAGERIAL RESOURCES.

9 (B) POWERS AND DUTIES RETAINED.--THE COMMISSION SHALL RETAIN
10 THE FOLLOWING POWERS AND DUTIES RELATING TO THE REGULATION OF
11 ALL LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES AND
12 INTEREXCHANGE TELECOMMUNICATIONS CARRIERS:

13 (1) THE COMMISSION SHALL HAVE THE POWER TO AUDIT THE
14 ACCOUNTING AND REPORTING SYSTEMS OF LOCAL EXCHANGE
15 TELECOMMUNICATIONS COMPANIES AND THEIR TRANSACTIONS WITH
16 AFFILIATES IN ACCORDANCE WITH THIS TITLE AND THE COMMISSION'S
17 PRESENT OR FUTURE RULES AND REGULATIONS TO PROVIDE A PROPER
18 ALLOCATION OF INVESTMENTS, COSTS OR EXPENSES FOR ALL
19 TELECOMMUNICATIONS SERVICES OR OTHER SERVICES OR BUSINESS
20 ACTIVITIES, COMPETITIVE AND NONCOMPETITIVE.

21 (2) NOTHING IN THIS CHAPTER SHALL LIMIT THE AUTHORITY OF
22 THE COMMISSION TO ENSURE THAT LOCAL EXCHANGE
23 TELECOMMUNICATIONS COMPANIES DO NOT MAKE OR IMPOSE UNJUST
24 PREFERENCES, DISCRIMINATIONS OR CLASSIFICATIONS FOR PROTECTED
25 TELEPHONE SERVICE AND OTHER NONCOMPETITIVE SERVICES.

26 (3) THE COMMISSION SHALL ESTABLISH SUCH ADDITIONAL
27 REQUIREMENTS AND REGULATIONS AS IT DETERMINES TO BE NECESSARY
28 TO ENSURE THE PROTECTION OF CONSUMERS.

29 (4) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
30 CHAPTER, ALL SERVICES PROVIDED BY A LOCAL EXCHANGE

1 TELECOMMUNICATIONS COMPANY OR INTEREXCHANGE
2 TELECOMMUNICATIONS CARRIER SHALL REMAIN SUBJECT TO ALL
3 PROVISIONS OF THIS TITLE AND OTHER LAWS OF THIS COMMONWEALTH
4 REGARDING THE SAFETY, ADEQUACY, RELIABILITY AND PRIVACY OF
5 TELECOMMUNICATIONS SERVICES OR OTHER SERVICES OR BUSINESS
6 ACTIVITIES. ALL NEW SERVICES OR CHANGES TO EXISTING
7 NONCOMPETITIVE SERVICES MUST BE REVIEWED BY THE COMMISSION
8 PRIOR TO THEIR BEING OFFERED TO THE PUBLIC TO INSURE
9 COMPLIANCE WITH ALL APPLICABLE PROVISIONS REGARDING SAFETY,
10 ADEQUACY, RELIABILITY AND PRIVACY OF TELECOMMUNICATIONS
11 SERVICES. THE COMMISSION SHALL HAVE THE AUTHORITY TO REJECT
12 OR MODIFY ANY SUCH SERVICE TO THE EXTENT THE COMMISSION
13 FINDS, AFTER NOTICE AND OPPORTUNITY FOR HEARING, THAT THE
14 SERVICE IS NOT IN COMPLIANCE WITH ANY SUCH PROVISION. NOTHING
15 IN THIS CHAPTER SHALL AFFECT THE COMMISSION'S AUTHORITY TO
16 REGULATE WITH RESPECT TO THE ORDERING, INSTALLATION,
17 SUSPENSION, TERMINATION AND RESTORATION OF ANY SERVICE.

18 (5) A LOCAL EXCHANGE CARRIER SHALL NOT DISCLOSE
19 INFORMATION RELATING TO ANY CUSTOMER'S PATTERN OF USE,
20 EQUIPMENT AND NETWORK INFORMATION AND ANY ACCUMULATED RECORDS
21 ABOUT THE CUSTOMER TO ANY OTHER PERSON UNLESS REQUIRED BY
22 LAW. THIS PROHIBITION, HOWEVER, SHALL NOT PREVENT THE
23 DISCLOSURE OF SUCH INFORMATION PURSUANT TO COURT ORDER, NOR
24 SHALL IT PRECLUDE THE RELEASING OF AGGREGATE DATA WHICH DOES
25 NOT IDENTIFY PARTICULAR PERSONS.

26 (C) CONSISTENCY WITH OTHER REQUIREMENTS.--IN PROVIDING VIDEO
27 PROGRAMMING, A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL
28 BE SUBJECT TO ALL THE SAME LAWS, REGULATIONS AND REQUIREMENTS OF
29 SERVICE AS MANDATED UPON OTHER PROVIDERS OF VIDEO PROGRAMMING
30 WHICH ARE NOT LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES.

1 (D) RULES AND REGULATIONS.--THE COMMISSION MAY PROMULGATE
2 RULES AND REGULATIONS TO ADMINISTER AND ENFORCE THIS CHAPTER.

3 (E) REPORT.--NOT LATER THAN TWO YEARS FOLLOWING THE
4 EFFECTIVE DATE OF THIS CHAPTER, THE COMMISSION SHALL SUBMIT A
5 REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY REVIEWING THE
6 IMPLEMENTATION OF THE PROVISIONS OF THIS CHAPTER. THE REPORT
7 WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, AN EVALUATION OF ANY
8 ALTERNATIVE OR STREAMLINED FORM OF REGULATION APPROVED BY THE
9 COMMISSION, THE PROGRESS OF LOCAL EXCHANGE TELECOMMUNICATIONS
10 COMPANIES IN IMPLEMENTING THEIR NETWORK MODERNIZATION
11 IMPLEMENTATION PLANS, AND THE SUCCESS OF THE DEREGULATION OF
12 COMPETITIVE SERVICES PERMITTED BY THIS CHAPTER. IN ITS
13 RECOMMENDATIONS, THE COMMISSION MAY ALSO PROPOSE ANY LEGISLATIVE
14 OR OTHER CHANGES, WHICH IT DEEMS APPROPRIATE, TO THE GOVERNOR
15 AND THE GENERAL ASSEMBLY.

16 (F) METHOD FOR FIXING RATES.--THE COMMISSION SHALL NOT FIX
17 OR PRESCRIBE THE RATES, TOLLS, CHARGES, RATE STRUCTURES, RATE
18 BASE, RATE OF RETURN OR EARNINGS OF COMPETITIVE SERVICES OR
19 OTHERWISE REGULATE COMPETITIVE SERVICES EXCEPT AS SET FORTH IN
20 THIS CHAPTER. THE COMMISSION MAY REQUIRE THAT THE LOCAL EXCHANGE
21 TELECOMMUNICATIONS COMPANY FILE AND MAINTAIN TARIFFS OR PRICE
22 LISTS FOR COMPETITIVE TELECOMMUNICATIONS SERVICES.

23 SECTION 2. TITLE 66 IS AMENDED BY ADDING A SECTION TO READ:

24 § 3316. Protection of public utility employees.

25 (a) Persons not to be discharged.--No employer may
26 discharge, threaten or otherwise discriminate or retaliate
27 against an employee regarding the employee's compensation,
28 terms, conditions, location or privileges of employment because
29 the employee or a person acting on behalf of the employee made
30 or was about to make a good faith report, verbally or in

1 writing, to the employer, the commission, the Office of Consumer
2 Advocate, the Office of Small Business Advocate or the Office of
3 Attorney General on an instance of wrongdoing or waste.

4 (b) Discrimination prohibited.--No employer may discharge,
5 threaten or otherwise discriminate or retaliate against an
6 employee regarding the employee's compensation, terms,
7 conditions, location or privileges of employment because the
8 employee is requested by the commission, the Office of Consumer
9 Advocate, the Office of Small Business Advocate or the Office of
10 Attorney General to participate in an investigation, hearing or
11 inquiry held by the commission or the Office of Attorney General
12 or in a court action relating to the public utility.

13 (c) Civil action.--A person who alleges a violation of this
14 section may bring a civil action in a court of competent
15 jurisdiction for appropriate injunctive relief or damages, or
16 both, within 180 days after the occurrence of the alleged
17 violation.

18 (d) Necessary showing of evidence.--An employee alleging a
19 violation of this section must show by a preponderance of the
20 evidence that, prior to the alleged reprisal, the employee or a
21 person acting on behalf of the employee had reported or was
22 about to report in good faith, verbally or in writing, an
23 instance of wrongdoing or waste to the employer, the commission,
24 the Office of Consumer Advocate, the Office of Small Business
25 Advocate or the Office of Attorney General.

26 (e) Defense.--It shall be a defense to an action under this
27 section if the defendant proves by a preponderance of the
28 evidence that the action by the employer occurred for separate
29 and legitimate reasons, which are not merely pretextual.

30 (f) Enforcement.--A court, in rendering a judgment in an

1 action brought under this section, shall order, as the court
2 considers appropriate, reinstatement of the employee, the
3 payment of back wages, full reinstatement of fringe benefits and
4 seniority rights, actual damages or any combination of these
5 remedies. A court shall also award the complainant all or a
6 portion of the costs of litigation, including reasonable
7 attorney fees and witness fees, if the court determines that the
8 award is appropriate.

9 (g) Penalties.--A person who, under color of an employer's
10 authority, violates this section shall be liable for a civil
11 fine of not more than \$500. A civil fine which is ordered under
12 this section shall be paid to the State Treasurer for deposit
13 into the General Fund.

14 (h) Notice.--An employer shall post notices and use other
15 appropriate means to notify employees and keep them informed of
16 protections and obligations under this section.

17 (i) Definitions.--As used in this section, the following
18 words and phrases shall have the meanings given to them in this
19 subsection:

20 "Employee." A person who performs a service for wages or
21 other remuneration under a contract of hire, written or oral,
22 express or implied, for a public utility.

23 "Employer." A person supervising one or more employees,
24 including the employee in question, a superior or an agent of a
25 public utility.

26 "Good faith report." A report which is made without malice
27 or consideration of personal benefit and which is made with
28 reasonable cause to believe in its truth.

29 "Waste." An employer's conduct or omissions which result in
30 substantial abuse, misuse, destruction or loss of funds or

1 resources belonging to or derived from a public utility.

2 "Wrongdoing." A violation which is not of a merely technical
3 or minimal nature of a Federal or State statute or regulation or
4 of a political subdivision ordinance or regulation or of a code
5 of conduct or ethics designed to protect the interest of the
6 public or the employer.

7 SECTION 3. THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY <—
8 PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR
9 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT
10 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN
11 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

12 SECTION 4. THE ADDITION OF 66 PA.C.S. CH. 30 SHALL EXPIRE ON
13 DECEMBER 31, 2003, UNLESS SOONER REENACTED BY THE GENERAL
14 ASSEMBLY.

15 Section ~~2~~ 5. This act shall take effect immediately. <—