

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 84

Session of
1993

INTRODUCED BY D. R. WRIGHT, STEIGHNER, DeLUCA, STABACK, GORDNER,
LaGROTTA, HALUSKA, TRELLO, HENNESSEY, PISTELLA, KELLER,
ROONEY, COY, LYNCH, HERMAN, CLARK, DALEY, GIGLIOTTI, LAWLESS
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

18 SEC.

1 3001. DECLARATION OF POLICY.

2 3002. DEFINITIONS.

3 3003. LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY REQUEST FOR
4 ALTERNATIVE REGULATION AND NETWORK MODERNIZATION
5 IMPLEMENTATION PLAN.

6 3004. COMMISSION REVIEW AND APPROVAL OF PETITION AND PLAN.

7 3005. COMPETITIVE SERVICES.

8 3006. STREAMLINED FORM OF RATE REGULATION.

9 3007. DETERMINATION OF ACCESS CHARGES.

10 3008. INTEREXCHANGE TELECOMMUNICATIONS CARRIER.

11 3009. ADDITIONAL POWERS AND DUTIES.

12 § 3001. DECLARATION OF POLICY.

13 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS THE POLICY
14 OF THIS COMMONWEALTH TO:

15 (1) MAINTAIN UNIVERSAL TELECOMMUNICATIONS SERVICE AT
16 AFFORDABLE RATES WHILE ENCOURAGING THE ACCELERATED DEPLOYMENT
17 OF A UNIVERSALLY AVAILABLE, STATE-OF-THE-ART, INTERACTIVE,
18 PUBLIC-SWITCHED BROADBAND TELECOMMUNICATIONS NETWORK IN
19 RURAL, SUBURBAN AND URBAN AREAS, INCLUDING DEPLOYMENT OF
20 BROADBAND FACILITIES IN OR ADJACENT TO THE PUBLIC RIGHTS-OF-
21 WAY ABUTTING PUBLIC SCHOOLS, INCLUDING THE ADMINISTRATIVE
22 OFFICES SUPPORTING PUBLIC SCHOOLS; INDUSTRIAL PARKS; AND
23 HEALTH CARE FACILITIES, AS DEFINED IN THE ACT OF JULY 19,
24 1979 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE FACILITIES
25 ACT.

26 (2) ENSURE THAT CUSTOMERS PAY ONLY REASONABLE CHARGES
27 FOR LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES WHICH SHALL BE
28 AVAILABLE ON A NONDISCRIMINATORY BASIS.

29 (3) ENSURE THAT RATES FOR NONCOMPETITIVE
30 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 NOT LIMITED TO, COIN TELEPHONES, CREDIT CARD TELEPHONES AND

1 TELEPHONES LOCATED IN HOTELS, MOTELS, HOSPITALS AND
2 UNIVERSITIES.

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

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

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

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

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

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

28 "NONCOMPETITIVE SERVICE." THE TERM INCLUDES ANY PROTECTED
29 TELEPHONE SERVICE AS DEFINED UNDER THIS CHAPTER OR A SERVICE
30 THAT HAS BEEN DETERMINED BY THE COMMISSION AS NOT A COMPETITIVE

1 SERVICE.

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

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

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

16 (2) TOUCH TONE SERVICE.

17 (3) SWITCHED ACCESS SERVICE.

18 (4) SPECIAL ACCESS SERVICE.

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

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

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

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

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

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

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

17 § 3003. LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY REQUEST FOR
18 ALTERNATIVE REGULATION AND NETWORK MODERNIZATION
19 IMPLEMENTATION PLAN.

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

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

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

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

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

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

29 (5) JOINT VENTURES BETWEEN LOCAL EXCHANGE
30 TELECOMMUNICATIONS COMPANIES AND OTHER ENTITIES MAY BE

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

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

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

29 (D) UPDATING.--THE COMMISSION SHALL REQUIRE ANY LOCAL
30 EXCHANGE TELECOMMUNICATIONS COMPANY WHICH HAS NOT FILED A

1 PETITION AND PLAN WITHIN FIVE YEARS OF THE EFFECTIVE DATE OF
2 THIS CHAPTER TO SHOW CAUSE WHY IT HAS NOT DONE SO.

3 § 3004. COMMISSION REVIEW AND APPROVAL OF PETITION AND PLAN.

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

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

1 SUBMITTED BY A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY, THAT
2 COMPANY SHALL FILE ANOTHER PETITION AND PLAN WITHIN SIX MONTHS
3 OF THE COMMISSION'S FINAL ORDER.

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

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

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

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

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

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

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

17 (5) IS IN THE PUBLIC INTEREST.

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

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

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

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

29 (10) WILL PERMIT THE DEPLOYMENT OF NEW VOICE, DATA AND
30 VIDEO SERVICES TO RURAL, SUBURBAN AND URBAN AREAS THROUGHOUT

1 THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SERVICE
2 TERRITORY.

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

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

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

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

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

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

24 § 3005. COMPETITIVE SERVICES.

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

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

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

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

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

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

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

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

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

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

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

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

29 (3) TARIFFS OR PRICE LISTS FOR COMPETITIVE SERVICES
30 FILED WITH THE COMMISSION SHALL EITHER BE IN THE PUBLIC

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

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

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

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

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

1 COSTS FOR ACCOUNTING AND RATE MAKING AMONG TELEPHONE SERVICES
2 IN ORDER TO PREVENT SUBSIDIZATION OR SUPPORT FOR COMPETITIVE
3 SERVICES.

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

11 § 3006. STREAMLINED FORM OF RATE REGULATION.

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

1 JURISDICTION.

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

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

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

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

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

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

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

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

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

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

20 § 3007. DETERMINATION OF ACCESS CHARGES.

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

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

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

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

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

1 UNFAIR COMPETITION. RATE CHANGES AND RESTRUCTURES FOR ACCESS
2 SERVICES SUBMITTED IN ACCORDANCE WITH THIS PARAGRAPH ARE
3 SUBJECT TO COMMISSION APPROVAL, AFTER NOTICE AND HEARING.

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

13 § 3008. INTEREXCHANGE TELECOMMUNICATIONS CARRIER.

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

21 (1) INTEREXCHANGE SERVICE TO AGGREGATOR TELEPHONES.

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

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

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

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

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

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

1 § 3009. ADDITIONAL POWERS AND DUTIES.

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

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

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

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

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

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

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

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

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

30 (D) RULES AND REGULATIONS.--THE COMMISSION MAY PROMULGATE

1 RULES AND REGULATIONS TO ADMINISTER AND ENFORCE THIS CHAPTER.

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

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

22 SECTION 2. TITLE 66 IS AMENDED BY ADDING A SECTION TO READ:
23 § 3316. Protection of public utility employees.

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

Advocate, the Office of Small Business Advocate or the Office of Attorney General on an instance of wrongdoing or waste.

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

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

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

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

(f) Enforcement.--A court, in rendering a judgment in an action brought under this section, shall order, as the court

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

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

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

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

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

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

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

28 "Waste." An employer's conduct or omissions which result in
29 substantial abuse, misuse, destruction or loss of funds or
30 resources belonging to or derived from a public utility.

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

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

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

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