

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 30

Session of  
2003

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, APRIL 30, 2003

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, further providing for residential  
3 telephone service rates based on duration or distance of call  
4 and for local exchange service increases and limitations; and  
5 adding and repealing provisions relating to alternative form  
6 of regulation of telecommunication services.

7 The General Assembly of the Commonwealth of Pennsylvania

8 hereby enacts as follows:

1 Section 1. Sections 1324, 1325, 3001, 3002, 3003, 3004,  
2 3005, 3006, 3007, 3008 and 3009 of Title 66 of the Pennsylvania  
3 Consolidated Statutes are repealed.

4 Section 2. Title 66 is amended by adding sections to read:

5 § 3010. (Reserved).

6 § 3011. Declaration of policy.

7 The General Assembly finds and declares that it is the policy  
8 of this Commonwealth to:

9 (1) Strike a balance between mandated deployment and  
10 market-driven deployment of broadband facilities and advanced  
11 services throughout this Commonwealth and to continue  
12 alternative regulation of local exchange telecommunications  
13 companies.

14 (2) Maintain universal telecommunications service at  
15 affordable rates.

16 (3) Encourage the accelerated provision of advanced  
17 services and deployment of a universally available, state-of-  
18 the-art, interactive broadband telecommunications network in  
19 rural, suburban and urban areas, including deployment of  
20 broadband facilities in or adjacent to public rights-of-way  
21 abutting public schools, including the administrative offices  
22 supporting public schools, industrial parks and health care  
23 facilities.

24 (4) Ensure that customers pay only reasonable charges  
25 for protected services.

26 (5) Ensure that rates for protected services do not  
27 subsidize the competitive ventures of telecommunications  
28 carriers.

29 (6) Provide diversity in the supply of existing and  
30 future telecommunications services and products in

1 telecommunications markets throughout this Commonwealth by  
2 ensuring that rates, terms and conditions for protected  
3 services are reasonable and do not impede the development of  
4 competition.

5 (7) Ensure the efficient delivery of technological  
6 advances and new services throughout this Commonwealth in  
7 order to improve the quality of life for all Commonwealth  
8 residents.

9 (8) Encourage the provision of telecommunications  
10 products and services that enhance the quality of life of  
11 people with disabilities.

12 (9) Encourage joint ventures between local exchange  
13 telecommunications companies and other entities where such  
14 joint ventures accelerate, improve or otherwise assist a  
15 local exchange telecommunications company in carrying out its  
16 network modernization implementation plan.

17 (10) Establish a bona fide retail request program to  
18 aggregate and make advanced services available in areas where  
19 sufficient market demand exists and to supplement existing  
20 network modernization plans.

21 (11) Promote and encourage the provision of advanced  
22 services and broadband deployment in the service territories  
23 of local exchange telecommunications companies without  
24 jeopardizing the provision of universal service.

25 (12) Recognize that the regulatory obligations imposed  
26 upon the incumbent local exchange telecommunications  
27 companies should be reduced to levels more consistent with  
28 those imposed upon competing alternative service providers.

29 § 3012. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Advanced service." A retail service that, regardless of  
4 transmission medium or technology, is capable of supporting a  
5 minimum speed of 200 kilobits per second (kbps) in at least one  
6 direction at the network demarcation point of the customer's  
7 premises.

8 "Aggregator telephone." A telephone which is made available  
9 to the transient public, customers or patrons, including, but  
10 not limited to, coin telephones, credit card telephones and  
11 telephones located in hotels, motels, hospitals and  
12 universities.

13 "Alternative form of regulation." A form of regulation of  
14 telecommunications services other than the traditional rate  
15 base/rate of return regulation, including a streamlined form of  
16 regulation, as approved by the commission.

17 "Alternative service provider." An entity that provides  
18 telecommunications services in competition with a local exchange  
19 telecommunications company.

20 "Bona fide retail request." A written request for service  
21 which meets the requirements of section 3014(c)(1), (relating to  
22 network modernization plans), is received by a local exchange  
23 telecommunications company, and through which end users commit  
24 to subscribing to an advanced service.

25 "Bona fide retail request program." A program established by  
26 a local exchange telecommunications company pursuant to section  
27 3014(c) (relating to network modernization plans).

28 "Broadband." A communication channel using any technology  
29 and having a bandwidth equal to or greater than 1.544 megabits  
30 per second in at least one direction.

1 "Broadband availability." Access to broadband service by a  
2 retail telephone customer of a local exchange telecommunications  
3 company.

4 "Central office." A building containing one or more local  
5 exchange telecommunications company switches used to provide  
6 local exchange telecommunications service.

7 "Community." Those customers of a local exchange  
8 telecommunications company served by a remote terminal or, where  
9 no remote terminal exists, a central office switch.

10 "Competitive service." A service or business activity  
11 declared to be competitive by the commission on or prior to  
12 December 31, 2003, and a service or business activity declared  
13 to be competitive pursuant to section 3016 (relating to  
14 competitive services).

15 "Gross Domestic Product Price Index" or "GDP-PI." The Gross  
16 Domestic Product Fixed Weight Price Index as calculated by the  
17 United States Department of Commerce.

18 "Health care facility." The term shall have the same meaning  
19 given to it in the act of July 19, 1979 (P.L.130, No.48), known  
20 as the Health Care Facilities Act.

21 "Inflation offset." The part of the price change formula in  
22 the price stability mechanism that reflects an offset to the  
23 Gross Domestic Product Price Index.

24 "Interexchange services." The transmission of interLATA or  
25 intraLATA toll messages or data outside the local calling area.

26 "Interexchange telecommunications carrier." A carrier other  
27 than a local exchange telecommunications company authorized by  
28 the commission to provide interexchange services.

29 "Local exchange telecommunications company." An incumbent  
30 carrier authorized by the commission to provide local exchange

1 telecommunications services. The term includes a rural  
2 telecommunications carrier and a nonrural telecommunications  
3 carrier.

4 "Local exchange telecommunications service." The  
5 transmission of messages or communications that originate and  
6 terminate within a prescribed local calling area.

7 "Noncompetitive service." A regulated service that is not  
8 declared competitive and, as to interexchange telecommunications  
9 carriers, those services included in section 3018(a) (relating  
10 to interexchange telecommunications carriers).

11 "Nonrural telecommunications carrier." A local exchange  
12 telecommunications company that is not a rural telephone company  
13 as defined in section 3 of the Telecommunications Act of 1996  
14 (Public Law 104-104, 110 Stat. 56).

15 "Optional calling plan." A discounted toll plan offered by  
16 either a local exchange telecommunications company or an  
17 interexchange telecommunications carrier.

18 "Price stability mechanism." A formula which may be included  
19 in a commission-approved alternative form of regulation plan  
20 that permits rates for noncompetitive services to be adjusted  
21 upward or downward.

22 "Protected service." The following telecommunications  
23 services provided by a local exchange telecommunications  
24 company, unless the commission determines that such service is  
25 competitive:

26 (1) Service provided to residential or single-line  
27 business consumers only to the extent that the service is  
28 necessary for completing any local exchange call for which  
29 dial tone is necessary.

30 (2) Touch-tone service.

1           (3) Switched access service.

2           (4) Special access service.

3           (5) Ordering, installation, restoration and  
4           disconnection of the services specified in paragraphs (1)  
5           through (4).

6           "Remote terminal." A structure located outside of a central  
7           office which houses electronic equipment and which provides  
8           transport for telecommunications services to and from a central  
9           office switch.

10          "Rural telecommunications carrier." A local exchange  
11          telecommunications company that is a rural telephone company as  
12          defined in section 3 of the Telecommunications Act of 1996  
13          (Public Law 104-104, 110 Stat. 56).

14          "Special access service." Service provided over dedicated,  
15          nonswitched facilities by local exchange telecommunications  
16          companies to interexchange carriers or other large volume users  
17          which provide connection between an interexchange carrier or  
18          private network and a customer's premises.

19          "Switched access service." A service which provides for the  
20          use of common terminating, switching and trunking facilities of  
21          a local exchange telecommunications company's public switched  
22          network. The term includes, but is not limited to, the rates for  
23          local switching, common and dedicated transport and the carrier  
24          charge.

25          "Telecommunications Act of 1996." The Telecommunications Act  
26          of 1996 (Public Law 104-104, 100 Stat. et seq.).

27          "Telecommunications carrier." An entity that provides  
28          telecommunications services subject to the jurisdiction of the  
29          commission.

30          "Telecommunications service." The offering of the

1 transmission of messages or communications for a fee to the  
2 public.

3 § 3013. Continuation of commission-approved alternative  
4 regulation and network modernization plans.

5 (a) General rule.--An alternative form of regulation plan  
6 and network modernization plan approved by the commission for a  
7 local exchange telecommunications company as of December 31,  
8 2003 shall remain valid and effective, except as may be amended  
9 at the election of the local exchange telecommunications company  
10 as authorized by this chapter. The commission shall allow a  
11 previously approved plan to be amended to conform with any  
12 changes made under this chapter, and shall not require any other  
13 changes to the plan.

14 (b) Limitation on changes to plans.--Except for changes to  
15 existing alternative form of regulation and network  
16 modernization plans as authorized by this chapter, no change to  
17 any alternative form of regulation or network modernization plan  
18 may be made without the express agreement of both the commission  
19 and the local exchange telecommunications company.

20 (c) Grandfather provision.--All services previously declared  
21 competitive as of December 31, 2003, under a local exchange  
22 telecommunications company's alternative form of regulation plan  
23 shall remain competitive.

24 (d) Commission oversight.--The commission will continue to  
25 exercise oversight of alternative form of regulation and network  
26 modernization plans for local exchange telecommunications  
27 companies as provided in this chapter.

28 § 3014. Network modernization plans.

29 (a) Continuation of approved plan.--A local exchange  
30 telecommunications company that does not elect an option under



1 subsection (b) shall remain subject to its network modernization  
2 plan in effect as of December 31, 2003, without revision or  
3 modification except by agreement under section 3013(b) (relating  
4 to continuation of commission-approved alternative regulation  
5 and network modernization plans), through December 31, 2015.

6 (b) Options for amendment of network modernization plan.--  
7 Rural and nonrural telecommunications carriers shall have the  
8 following options:

9 (1) (i) A rural telecommunications carrier that elects  
10 to amend its network modernization plan pursuant to this  
11 subsection shall remain subject to the carrier's network  
12 modernization plan in effect as of December 31, 2003, as  
13 amended pursuant to this subsection, through December 31,  
14 2008. Any rural telecommunications carrier may elect to  
15 amend its network modernization plan pursuant to this  
16 subsection by implementing one or more of the options  
17 listed in subparagraphs (ii), (iii) and (iv). Prior to  
18 implementation of any option so elected, the rural  
19 telecommunications carrier shall comply with the  
20 notification requirements of subsection (d).

21 (ii) The rural telecommunications carrier shall  
22 commit to universal broadband deployment in or adjacent  
23 to public rights-of-way abutting all public schools,  
24 including the administration offices supporting public  
25 schools, industrial parks and health care facilities in  
26 its service territory on or before December 31, 2004. A  
27 rural telecommunications carrier serving more than ten  
28 exchanges in this Commonwealth may elect to extend this  
29 commitment from December 31, 2004, to December 31, 2005,  
30 for any exchange with less than 4,000 access lines.

1           (iii) The rural telecommunications carrier shall  
2           commit:

3           (A) to offer advanced services to 70% of the  
4           total retail access lines in its distribution network  
5           by December 31, 2008; and

6           (B) to offer a bona fide retail request program  
7           pursuant to subsection (c) through December 31, 2015.

8           (iv) The rural telecommunications carrier shall  
9           commit:

10           (A) to accelerate broadband availability to 70%  
11           of its total retail access lines in its distribution  
12           network by December 31, 2008; and

13           (B) to offer a bona fide retail request program  
14           pursuant to subsection (c) through December 31, 2015.

15           A rural telecommunications carrier with an existing  
16           broadband availability commitment exceeding 70% of  
17           the total retail access lines in its distribution  
18           network on December 31, 2008, may either accelerate  
19           such broadband availability or remain under its  
20           existing network modernization plan for broadband  
21           deployment, provided however that under no  
22           circumstances may the rural telecommunications  
23           carrier reduce its existing commitment.

24           A rural telecommunications carrier making an election  
25           pursuant to this paragraph and filing its amended network  
26           modernization plan with the commission pursuant to subsection  
27           (d) shall be granted by the commission a suspension of its  
28           section 251(c)(2), (3), (4), (5) and (6) obligations under  
29           the Telecommunications Act of 1996. This suspension of  
30           obligations shall expire on December 31, 2008, unless the

1 commission, following a hearing, determines that the rural  
2 telecommunications carrier has failed to timely meet its  
3 commitments pursuant to this paragraph and, in that event,  
4 the suspension of obligations shall expire upon entry of the  
5 commission order making such determination. Expiration of the  
6 suspension of obligations shall not impact the rural  
7 telephone company exemption of the rural telecommunications  
8 carrier under section 251(f)(1) of the Telecommunications Act  
9 of 1996.

10 (2) (i) A nonrural telecommunications carrier that  
11 elects to amend its network modernization plan pursuant  
12 to this subsection shall remain subject to such carrier's  
13 network modernization plan in effect as of December 31,  
14 2003, as amended pursuant to this subsection. A nonrural  
15 telecommunications carrier may elect to amend its network  
16 modernization plan pursuant to this subsection by  
17 implementing one or more of the options listed in  
18 subparagraphs (ii), (iii) and (iv). Prior to  
19 implementation of any option so elected, the nonrural  
20 telecommunications carrier shall comply with the  
21 notification requirements of subsection (d).

22 (ii) The nonrural telecommunications carrier shall  
23 commit to universal broadband deployment in or adjacent  
24 to public rights-of-way abutting all public schools,  
25 including the administration offices supporting public  
26 schools, industrial parks and health care facilities in  
27 its service territory on or before December 31, 2004.

28 (iii) The nonrural telecommunications carrier shall  
29 commit:

30 (A) to offer advanced services to 70% of the

1 total retail access lines in its distribution network  
2 by December 31, 2008; and

3 (B) to offer a bona fide retail request program  
4 pursuant to subsection (c) through December 31, 2015.

5 (iv) The nonrural telecommunications carrier shall  
6 commit:

7 (A) to accelerate broadband availability to 70%  
8 of its total retail access lines in its distribution  
9 network by December 31, 2008; and

10 (B) to offer a bona fide retail request program  
11 pursuant to subsection (c) through December 31, 2015.

12 A nonrural telecommunications carrier with an existing  
13 broadband availability commitment exceeding 70% of the total  
14 retail access lines in its distribution network on December  
15 31, 2008, may either accelerate such broadband availability  
16 or remain under its existing network modernization plan for  
17 broadband deployment, provided however that under no  
18 circumstances may such nonrural telecommunications carrier  
19 reduce its existing commitment.

20 (3) No local exchange telecommunications company that  
21 elects one or more of the options in paragraph (1) or (2) may  
22 withdraw the election once made, unless a waiver is obtained  
23 pursuant to subsection (f). A local exchange  
24 telecommunications company which elects one or more of the  
25 options in paragraph (1) or (2) may elect an additional  
26 option or options pursuant to paragraph (1) or (2), as  
27 applicable, at a later date.

28 (c) Bona fide retail request program.--A local exchange  
29 telecommunications company that elects to amend its network  
30 modernization plan pursuant to subsection (b)(1)(iii) or (iv) or

1 (b)(2)(iii) or (iv) shall notify the commission that it is  
2 implementing a bona fide retail request program which shall  
3 continue through December 31, 2015. A bona fide retail request  
4 program shall consist of the following:

5 (1) Persons or entities seeking advanced services  
6 pursuant to a bona fide retail request program shall submit a  
7 written request for such services to the local exchange  
8 telecommunications company. The written request may be in the  
9 form of a petition which includes the information required by  
10 this paragraph or in the form of individual requests each of  
11 which includes the information required by this paragraph. If  
12 individual requests are received, the local exchange  
13 telecommunications company shall aggregate requests for the  
14 same service and initiate appropriate action pursuant to this  
15 subsection when the required number of requests have been  
16 received. To be considered a bona fide retail request, the  
17 written request must include:

18 (i) a minimum of 50 retail customers or 25% of  
19 retail customers, whichever is less, who request the same  
20 advanced service within a community;

21 (ii) the name, address, telephone number and  
22 signature of each existing retail customer seeking the  
23 advanced service, the advanced service being requested, a  
24 commitment by each retail customer who signs the request  
25 to subscribe to the requested advanced service for a  
26 minimum of one year or for another subscription period  
27 designated by the local exchange telecommunications  
28 company and the date of the request; and

29 (iii) the name, address and telephone number of a  
30 designated contact person.

1           (2) When a bona fide retail request has been received  
2 that meets the requirements of paragraph (1), the local  
3 exchange telecommunications company shall provide the  
4 requested advanced service to the community within 365 days  
5 of the date the requirements of paragraph (1) have been met  
6 unless:

7           (i) the local exchange telecommunications company  
8 does not provide the requested advanced service to other  
9 customers in its service territory;

10           (ii) providing the service would impose costs on or  
11 require investments by the local exchange  
12 telecommunications company that the local exchange  
13 telecommunications company would not be able to recover  
14 through rates applicable to the service requested; or

15           (iii) the community is situated outside the service  
16 territory of the local exchange telecommunications  
17 company.

18           (3) With regard to requests submitted under this  
19 subsection, a retail customer may challenge the action of a  
20 local exchange telecommunications company pursuant to section  
21 701 (relating to complaints).

22           (d) Notice and filing of amendments.--A local exchange  
23 telecommunications company that elects to amend its network  
24 modernization plan pursuant to subsection (b) shall notify the  
25 commission in writing of such election and, within 30 days  
26 following such notification, file its amended network  
27 modernization plan with the commission. Copies of the written  
28 notice of election and of the amended network modernization plan  
29 shall be served by the local exchange telecommunications company  
30 on the Office of Consumer Advocate and the Office of Small

1 Business Advocate. Concurrent with the filing of the amended  
2 plan with the commission, the local exchange telecommunications  
3 company shall publish notice of such filing in a newspaper or  
4 newspapers of general circulation in its service territory. The  
5 amended network modernization plan shall become effective upon  
6 filing with the commission.

7 (e) Network modernization plan report.--A local exchange  
8 telecommunications company that files an amended network  
9 modernization plan with the commission shall also file with the  
10 commission a report on its provision of advanced services and  
11 broadband availability. The first report shall be filed no later  
12 than April 30, 2004, and shall be based upon the 12 months  
13 ending December 31, 2003. Thereafter, reports shall be filed  
14 biennially on April 30. No additional network reports or  
15 information shall be required to be submitted to the commission  
16 by a local exchange telecommunications company. To the extent  
17 applicable to the local exchange telecommunications company's  
18 amended network modernization plan, reports shall be limited to:

19 (1) The status of broadband deployment in or adjacent to  
20 public rights-of-way abutting all public schools, including  
21 the administration offices supporting public schools,  
22 industrial parks and health care facilities.

23 (2) The percentage of access lines capable of receiving  
24 advanced services from the local exchange telecommunications  
25 company.

26 (3) The percentage of access lines with broadband  
27 availability from the local exchange telecommunications  
28 company.

29 (4) The number of written bona fide retail requests  
30 received.

1           (5) A general description of any technologies or media  
2 utilized by the local exchange telecommunications company to  
3 offer or provide advanced services and broadband  
4 availability.

5 (f) Waiver.--

6           (1) The commission shall grant a full or partial waiver  
7 of the requirements of the then effective network  
8 modernization plan of any local exchange telecommunications  
9 company upon receipt of a verified petition from the local  
10 exchange telecommunications company which meets the  
11 requirements of this subsection.

12           (2) Within 60 days of the date of filing, the commission  
13 shall grant a waiver petition to the extent that and for such  
14 duration as the commission determines is necessary to avoid:

15           (i) a significant adverse economic impact on the  
16 users of the local exchange telecommunications company's  
17 protected services;

18           (ii) imposing on the local exchange  
19 telecommunications company a requirement that is unduly  
20 burdensome economically;

21           (iii) imposing a requirement on the local exchange  
22 telecommunications company that is not technically  
23 feasible;

24           (iv) imposing a requirement on the local exchange  
25 telecommunications company that is otherwise impractical  
26 to implement in the specific exchange or exchanges or to  
27 the affected customer or group of customers; or

28           (v) imposing a requirement that is adverse to  
29 universal service within the service territory of the  
30 local exchange telecommunications company.



1           (3) A petition that is not acted on by the commission  
2 within 60 days of the date of filing shall be deemed  
3 approved.

4           (4) Prior to filing of a waiver petition with the  
5 commission, a local exchange telecommunications company shall  
6 notify all potentially affected customers in the specific  
7 exchange or exchanges by:

8                 (i) publication in a newspaper of general  
9 circulation in the geographic area subject to the waiver  
10 petition no more than seven calendar days prior to the  
11 filing of the waiver petition; or

12                 (ii) written notice through a direct mailing or bill  
13 insert sent to all potentially affected customers of the  
14 local exchange telecommunications company.

15 The publication or written notice shall state the reasons for  
16 the waiver petition, the anticipated effect of the waiver  
17 petition on the customers and the process by which customers  
18 may request a hearing before the commission on the waiver  
19 petition.

20 (g) Assistance to political subdivisions.--In an effort to  
21 assist political subdivisions with economic revitalization  
22 projects, a local exchange telecommunications company shall  
23 commit, in its modified alternative form of regulation and its  
24 network modernization plan, to make technical assistance for  
25 such projects available to political subdivisions located in its  
26 service territory in pursuing the deployment of additional  
27 telecommunications infrastructure or services by the local  
28 telecommunications company. A political subdivision or any  
29 entity established by a political subdivision, including a  
30 municipal authority, may not provide any telecommunications

1 services to the public for compensation within the service  
2 territory of a local exchange telecommunications company  
3 operating under a network modernization plan.

4 (h) Educational outreach.--Upon request of a political  
5 subdivision or of any entity listed in subsection (b)(1)(ii) or  
6 (b)(2)(ii), a local exchange telecommunications company shall  
7 provide educational outreach programs for officers or employees  
8 of such political subdivision and officers, representatives or  
9 employees of such entity concerning advanced services and  
10 broadband deployment by the local exchange telecommunications  
11 company.

12 (i) Balanced deployment.--A local exchange  
13 telecommunications company shall reasonably balance deployment  
14 of its broadband network between rural, urban and suburban areas  
15 within its service territory, as those areas are applicable,  
16 according to its approved network modernization plan.

17 (j) Impact of competition.--Notwithstanding any provision of  
18 this section or any network modernization plan to the contrary,  
19 if alternative service providers have made advanced services or  
20 broadband available to at least 30% of the customers in a  
21 particular exchange served by a rural telecommunications  
22 carrier, the rural telecommunications carrier shall not be  
23 required to meet any commitments for advanced services or  
24 broadband availability in that exchange.

25 (k) Construction.--Nothing in this section shall be  
26 construed:

27 (1) As giving the commission the authority to require a  
28 local exchange telecommunications company to provide specific  
29 services or to deploy a specific technology to retail  
30 customers seeking broadband or advanced services.

1           (2) As prohibiting a local exchange telecommunications  
2           company from participating in joint ventures with other  
3           entities in meeting its advanced services and broadband  
4           deployment commitments under its network modernization plan.

5 § 3015. Alternative forms of regulation.

6           (a) Inflation offset.--A local exchange telecommunications  
7           company with an alternative form of regulation containing a  
8           price stability mechanism that files an amended network  
9           modernization plan under section 3014(b)(1)(ii) and either (iii)  
10           or (iv) or (b)(2)(ii) and either (iii) or (iv) (relating to  
11           network modernization plans) shall not be subject to an  
12           inflation offset in its price stability mechanism in adjusting  
13           its rates for noncompetitive services. In all other respects the  
14           price stability mechanism shall remain the same.

15           (b) Rate changes for rural telecommunications carriers.--

16           (1) A rural telecommunications carrier operating under  
17           an alternative form of regulation without a price stability  
18           mechanism that files with the commission an amended network  
19           modernization plan under section 3014(b)(1)(ii) and either  
20           (iii) or (iv) shall be permitted at any time to file with the  
21           commission proposed tariff changes, effective 15 days after  
22           filing, setting forth miscellaneous changes, including  
23           increases and decreases, in rates for noncompetitive  
24           services, excluding basic residential and business rates,  
25           provided such rate changes do not increase the rural  
26           telecommunications carrier's annual intrastate revenues by  
27           more than 2%.

28           (2) The commission tariff filing requirements and review  
29           associated with such proposed rate changes shall be limited  
30           to schedules submitted by the rural telecommunications

1 carrier detailing the impact of the rate changes on the  
2 carrier's annual intrastate revenues.

3 (3) A rural telecommunications carrier that implements  
4 noncompetitive rate changes consistent with the procedure set  
5 forth in its alternative form of regulation plan shall not be  
6 required to file cost data with the commission to justify  
7 such changes.

8 (4) Notwithstanding the provisions of paragraph (1), (2)  
9 or (3), for any rural telecommunications carrier serving less  
10 than 50,000 access lines in this Commonwealth and operating  
11 under an alternative form of regulation plan, a formal  
12 complaint to deny rate changes for noncompetitive services,  
13 unless signed by at least 20 customers of the rural  
14 telecommunications carrier, shall not prevent implementation  
15 of the rate changes pending the adjudication of the formal  
16 complaint by the commission.

17 (c) General filing requirements.--For a local exchange  
18 telecommunications company that files an amended network  
19 modernization plan under section 3014(b)(1)(ii) and either (iii)  
20 or (iv) or (b)(2)(ii) and either (iii) or (iv), the commission's  
21 filing and audit requirements shall be limited to the following  
22 submissions by the company:

23 (1) Network modernization plan reports filed pursuant to  
24 section 3014(e).

25 (2) An annual financial report consisting of a balance  
26 sheet and income statement.

27 (3) An annual deaf, speech-impaired and hearing-impaired  
28 relay information report.

29 (4) An annual service report.

30 (5) Universal service reports.

1           (6) An annual access line report.

2           (7) An annual statement of gross intrastate operating  
3 revenues for purposes of calculating assessments for  
4 regulatory expenses.

5           (8) An annual State tax adjustment computation for years  
6 in which a tax change has occurred, if applicable.

7           (d) Other reports.-- Notwithstanding any other provision of  
8 this title to the contrary, no report, statement, filing or  
9 other document or information, except as specified in subsection  
10 (c), shall be required of any local exchange telecommunications  
11 company unless the commission, upon notice to the affected local  
12 exchange telecommunications company and an opportunity to be  
13 heard, has first made specific written findings supporting  
14 conclusions in an entered order that:

15           (1) The report is necessary to ensure that the local  
16 exchange telecommunications company is charging rates that  
17 are in compliance with this chapter and its effective  
18 alternative form of regulation.

19           (2) The benefits of the report substantially outweigh  
20 the attendant expense and administrative time and effort  
21 required of the local exchange telecommunications company to  
22 prepare it.

23           (e) Revenue-neutral rate changes.--For local exchange  
24 telecommunications companies operating under an alternative form  
25 of regulation plan, the commission shall not require any changes  
26 in rates for noncompetitive services except on a revenue-neutral  
27 basis.

28           (f) Conformance of plan.--Upon the filing by a local  
29 exchange telecommunications company of network modernization  
30 plan amendments pursuant to section 3014(d), the local exchange

1 telecommunications company's alternative form of regulation plan  
2 shall be deemed amended consistent with this section.

3 § 3016. Competitive services.

4 (a) Declaration of services as competitive.--A service or  
5 business activity provided by a local exchange  
6 telecommunications company, including a protected service, not  
7 previously declared by the commission as competitive may be  
8 declared competitive by the commission under the following  
9 provisions:

10 (1) The local exchange telecommunications company may  
11 petition the commission for a determination of whether a  
12 service is competitive. The commission shall enter an order  
13 approving or disapproving the petition within 60 days of the  
14 filing date, or the petition shall be deemed approved. In  
15 making the determination, the commission shall consider all  
16 relevant information submitted to it.

17 (2) Simultaneously with the filing by the local exchange  
18 telecommunications company of a petition with the commission  
19 for a declaration of a service as competitive, the local  
20 exchange telecommunications company shall serve a copy of the  
21 petition on the Office of Consumer Advocate and the Office of  
22 Small Business Advocate and give notice to the public of the  
23 filing of its petition in a newspaper or newspapers of  
24 general circulation in the company's service territory.

25 (3) In a proceeding to declare a service competitive,  
26 the commission shall consider the availability of like or  
27 substitute services or other business activities in the  
28 relevant geographic area.

29 (4) The burden of proving that a protected service is  
30 competitive rests on the party seeking to have the service

1 declared competitive. Hearings shall not be required, unless  
2 a protesting party has raised relevant and material factual  
3 issues.

4 (b) Optional declaration of nonprotected services as  
5 competitive.--Notwithstanding the provisions of subsection (a),  
6 a local exchange telecommunications company that has filed an  
7 amended network modernization plan pursuant to section  
8 3014(b)(1)(ii) and either (iii) or (iv) or (b)(2)(ii) and either  
9 (ii) or (iii) (relating to network modernization plans), at its  
10 option, may declare services which are not protected as  
11 competitive by filing notice of its election of this option with  
12 the commission.

13 (c) Rural exchange specific pricing.--

14 (1) When an alternative service provider is providing  
15 local exchange telecommunications services within an exchange  
16 of a rural telecommunications carrier that has filed an  
17 amended network modernization plan under section  
18 3014(b)(1)(ii) and either (iii) or (iv) or (b)(2)(ii) and  
19 either (iii) or (iv), the rural telecommunications carrier  
20 may petition the commission for approval to begin pricing its  
21 services in the exchange at its discretion.

22 (2) The commission, following public notice, shall  
23 approve the petition within 60 days if shown by the rural  
24 telecommunications carrier that the alternative service  
25 provider is providing local exchange telecommunications  
26 services in the exchange.

27 (3) Any party with standing shall have the right to  
28 challenge the lawfulness of any petition filed or of any rate  
29 change pursuant to section 701 (relating to complaints).

30 (4) Following approval of a petition, the rural

1 telecommunications carrier shall tariff any changes in rates  
2 effective one day after filing.

3 (5) The rural telecommunications carrier shall give  
4 notice to all customers impacted by any rate increases in the  
5 form of a bill insert, bill message, written notice or  
6 newspaper notice at least ten days prior to the tariff  
7 filing.

8 (d) Additional requirements.--

9 (1) The prices which a local exchange telecommunications  
10 company charges for competitive services shall not be less  
11 than the costs to provide the services.

12 (2) Neither tariffs nor price lists for competitive  
13 service offerings must be filed with the commission. However,  
14 a local exchange telecommunications company, at its option,  
15 may tariff its rates, rules and regulations applicable to the  
16 provision of competitive services.

17 (e) Pricing flexibility and bundling.--

18 (1) Subject to the requirements of subsection (d)(1), a  
19 local exchange telecommunications company may price  
20 competitive services at the company's discretion.

21 (2) A local exchange telecommunications company may  
22 offer and bill to customers on one bill bundled packages of  
23 services which include nontariffed, competitive,  
24 noncompetitive or protected services, including services of  
25 an affiliate, in combinations and at a single price selected  
26 by the company.

27 (3) If a customer subscribes to a bundled package of  
28 services which include nontariffed, competitive,  
29 noncompetitive or protected services as provided in paragraph  
30 (2) and does not make payment on a billing due date, the



1 local exchange telecommunications company may first suspend  
2 all of the customer's services subscribed to in the bundled  
3 package following written notice to the customer of such  
4 suspension at least seven days prior to the suspension and  
5 thereafter may terminate all the customer's bundled package  
6 services following written notice to the customer of such  
7 termination at least ten days prior to the termination.

8 (f) Prohibitions.--

9 (1) A local exchange telecommunications company shall be  
10 prohibited from using revenues earned or expenses incurred in  
11 conjunction with protected services to subsidize competitive  
12 services.

13 (2) Paragraph (1) shall not be construed to prevent the  
14 marketing and billing of noncompetitive and competitive  
15 services as packages to customers.

16 (g) Rebuttable presumption.--In the event that a service is  
17 declared by the commission to be competitive for a local  
18 exchange telecommunications company, there shall be a rebuttable  
19 presumption that the service shall also be declared competitive  
20 by the commission in ruling on any petition filed by another  
21 local exchange telecommunications company requesting that the  
22 same or similar service be declared competitive.

23 § 3017. Access charges.

24 (a) General rule.--The commission may not require a local  
25 exchange telecommunications company to reduce access rates  
26 except on a revenue-neutral basis.

27 (b) Refusal to pay access charges prohibited.--No person or  
28 entity may refuse to pay tariffed access charges for  
29 interexchange services provided by a local exchange  
30 telecommunications company.

1       (c) Limitation.--No telecommunications carrier providing  
2 competitive local exchange telecommunications service may charge  
3 access rates higher than those charged by the incumbent local  
4 exchange telecommunications company in the same service  
5 territory, unless such carrier can demonstrate, by substantial  
6 evidence, that the higher access rates are cost justified.

7 § 3018. Interexchange telecommunications carriers.

8       (a) Competitive and noncompetitive services.--Interexchange  
9 services provided by interexchange telecommunications carriers  
10 shall continue to be competitive services after December 31,  
11 2003, except for the provision of the following interexchange  
12 services which shall be noncompetitive services unless declared  
13 otherwise by the commission pursuant to section 3016 (relating  
14 to competitive services):

15           (1) Interexchange service to aggregator telephones.

16           (2) Optional calling plans required by the commission to  
17 be offered when justified by usage over an interexchange  
18 route.

19       (b) Rate regulation.--

20           (1) The commission may not fix or prescribe the rates,  
21 tolls, charges, rate structures, rate base, rate of return,  
22 operating margin or earnings for interexchange competitive  
23 services or otherwise regulate interexchange competitive  
24 services except as set forth in this chapter.

25           (2) An interexchange telecommunications carrier may file  
26 and maintain tariffs or price lists with the commission for  
27 competitive telecommunications services.

28           (3) Nothing in this chapter shall be construed to limit  
29 the authority of the commission to regulate the privacy of  
30 interexchange service and the ordering, installation,

1 restoration and disconnection of interexchange service to  
2 customers.

3 (c) Reclassification.--The commission may reclassify  
4 telecommunications services provided by an interexchange  
5 telecommunications carrier as noncompetitive if, after notice  
6 and hearing, it determines, upon application of the criteria set  
7 forth in this chapter, that sufficient competition is no longer  
8 present.

9 (d) Construction.--Nothing in this chapter shall be  
10 construed:

11 (1) To limit the authority of the commission to resolve  
12 complaints regarding the quality of interexchange  
13 telecommunications carrier service.

14 (2) To limit the authority of the commission to  
15 determine whether an interexchange telecommunications carrier  
16 should be extended the privilege of operating within this  
17 Commonwealth or to order the filing of such reports,  
18 documents and information as may be necessary to monitor the  
19 market for and competitiveness of interexchange  
20 telecommunications services.

21 § 3019. Additional powers and duties.

22 (a) General rule.--The commission may certify more than one  
23 telecommunications carrier to provide local exchange  
24 telecommunications service in a specific geographic location.  
25 The certification shall be granted upon a showing that it is in  
26 the public interest and that the applicant possesses sufficient  
27 technical, financial and managerial resources.

28 (b) Powers and duties retained.--The commission shall retain  
29 the following powers and duties relating to the regulation of  
30 all telecommunications carriers and interexchange

1 telecommunications carriers:

2       (1) To audit the accounting and reporting systems of  
3 telecommunications carriers relating to their transactions  
4 with affiliates pursuant to Chapter 21 (relating to relations  
5 with affiliated interests). A telecommunications carrier  
6 shall file affiliated interest and affiliated transaction  
7 agreements, unless such agreements involve services declared  
8 to be competitive. The filings shall constitute notice to the  
9 commission only and shall not require approval by the  
10 commission.

11       (2) Subject to the provisions of section 3015(d)  
12 (relating to alternative forms of regulation), to establish  
13 such additional requirements as are consistent with this  
14 chapter as the commission determines to be necessary to  
15 ensure the protection of customers.

16 (c) Privacy of customer information.--

17       (1) Except as otherwise provided in this subsection, a  
18 telecommunications carrier may not disclose to any person  
19 information relating to any customer's patterns of use,  
20 equipment and network information and any accumulated records  
21 about customers.

22       (2) A telecommunications carrier may disclose such  
23 information:

24       (i) Pursuant to a court order or where otherwise  
25 required by law.

26       (ii) To the carrier's affiliates, agents,  
27 contractors or vendors and other telecommunications  
28 carriers or interexchange telecommunications carriers, as  
29 permitted by law.

30       (iii) Where the information consists of aggregate

1           data which does not identify individual customers.

2           (d) Calling areas.--The commission may not order expanded  
3 local calling areas, revised territorial exchange boundaries or  
4 additional optional calling plans unless such change is  
5 initiated by or agreed to by the serving local exchange  
6 telecommunications company.

7           (e) Method for fixing rates.--The commission may not fix or  
8 prescribe the rates, tolls, charges, rate structures, rate base,  
9 rate of return or earnings of competitive services or otherwise  
10 regulate competitive services except as set forth in this  
11 chapter.

12           (f) Implementation.--The terms of a local exchange  
13 telecommunications company's alternative form of regulation and  
14 network modernization plans shall govern the regulation of the  
15 local exchange telecommunications company and, consistent with  
16 the provisions of this chapter, shall supersede any conflicting  
17 provisions of this title or other laws of this Commonwealth and  
18 shall specifically supersede all provisions of Chapter 13  
19 (relating to rates and rate making) other than sections 1301  
20 (relating to rates to be just and reasonable), 1302 (relating to  
21 tariffs; filing and inspection), 1303 (relating to adherence to  
22 tariffs), 1304 (relating to discrimination in rates), 1305  
23 (relating to advance payment of rates; interest on deposits),  
24 1309 (relating to rates fixed on complaint; investigation of  
25 costs of production) and 1312 (relating to refunds).

26 § 3020. Expiration of chapter.

27           This chapter shall expire on December 31, 2015, unless sooner  
28 reenacted by the General Assembly; provided, however, that a  
29 local exchange telecommunications company's alternative form of  
30 regulation in effect at that time shall continue.

1 Section 3. The provisions of this act are severable. If any  
2 provision of this act or its application to any person or  
3 circumstance is held invalid, the invalidity shall not affect  
4 other provisions or applications of this act which can be given  
5 effect without the invalid provision or application.

6 Section 4. Section 2471 of the act of February 1, 1966 (1965  
7 P.L.1656, No.581), known as The Borough Code, is repealed to the  
8 extent it is inconsistent with this act.

9 Section 5. This act shall take effect January 1, 2004, or  
10 immediately, whichever occurs later.