

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 30

Session of 2003

INTRODUCED BY ADOLPH, PRESTON, BUNT, DeWEESE, McILHATTAN, LaGROTTA, FICHTER, FRANKEL, DiGIROLAMO, CRAHALLA, HARHAI, KENNEY, LAUGHLIN, LEH, RAYMOND, READSHAW, REICHLEY, RUBLEY, SAINATO, SEMMEL, TRUE, WOJNAROSKI, WRIGHT, YEWIC, ZUG, ALLEN, ARMSTRONG, BAKER, BARD, BARRAR, BASTIAN, BEBKO-JONES, BELARDI, BELFANTI, BENNINGHOFF, BIANCUCCI, BISHOP, BOYES, BROWNE, BUTKOVITZ, CALTAGIRONE, CAPPELLI, CASORIO, CAUSER, CAWLEY, CIVERA, CLYMER, COHEN, COLEMAN, CORNELL, CORRIGAN, COSTA, COY, CREIGHTON, CRUZ, DAILEY, DALEY, DALLY, DeLUCA, DERMODY, DIVEN, DONATUCCI, EACHUS, EGOLF, FABRIZIO, FLEAGLE, FLICK, FORCIER, GABIG, GANNON, GEIST, GERGELY, GILLESPIE, GODSHALL, GOODMAN, GRUCELA, GRUITZA, HABAY, HALUSKA, HANNA, HARHART, HARPER, HARRIS, HASAY, HENNESSEY, HERMAN, HERSHEY, HESS, HICKERNELL, JAMES, KELLER, KIRKLAND, KOTIK, LEACH, LEDERER, LESCOVITZ, LEWIS, LYNCH, MAHER, MAITLAND, MAJOR, MANN, MARKOSEK, MARSICO, McCALL, McGEEHAN, McGILL, McILHINNEY, McNAUGHTON, METCALFE, MICOZZIE, R. MILLER, S. MILLER, NAILOR, NICKOL, OLIVER, PALLONE, PETRI, PETRONE, PHILLIPS, PISTELLA, RIEGER, ROBERTS, ROEBUCK, RUFFING, SANTONI, SAYLOR, SCAVELLO, SCHRODER, B. SMITH, SOLOBAY, STABACK, STAIRS, STEIL, STERN, R. STEVENSON, T. STEVENSON, TANGRETTI, E. Z. TAYLOR, J. TAYLOR, TIGUE, VANCE, WALKO, WANSACZ, WASHINGTON, WATERS, WATSON, WEBER, WILLIAMS, YOUNGBLOOD, YUDICHAK, PICKETT, BIRMELIN, TRAVAGLIO, O'NEILL, ROHRER, DENLINGER, WILT, MACKERETH AND REED, APRIL 30, 2003

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 17, 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 TELECOMMUNICATIONS SERVICES; ESTABLISHING THE ADVANCED
8 SERVICES EDUCATION AND AGGREGATION FUND; PROVIDING FOR VOICE
9 OVER INTERNET PROTOCOL; AND MAKING A REPEAL.

<—
<—
<—

1 hereby enacts as follows:

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4 Consolidated Statutes are repealed.

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

6 § 3010. (Reserved).

7 § 3011. Declaration of policy.

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

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

15 (2) Maintain universal telecommunications service at
16 affordable rates. <—

17 ~~(3) Encourage the accelerated provision of advanced~~
18 AFFORDABLE RATES WHILE ENCOURAGING THE ACCELERATED PROVISION <—
19 OF ADVANCED services and deployment of a universally
20 available, state-of-the-art, interactive broadband
21 telecommunications network in rural, suburban and urban
22 areas, including deployment of broadband facilities in or
23 adjacent to public rights-of-way abutting public schools,
24 including the administrative offices supporting public
25 schools, industrial parks and health care facilities.

26 ~~(4) (3) Ensure that customers pay only reasonable~~ <—
27 charges for protected services, WHICH SHALL BE AVAILABLE ON A <—
28 NONDISCRIMINATORY BASIS.

29 ~~(5) (4) Ensure that rates for protected services do not~~ <—
30 subsidize the competitive ventures of telecommunications

1 carriers.

2 ~~(6)~~ (5) Provide diversity in the supply of existing and <—
3 future telecommunications services and products in
4 telecommunications markets throughout this Commonwealth by
5 ensuring that rates, terms and conditions for protected
6 services are reasonable and do not impede the development of
7 competition.

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

12 ~~(8)~~ (7) Encourage the provision of telecommunications <—
13 products and services that enhance the quality of life of
14 people with disabilities.

15 (8) PROMOTE AND ENCOURAGE THE PROVISION OF COMPETITIVE <—
16 SERVICES BY A VARIETY OF SERVICE PROVIDERS ON EQUAL TERMS
17 THROUGHOUT ALL GEOGRAPHIC AREAS OF THIS COMMONWEALTH WITHOUT
18 JEOPARDIZING THE PROVISION OF UNIVERSAL TELECOMMUNICATIONS
19 SERVICE AT AFFORDABLE RATES.

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

22 ~~(9)~~ (10) Encourage joint ventures between local exchange <—
23 telecommunications companies and other entities where such
24 joint ventures accelerate, improve or otherwise assist a
25 local exchange telecommunications company in carrying out its
26 network modernization implementation plan.

27 ~~(10)~~ (11) Establish a bona fide retail request program <—
28 to aggregate and make advanced services available in areas
29 where sufficient market demand exists and to supplement
30 existing network modernization plans.

1 ~~(11)~~ (12) Promote and encourage the provision of <—
2 advanced services and broadband deployment in the service
3 territories of local exchange telecommunications companies
4 without jeopardizing the provision of universal service.

5 ~~(12)~~ (13) Recognize that the regulatory obligations <—
6 imposed upon the incumbent local exchange telecommunications
7 companies should be reduced to levels more consistent with
8 those imposed upon competing alternative service providers.

9 § 3012. Definitions.

10 The following words and phrases when used in this chapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

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

18 "Aggregator telephone." A telephone which is made available
19 to the transient public, customers or patrons, including, but
20 not limited to, coin telephones, credit card telephones and
21 telephones located in hotels, motels, hospitals and
22 universities.

23 "Alternative form of regulation." A form of regulation of
24 telecommunications services other than the traditional rate
25 base/rate of return regulation, including a streamlined form of
26 regulation, as approved by the commission.

27 "Alternative service provider." An entity that provides
28 telecommunications services in competition with a local exchange
29 telecommunications company.

30 "Bona fide retail request." A written request for service

1 which meets the requirements of section 3014(c)(1), (relating to
2 network modernization plans), is received by a local exchange
3 telecommunications company, and through which end users commit
4 to subscribing to an advanced service.

5 "Bona fide retail request program." A program established by
6 a local exchange telecommunications company pursuant to section
7 3014(c) (relating to network modernization plans).

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

11 "Broadband availability." Access to broadband service by a
12 retail telephone customer of a local exchange telecommunications
13 company.

14 "Central office." A building containing one or more local
15 exchange telecommunications company switches used to provide
16 local exchange telecommunications service.

17 "Community." Those customers of a local exchange
18 telecommunications company served by a AN EXISTING OR PLANNED <—
19 remote terminal or, where no remote terminal exists OR IS <—
20 PLANNED, a central office switch.

21 "Competitive service." A service or business activity
22 declared to be competitive by the commission on or prior to
23 December 31, 2003, and a service or business activity declared
24 to be competitive pursuant to section 3016 (relating to
25 competitive services).

26 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC <—
27 DEVELOPMENT OF THE COMMONWEALTH.

28 "ELIGIBLE TELECOMMUNICATIONS CARRIER." A CARRIER DESIGNATED
29 BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION PURSUANT TO 47 CFR
30 54.201 (RELATING TO DEFINITION OF ELIGIBLE TELECOMMUNICATIONS

1 CARRIERS, GENERALLY) OR SUCCESSOR REGULATION, AS ELIGIBLE TO
2 RECEIVE SUPPORT FROM THE FEDERAL UNIVERSAL SERVICE FUND.

3 "ELIGIBLE TELECOMMUNICATIONS CUSTOMER." A CUSTOMER OF AN
4 ELIGIBLE TELECOMMUNICATIONS CARRIER WHO QUALIFIES FOR LIFELINE
5 SERVICE DISCOUNTS PURSUANT TO THE REQUIREMENTS OF 47 CFR 54.409
6 (RELATING TO CONSUMER QUALIFICATION FOR LIFELINE) OR SUCCESSOR
7 REGULATION.

8 "FUND." THE ADVANCED SERVICES EDUCATION AND AGGREGATION FUND
9 ESTABLISHED UNDER SECTION 3014 (RELATING TO NETWORK
10 MODERNIZATION PLANS).

11 "Gross Domestic Product Price Index" or "GDP-PI." The Gross
12 Domestic Product Fixed Weight Price Index as calculated by the
13 United States Department of Commerce.

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

17 "Inflation offset." The part of the price change formula in
18 the price stability mechanism that reflects an offset to the
19 Gross Domestic Product Price Index.

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

22 "Interexchange telecommunications carrier." A carrier other
23 than a local exchange telecommunications company authorized by
24 the commission to provide interexchange services.

25 "LIFELINE SERVICE." A DISCOUNTED RATE LOCAL SERVICE
26 OFFERING, AS DEFINED IN 47 CFR 54.401 (RELATING TO LIFELINE
27 DEFINED) OR SUCCESSOR REGULATION, BUT EXCLUDING ANY OFFERING
28 FUNDED IN PART BY FEDERAL UNIVERSAL SERVICE FUND TIER THREE
29 FUNDING UNDER 47 CFR 54.403 (RELATING TO LIFELINE SUPPORT
30 AMOUNT) OR SUCCESSOR REGULATION.

<—

1 "Local exchange telecommunications company." An incumbent
2 carrier authorized by the commission to provide local exchange
3 telecommunications services. The term includes a rural
4 telecommunications carrier and a nonrural telecommunications
5 carrier.

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

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

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

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

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

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

28 (1) Service provided to residential ~~or single-line~~ <—
29 ~~business consumers~~ CONSUMERS OR SMALL BUSINESS CONSUMERS <—
30 SUBSCRIBING TO FOUR OR FEWER ACCESS LINES only to the extent

1 that the service is necessary for completing any local
2 exchange call for which dial tone is necessary.

3 (2) Touch-tone service.

4 (3) Switched access service.

5 (4) Special access service.

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

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

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

17 "SMALL BUSINESS." A BUSINESS CONSUMER THAT SUBSCRIBES TO
18 FOUR OR FEWER ACCESS LINES.

19 "Special access service." Service provided over dedicated,
20 nonswitched facilities by local exchange telecommunications
21 companies to interexchange carriers or other large volume users
22 which provide connection between an interexchange carrier or
23 private network and a customer's premises.

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

30 "Telecommunications Act of 1996." The Telecommunications Act

1 of 1996 (Public Law 104-104, ~~100 Stat. et seq.~~ 110 STAT. 56). <—

2 "Telecommunications carrier." An entity that provides
3 telecommunications services subject to the jurisdiction of the
4 commission.

5 "Telecommunications service." The offering of the
6 transmission of messages or communications for a fee to the
7 public.

8 "VOICE OVER INTERNET PROTOCOL" OR "VOIP." THE PROVISION OF <—
9 VOICE COMMUNICATIONS AND RELATED FEATURES AND FUNCTIONS BY MEANS
10 OF ENCODING VOICE AND RELATED SIGNALS INTO PACKETIZED FORM AND
11 TRANSMISSION OF THOSE PACKETS USING INTERNET PROTOCOL OR ANY
12 SUCCESSOR PROTOCOL FOR SOME OR ALL OF THE TRANSMISSION.

13 § 3013. Continuation of commission-approved alternative
14 regulation and network modernization plans.

15 (a) General rule.--An alternative form of regulation plan
16 and network modernization plan approved by the commission for a
17 local exchange telecommunications company as of December 31,
18 2003 shall remain valid and effective, except as may be amended
19 at the election of the local exchange telecommunications company
20 as authorized by this chapter. The commission shall allow a
21 previously approved plan to be amended to conform with TO any <—
22 changes made under this chapter, and shall not require any other
23 changes to the plan.

24 (b) Limitation on changes to plans.--Except for changes to
25 existing alternative form of regulation and network
26 modernization plans as authorized by this chapter, no change to
27 any alternative form of regulation or network modernization plan
28 may be made without the express agreement of both the commission
29 and the local exchange telecommunications company.

30 (c) Grandfather provision.--All services previously declared

1 competitive as of December 31, 2003, under a local exchange
2 telecommunications company's alternative form of regulation plan
3 shall remain competitive.

4 (d) Commission oversight.--The commission will continue to
5 exercise oversight of alternative form of regulation and network
6 modernization plans for local exchange telecommunications
7 companies as provided in this chapter.

8 § 3014. Network modernization plans.

9 (a) Continuation of approved plan.--A local exchange
10 telecommunications company that does not elect an option under
11 subsection (b) shall remain subject to its network modernization
12 plan in effect as of December 31, 2003, without revision or
13 modification except by agreement under section 3013(b) (relating
14 to continuation of commission-approved alternative regulation
15 and network modernization plans) AND AS PROVIDED IN THIS <—
16 SECTION, through December 31, 2015.

17 (b) Options for amendment of network modernization plan.-- <—
18 Rural and nonrural telecommunications carriers LOCAL EXCHANGE <—
19 TELECOMMUNICATIONS COMPANIES shall have the following options:

20 ~~(1) (i) A rural telecommunications carrier that elects~~ <—
21 ~~to amend its network modernization plan pursuant to this~~
22 ~~subsection shall remain subject to the carrier's network~~
23 ~~modernization plan in effect as of December 31, 2003, as~~
24 ~~amended pursuant to this subsection, through December 31,~~
25 ~~2008. Any rural telecommunications carrier may elect to~~
26 ~~amend its network modernization plan pursuant to this~~
27 ~~subsection by implementing one or more of the options~~
28 ~~listed in subparagraphs (ii), (iii) and (iv). Prior to~~
29 ~~implementation of any option so elected, the rural~~
30 ~~telecommunications carrier shall comply with the~~

1 ~~notification requirements of subsection (d).~~

2 ~~(ii) The rural telecommunications carrier shall~~
3 ~~commit to universal broadband deployment in or adjacent~~
4 ~~to public rights of way abutting all public schools,~~
5 ~~including the administration offices supporting public~~
6 ~~schools, industrial parks and health care facilities in~~
7 ~~its service territory on or before December 31, 2004. A~~
8 ~~rural telecommunications carrier serving more than ten~~
9 ~~exchanges in this Commonwealth may elect to extend this~~
10 ~~commitment from December 31, 2004, to December 31, 2005,~~
11 ~~for any exchange with less than 4,000 access lines.~~

12 ~~(iii) The rural telecommunications carrier shall~~
13 ~~commit:~~

14 ~~(A) to offer advanced services to 70% of the~~
15 ~~total retail access lines in its distribution network~~
16 ~~by December 31, 2008; and~~

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

19 ~~(iv) The rural telecommunications carrier shall~~
20 ~~commit:~~

21 ~~(A) to accelerate broadband availability to 70%~~
22 ~~of its total retail access lines in its distribution~~
23 ~~network by December 31, 2008; and~~

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

26 ~~A rural telecommunications carrier with an existing~~
27 ~~broadband availability commitment exceeding 70% of~~
28 ~~the total retail access lines in its distribution~~
29 ~~network on December 31, 2008, may either accelerate~~
30 ~~such broadband availability or remain under its~~

1 ~~existing network modernization plan for broadband~~
2 ~~deployment, provided however that under no~~
3 ~~circumstances may the rural telecommunications~~
4 ~~carrier reduce its existing commitment.~~

5 ~~A rural telecommunications carrier making an election~~
6 ~~pursuant to this paragraph and filing its amended network~~
7 ~~modernization plan with the commission pursuant to subsection~~
8 ~~(d) shall be granted by the commission a suspension of its~~
9 ~~section 251(c)(2), (3), (4), (5) and (6) obligations under~~
10 ~~the Telecommunications Act of 1996. This suspension of~~
11 ~~obligations shall expire on December 31, 2008, unless the~~
12 ~~commission, following a hearing, determines that the rural~~
13 ~~telecommunications carrier has failed to timely meet its~~
14 ~~commitments pursuant to this paragraph and, in that event,~~
15 ~~the suspension of obligations shall expire upon entry of the~~
16 ~~commission order making such determination. Expiration of the~~
17 ~~suspension of obligations shall not impact the rural~~
18 ~~telephone company exemption of the rural telecommunications~~
19 ~~carrier under section 251(f)(1) of the Telecommunications Act~~
20 ~~of 1996.~~

21 ~~(2) (i) A nonrural telecommunications carrier that~~
22 ~~elects to amend its network modernization plan pursuant~~
23 ~~to this subsection shall remain subject to such carrier's~~
24 ~~network modernization plan in effect as of December 31,~~
25 ~~2003, as amended pursuant to this subsection. A nonrural~~
26 ~~telecommunications carrier may elect to amend its network~~
27 ~~modernization plan pursuant to this subsection by~~
28 ~~implementing one or more of the options listed in~~
29 ~~subparagraphs (ii), (iii) and (iv). Prior to~~
30 ~~implementation of any option so elected, the nonrural~~

1 ~~telecommunications carrier shall comply with the~~
2 ~~notification requirements of subsection (d).~~

3 ~~(ii) The nonrural telecommunications carrier shall~~
4 ~~commit to universal broadband deployment in or adjacent~~
5 ~~to public rights of way abutting all public schools,~~
6 ~~including the administration offices supporting public~~
7 ~~schools, industrial parks and health care facilities in~~
8 ~~its service territory on or before December 31, 2004.~~

9 ~~(iii) The nonrural telecommunications carrier shall~~
10 ~~commit:~~

11 ~~(A) to offer advanced services to 70% of the~~
12 ~~total retail access lines in its distribution network~~
13 ~~by December 31, 2008; and~~

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

16 ~~(iv) The nonrural telecommunications carrier shall~~
17 ~~commit:~~

18 ~~(A) to accelerate broadband availability to 70%~~
19 ~~of its total retail access lines in its distribution~~
20 ~~network by December 31, 2008; and~~

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

23 ~~A nonrural telecommunications carrier with an existing~~
24 ~~broadband availability commitment exceeding 70% of the total~~
25 ~~retail access lines in its distribution network on December~~
26 ~~31, 2008, may either accelerate such broadband availability~~
27 ~~or remain under its existing network modernization plan for~~
28 ~~broadband deployment, provided however that under no~~
29 ~~circumstances may such nonrural telecommunications carrier~~
30 ~~reduce its existing commitment.~~

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

(1) (I) A RURAL TELECOMMUNICATIONS CARRIER THAT ELECTS TO AMEND ITS NETWORK MODERNIZATION PLAN PURSUANT TO THIS SUBSECTION SHALL REMAIN SUBJECT TO THE CARRIER'S NETWORK MODERNIZATION PLAN IN EFFECT AS OF DECEMBER 31, 2003, AS AMENDED PURSUANT TO THIS SUBSECTION, THROUGH DECEMBER 31, 2008. PRIOR TO IMPLEMENTATION OF SUCH ELECTION, THE RURAL TELECOMMUNICATIONS CARRIER SHALL COMPLY WITH THE NOTIFICATION REQUIREMENTS OF SUBSECTION (D).

(II) THE RURAL TELECOMMUNICATIONS CARRIER SHALL COMMIT TO ACCELERATE 100% UNIVERSAL BROADBAND AVAILABILITY BY DECEMBER 31, 2008, IN ITS AMENDED NETWORK MODERNIZATION PLAN. ANY RURAL TELECOMMUNICATIONS CARRIER ELECTING THIS OPTION SHALL NOT BE REQUIRED TO OFFER A BONA FIDE RETAIL REQUEST PROGRAM.

(2) (I) A RURAL TELECOMMUNICATIONS CARRIER THAT ELECTS TO AMEND ITS NETWORK MODERNIZATION PLAN PURSUANT TO THIS SUBSECTION SHALL REMAIN SUBJECT TO THE CARRIER'S NETWORK MODERNIZATION PLAN IN EFFECT AS OF DECEMBER 31, 2003, AS AMENDED PURSUANT TO THIS SUBSECTION, THROUGH DECEMBER 31, 2010. PRIOR TO IMPLEMENTATION OF SUCH ELECTION, THE RURAL TELECOMMUNICATIONS CARRIER SHALL COMPLY WITH THE NOTIFICATION REQUIREMENTS OF SUBSECTION (D).

1 (II) THE RURAL TELECOMMUNICATIONS CARRIER SHALL

2 COMMIT:

3 (A) TO ACCELERATE BROADBAND AVAILABILITY TO 80%
4 OF ITS TOTAL RETAIL ACCESS LINES IN ITS DISTRIBUTION
5 NETWORK BY DECEMBER 31, 2010; AND

6 (B) TO OFFER A BONA FIDE RETAIL REQUEST PROGRAM
7 PURSUANT TO SUBSECTION (C) THROUGH DECEMBER 31, 2015.

8 A RURAL TELECOMMUNICATIONS CARRIER WITH AN EXISTING BROADBAND
9 AVAILABILITY COMMITMENT EXCEEDING 80% OF THE TOTAL RETAIL
10 ACCESS LINES IN ITS DISTRIBUTION NETWORK ON DECEMBER 31,
11 2010, MAY EITHER ACCELERATE SUCH BROADBAND AVAILABILITY OR
12 REMAIN UNDER ITS EXISTING NETWORK MODERNIZATION PLAN FOR
13 BROADBAND DEPLOYMENT, PROVIDED HOWEVER, THAT UNDER NO
14 CIRCUMSTANCES MAY THE RURAL TELECOMMUNICATIONS CARRIER REDUCE
15 ITS EXISTING COMMITMENT.

16 (3) (I) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY
17 THAT ELECTS TO AMEND ITS NETWORK MODERNIZATION PLAN
18 PURSUANT TO THIS SUBSECTION SHALL REMAIN SUBJECT TO SUCH
19 COMPANY'S NETWORK MODERNIZATION PLAN IN EFFECT AS OF
20 DECEMBER 31, 2003, AS AMENDED PURSUANT TO THIS
21 SUBSECTION, INCLUDING MEETING ITS 100% BROADBAND
22 AVAILABILITY COMMITMENT BY DECEMBER 31, 2015. PRIOR TO
23 IMPLEMENTATION OF SUCH ELECTION, THE LOCAL EXCHANGE
24 TELECOMMUNICATIONS COMPANY SHALL COMPLY WITH THE
25 NOTIFICATION REQUIREMENTS OF SUBSECTION (D).

26 (II) THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY
27 SHALL COMMIT:

28 (A) TO ACCELERATE BROADBAND AVAILABILITY TO 80%
29 OF ITS TOTAL RETAIL ACCESS LINES IN ITS DISTRIBUTION
30 NETWORK BY DECEMBER 31, 2010; AND

1 (B) TO OFFER A BONA FIDE RETAIL REQUEST PROGRAM
2 PURSUANT TO SUBSECTION (C) THROUGH DECEMBER 31, 2015.
3 A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY WITH AN EXISTING
4 BROADBAND AVAILABILITY COMMITMENT EXCEEDING 80% OF THE TOTAL
5 RETAIL ACCESS LINES IN ITS DISTRIBUTION NETWORK ON DECEMBER
6 31, 2010, MAY EITHER ACCELERATE SUCH BROADBAND AVAILABILITY
7 OR REMAIN UNDER ITS EXISTING NETWORK MODERNIZATION PLAN FOR
8 BROADBAND DEPLOYMENT, PROVIDED HOWEVER THAT UNDER NO
9 CIRCUMSTANCES MAY SUCH LOCAL EXCHANGE TELECOMMUNICATIONS
10 COMPANY REDUCE ITS EXISTING COMMITMENT.

11 (4) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY THAT
12 ELECTS UNDER PARAGRAPH (1), (2) OR (3) SHALL ALSO COMMIT TO
13 UNIVERSAL BROADBAND DEPLOYMENT IN OR ADJACENT TO PUBLIC
14 RIGHTS-OF-WAY ABUTTING ALL PUBLIC SCHOOLS, INCLUDING THE
15 ADMINISTRATION OFFICES SUPPORTING PUBLIC SCHOOLS, INDUSTRIAL
16 PARKS AND HEALTH CARE FACILITIES IN ITS SERVICE TERRITORY ON
17 OR BEFORE DECEMBER 31, 2004, EXCEPT THAT A LOCAL EXCHANGE
18 TELECOMMUNICATIONS CARRIER SERVING MORE THAN TEN EXCHANGES IN
19 THIS COMMONWEALTH MAY ELECT TO EXTEND THIS COMMITMENT FROM
20 DECEMBER 31, 2004, TO DECEMBER 31, 2005, FOR ANY EXCHANGE
21 WITH LESS THAN 4,000 ACCESS LINES.

22 (5) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY THAT
23 ELECTS UNDER PARAGRAPH (1), (2) OR (3) MAY AMEND ITS NETWORK
24 MODERNIZATION PLAN TO DEFINE "UNIVERSAL BROADBAND
25 AVAILABILITY" AS THE PROVISION OF BROADBAND CAPABILITY WITH
26 TEN BUSINESS DAYS OF NOTICE TO THE COMPANY OF THE REQUEST BY
27 A BONA FIDE CUSTOMER. IF A LOCAL EXCHANGE TELECOMMUNICATIONS
28 COMPANY DOES NOT ELECT UNDER PARAGRAPH (1), (2) OR (3), THEN
29 THE PROVISIONING INTERVAL SHALL REMAIN AND BE WITHIN FIVE
30 DAYS AFTER A REQUEST FOR BROADBAND SERVICE IS RECEIVED, AS

1 STATED IN THE COMPANY'S CURRENTLY EFFECTIVE NETWORK
2 MODERNIZATION PLAN.

3 (6) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY THAT
4 ELECTS UNDER PARAGRAPH (1), (2) OR (3) MAY PETITION THE
5 COMMISSION FOR MODIFICATION OF ITS AMENDED NETWORK
6 MODERNIZATION PLAN, WHICH THE COMMISSION MAY GRANT UPON GOOD
7 CAUSE SHOWN.

8 (7) A RURAL TELECOMMUNICATIONS CARRIER MAKING AN
9 ELECTION PURSUANT TO PARAGRAPH (1), (2) OR (3) AND FILING ITS
10 AMENDED NETWORK MODERNIZATION PLAN WITH THE COMMISSION
11 PURSUANT TO SUBSECTION (D) SHALL BE GRANTED BY THE COMMISSION
12 A SUSPENSION OF ITS SECTION 251(C)(2), (3), (4), (5) AND (6)
13 OBLIGATIONS UNDER THE TELECOMMUNICATIONS ACT OF 1996. THIS
14 SUSPENSION OF OBLIGATIONS SHALL EXPIRE ON DECEMBER 31, 2010,
15 UNLESS EXTENDED BY THE COMMISSION. SHOULD THE COMMISSION,
16 FOLLOWING A HEARING, DETERMINE THAT THE RURAL
17 TELECOMMUNICATIONS CARRIER HAS FAILED TO TIMELY MEET ITS
18 COMMITMENTS PURSUANT TO THIS PARAGRAPH THE SUSPENSION OF
19 OBLIGATIONS SHALL EXPIRE UPON ENTRY OF THE COMMISSION ORDER
20 MAKING SUCH DETERMINATION. EXPIRATION OF THE SUSPENSION OF
21 OBLIGATIONS SHALL NOT IMPACT THE RURAL TELEPHONE COMPANY
22 EXEMPTION OF THE RURAL TELECOMMUNICATIONS CARRIER UNDER
23 SECTION 251(F)(1) OF THE TELECOMMUNICATIONS ACT OF 1996.

24 (c) Bona fide retail request program.--A local exchange
25 telecommunications company that elects to amend its network
26 modernization plan pursuant to subsection ~~(b)(1)(iii) or (iv) or~~ <—
27 ~~(b)(2)(iii) or (iv)~~ shall notify the commission that it is
28 (B)(1), (2) OR (3) SHALL NOTIFY THE COMMISSION NO LATER THAN ONE <—
29 YEAR AFTER THE EFFECTIVE DATE OF ITS ELECTION THAT IT IS
30 implementing a bona fide retail request program which shall

1 continue through December 31, 2015, OR SUCH EARLIER DATE AS THE <—
2 LOCAL TELECOMMUNICATIONS COMPANY ACHIEVES UNIVERSAL BROADBAND
3 DEPLOYMENT THROUGHOUT ITS SERVICE TERRITORY. A bona fide retail
4 request 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 OR COMPARABLE service and initiate appropriate action <—
15 pursuant to this subsection when the required number of
16 requests have been received. To be considered a bona fide
17 retail request, the 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 (I) A REQUEST THAT A MINIMUM OF 50 RETAIL ACCESS <—
22 LINES BE PROVIDED THE SAME OR COMPARABLE ADVANCED SERVICE
23 WITHIN A COMMUNITY OR A REQUEST THAT 25% OF RETAIL ACCESS
24 LINES BE PROVIDED THE SAME OR COMPARABLE ADVANCED SERVICE
25 WITHIN A COMMUNITY, WHICHEVER IS LESS;

26 (ii) the name, address, telephone number and
27 signature of each existing retail customer seeking the
28 advanced service, the advanced service being requested,
29 THE NUMBER OF ACCESS LINES FOR WHICH THE ADVANCED SERVICE <—
30 IS REQUESTED, a commitment by each retail customer who

1 signs the request to subscribe to the requested advanced
2 service for a minimum of one year ~~or for another~~ <—
3 ~~subscription period designated by the local exchange~~
4 ~~telecommunications company and the date of the request;~~
5 and AT THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S <—
6 APPLICABLE RATE FOR THE SERVICE; AND

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

9 CUSTOMERS MAKING THE REQUEST SHALL AGREE TO TAKE THE SERVICE <—
10 FOR A ONE-YEAR PERIOD, BUT SHALL NOT BE REQUIRED TO MAKE SUCH
11 A COMMITMENT UNTIL THE PRICE AND TERMS OF THE SERVICE ARE
12 SPECIFIED BY THE INCUMBENT LOCAL EXCHANGE CARRIER AND SHALL
13 NOT BE REQUIRED TO MAKE ANY PAYMENTS UNTIL THE SERVICE IS
14 ACTUALLY PROVIDED.

15 (2) IN ADMINISTERING THE BONA FIDE RETAIL REQUEST
16 PROGRAM, THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL:

17 (I) ESTABLISH A WORLD WIDE WEB SITE AND TOLL-FREE
18 TELEPHONE NUMBER TO ADDRESS CUSTOMER INQUIRIES REGARDING
19 THE PROGRAM;

20 (II) MAIL A REQUEST FORM TO A CUSTOMER UPON REQUEST;

21 (III) CONFIRM ITS RECEIPT OF ANY COMPLETED REQUEST
22 IN WRITING TO THE CUSTOMER; SUCH CONFIRMATION TO IDENTIFY
23 THE SERVICE REQUESTED, THE APPLICABLE RATE, THE EXPECTED
24 CONTRACT TERM, THE STATUS OF THE REQUEST AND A TERM
25 SUBSCRIPTION AGREEMENT FOR EXECUTION; AND

26 (IV) NOTIFY THE CUSTOMERS IN A COMMUNITY, WITHIN 45
27 DAYS, OF THE EXPECTED IMPLEMENTATION DATE ONCE THE
28 REQUISITE NUMBER OF REQUESTS HAS BEEN RECEIVED AND THE
29 EXPECTED DATE OF THE AVAILABILITY OF SERVICE.

30 ~~(2)~~ (3) When a bona fide retail request has been <—

1 received that meets the requirements of paragraph (1), the
2 local exchange telecommunications company shall provide the
3 requested advanced service to the community within 365 days <—
4 of the date the requirements of paragraph (1) have been met
5 unless:

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

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

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

17 (3) With regard to requests submitted under this
18 subsection, a retail customer may challenge the action of a
19 local exchange telecommunications company pursuant to section
20 701 (relating to complaints). REQUESTED ADVANCED SERVICE OR <—
21 OTHER REASONABLY COMPARABLE SERVICE THAT MEETS THE DATA SPEED
22 OF THE REQUESTED SERVICE TO THE COMMUNITY AS SOON AS
23 PRACTICABLE, BUT IN NO EVENT LATER THAN 365 DAYS OF THE DATE
24 THE REQUIREMENTS OF PARAGRAPH (1) HAVE BEEN MET OR WITHIN THE
25 PERIOD APPROVED BY THE COMMISSION UNDER PARAGRAPH (4) WHERE:

26 (I) THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY
27 PROVIDES THE REQUESTED ADVANCED SERVICE TO OTHER
28 CUSTOMERS IN ITS SERVICE TERRITORY;

29 (II) THERE IS NO ADVANCED SERVICE USING ANY
30 TECHNOLOGY AVAILABLE TO THE REQUESTING CUSTOMERS THAT

1 OFFERS DATA SPEEDS REASONABLY COMPARABLE TO THAT
2 REQUESTED; AND

3 (III) THE COMMUNITY IS SITUATED WITHIN THE SERVICE
4 TERRITORY OF THE LOCAL EXCHANGE TELECOMMUNICATIONS
5 COMPANY.

6 (4) WHERE THE TOTAL NUMBER OF BONA FIDE RETAIL REQUESTS
7 RECEIVED BY ANY LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OR
8 AFFILIATED COMPANIES THAT MEET THE REQUIREMENTS OF PARAGRAPHS
9 (1) AND (3) EXCEED 40 CUSTOMERS IN ANY 12-MONTH PERIOD, OR
10 WHERE THERE ARE MORE THAN 20 SUCH REQUESTS THAT REQUIRE
11 PROPERTY ACQUISITION, INCLUDING ACQUIRING RIGHTS-OF-WAY, OR
12 NEW CONSTRUCTION IN ANY 12-MONTH PERIOD, THE LOCAL EXCHANGE
13 TELECOMMUNICATIONS COMPANY OR COMPANIES MAY PROVIDE A
14 VERIFIED CERTIFICATION TO THE COMMISSION THAT ONE OR BOTH OF
15 THE PREVIOUSLY STATED CRITERIA ARE MET. UPON RECEIPT OF THE
16 CERTIFICATION, THE COMMISSION, OR THE COMMISSION THROUGH ITS
17 DESIGNATED STAFF, SHALL PERMIT THE LOCAL EXCHANGE
18 TELECOMMUNICATIONS COMPANY OR COMPANIES TO EXTEND THE TIME
19 FOR SUCH DEPLOYMENTS FOR A PERIOD OF NO MORE THAN 12 MONTHS,
20 UNLESS THE COMMISSION DETERMINES AN ADDITIONAL TIME PERIOD TO
21 BE JUST AND REASONABLE.

22 (5) WITH REGARD TO REQUESTS SUBMITTED UNDER THIS
23 SUBSECTION, A RETAIL CUSTOMER MAY CHALLENGE THE ACTION OF A
24 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY PURSUANT TO SECTION
25 701 (RELATING TO COMPLAINTS).

26 (6) LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES WITH
27 BONA FIDE RETAIL REQUEST PROGRAMS SHALL PROVIDE SEMIANNUAL
28 REPORTS TO THE COMMISSION OF THE NUMBER OF REQUESTS FOR
29 ADVANCED SERVICES RECEIVED DURING THE REPORTING PERIOD BY
30 EXCHANGE AND THE ACTION TAKEN ON REQUESTS MEETING THE

1 REQUIREMENTS OF SUBSECTION (C). LOCAL EXCHANGE
2 TELECOMMUNICATIONS COMPANIES, WITHIN 30 DAYS AFTER INITIATING
3 A BONA FIDE RETAIL REQUEST PROGRAM, SHALL ALSO PROVIDE THE
4 COMMISSION WITH THE FORM OF ANY ADVANCED SERVICES TERM
5 SUBSCRIPTION AGREEMENTS CUSTOMERS WILL BE REQUIRED TO EXECUTE
6 IN CONNECTION WITH RECEIVING THE REQUESTED SERVICES.

7 (d) Notice and filing of amendments.--A local exchange
8 telecommunications company that elects to amend its network
9 modernization plan pursuant to subsection (b) shall notify the
10 commission in writing of such election and, within 30 60 days <—
11 following such notification, file its amended network
12 modernization plan with the commission. Copies of the written
13 notice of election and of the amended network modernization plan
14 shall be served by the local exchange telecommunications company
15 on the Office of Consumer Advocate and the Office of Small
16 Business Advocate. Concurrent with the filing of the amended
17 plan with the commission, the local exchange telecommunications
18 company shall publish notice of such filing in a newspaper or
19 newspapers of general circulation in its service territory OR BY <—
20 BILL MESSAGE OR INSERT. The amended network modernization plan
21 shall become effective upon filing with the commission.

22 ~~(c) Network modernization plan report.--A local exchange~~ <—

23 ~~(E) NETWORK MODERNIZATION PLAN REPORT.--~~ <—

24 (1) A LOCAL EXCHANGE telecommunications company that
25 files an amended network modernization plan with the
26 commission shall also file with the commission a report on
27 its provision of advanced services and broadband <—
28 availability. The first report shall be filed no later than
29 April 30, 2004, and shall be based upon the 12 months ending
30 December 31, 2003. Thereafter, reports shall be filed

1 ~~biennially on April 30. No additional network reports or~~ <—
2 ~~information shall be required to be submitted to the~~
3 ~~commission by a local exchange telecommunications company. NO~~ <—
4 ~~LATER THAN APRIL 30. To the extent applicable to the local~~
5 ~~exchange telecommunications company's amended network~~
6 ~~modernization plan, reports shall be limited to:~~

7 ~~(1) The status of broadband deployment in or adjacent to~~ <—
8 ~~public rights of way abutting all public schools, including~~
9 ~~the administration offices supporting public schools,~~
10 ~~industrial parks and health care facilities.~~

11 ~~(2) The percentage of access lines capable of receiving~~
12 ~~advanced services from the local exchange telecommunications~~
13 ~~company.~~

14 ~~(3) The percentage of access lines with broadband~~
15 ~~availability from the local exchange telecommunications~~
16 ~~company.~~

17 ~~(4) The number of written bona fide retail requests~~
18 ~~received.~~

19 ~~(5) A general description of any technologies or media~~
20 ~~utilized by the local exchange telecommunications company to~~
21 ~~offer or provide advanced services and broadband~~
22 ~~availability.~~

23 ~~(f) Waiver.~~

24 ~~(1) The commission shall grant a full or partial waiver~~
25 ~~of the requirements of the then effective network~~
26 ~~modernization plan of any local exchange telecommunications~~
27 ~~company upon receipt of a verified petition from the local~~
28 ~~exchange telecommunications company which meets the~~
29 ~~requirements of this subsection.~~

30 ~~(2) Within 60 days of the date of filing, the commission~~

1 ~~shall grant a waiver petition to the extent that and for such~~
2 ~~duration as the commission determines is necessary to avoid:~~

3 ~~(i) a significant adverse economic impact on the~~
4 ~~users of the local exchange telecommunications company's~~
5 ~~protected services;~~

6 ~~(ii) imposing on the local exchange~~
7 ~~telecommunications company a requirement that is unduly~~
8 ~~burdensome economically;~~

9 ~~(iii) imposing a requirement on the local exchange~~
10 ~~telecommunications company that is not technically~~
11 ~~feasible;~~

12 ~~(iv) imposing a requirement on the local exchange~~
13 ~~telecommunications company that is otherwise impractical~~
14 ~~to implement in the specific exchange or exchanges or to~~
15 ~~the affected customer or group of customers; or~~

16 ~~(v) imposing a requirement that is adverse to~~
17 ~~universal service within the service territory of the~~
18 ~~local exchange telecommunications company.~~

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

22 ~~(4) Prior to filing of a waiver petition with the~~
23 ~~commission, a local exchange telecommunications company shall~~
24 ~~notify all potentially affected customers in the specific~~
25 ~~exchange or exchanges by:~~

26 ~~(i) publication in a newspaper of general~~
27 ~~circulation in the geographic area subject to the waiver~~
28 ~~petition no more than seven calendar days prior to the~~
29 ~~filing of the waiver petition; or~~

30 ~~(ii) written notice through a direct mailing or bill~~

~~insert sent to all potentially affected customers of the local exchange telecommunications company.~~

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

~~(g) Assistance to political subdivisions. In an effort to~~

(I) THE STATUS OF BROADBAND DEPLOYMENT IN OR ADJACENT TO PUBLIC RIGHTS-OF-WAY ABUTTING ALL PUBLIC SCHOOLS, INCLUDING THE ADMINISTRATION OFFICES SUPPORTING PUBLIC SCHOOLS, INDUSTRIAL PARKS AND HEALTH CARE FACILITIES.

(II) THE PERCENTAGE OF ACCESS LINES WITH BROADBAND AVAILABILITY FROM THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY.

(III) THE NUMBER OF WRITTEN BONA FIDE RETAIL REQUESTS RECEIVED BY EXCHANGE.

(IV) A GENERAL DESCRIPTION OF ANY TECHNOLOGIES OR MEDIA UTILIZED BY THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY TO OFFER OR PROVIDE ADVANCED SERVICES AND BROADBAND AVAILABILITY.

(2) (I) THE REPORT SHALL BE SUBMITTED IN THE FORM DETERMINED BY THE COMMISSION. SHOULD THE COMMISSION REQUEST ANY ADDITIONAL NETWORK REPORTS OR INFORMATION, A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY MAY OPPOSE SUCH REQUIREMENT, BY PETITION, ON THE GROUNDS THAT THE REPORT OR INFORMATION WILL BE DETRIMENTAL TO THE SECURITY OF ITS NETWORK OR THAT THE BENEFITS OF THE REPORT WILL NOT EXCEED THE ATTENDANT EXPENSE OR ADMINISTRATIVE TIME

~~subdivision or of any entity listed in subsection (b)(1)(ii) or (b)(2)(ii), a local exchange telecommunications company shall provide educational outreach programs for officers or employees of such political subdivision and officers, representatives or employees of such entity concerning advanced services and broadband deployment by the local exchange telecommunications company.~~

(3) THE PROHIBITION IN PARAGRAPH (2) SHALL NOT BE CONSTRUED TO PRECLUDE THE CONTINUED PROVISION OF ANY MUNICIPALLY PROVIDED TELECOMMUNICATIONS SERVICES OF THE SAME TYPE AND SCOPE AS WERE BEING PROVIDED ON THE EFFECTIVE DATE OF THIS SECTION.

(G) ADVANCED SERVICES EDUCATION AND AGGREGATION FUND.--

(1) THE ADVANCED SERVICES EDUCATION AND AGGREGATION FUND IS ESTABLISHED AS A SEPARATE FUND IN THE STATE TREASURY AND SHALL BE FUNDED BY THE PAYMENTS THAT MAY BE REQUIRED UNDER SECTION 3015(C) (RELATING TO ALTERNATIVE FORMS OF REGULATION).

(2) THE DEPARTMENT SHALL AUTHORIZE EXPENDITURES FROM THE FUND FOR TWO PURPOSES:

(I) EDUCATIONAL OUTREACH PROGRAMS FOR POLITICAL SUBDIVISIONS, ECONOMIC DEVELOPMENT ENTITIES, PUBLIC SCHOOLS, HEALTH CARE FACILITIES AND BUSINESSES AND FOR RESIDENTIAL CUSTOMERS CONCERNING THE BENEFITS, USE AND PROCUREMENT OF ADVANCED SERVICES AND BROADBAND TELECOMMUNICATION SERVICES FROM LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES; AND

(II) SEED GRANTS TO AGGREGATE CUSTOMER DEMAND FOR ADVANCED SERVICES OR BROADBAND IN COMMUNITIES WITHOUT SUCH SERVICES AND PERMIT CUSTOMERS IN SUCH COMMUNITIES TO

1 REQUEST SUCH SERVICES UNDER A LOCAL EXCHANGE
2 TELECOMMUNICATIONS COMPANY BONA FIDE RETAIL REQUEST
3 PROGRAM.

4 (3) THE FUND SHALL CONTINUE UNTIL DECEMBER 31, 2015, AT
5 WHICH TIME THE DEPARTMENT SHALL TERMINATE THE FUND AND RETURN
6 THE REMAINING FUNDS ON A PRO RATA BASIS TO THE LOCAL EXCHANGE
7 TELECOMMUNICATIONS COMPANIES THAT CONTRIBUTED TO THE FUND.

8 ~~(i)~~ (H) Balanced deployment.--A local exchange <—
9 telecommunications company shall reasonably balance deployment
10 of its broadband network between rural, urban and suburban areas
11 within its service territory, as those areas are applicable,
12 according to its approved network modernization plan.

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

21 (I) IMPACT OF COMPETITION.--NOTWITHSTANDING ANY PROVISION OF <—
22 THIS SECTION OR ANY NETWORK MODERNIZATION PLAN TO THE CONTRARY,
23 IF ONE OR MORE ALTERNATIVE SERVICE PROVIDERS, EXCLUDING SERVICE
24 PROVIDERS USING SATELLITE-BASED SYSTEMS, HAVE MADE ADVANCED
25 SERVICES OR BROADBAND AVAILABLE AT REASONABLY COMPARABLE DATA
26 SPEEDS THROUGHOUT A PARTICULAR EXCHANGE SERVED BY A RURAL
27 TELECOMMUNICATIONS CARRIER, THE RURAL TELECOMMUNICATIONS
28 CARRIER'S COMMITMENT TO PROVIDE ADVANCED SERVICES AND BROADBAND
29 AVAILABILITY IN THAT EXCHANGE SHALL BE DEEMED MET AND SHALL BE
30 CREDITED TO ITS DEPLOYMENT OBLIGATION.

1 (J) STUDY OF STATEWIDE EDUCATION NETWORK.--

2 (1) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE IN
3 CONSULTATION WITH ALL ADVANCED BROADBAND SERVICE PROVIDERS,
4 TELECOMMUNICATIONS CARRIERS AND ALTERNATIVE SERVICE PROVIDERS
5 OPERATING IN THIS COMMONWEALTH, IRRESPECTIVE OF THE
6 TECHNOLOGY USED, AND THE DEPARTMENT OF EDUCATION SHALL
7 PERFORM A FEASIBILITY STUDY ON THE DEVELOPMENT OF A STATEWIDE
8 EDUCATION NETWORK TO PROMOTE THE EFFECTIVE USE OF INFORMATION
9 TECHNOLOGY THAT ENHANCES EDUCATION, PROMOTES COMMUNITY
10 PARTNERSHIPS AND SUPPORTS ECONOMIC GROWTH IN A KNOWLEDGE-
11 BASED SOCIETY. IN CONDUCTING THE STUDY, THE COMMITTEE SHALL
12 CONSIDER COST-BENEFIT ANALYSES ASSOCIATED WITH THE
13 DEVELOPMENT AND IMPLEMENTATION OF A STATEWIDE EDUCATION
14 NETWORK. AT A MINIMUM, THE COMMITTEE SHALL INQUIRE INTO AND
15 MAKE RECOMMENDATIONS WITH RESPECT TO:

16 (I) THE IMPACT ON PUBLIC AND PRIVATE SCHOOLS,
17 VOCATIONAL-TECHNICAL SCHOOLS, INTERMEDIATE UNITS AND
18 INSTITUTIONS OF HIGHER EDUCATION IN THIS COMMONWEALTH
19 THAT WOULD BE LINKED TOGETHER WITH FUNCTIONAL LEVELS OF
20 BROADBAND THROUGHOUT THIS COMMONWEALTH.

21 (II) COMPETITION IN THE TELECOMMUNICATIONS INDUSTRY
22 OF THIS COMMONWEALTH AND THE ABILITY FOR THE PUBLIC AND
23 PRIVATE SCHOOLS, VOCATIONAL-TECHNICAL SCHOOLS,
24 INTERMEDIATE UNITS AND INSTITUTIONS OF HIGHER EDUCATION
25 IN THIS COMMONWEALTH'S NETWORK ON INTERMEDIATE UNITS,
26 SCHOOL DISTRICTS AND INDIVIDUAL SCHOOLS TO PROCURE
27 TELECOMMUNICATIONS SERVICES.

28 (III) THE IMPACT ON LOCAL EXCHANGE
29 TELECOMMUNICATIONS SERVICE PROVIDERS THAT HAVE AMENDED
30 ITS NETWORK MODERNIZATION PLAN TO ACCELERATE THE

1 DEPLOYMENT OF BROADBAND AND ADVANCED SERVICES AS PROVIDED
2 FOR WITHIN THE PROVISIONS OF THIS CHAPTER.

3 (IV) FUNDING MECHANISMS TO SUPPORT THE DEVELOPMENT
4 AND IMPLEMENTATION OF A STATEWIDE EDUCATION NETWORK AND
5 THE AVAILABILITY OF FEDERAL AND STATE FUNDING ASSISTANCE
6 PROGRAMS AVAILABLE TO RURAL SCHOOL DISTRICTS TO PROCURE
7 HIGH-SPEED TELECOMMUNICATIONS SERVICES.

8 (V) A COMPARISON OF THE EFFICIENCY AND EFFECTIVENESS
9 OF STATEWIDE EDUCATION NETWORKS IMPLEMENTED IN OTHER
10 STATES.

11 (2) THE COMMITTEE SHALL SUBMIT A FINAL REPORT WITH
12 RECOMMENDATIONS TO THE GENERAL ASSEMBLY NO LATER THAN MAY 31,
13 2005, AND PUBLISH NOTICE OF THE FINAL REPORT IN THE
14 PENNSYLVANIA BULLETIN WITHIN 30 DAYS OF THE SUBMISSION OF THE
15 FINAL REPORT.

16 (K) INVENTORY OF AVAILABLE SERVICES.--

17 (1) THE DEPARTMENT SHALL COMPILE, PERIODICALLY UPDATE
18 AND PUBLISH, INCLUDING AT ITS WORLD WIDE WEB SITE, A LISTING
19 OF ADVANCED AND BROADBAND SERVICES, BY GENERAL LOCATION,
20 AVAILABLE FROM ALL ADVANCED AND BROADBAND SERVICE PROVIDERS
21 OPERATING IN THIS COMMONWEALTH IRRESPECTIVE OF THE TECHNOLOGY
22 USED.

23 (2) ALL PROVIDERS OF ADVANCED AND BROADBAND SERVICES
24 SHALL COOPERATE WITH THE DEPARTMENT.

25 (3) THE DEPARTMENT MAY NOT DISCLOSE MAPS OR OTHER
26 INFORMATION DESCRIBING THE SPECIFIC LOCATION OF ANY
27 PROVIDER'S FACILITIES.

28 ~~(k)~~ (L) Construction.--Nothing in this section shall be ←
29 construed:

30 (1) As giving the commission the authority to require a

1 local exchange telecommunications company to provide specific
2 services or to deploy a specific technology to retail
3 customers seeking broadband or advanced services.

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

8 § 3015. Alternative forms of regulation.

9 ~~(a) Inflation offset. A local exchange telecommunications~~ <—

10 (A) INFLATION OFFSET.-- <—

11 (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2), A
12 LOCAL EXCHANGE TELECOMMUNICATIONS company with an alternative
13 form of regulation containing a price stability mechanism
14 that files an amended network modernization plan under
15 ~~section 3014(b)(1)(ii) and either (iii) or (iv) or (b)(2)(ii)~~ <—
16 ~~and either (iii) or (iv)~~ 3014(B)(1), (2) OR (3) (relating to <—
17 network modernization plans) shall not be subject to an
18 inflation offset in its price stability mechanism in
19 adjusting its rates for noncompetitive services. In all other
20 respects the price stability mechanism shall remain the same.

21 (2) THROUGH DECEMBER 31, 2015: <—

22 (I) IN ANY YEAR IN WHICH REVENUE-NEUTRAL RATE
23 CHANGES ARE ORDERED BY THE COMMISSION FOR A NONRURAL
24 TELECOMMUNICATIONS CARRIER, ANY INCREASE IN RESIDENTIAL
25 AND SMALL BUSINESS PROTECTED SERVICE RATES UNDER THAT
26 CARRIER'S PRICE STABILITY MECHANISM IN THAT YEAR SHALL BE
27 OFFSET AGAINST ANY REVENUE-NEUTRAL RATE INCREASE FOR
28 THOSE SERVICES.

29 (II) (A) A RURAL TELECOMMUNICATIONS CARRIER MAY NOT
30 SEPARATELY PROPOSE, AS PART OF A RATE REBALANCING

1 FILING, TO INCREASE THE RATES FOR RESIDENTIAL OR
2 SMALL BUSINESS LOCAL EXCHANGE TELECOMMUNICATIONS
3 SERVICE IN THE SAME CALENDAR YEAR AS RATES FOR
4 RESIDENTIAL OR SMALL BUSINESS LOCAL EXCHANGE
5 TELECOMMUNICATIONS SERVICE ARE INCREASED UNDER THE
6 ANNUAL PRICE STABILITY INDEX, WHERE THE RATE
7 REBALANCING PROPOSAL IS NOT SUBMITTED TO THE
8 COMMISSION AS PART OF THE ANNUAL PRICE STABILITY
9 MECHANISM FILING. ANY CAP CONTAINED IN THE RATE
10 REBALANCING SECTION OF A RURAL TELECOMMUNICATIONS
11 CARRIER'S EXISTING ALTERNATIVE FORM OF REGULATION
12 PLAN THAT RESTRICTS THE LEVEL OF ANNUAL RATE
13 INCREASES TO A LOCAL EXCHANGE TELECOMMUNICATIONS
14 SERVICE SHALL ALSO BE APPLIED TO LIMIT ANY RATE
15 INCREASE THAT OCCURS AS A RESULT OF ELIMINATION OF
16 THE OFFSET.

17 (B) THESE LIMITATIONS SHALL NOT APPLY WHERE
18 RATES ARE CHANGED AS A RESULT OF A GENERIC
19 INVESTIGATION OR WHEN THE REBALANCING DOES NOT
20 INCREASE THE WEIGHTED AVERAGE RATES RESPECTIVELY OF
21 RESIDENTIAL AND SMALL BUSINESS LOCAL EXCHANGE
22 TELECOMMUNICATIONS SERVICE.

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

24 (1) ~~A~~ IN ADDITION TO THE RATE CHANGE PROVISIONS IN ITS <—
25 ALTERNATIVE FORM OF REGULATION PLAN, A rural
26 telecommunications carrier operating under an alternative <—
27 form of regulation without a price stability mechanism that
28 files with the commission an amended network modernization
29 plan under section 3014(b)(1)(ii) and either (iii) or (iv) <—
30 3014(B)(1), (2) OR (3) shall be permitted at any time to file <—

1 with the commission proposed tariff changes, effective 15 45 <—
2 days after filing, setting forth miscellaneous changes,
3 including increases and decreases, in rates for
4 noncompetitive services, excluding basic residential and
5 business rates, provided such rate changes do not increase
6 the rural telecommunications carrier's annual intrastate
7 revenues by more than 2%.

8 (2) The commission tariff filing requirements and review
9 associated with such proposed rate changes shall be limited
10 to schedules submitted by the rural telecommunications
11 carrier detailing the impact of the rate changes on the
12 carrier's annual intrastate revenues.

13 (3) A rural telecommunications carrier that implements
14 noncompetitive rate changes consistent with the procedure set
15 forth in its alternative form of regulation plan shall not be <—
16 required to file cost data with the commission to justify
17 such changes. BE REQUIRED ONLY TO FILE SUCH FINANCIAL AND <—
18 COST DATA WITH THE COMMISSION TO JUSTIFY SUCH CHANGES AS IS
19 REQUIRED UNDER ITS COMMISSION-APPROVED ALTERNATIVE FORM OF
20 REGULATION PLAN.

21 (4) Notwithstanding the provisions of paragraph (1), (2)
22 or (3), for any rural telecommunications carrier serving less
23 than 50,000 access lines in this Commonwealth and operating
24 under an alternative form of regulation plan, a formal
25 complaint to deny rate changes for noncompetitive services,
26 unless signed by at least 20 customers of the rural
27 telecommunications carrier, shall not prevent implementation
28 of the rate changes pending the adjudication of the formal
29 complaint by the commission.

30 (C) PAYMENTS TO FUND.-- <—

1 (1) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY THAT
2 FILES AN AMENDED NETWORK MODERNIZATION PLAN UNDER SECTION
3 3014(B)(2) OR (3) MAY BE REQUIRED BY THE DEPARTMENT TO
4 CONTRIBUTE UP TO, BUT NO MORE THAN, 10% OF THE FIRST YEAR'S
5 ANNUAL REVENUE EFFECT:

6 (I) OF ANY RATE INCREASES PERMITTED BY THE
7 ELIMINATION OF THE OFFSET UNDER SUBSECTION (A); OR

8 (II) IF THE LOCAL EXCHANGE TELECOMMUNICATIONS
9 COMPANY IS OPERATING WITHOUT A PRICE STABILITY MECHANISM,
10 OF ANY RATE INCREASES UNDER SUBSECTION (B)(1), TO THE
11 FUND ESTABLISHED UNDER SECTION 3014(G).

12 (2) THE CONTRIBUTION SHALL BE PAYABLE IN EQUAL QUARTERLY
13 INSTALLMENTS AND CALCULATED ON PROJECTED INCREASED REVENUES
14 FOR THE FIRST YEAR OF THE RATE CHANGE. THE CONTRIBUTIONS
15 SHALL ALSO BE MADE IN CONNECTION WITH EACH SUBSEQUENT
16 NONCOMPETITIVE SERVICE RATE INCREASE UNTIL THE LOCAL EXCHANGE
17 TELECOMMUNICATIONS COMPANY FULFILLS THE HIGHER PERCENTAGE
18 DEPLOYMENT OBLIGATION SET FORTH IN ITS AMENDED NETWORK
19 MODERNIZATION PLAN.

20 (3) IN NO EVENT SHALL THE FUND EXCEED \$5,000,000 AND, IN
21 THE EVENT OF SUCH OVERFUNDING, THE DEPARTMENT SHALL CREDIT
22 THE OVERCOLLECTION TO THE NEXT YEAR'S CONTRIBUTION AMOUNT.

23 (4) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY THAT
24 ELECTS TO AMEND ITS NETWORK MODERNIZATION PLAN PURSUANT TO
25 SECTION 3014(B)(1) SHALL NOT BE REQUIRED TO CONTRIBUTE TO THE
26 FUND.

27 ~~(c) (D) General filing requirements.--For a local exchange~~ <—
28 ~~telecommunications company that files an amended network~~
29 ~~modernization plan under section 3014(b)(1)(ii) and either (iii)~~ <—
30 ~~or (iv) or (b)(2)(ii) and either (iii) or (iv) 3014(B)(1), (2)~~ <—

1 OR (3), the commission's filing and audit requirements shall be
2 limited to the following submissions by the company:

3 (1) Network modernization plan reports filed pursuant to
4 section 3014(e).

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

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

9 (4) An annual service report.

10 (5) Universal service reports.

11 (6) An annual access line report.

12 (7) An annual statement of gross intrastate operating
13 revenues for purposes of calculating assessments for
14 regulatory expenses.

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

17 (9) FOR THOSE COMPANIES WITH A BONA FIDE RETAIL REQUEST <—
18 PROGRAM, A BONA FIDE RETAIL REQUEST REPORT UNDER SECTION
19 3014(C)(6).

20 THESE REPORTS SHALL BE SUBMITTED IN THE FORM DETERMINED BY THE
21 COMMISSION.

22 ~~(d) Other reports. Notwithstanding any other provision of~~ <—

23 ~~(E) OTHER REPORTS.--~~ <—

24 (1) NOTWITHSTANDING ANY OTHER PROVISION OF this title to
25 the contrary, no report, statement, filing or other document
26 or information, except as specified in subsection ~~(e)~~ (D), <—
27 shall be required of any local exchange telecommunications
28 company unless the commission, upon notice to the affected
29 local exchange telecommunications company and an opportunity
30 to be heard, has first made specific written findings

1 supporting conclusions in an entered order that:

2 ~~(1) The report is necessary to ensure that the local~~ <—
3 ~~exchange telecommunications company is charging rates that~~
4 ~~are in compliance with this chapter and its effective~~
5 ~~alternative form of regulation.~~

6 ~~(2) The benefits of the report substantially outweigh~~
7 ~~the attendant expense and administrative time and effort~~
8 ~~required of the local exchange telecommunications company to~~
9 ~~prepare it.~~

10 ~~(c) Revenue neutral rate changes. For local exchange~~
11 ~~telecommunications companies operating under an alternative form~~
12 ~~of regulation plan, the commission shall not require any changes~~
13 ~~in rates for noncompetitive services except on a revenue neutral~~
14 ~~basis.~~

15 (I) THE REPORT IS NECESSARY TO ENSURE THAT THE LOCAL <—
16 EXCHANGE TELECOMMUNICATIONS COMPANY IS CHARGING RATES
17 THAT ARE IN COMPLIANCE WITH THIS CHAPTER AND ITS
18 EFFECTIVE ALTERNATIVE FORM OF REGULATION.

19 (II) THE BENEFITS OF THE REPORT SUBSTANTIALLY
20 OUTWEIGH THE ATTENDANT EXPENSE AND ADMINISTRATIVE TIME
21 AND EFFORT REQUIRED OF THE LOCAL EXCHANGE
22 TELECOMMUNICATIONS COMPANY TO PREPARE IT.

23 (2) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO
24 IMPEDE THE ABILITY OF THE COMMISSION TO REQUIRE THE
25 SUBMISSION OF FURTHER INFORMATION TO SUPPORT THE ACCURACY OF
26 OR TO SEEK AN EXPLANATION OF THE REPORTS SPECIFIED IN
27 SUBSECTION (D).

28 (F) RATE CHANGE LIMITATIONS.--NOTHING IN THIS CHAPTER SHALL
29 BE CONSTRUED TO LIMIT THE REQUIREMENT OF SECTION 1301 (RELATING
30 TO RATES TO BE JUST AND REASONABLE) THAT RATES SHALL BE JUST AND

1 REASONABLE. THE ANNUAL RATE CHANGE LIMITATIONS SET FORTH IN A
2 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S EFFECTIVE
3 COMMISSION-APPROVED ALTERNATIVE FORM OF REGULATION PLAN OR ANY
4 OTHER COMMISSION-APPROVED ANNUAL RATE CHANGE LIMITATION SHALL
5 REMAIN APPLICABLE.

6 (G) SMALL BUSINESS CUSTOMERS.--LOCAL EXCHANGE
7 TELECOMMUNICATIONS CARRIERS OPERATING UNDER AN ALTERNATIVE FORM
8 OF REGULATION PLAN WITH SMALL BUSINESS CUSTOMERS DEFINED AS
9 "THREE LINES OR LESS" SHALL AMEND SUCH DEFINITION TO "FOUR OR
10 FEWER LINES."

11 ~~(f)~~ (H) Conformance of plan.--Upon the filing by a local ←
12 exchange telecommunications company of network modernization
13 plan amendments pursuant to section 3014(d), the local exchange
14 telecommunications company's alternative form of regulation plan
15 shall be deemed amended consistent with this section.

16 § 3016. Competitive services.

17 (a) Declaration of services as competitive.--A service or
18 business activity provided by a local exchange
19 telecommunications company, including a protected service, not
20 previously declared by the commission as competitive may be
21 declared competitive by the commission under the following
22 provisions:

23 (1) The local exchange telecommunications company may
24 petition the commission for a determination of whether a
25 service is competitive. The commission shall enter an order
26 approving or disapproving the petition within 60 days of the
27 filing date OR 90 DAYS WHERE A PROTEST IS TIMELY FILED, or ←
28 the petition shall be deemed approved. In making the
29 determination, the commission shall consider all relevant
30 information submitted to it.

1 (2) Simultaneously with the filing by the local exchange
2 telecommunications company of a petition with the commission
3 for a declaration of a service as competitive, the local
4 exchange telecommunications company shall serve a copy of the
5 petition on the Office of Consumer Advocate and the Office of
6 Small Business Advocate and give notice to the public of the
7 filing of its petition in a newspaper or newspapers of
8 general circulation in the company's service territory.

9 (3) In a proceeding to declare a service competitive,
10 the commission shall consider the availability of like or
11 substitute services or other business activities in the
12 relevant geographic area.

13 (4) The burden of proving that a protected service is
14 competitive rests on the party seeking to have the service
15 declared competitive. Hearings shall not be required, unless
16 a protesting party has raised relevant and material factual
17 issues.

18 (b) Optional declaration of nonprotected services as
19 competitive.--Notwithstanding the provisions of subsection (a),
20 a local exchange telecommunications company that has filed an
21 amended network modernization plan pursuant to section
22 ~~3014(b)(1)(ii) and either (iii) or (iv) or (b)(2)(ii) and either~~ <—
23 ~~(ii) or (iii)~~ 3014(B)(1), (2) OR (3) (relating to network <—
24 modernization plans), at its option, may declare services which
25 are not protected as competitive by filing notice of its
26 election of this option with the commission.

27 (c) Rural exchange specific pricing.--

28 (1) When an alternative service provider is providing
29 local exchange telecommunications services within an exchange
30 of a rural telecommunications carrier that has filed an

1 amended network modernization plan under section
2 ~~3014(b)(1)(ii) and either (iii) or (iv) or (b)(2)(ii) and~~ <—
3 ~~either (iii) or (iv)~~ 3014(B)(1), (2) OR (3), the rural <—
4 telecommunications carrier may petition the commission for
5 approval to begin pricing its services in the exchange at its
6 discretion.

7 (2) The commission, following public notice, shall
8 approve the petition within 60 days if shown by the rural
9 telecommunications carrier that the alternative service
10 provider is providing local exchange telecommunications
11 services in the exchange.

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

15 (4) Following approval of a petition, the rural
16 telecommunications carrier shall tariff any changes in
17 NONCOMPETITIVE rates effective one day after filing. <—

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

23 (D) RECLASSIFICATION.-- <—

24 (1) THE COMMISSION MAY RECLASSIFY A TELECOMMUNICATIONS
25 SERVICE OR OTHER SERVICE OR BUSINESS ACTIVITY THAT IT HAS
26 PREVIOUSLY FOUND TO BE COMPETITIVE IF, AFTER NOTICE AND
27 HEARING, IT DETERMINES, UPON APPLICATION OF THE CRITERIA SET
28 FORTH IN THIS CHAPTER, THAT:

29 (I) SUFFICIENT COMPETITION IS NO LONGER PRESENT;

30 (II) THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY

1 HAS ENGAGED IN UNFAIR COMPETITION WITH RESPECT TO THE
2 SERVICE; OR

3 (III) THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY
4 HAS FAILED TO PROVIDE NONDISCRIMINATORY ACCESS IN THE
5 PROVISION OF THE SERVICE.

6 (2) IF THE COMMISSION FINDS THAT A RECLASSIFICATION IS
7 NECESSARY, THE COMMISSION SHALL DETERMINE WHETHER THE RATE
8 FOR THE TELECOMMUNICATIONS SERVICE OR OTHER SERVICE OR
9 BUSINESS ACTIVITY IS JUST AND REASONABLE IN ACCORDANCE WITH
10 SECTION 1301 (RELATING TO RATES TO BE JUST AND REASONABLE).

11 (3) IF THE TELECOMMUNICATIONS SERVICE OR OTHER SERVICE
12 OR BUSINESS ACTIVITY SUBSEQUENTLY BECOMES COMPETITIVE, THE
13 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL PETITION THE
14 COMMISSION TO MAKE A DETERMINATION OF COMPETITIVENESS FOR THE
15 SERVICE UNDER THE PROVISIONS OF THIS CHAPTER.

16 (4) THE BURDEN OF PROVING THAT A COMPETITIVE SERVICE
17 SHOULD BE DECLARED NONCOMPETITIVE RESTS ON THE PARTY SEEKING
18 TO HAVE THE SERVICE DECLARED NONCOMPETITIVE.

19 ~~(d) (E) Additional requirements.--~~ <—

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

23 ~~(2) Neither tariffs nor price lists for competitive~~ <—
24 ~~service offerings must be filed with the commission. However,~~
25 ~~a local exchange telecommunications company, at its option,~~
26 ~~may tariff its rates, rules and regulations applicable to the~~
27 ~~provision of competitive services.~~

28 (2) THE COMMISSION MAY NOT REQUIRE TARIFFS FOR <—
29 COMPETITIVE SERVICE OFFERINGS TO BE FILED WITH THE
30 COMMISSION.

1 prohibited from using revenues earned or expenses incurred in
2 conjunction with protected services to subsidize competitive
3 services.

4 (2) Paragraph (1) shall not be construed to prevent the
5 marketing and billing of noncompetitive and competitive
6 services as packages to customers.

7 ~~(g) Rebuttable presumption. In the event that a service is~~ <—
8 ~~declared by the commission to be competitive for a local~~
9 ~~exchange telecommunications company, there shall be a rebuttable~~
10 ~~presumption that the service shall also be declared competitive~~
11 ~~by the commission in ruling on any petition filed by another~~
12 ~~local exchange telecommunications company requesting that the~~
13 ~~same or similar service be declared competitive.~~

14 § 3017. Access charges.

15 ~~(a) General rule. The commission may not require a local~~ <—
16 ~~exchange telecommunications company to reduce access rates~~
17 ~~except on a revenue neutral basis.~~

18 (A) GENERAL RULE.--THE COMMISSION MAY NOT REQUIRE A LOCAL <—
19 EXCHANGE TELECOMMUNICATIONS COMPANY TO REDUCE ACCESS RATES
20 EXCEPT ON A REVENUE-NEUTRAL BASIS AND MAY NOT ORDER DECREASES IN
21 ACCESS RATES FOR A NONRURAL TELECOMMUNICATIONS CARRIER MORE THAN
22 ONCE EVERY TWO YEARS.

23 (b) Refusal to pay access charges prohibited.--No person or
24 entity may refuse to pay tariffed access charges for
25 interexchange services provided by a local exchange
26 telecommunications company.

27 (c) Limitation.--No telecommunications carrier providing
28 competitive local exchange telecommunications service may charge
29 access rates higher than those charged by the incumbent local
30 exchange telecommunications company in the same service

1 territory, unless such carrier can demonstrate, by substantial
2 evidence, that the higher access rates are cost justified.

3 § 3018. Interexchange telecommunications carriers.

4 (a) Competitive and noncompetitive services.--Interexchange
5 services provided by interexchange telecommunications carriers
6 shall continue to be competitive services after December 31,
7 2003, except for the provision of the following interexchange
8 services which shall be noncompetitive services unless declared
9 otherwise by the commission pursuant to section 3016 (relating
10 to competitive services):

11 (1) Interexchange service to aggregator telephones.

12 (2) Optional calling plans required by the commission to
13 be offered when justified by usage over an interexchange
14 route.

15 (b) Rate regulation.--

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

21 (2) An interexchange telecommunications carrier may file
22 and maintain tariffs or price lists with the commission for
23 competitive telecommunications services.

24 (3) Nothing in this chapter shall be construed to limit
25 the authority of the commission to regulate the privacy of
26 interexchange service and the ordering, installation,
27 restoration and disconnection of interexchange service to
28 customers.

29 (c) Reclassification.--The commission may reclassify
30 telecommunications services provided by an interexchange

1 telecommunications carrier as noncompetitive if, after notice
2 and hearing, it determines, upon application of the criteria set
3 forth in this chapter, that sufficient competition is no longer
4 present.

5 (d) Construction.--Nothing in this chapter shall be
6 construed:

7 (1) To limit the authority of the commission to resolve
8 complaints regarding the quality of interexchange
9 telecommunications carrier service.

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

17 § 3019. Additional powers and duties.

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

24 (b) Powers and duties retained.--The commission shall retain
25 the following powers and duties relating to the regulation of
26 all telecommunications carriers and interexchange
27 telecommunications carriers:

28 (1) To audit the accounting and reporting systems of
29 telecommunications carriers relating to their transactions
30 with affiliates pursuant to Chapter 21 (relating to relations

1 with affiliated interests). A telecommunications carrier
2 shall file affiliated interest and affiliated transaction
3 agreements, unless such agreements involve services declared
4 to be competitive. The filings shall constitute notice to the
5 commission only and shall not require approval by the
6 commission.

7 ~~(2) Subject to the provisions of section 3015(d)~~ <—
8 ~~(relating to alternative forms of regulation), to establish~~
9 ~~such additional requirements as are consistent with this~~
10 ~~chapter as the commission determines to be necessary to~~
11 ~~ensure the protection of customers.~~

12 (2) TO REVIEW AND REVISE QUALITY OF SERVICE STANDARDS <—
13 CONTAINED IN 52 PA. CODE (RELATING TO PUBLIC UTILITIES) THAT
14 ADDRESS THE SAFETY, ADEQUACY, RELIABILITY AND PRIVACY OF
15 TELECOMMUNICATIONS SERVICES AND THE ORDERING, INSTALLATION,
16 SUSPENSION, TERMINATION AND RESTORATION OF ANY
17 TELECOMMUNICATIONS SERVICE. ANY REVIEW OR REVISION SHALL TAKE
18 INTO CONSIDERATION THE EMERGENCE OF NEW INDUSTRY
19 PARTICIPANTS, TECHNOLOGICAL ADVANCEMENTS, SERVICE STANDARDS
20 AND CONSUMER DEMAND.

21 (3) SUBJECT TO THE PROVISIONS OF SECTION 3015(D)
22 (RELATING TO ALTERNATIVE FORMS OF REGULATION), TO ESTABLISH
23 SUCH ADDITIONAL REQUIREMENTS AS ARE CONSISTENT WITH THIS
24 CHAPTER AS THE COMMISSION DETERMINES TO BE NECESSARY TO
25 ENSURE THE PROTECTION OF CUSTOMERS.

26 (4) CONDITION THE SALE, MERGER OR ACQUISITION OF A LOCAL
27 EXCHANGE TELECOMMUNICATIONS COMPANY OR ANY FACILITIES USED TO
28 PROVIDE TELECOMMUNICATIONS SERVICES TO ENSURE THAT THERE IS
29 NO REDUCTION IN THE ADVANCED SERVICE OR BROADBAND DEPLOYMENT
30 OBLIGATIONS FOR THE SOLD, MERGED OR ACQUIRED PROPERTY.

1 (c) Privacy of customer information.--

2 (1) Except as otherwise provided in this subsection, a
3 telecommunications carrier may not disclose to any person
4 information relating to any customer's patterns of use,
5 equipment and network information and any accumulated records
6 about customers.

7 (2) A telecommunications carrier may disclose such
8 information:

9 (i) Pursuant to a court order or where otherwise
10 required by law.

11 (ii) To the carrier's affiliates, agents,
12 contractors or vendors and other telecommunications
13 carriers or interexchange telecommunications carriers, as
14 permitted by law.

15 (iii) Where the information consists of aggregate
16 data which does not identify individual customers.

17 ~~(d) Calling areas. The commission may not order expanded~~ <—
18 ~~local calling areas, revised territorial exchange boundaries or~~
19 ~~additional optional calling plans unless such change is~~
20 ~~initiated by or agreed to by the serving local exchange~~
21 ~~telecommunications company.~~

22 (D) UNREASONABLE PREFERENCES.--NOTHING IN THIS CHAPTER SHALL <—
23 BE CONSTRUED TO LIMIT THE AUTHORITY OF THE COMMISSION TO ENSURE
24 THAT LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES DO NOT MAKE OR
25 IMPOSE UNREASONABLE PREFERENCES, DISCRIMINATIONS OR
26 CLASSIFICATIONS FOR PROTECTED SERVICES AND OTHER NONCOMPETITIVE
27 SERVICES.

28 (E) LIFELINE SERVICE.--

29 (1) ALL ELIGIBLE TELECOMMUNICATIONS CARRIERS
30 CERTIFICATED TO PROVIDE LOCAL EXCHANGE TELECOMMUNICATIONS

1 SERVICE SHALL PROVIDE LIFELINE SERVICE TO ALL ELIGIBLE
2 TELECOMMUNICATIONS CUSTOMERS WHO SUBSCRIBE TO SUCH SERVICE.

3 (2) ALL ELIGIBLE TELECOMMUNICATIONS CUSTOMERS WHO
4 SUBSCRIBE TO LIFELINE SERVICE SHALL BE PERMITTED TO SUBSCRIBE
5 UP TO TWO OTHER ELIGIBLE TELECOMMUNICATIONS CARRIER
6 TELECOMMUNICATIONS SERVICES AT THE TARIFFED RATES FOR SUCH
7 SERVICES.

8 (3) WHENEVER A PROSPECTIVE CUSTOMER SEEKS TO SUBSCRIBE
9 TO LOCAL SERVICE FROM AN ELIGIBLE TELECOMMUNICATIONS CARRIER,
10 THE CARRIER SHALL EXPLICITLY ADVISE THE CUSTOMER OF THE
11 AVAILABILITY OF LIFELINE SERVICE AND SHALL MAKE REASONABLE
12 EFFORTS WHERE APPROPRIATE TO DETERMINE WHETHER THE CUSTOMER
13 QUALIFIES FOR SUCH SERVICE AND, IF SO, WHETHER THE CUSTOMER
14 WISHES TO SUBSCRIBE TO THE SERVICE.

15 (4) ELIGIBLE TELECOMMUNICATIONS CARRIERS SHALL INFORM
16 EXISTING CUSTOMERS OF THE AVAILABILITY OF LIFELINE SERVICE
17 TWICE ANNUALLY BY BILL INSERT OR MESSAGE. THE NOTICE SHALL BE
18 CONSPICUOUS AND SHALL PROVIDE APPROPRIATE ELIGIBILITY,
19 BENEFITS AND CONTACT INFORMATION FOR CUSTOMERS WHO WISH TO
20 LEARN OF THE LIFELINE SERVICE SUBSCRIPTION REQUIREMENTS.

21 (5) NO ELIGIBLE TELECOMMUNICATIONS CARRIER SHALL BE
22 REQUIRED TO PROVIDE OR TO CONTINUE TO PROVIDE AFTER THE
23 EFFECTIVE DATE OF THIS SECTION ANY LIFELINE SERVICE DISCOUNT
24 THAT IS NOT FULLY SUBSIDIZED BY THE FEDERAL UNIVERSAL SERVICE
25 FUND.

26 (e) (F) Method for fixing rates.--The commission may not fix ←
27 or prescribe the rates, tolls, charges, rate structures, rate
28 base, rate of return or earnings of competitive services or
29 otherwise regulate competitive services except as set forth in
30 this chapter.

<—

1 ~~(f)~~ (G) Implementation.--The terms of a local exchange
2 telecommunications company's alternative form of regulation and
3 network modernization plans shall govern the regulation of the
4 local exchange telecommunications company and, consistent with
5 the provisions of this chapter, shall supersede any conflicting
6 provisions of this title or other laws of this Commonwealth and
7 shall specifically supersede all provisions of Chapter 13
8 (relating to rates and rate making) other than sections 1301
9 (relating to rates to be just and reasonable), 1302 (relating to
10 tariffs; filing and inspection), 1303 (relating to adherence to
11 tariffs), 1304 (relating to discrimination in rates), 1305
12 (relating to advance payment of rates; interest on deposits),
13 1309 (relating to rates fixed on complaint; investigation of
14 costs of production) and 1312 (relating to refunds).

<—

15 (H) PROTECTION OF EMPLOYEES.--

16 (1) NO TELECOMMUNICATIONS CARRIER MAY DISCHARGE,
17 THREATEN, DISCRIMINATE OR RETALIATE AGAINST AN EMPLOYEE
18 BECAUSE THE EMPLOYEE MADE A GOOD FAITH REPORT TO THE
19 COMMISSION, THE OFFICE OF CONSUMER ADVOCATE OR THE OFFICE OF
20 ATTORNEY GENERAL REGARDING WRONGDOING, WASTE OR A POTENTIAL
21 VIOLATION OF THE COMMISSION'S ORDERS OR REGULATIONS OR OF
22 THIS TITLE.

23 (2) A PERSON WHO ALLEGES A VIOLATION OF THIS SECTION
24 MUST BRING A CIVIL ACTION IN A COURT OF COMPETENT
25 JURISDICTION FOR APPROPRIATE INJUNCTIVE RELIEF OR DAMAGES
26 WITHIN 180 DAYS AFTER THE OCCURRENCE OF THE ALLEGED
27 VIOLATION.

28 § 3019.1. VOICE OVER INTERNET PROTOCOL REGULATION EXEMPTION.

29 VOICE OVER INTERNET PROTOCOL SERVICE SHALL NOT BE SUBJECT TO
30 COMMISSION REGULATION, NOR SHALL ANY PROVIDER OF VOIP SERVICE BE

1 A PUBLIC UTILITY SUBJECT TO COMMISSION REGULATION BY VIRTUE OF
2 PROVIDING SUCH SERVICE. HOWEVER, THIS EXEMPTION FROM COMMISSION
3 REGULATION SHALL NOT AFFECT THE RIGHTS AND OBLIGATIONS OF ANY
4 ENTITY RELATED TO THE PAYMENT OF SWITCHED NETWORK ACCESS RATES
5 OR OTHER INTERCARRIER COMPENSATION, IF ANY, RELATED TO VOIP
6 SERVICE.

7 § 3019.2. VOICE OVER INTERNET PROTOCOL TAX EXEMPTION.

8 THE PROVISION OF VOICE OVER INTERNET PROTOCOL SERVICES BY ANY
9 PERSON OR CORPORATION AND THE PROVISION OF TELECOMMUNICATIONS
10 SERVICES USED TO PROVIDE VOIP SERVICES SHALL BE EXEMPT FROM THE
11 FOLLOWING TAXES AND FEES COMMENCING ON THE EFFECTIVE DATE OF
12 THIS SECTION.

13 (1) NOTWITHSTANDING THE ACT OF DECEMBER 31, 1965
14 (P.L.1257, NO.511), KNOWN AS THE LOCAL TAX ENABLING ACT, NO
15 POLITICAL SUBDIVISION SHALL IMPOSE OR COLLECT ANY TAX, CHARGE
16 OR OTHER FEE UPON THE PROVISION OF VOIP SERVICES.

17 (2) NOTWITHSTANDING ARTICLE XXXI-B OF THE ACT OF JULY
18 28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND CLASS COUNTY
19 CODE, AND THE ACT OF JUNE 5, 1991 (P.L.9, NO.6), KNOWN AS THE
20 PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY ACT FOR
21 CITIES OF THE FIRST CLASS, NO LOCAL SALES AND USE TAX SHALL
22 BE IMPOSED ON ANY VOIP SERVICES.

23 § 3020. Expiration of chapter.

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

28 (A) EXPIRATION.--EXCEPT AS PROVIDED IN SUBSECTION (B), THIS <—
29 CHAPTER SHALL EXPIRE ON DECEMBER 31, 2010.

30 (B) EXCEPTION.--A LOCAL EXCHANGE TELECOMMUNICATIONS

1 COMPANY'S ALTERNATIVE FORM OF REGULATION IN EFFECT ON DECEMBER
2 31, 2010, AND THE VOIP EXEMPTION FROM COMMISSION REGULATION
3 UNDER SECTION 3019.1 (RELATING TO VOICE OVER INTERNET PROTOCOL
4 EXEMPTION) SHALL NOT EXPIRE ON DECEMBER 31, 2010.

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

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

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