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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 30

Session of  
2003

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INTRODUCED BY ADOLPH, PRESTON, BUNT, DeWEESE, McILHATTAN,  
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WATSON, WEBER, WILLIAMS, YOUNGBLOOD, YUDICHAK, PICKETT,  
BIRMELIN, TRAVAGLIO, O'NEILL, ROHRER, DENLINGER, WILT,  
MACKERETH AND REED, APRIL 30, 2003

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AS AMENDED ON THIRD CONSIDERATION, IN SENATE, NOVEMBER 17, 2004

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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;~~  
5 ~~adding and repealing provisions relating to alternative form~~  
6 ~~of regulation of telecommunications services; establishing~~  
7 ~~the Advanced Services Education and Aggregation Fund;~~  
8 ~~providing for Voice Over Internet Protocol; and making a~~  
9 ~~repeal.~~

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;  
5 ADDING AND REPEALING PROVISIONS RELATING TO ALTERNATIVE FORM  
6 OF REGULATION OF TELECOMMUNICATIONS SERVICES; ESTABLISHING  
7 THE BROADBAND OUTREACH AND AGGREGATION FUND; PROVIDING FOR  
8 VOICE OVER INTERNET PROTOCOL; AND MAKING A REPEAL. <—

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

11 ~~Section 1. Sections 1325, 3001, 3002, 3003, 3004, 3005,~~ <—  
12 ~~3006, 3007, 3008 and 3009 of Title 66 of the Pennsylvania~~  
13 ~~Consolidated Statutes are repealed.~~

14 ~~Section 2. Title 66 is amended by adding sections to read:~~  
15 ~~§ 3010. (Reserved).~~

16 ~~§ 3011. Declaration of policy.~~

17 ~~The General Assembly finds and declares that it is the policy~~  
18 ~~of this Commonwealth to:~~

19 ~~(1) Strike a balance between mandated deployment and~~  
20 ~~market driven deployment of broadband facilities and advanced~~  
21 ~~services throughout this Commonwealth and to continue~~  
22 ~~alternative regulation of local exchange telecommunications~~  
23 ~~companies.~~

24 ~~(2) Maintain universal telecommunications service at~~  
25 ~~affordable rates while encouraging the accelerated provision~~  
26 ~~of advanced services and deployment of a universally~~  
27 ~~available, state of the art, interactive broadband~~  
28 ~~telecommunications network in rural, suburban and urban~~  
29 ~~areas, including deployment of broadband facilities in or~~  
30 ~~adjacent to public rights of way abutting public schools,~~  
31 ~~including the administrative offices supporting public~~  
32 ~~schools, industrial parks and health care facilities.~~

33 ~~(3) Ensure that customers pay only reasonable charges~~

1 ~~for protected services, which shall be available on a~~  
2 ~~nondiscriminatory basis.~~

3 ~~(4) Ensure that rates for protected services do not~~  
4 ~~subsidize the competitive ventures of telecommunications~~  
5 ~~carriers.~~

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

12 ~~(6) Ensure the efficient delivery of technological~~  
13 ~~advances and new services throughout this Commonwealth in~~  
14 ~~order to improve the quality of life for all Commonwealth~~  
15 ~~residents.~~

16 ~~(7) Encourage the provision of telecommunications~~  
17 ~~products and services that enhance the quality of life of~~  
18 ~~people with disabilities.~~

19 ~~(8) Promote and encourage the provision of competitive~~  
20 ~~services by a variety of service providers on equal terms~~  
21 ~~throughout all geographic areas of this Commonwealth without~~  
22 ~~jeopardizing the provision of universal telecommunications~~  
23 ~~service at affordable rates.~~

24 ~~(9) Encourage the competitive supply of any service in~~  
25 ~~any region where there is market demand.~~

26 ~~(10) Encourage joint ventures between local exchange~~  
27 ~~telecommunications companies and other entities where such~~  
28 ~~joint ventures accelerate, improve or otherwise assist a~~  
29 ~~local exchange telecommunications company in carrying out its~~  
30 ~~network modernization implementation plan.~~

1           ~~(11) Establish a bona fide retail request program to~~  
2           ~~aggregate and make advanced services available in areas where~~  
3           ~~sufficient market demand exists and to supplement existing~~  
4           ~~network modernization plans.~~

5           ~~(12) Promote and encourage the provision of advanced~~  
6           ~~services and broadband deployment in the service territories~~  
7           ~~of local exchange telecommunications companies without~~  
8           ~~jeopardizing the provision of universal service.~~

9           ~~(13) Recognize that the regulatory obligations imposed~~  
10          ~~upon the incumbent local exchange telecommunications~~  
11          ~~companies should be reduced to levels more consistent with~~  
12          ~~those imposed upon competing alternative service providers.~~

13   ~~§ 3012. Definitions.~~

14          ~~The following words and phrases when used in this chapter~~  
15          ~~shall have the meanings given to them in this section unless the~~  
16          ~~context clearly indicates otherwise:~~

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

22          ~~"Aggregator telephone." A telephone which is made available~~  
23          ~~to the transient public, customers or patrons, including, but~~  
24          ~~not limited to, coin telephones, credit card telephones and~~  
25          ~~telephones located in hotels, motels, hospitals and~~  
26          ~~universities.~~

27          ~~"Alternative form of regulation." A form of regulation of~~  
28          ~~telecommunications services other than the traditional rate~~  
29          ~~base/rate of return regulation, including a streamlined form of~~  
30          ~~regulation, as approved by the commission.~~

1 ~~"Alternative service provider."—An entity that provides~~  
2 ~~telecommunications services in competition with a local exchange~~  
3 ~~telecommunications company.~~

4 ~~"Bona fide retail request."—A written request for service~~  
5 ~~which meets the requirements of section 3014(c)(1), (relating to~~  
6 ~~network modernization plans), is received by a local exchange~~  
7 ~~telecommunications company, and through which end users commit~~  
8 ~~to subscribing to an advanced service.~~

9 ~~"Bona fide retail request program."—A program established by~~  
10 ~~a local exchange telecommunications company pursuant to section~~  
11 ~~3014(c) (relating to network modernization plans).~~

12 ~~"Broadband."—A communication channel using any technology~~  
13 ~~and having a bandwidth equal to or greater than 1.544 megabits~~  
14 ~~per second in at least one direction.~~

15 ~~"Broadband availability."—Access to broadband service by a~~  
16 ~~retail telephone customer of a local exchange telecommunications~~  
17 ~~company.~~

18 ~~"Central office."—A building containing one or more local~~  
19 ~~exchange telecommunications company switches used to provide~~  
20 ~~local exchange telecommunications service.~~

21 ~~"Community."—Those customers of a local exchange~~  
22 ~~telecommunications company served by an existing or planned~~  
23 ~~remote terminal or, where no remote terminal exists or is~~  
24 ~~planned, a central office switch.~~

25 ~~"Competitive service."—A service or business activity~~  
26 ~~declared to be competitive by the commission on or prior to~~  
27 ~~December 31, 2003, and a service or business activity declared~~  
28 ~~to be competitive pursuant to section 3016 (relating to~~  
29 ~~competitive services).~~

30 ~~"Department."—The Department of Community and Economic~~

1 ~~Development of the Commonwealth.~~

2 ~~"Eligible telecommunications carrier."—A carrier designated~~  
3 ~~by the Pennsylvania Public Utility Commission pursuant to 47 CFR~~  
4 ~~54.201 (relating to definition of eligible telecommunications~~  
5 ~~carriers, generally) or successor regulation, as eligible to~~  
6 ~~receive support from the Federal Universal Service Fund.~~

7 ~~"Eligible telecommunications customer."—A customer of an~~  
8 ~~eligible telecommunications carrier who qualifies for Lifeline~~  
9 ~~service discounts pursuant to the requirements of 47 CFR 54.409~~  
10 ~~(relating to consumer qualification for Lifeline) or successor~~  
11 ~~regulation.~~

12 ~~"Fund."—The Advanced Services Education and Aggregation Fund~~  
13 ~~established under section 3014 (relating to network~~  
14 ~~modernization plans).~~

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 ~~"Lifeline service."—A discounted rate local service~~  
30 ~~offering, as defined in 47 CFR 54.401 (relating to Lifeline~~

1 ~~defined) or successor regulation, but excluding any offering~~  
2 ~~funded in part by Federal Universal Service Fund Tier Three~~  
3 ~~funding under 47 CFR 54.403 (relating to Lifeline support~~  
4 ~~amount) or successor regulation.~~

5 ~~"Local exchange telecommunications company."—An incumbent~~  
6 ~~carrier authorized by the commission to provide local exchange~~  
7 ~~telecommunications services. The term includes a rural~~  
8 ~~telecommunications carrier and a nonrural telecommunications~~  
9 ~~carrier.~~

10 ~~"Local exchange telecommunications service."—The~~  
11 ~~transmission of messages or communications that originate and~~  
12 ~~terminate within a prescribed local calling area.~~

13 ~~"Noncompetitive service."—A regulated service that is not~~  
14 ~~declared competitive and, as to interexchange telecommunications~~  
15 ~~carriers, those services included in section 3018(a) (relating~~  
16 ~~to interexchange telecommunications carriers).~~

17 ~~"Nonrural telecommunications carrier."—A local exchange~~  
18 ~~telecommunications company that is not a rural telephone company~~  
19 ~~as defined in section 3 of the Telecommunications Act of 1996~~  
20 ~~(Public Law 104 104, 110 Stat. 56).~~

21 ~~"Optional calling plan."—A discounted toll plan offered by~~  
22 ~~either a local exchange telecommunications company or an~~  
23 ~~interexchange telecommunications carrier.~~

24 ~~"Price stability mechanism."—A formula which may be included~~  
25 ~~in a commission approved alternative form of regulation plan~~  
26 ~~that permits rates for noncompetitive services to be adjusted~~  
27 ~~upward or downward.~~

28 ~~"Protected service."—The following telecommunications~~  
29 ~~services provided by a local exchange telecommunications~~  
30 ~~company, unless the commission determines that such service is~~

1 ~~competitive:~~

2 ~~(1) Service provided to residential consumers or small~~  
3 ~~business consumers subscribing to four or fewer access lines~~  
4 ~~only to the extent that the service is necessary for~~  
5 ~~completing any local exchange call for which dial tone is~~  
6 ~~necessary.~~

7 ~~(2) Touch tone service.~~

8 ~~(3) Switched access service.~~

9 ~~(4) Special access service.~~

10 ~~(5) Ordering, installation, restoration and~~  
11 ~~disconnection of the services specified in paragraphs (1)~~  
12 ~~through (4).~~

13 ~~"Remote terminal." A structure located outside of a central~~  
14 ~~office which houses electronic equipment and which provides~~  
15 ~~transport for telecommunications services to and from a central~~  
16 ~~office switch.~~

17 ~~"Rural telecommunications carrier." A local exchange~~  
18 ~~telecommunications company that is a rural telephone company as~~  
19 ~~defined in section 3 of the Telecommunications Act of 1996~~  
20 ~~(Public Law 104-104, 110 Stat. 56).~~

21 ~~"Small business." A business consumer that subscribes to~~  
22 ~~four or fewer access lines.~~

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

28 ~~"Switched access service." A service which provides for the~~  
29 ~~use of common terminating, switching and trunking facilities of~~  
30 ~~a local exchange telecommunications company's public switched~~



1 ~~network. The term includes, but is not limited to, the rates for~~  
2 ~~local switching, common and dedicated transport and the carrier~~  
3 ~~charge.~~

4 ~~"Telecommunications Act of 1996." The Telecommunications Act~~  
5 ~~of 1996 (Public Law 104 104, 110 Stat. 56).~~

6 ~~"Telecommunications carrier." An entity that provides~~  
7 ~~telecommunications services subject to the jurisdiction of the~~  
8 ~~commission.~~

9 ~~"Telecommunications service." The offering of the~~  
10 ~~transmission of messages or communications for a fee to the~~  
11 ~~public.~~

12 ~~"Voice Over Internet Protocol" or "VOIP." The provision of~~  
13 ~~voice communications and related features and functions by means~~  
14 ~~of encoding voice and related signals into packetized form and~~  
15 ~~transmission of those packets using Internet Protocol or any~~  
16 ~~successor protocol for some or all of the transmission.~~

17 ~~§ 3013. Continuation of commission approved alternative~~  
18 ~~regulation and network modernization plans.~~

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

28 ~~(b) Limitation on changes to plans. Except for changes to~~  
29 ~~existing alternative form of regulation and network~~  
30 ~~modernization plans as authorized by this chapter, no change to~~

~~1 any alternative form of regulation or network modernization plan  
2 may be made without the express agreement of both the commission  
3 and the local exchange telecommunications company.~~

~~4 (c) Grandfather provision. All services previously declared  
5 competitive as of December 31, 2003, under a local exchange  
6 telecommunications company's alternative form of regulation plan  
7 shall remain competitive.~~

~~8 (d) Commission oversight. The commission will continue to  
9 exercise oversight of alternative form of regulation and network  
10 modernization plans for local exchange telecommunications  
11 companies as provided in this chapter.~~

~~12 § 3014. Network modernization plans.~~

~~13 (a) Continuation of approved plan. A local exchange  
14 telecommunications company that does not elect an option under  
15 subsection (b) shall remain subject to its network modernization  
16 plan in effect as of December 31, 2003, without revision or  
17 modification except by agreement under section 3013(b) (relating  
18 to continuation of commission approved alternative regulation  
19 and network modernization plans) and as provided in this  
20 section, through December 31, 2015.~~

~~21 (b) Options for amendment of network modernization plan.  
22 Local exchange telecommunications companies shall have the  
23 following options:~~

~~24 (1) (i) A rural telecommunications carrier that elects  
25 to amend its network modernization plan pursuant to this  
26 subsection shall remain subject to the carrier's network  
27 modernization plan in effect as of December 31, 2003, as  
28 amended pursuant to this subsection, through December 31,  
29 2008. Prior to implementation of such election, the rural  
30 telecommunications carrier shall comply with the~~

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

~~(ii) The rural telecommunications carrier shall commit to accelerate 100% 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).~~

~~(ii) The rural telecommunications carrier shall commit:~~

~~(A) to accelerate broadband availability to at least 80% of its total retail access lines in its distribution network by December 31, 2010, and may also commit to further deployment by 2015 as set forth in section 3015(a) (relating to alternative forms of regulation); and~~

~~(B) to offer a bona fide retail request program pursuant to subsection (c).~~

~~Under no circumstances may the rural telecommunications carrier reduce its existing broadband availability commitment.~~

~~(3) (i) A local exchange telecommunications company that elects to amend its network modernization plan~~

~~pursuant to this subsection shall remain subject to such company's network modernization plan in effect as of December 31, 2003, as amended pursuant to this subsection, including meeting its 100% broadband availability commitment. Prior to implementation of such election, the local exchange telecommunications company shall comply with the notification requirements of subsection (d).~~

~~(ii) The local exchange telecommunications company shall commit:~~

~~(A) to provide broadband availability to 100% of its total retail access lines in its distribution network by December 31, 2013 or December 31, 2015;~~

~~and~~

~~(B) to offer a bona fide retail request program pursuant to subsection (c).~~

~~Under no circumstances may such local exchange telecommunications company reduce its existing broadband availability commitment.~~

~~(4) A local exchange telecommunications company that elects under paragraph (1), (2) or (3) shall also commit to universal 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 in its service territory on or before December 31, 2004, except that a local exchange telecommunications company serving more than ten exchanges in this Commonwealth may elect to extend this commitment from December 31, 2004, to December 31, 2005, for any exchange with less than 4,000 access lines.~~

1           ~~(5) A local exchange telecommunications company that~~  
2           ~~elects under paragraph (1), (2) or (3) may amend its network~~  
3           ~~modernization plan to define "universal broadband~~  
4           ~~availability" as the provision of broadband capability within~~  
5           ~~ten business days of notice to the company of the request by~~  
6           ~~a bona fide customer. If a local exchange telecommunications~~  
7           ~~company does not elect under paragraph (1), (2) or (3), then~~  
8           ~~the provisioning interval shall remain and be within five~~  
9           ~~business days after a request for broadband service is~~  
10           ~~received, as stated in the company's currently effective~~  
11           ~~network modernization plan. The amended network modernization~~  
12           ~~plan may also be modified to remove any interim commitments~~  
13           ~~contained in the network modernization plan in effect as of~~  
14           ~~December 31, 2003, or as later modified.~~

15           ~~(6) A local exchange telecommunications company that~~  
16           ~~elects under paragraph (1), (2) or (3) may subsequently~~  
17           ~~petition the commission for further modification of its~~  
18           ~~amended network modernization plan, which the commission may~~  
19           ~~grant upon good cause shown.~~

20           ~~(7) A rural telecommunications carrier making an~~  
21           ~~election pursuant to paragraph (1), (2) or (3) and filing its~~  
22           ~~amended network modernization plan with the commission~~  
23           ~~pursuant to subsection (d) shall be granted by the commission~~  
24           ~~a suspension of its section 251(c)(2), (3), (4), (5) and (6)~~  
25           ~~obligations under the Telecommunications Act of 1996. This~~  
26           ~~suspension of obligations shall expire on December 31, 2010,~~  
27           ~~unless extended by the commission. Should the commission,~~  
28           ~~following a hearing, determine that the rural~~  
29           ~~telecommunications carrier has failed to timely meet its~~  
30           ~~commitments pursuant to this paragraph the suspension of~~

~~obligations shall expire upon entry of the commission order making such determination. Expiration of the suspension of obligations shall not impact the rural telephone company exemption of the rural telecommunications carrier under section 251(f)(1) of the Telecommunications Act of 1996.~~

~~(8) A local exchange telecommunications company may accelerate its broadband availability commitment by electing an additional option pursuant to paragraph (1), (2) or (3), as applicable, at a later date. The local exchange telecommunications company shall be subject to the applicable modified inflation offset in its price stability mechanism as set forth in section 3015(a)(1), effective upon the filing of an amended network modernization plan under subsection (d).~~

~~(c) Bona fide retail request program. A local exchange telecommunications company that elects to amend its network modernization plan pursuant to subsection (b)(1), (2) or (3) shall notify the commission no later than one year after the effective date of its election that it is implementing a bona fide retail request program which shall continue through December 31, 2015, or such earlier date as the local telecommunications company achieves 100% broadband availability throughout its service territory. A bona fide retail request program shall consist of the following:~~

~~(1) Persons or entities seeking advanced services pursuant to a bona fide retail request program shall submit a written request for such services to the local exchange telecommunications company. The written request may be in the form of a petition which includes the information required by this paragraph or in the form of individual requests each of which includes the information required by this paragraph. If~~

~~individual requests are received, the local exchange telecommunications company shall aggregate requests for the same or comparable service and initiate appropriate action pursuant to this subsection when the required number of requests have been received. To be considered a bona fide retail request, the written request must include:~~

~~(i) a request that a minimum of 50 retail access lines be provided the same or comparable advanced service within a community or a request that 25% of retail access lines be provided the same or comparable advanced service within a community, whichever is less;~~

~~(ii) the name, address, telephone number and signature of each existing retail customer seeking the advanced service, the advanced service being requested, the number of access lines for which the advanced service is requested, a commitment by each retail customer who signs the request to subscribe to the requested advanced service for a minimum of one year at the local exchange telecommunications company's applicable rate for the service; and~~

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

~~Customers making the request shall agree to take the service for a one year period, but shall not be required to make such a commitment until the price and terms of the service are specified by the local exchange telecommunications company and shall not be required to make any payments until the service is actually provided.~~

~~(2) In administering the bona fide retail request program, the local exchange telecommunications company shall:~~

1           ~~(i) establish a World Wide Web site and toll free~~  
2           ~~telephone number to address customer inquiries regarding~~  
3           ~~the program;~~

4           ~~(ii) mail a request form to a customer upon request;~~

5           ~~(iii) confirm its receipt of any completed request~~  
6           ~~in writing to the customer; such confirmation to identify~~  
7           ~~the service requested, the applicable rate, the expected~~  
8           ~~contract term, the status of the request and a term~~  
9           ~~subscription agreement for execution; and~~

10          ~~(iv) notify the customers in a community, within 45~~  
11          ~~days, of the expected implementation date once the~~  
12          ~~requisite number of requests has been received and the~~  
13          ~~expected date of the availability of service.~~

14          ~~(3) When a bona fide retail request has been received~~  
15          ~~that meets the requirements of paragraph (1), the local~~  
16          ~~exchange telecommunications company shall provide the~~  
17          ~~requested advanced service or other reasonably comparable~~  
18          ~~service that meets the data speed of the requested service to~~  
19          ~~the community as soon as practicable, but in no event later~~  
20          ~~than 365 days of the date the requirements of paragraph (1)~~  
21          ~~have been met or within the period approved by the commission~~  
22          ~~under paragraph (4) where:~~

23                 ~~(i) the local exchange telecommunications company~~  
24                 ~~provides the requested advanced service to other~~  
25                 ~~customers in its service territory;~~

26                 ~~(ii) there is no advanced service using any~~  
27                 ~~technology available to the requesting customers that~~  
28                 ~~offers data speeds reasonably comparable to that~~  
29                 ~~requested; and~~

30                 ~~(iii) the community is situated within the service~~



~~territory of the local exchange telecommunications  
company.~~

~~(4) Where the total number of bona fide retail requests  
received by any local exchange telecommunications company or  
affiliated companies that meet the requirements of paragraphs  
(1) and (3) exceed 40 customers in any 12 month period, or  
where there are more than 20 such requests that require  
property acquisition, including acquiring rights of way, or  
new construction in any 12 month period, the local exchange  
telecommunications company or companies may provide a  
verified certification to the commission that one or both of  
the previously stated criteria are met. Upon receipt of the  
certification, the commission, or the commission through its  
designated staff, shall permit the local exchange  
telecommunications company or companies to extend the time  
for such deployments for a period of no more than 12 months,  
unless the commission determines an additional time period to  
be just and reasonable.~~

~~(5) With regard to requests submitted under this  
subsection, a retail customer may challenge the action of a  
local exchange telecommunications company pursuant to section  
701 (relating to complaints).~~

~~(6) Local exchange telecommunications companies with  
bona fide retail request programs shall provide semiannual  
reports to the commission of the number of requests for  
advanced services received during the reporting period by  
exchange and the action taken on requests meeting the  
requirements of subsection (c). Local exchange  
telecommunications companies, within 30 days after initiating  
a bona fide retail request program, shall also provide the~~

~~commission with the form of any advanced services term  
subscription agreements customers will be required to execute  
in connection with receiving the requested services.~~

~~(d) Notice and filing of amendments. A local exchange  
telecommunications company that elects to amend its network  
modernization plan pursuant to subsection (b) shall notify the  
commission in writing of such election and, within 60 days  
following such notification, file its amended network  
modernization plan with the commission. Copies of the written  
notice of election and of the amended network modernization plan  
shall be served by the local exchange telecommunications company  
on the Office of Consumer Advocate and the Office of Small  
Business Advocate. Concurrent with the filing of the amended  
plan with the commission, the local exchange telecommunications  
company shall publish notice of such filing in a newspaper or  
newspapers of general circulation in its service territory or by  
bill message or insert. The amended network modernization plan  
shall become effective upon filing with the commission.~~

~~(c) Network modernization plan report.—~~

~~(1) A local exchange telecommunications company that  
files an amended network modernization plan with the  
commission shall also file with the commission a report on  
its provision of broadband availability. The first report  
shall be filed no later than April 30, 2004, and shall be  
based upon the 12 months ending December 31, 2003.  
Thereafter, reports shall be filed biennially no later than  
April 30. To the extent applicable to the local exchange  
telecommunications company's amended network modernization  
plan, reports shall be limited to:~~

~~(i) The status of broadband deployment in or~~

1 ~~adjacent to public rights of way abutting all public~~  
2 ~~schools, including the administration offices supporting~~  
3 ~~public schools, industrial parks and health care~~  
4 ~~facilities.~~

5 ~~(ii) The percentage of access lines with broadband~~  
6 ~~availability from the local exchange telecommunications~~  
7 ~~company.~~

8 ~~(iii) The number of written bona fide retail~~  
9 ~~requests received by exchange.~~

10 ~~(iv) A general description of any technologies or~~  
11 ~~media utilized by the local exchange telecommunications~~  
12 ~~company to offer or provide advanced services and~~  
13 ~~broadband availability.~~

14 ~~(2) (i) The report shall be submitted in the form~~  
15 ~~determined by the commission. Should the commission~~  
16 ~~request any additional network reports or information, a~~  
17 ~~local exchange telecommunications company may oppose such~~  
18 ~~requirement, by petition, on the grounds that the report~~  
19 ~~or information will be detrimental to the security of its~~  
20 ~~network or that the benefits of the report will not~~  
21 ~~exceed the attendant expense or administrative time~~  
22 ~~requirements associated therewith. The commission shall~~  
23 ~~grant the petition upon such showing by the local~~  
24 ~~exchange telecommunications company.~~

25 ~~(ii) Nothing in this paragraph shall be construed to~~  
26 ~~impede the ability of the commission to require the~~  
27 ~~submission of further information to support the accuracy~~  
28 ~~of or to seek an explanation of the reports specified in~~  
29 ~~this subsection.~~

30 ~~(iii) Under no circumstances shall the commission~~

~~compel the public release of maps or other information describing the actual location of a local exchange communications company's facilities.~~

~~(f) Assistance to political subdivisions.~~

~~(1) In an effort to assist political subdivisions with economic revitalization projects, a local exchange telecommunications company shall commit, in its modified alternative form of regulation plan and its network modernization plan, to make technical assistance for such projects available to political subdivisions located in its service territory in pursuing the deployment of additional telecommunications infrastructure or services by the local exchange telecommunications company.~~

~~(2) (i) Except as otherwise provided for under subparagraph (ii), a political subdivision or any entity established by a political subdivision, including a municipal authority, may not provide any telecommunications services to the public for compensation within the service territory of a local exchange telecommunications company operating under a network modernization plan.~~

~~(ii) A political subdivision may offer advanced or broadband services if the political subdivision has submitted a written request for the provision of such service to the local exchange telecommunications company serving the area and, within six months of the request, the local exchange telecommunications company has not agreed to provide the data speeds requested. If the local exchange telecommunications company agrees to provide the data speeds requested, then it must do so within 18~~

1 ~~months of the request.~~

2 ~~(3) The prohibition in paragraph (2) shall not be~~  
3 ~~construed to preclude the continued provision of any~~  
4 ~~municipally provided telecommunications services of the same~~  
5 ~~type and scope as were being provided on the effective date~~  
6 ~~of this section.~~

7 ~~(g) Advanced Services Education and Aggregation Fund.~~

8 ~~(1) The Advanced Services Education and Aggregation Fund~~  
9 ~~is established as a separate fund in the State Treasury and~~  
10 ~~shall be funded by the payments that may be required under~~  
11 ~~section 3015(c) (relating to alternative forms of~~  
12 ~~regulation).~~

13 ~~(2) The department shall authorize expenditures from the~~  
14 ~~fund for two purposes:~~

15 ~~(i) educational outreach programs for political~~  
16 ~~subdivisions, economic development entities, public~~  
17 ~~schools, health care facilities and businesses and for~~  
18 ~~residential customers concerning the benefits, use and~~  
19 ~~procurement of advanced services and broadband~~  
20 ~~telecommunication services from local exchange~~  
21 ~~telecommunications companies; and~~

22 ~~(ii) seed grants to aggregate customer demand for~~  
23 ~~advanced services or broadband in communities without~~  
24 ~~such services and permit customers in such communities to~~  
25 ~~request such services under a local exchange~~  
26 ~~telecommunications company bona fide retail request~~  
27 ~~program.~~

28 ~~(3) The fund shall continue until December 31, 2015, at~~  
29 ~~which time the department shall terminate the fund and return~~  
30 ~~the remaining funds on a pro rata basis to the local exchange~~

1 ~~telecommunications companies that contributed to the fund.~~

2 ~~(h) Balanced deployment. A local exchange~~  
3 ~~telecommunications company shall reasonably balance deployment~~  
4 ~~of its broadband network between rural, urban and suburban areas~~  
5 ~~within its service territory, as those areas are applicable,~~  
6 ~~according to its approved network modernization plan.~~

7 ~~(i) Impact of competition. Notwithstanding any provision of~~  
8 ~~this section or any network modernization plan to the contrary,~~  
9 ~~if one or more alternative service providers, excluding service~~  
10 ~~providers using satellite based systems, have made advanced~~  
11 ~~services or broadband available at reasonably comparable data~~  
12 ~~speeds throughout a particular exchange served by a rural~~  
13 ~~telecommunications carrier, the rural telecommunications~~  
14 ~~carrier's commitment to provide advanced services and broadband~~  
15 ~~availability in that exchange shall be deemed met and shall be~~  
16 ~~credited to its deployment obligation. To obtain such credit,~~  
17 ~~the rural telecommunications carrier must provide verification~~  
18 ~~of such service availability to the commission.~~

19 ~~(j) Study of Statewide education network.~~

20 ~~(1) The Legislative Budget and Finance Committee in~~  
21 ~~consultation with all advanced broadband service providers,~~  
22 ~~telecommunications carriers and alternative service providers~~  
23 ~~operating in this Commonwealth, irrespective of the~~  
24 ~~technology used, and the Department of Education shall~~  
25 ~~perform a feasibility study on the development of a Statewide~~  
26 ~~education network to promote the effective use of information~~  
27 ~~technology that enhances education, promotes community~~  
28 ~~partnerships and supports economic growth in a knowledge-~~  
29 ~~based society. In conducting the study, the committee shall~~  
30 ~~consider cost benefit analyses associated with the~~

1 ~~development and implementation of a Statewide education~~  
2 ~~network. At a minimum, the committee shall inquire into and~~  
3 ~~make recommendations with respect to:~~

4 ~~(i) The impact on public and private schools,~~  
5 ~~vocational technical schools, intermediate units and~~  
6 ~~institutions of higher education in this Commonwealth~~  
7 ~~that would be linked together with functional levels of~~  
8 ~~broadband throughout this Commonwealth.~~

9 ~~(ii) Competition in the telecommunications industry~~  
10 ~~of this Commonwealth and the ability for the public and~~  
11 ~~private schools, vocational technical schools,~~  
12 ~~intermediate units and institutions of higher education~~  
13 ~~in this Commonwealth's network on intermediate units,~~  
14 ~~school districts and individual schools to procure~~  
15 ~~telecommunications services.~~

16 ~~(iii) The impact on local exchange~~  
17 ~~telecommunications service providers that have amended~~  
18 ~~their network modernization plan to accelerate the~~  
19 ~~deployment of broadband and advanced services as provided~~  
20 ~~for within the provisions of this chapter.~~

21 ~~(iv) Funding mechanisms to support the development~~  
22 ~~and implementation of a Statewide education network and~~  
23 ~~the availability of Federal and State funding assistance~~  
24 ~~programs to rural school districts to procure high speed~~  
25 ~~telecommunications services.~~

26 ~~(v) A comparison of the efficiency and effectiveness~~  
27 ~~of Statewide education networks implemented in other~~  
28 ~~states.~~

29 ~~(2) The committee shall submit a final report with~~  
30 ~~recommendations to the General Assembly no later than May 31,~~

~~2005, and publish notice of the final report in the Pennsylvania Bulletin within 30 days of the submission of the final report.~~

~~(k) Inventory of available services.—~~

~~(1) The department shall compile, periodically update and publish, including at its World Wide Web site, a listing of advanced and broadband services, by general location, available from all advanced and broadband service providers operating in this Commonwealth irrespective of the technology used.~~

~~(2) All providers of advanced and broadband services shall cooperate with the department.~~

~~(3) The department may not disclose maps or other information describing the specific location of any provider's facilities.~~

~~(l) Construction.— Nothing in this section shall be construed:~~

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

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

~~§ 3015. Alternative forms of regulation.~~

~~(a) Inflation offset.—~~

~~(1) Except as otherwise provided in paragraphs (2) and (3), a local exchange telecommunications company with an alternative form of regulation containing a price stability~~



~~mechanism that files an amended network modernization plan under section 3014(b)(1), (2) or (3) (relating to network modernization plans) shall be subject to a modified inflation offset in its price stability mechanism in adjusting its rates for noncompetitive services, effective upon the filing of an amended network modernization plan under section 3014(d), as follows:~~

~~(i) If a nonrural telecommunications carrier files an amended network modernization plan under section 3014(b)(3) that commits to deploy 100% broadband availability by December 31, 2013, then the inflation offset shall be zero.~~

~~(ii) If a nonrural telecommunications carrier files an amended network modernization plan under section 3014(b)(3) that commits to deploy 100% broadband availability by December 31, 2015, then the inflation offset shall be equal to 0.5%.~~

~~(iii) If a rural telecommunications carrier files an amended network modernization plan under section 3014(b)(1) or (3), then the inflation offset shall be zero.~~

~~(iv) If a rural telecommunications carrier files an amended network modernization plan under section 3014(b)(2) that commits to deploy 95% broadband availability by December 31, 2013, then the inflation offset shall be equal to 10% of the inflation offset contained in the rural telecommunications carrier's original alternative regulation plan.~~

~~(v) If a rural telecommunications carrier files an amended network modernization plan under section~~

~~3014(b)(2) that commits to deploy 90% broadband availability by December 31, 2012, then the inflation offset shall be equal to 25% of the inflation offset contained in the rural telecommunications carrier's original alternative regulation plan.~~

~~(vi) If a rural telecommunications carrier files an amended network modernization plan under section 3014(b)(2) that commits to deploy 85% broadband availability by December 31, 2011, then the inflation offset shall be equal to 50% of the inflation offset contained in the rural telecommunications carrier's original alternative regulation plan.~~

~~(vii) If a rural telecommunications carrier files an amended network modernization plan under section 3014(b)(2) that commits to deploy 80% or less broadband availability by December 31, 2010, then the inflation offset shall be equal to the inflation offset contained in the rural telecommunications carrier's original alternative regulation plan.~~

~~In the event that a local exchange telecommunications company is found by the commission, after notice and evidentiary hearings, to have failed to meet its network commitment for final broadband availability, then the commission shall require the local exchange telecommunications company to refund to customers in its next price stability filing an amount that is just and reasonable under the circumstances, but not to exceed a revenue amount determined by multiplying the percentage shortfall of the broadband availability commitment on an access line basis times the revenue that was obtained as a result of the modified inflation offset~~

~~provided in this section plus interest calculated under section 1308(d) (relating to voluntary changes in rates).~~

~~(2) Each protected service of a nonrural telecommunications carrier shall be subject to an inflation offset and that no rate adjustment for any such protected service shall exceed the inflation offset.~~

~~(3) Through December 31, 2015:~~

~~(i) In any year in which revenue neutral rate changes are ordered by the commission for a nonrural telecommunications carrier, any increase in residential and small business protected service rates under that carrier's price stability mechanism in that year shall be offset against any revenue neutral rate increase for those services.~~

~~(ii) (A) A rural telecommunications carrier may not separately propose, as part of a rate rebalancing filing, to increase the rates for residential or small business local exchange telecommunications service in the same calendar year as rates for residential or small business local exchange telecommunications service are increased under the annual price stability index, where the rate rebalancing proposal is not submitted to the commission as part of the annual price stability mechanism filing. Any cap contained in the rate rebalancing section of a rural telecommunications carrier's existing alternative form of regulation plan that restricts the level of annual rate increases to a local exchange telecommunications service shall also be applied to limit any rate~~

1 ~~increase that occurs as a result of elimination of~~  
2 ~~the offset.~~

3 ~~(B) These limitations shall not apply where~~  
4 ~~rates are changed as a result of a generic~~  
5 ~~investigation or when the rebalancing does not~~  
6 ~~increase the weighted average rates respectively of~~  
7 ~~residential and small business local exchange~~  
8 ~~telecommunications service.~~

9 ~~(b) Rate changes for rural telecommunications carriers.~~

10 ~~(1) In addition to the rate change provisions in its~~  
11 ~~alternative form of regulation plan, a rural~~  
12 ~~telecommunications carrier operating without a price~~  
13 ~~stability mechanism that files with the commission an amended~~  
14 ~~network modernization plan under section 3014(b)(1), (2) or~~  
15 ~~(3) shall be permitted at any time to file with the~~  
16 ~~commission proposed tariff changes, effective 45 days after~~  
17 ~~filing, setting forth miscellaneous changes, including~~  
18 ~~increases and decreases, in rates for noncompetitive~~  
19 ~~services, excluding basic residential and business rates,~~  
20 ~~provided such rate changes do not increase the rural~~  
21 ~~telecommunications carrier's annual intrastate revenues by~~  
22 ~~more than 2%.~~

23 ~~(2) The commission tariff filing requirements and review~~  
24 ~~associated with such proposed rate changes shall be limited~~  
25 ~~to schedules submitted by the rural telecommunications~~  
26 ~~carrier detailing the impact of the rate changes on the~~  
27 ~~carrier's annual intrastate revenues.~~

28 ~~(3) A rural telecommunications carrier that implements~~  
29 ~~noncompetitive rate changes consistent with the procedure set~~  
30 ~~forth in its alternative form of regulation plan shall be~~

1 ~~required only to file such financial and cost data with the~~  
2 ~~commission to justify such changes as is required under its~~  
3 ~~commission approved alternative form of regulation plan.~~

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

13 ~~(c) Payments to fund.~~

14 ~~(1) A local exchange telecommunications company that~~  
15 ~~files an amended network modernization plan under section~~  
16 ~~3014(b)(2) or (3) may be required by the department to~~  
17 ~~contribute up to, but no more than, 10% of the first year's~~  
18 ~~annual revenue effect:~~

19 ~~(i) of any rate increases permitted by the~~  
20 ~~elimination of the offset under subsection (a); or~~

21 ~~(ii) if the local exchange telecommunications~~  
22 ~~company is operating without a price stability mechanism,~~  
23 ~~of any rate increases under subsection (b)(1), to the~~  
24 ~~fund established under section 3014(g).~~

25 ~~(2) The contribution shall be payable in equal quarterly~~  
26 ~~installments and calculated on projected increased revenues~~  
27 ~~for the first year of the rate change. The contributions~~  
28 ~~shall also be made in connection with each subsequent~~  
29 ~~noncompetitive service rate increase until the local exchange~~  
30 ~~telecommunications company fulfills the higher percentage~~

~~deployment obligation set forth in its amended network modernization plan.~~

~~(3) In no event shall the fund exceed \$5,000,000 and, in the event of such overfunding, the department shall credit the overcollection to the next year's contribution amount.~~

~~(4) A local exchange telecommunications company that elects to amend its network modernization plan pursuant to section 3014(b)(1) shall not be required to contribute to the fund.~~

~~(d) General filing requirements. For a local exchange telecommunications company that files an amended network modernization plan under section 3014(b)(1), (2) or (3), the commission's filing and audit requirements shall be limited to the following submissions by the company:~~

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

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

~~(3) An annual deaf, speech impaired and hearing impaired relay information report.~~

~~(4) An annual service report.~~

~~(5) Universal service reports.~~

~~(6) An annual access line report.~~

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

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

~~(9) For those companies with a bona fide retail request program, a bona fide retail request report under section~~

1 ~~3014(c)(6).~~

2 ~~These reports shall be submitted in the form determined by the~~  
3 ~~commission.~~

4 ~~(c) Other reports.—~~

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

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

17 ~~(ii) The benefits of the report substantially~~  
18 ~~outweigh the attendant expense and administrative time~~  
19 ~~and effort required of the local exchange~~  
20 ~~telecommunications company to prepare it.~~

21 ~~(2) Nothing in this subsection shall be construed to~~  
22 ~~impede the ability of the commission to require the~~  
23 ~~submission of further information to support the accuracy of~~  
24 ~~or to seek an explanation of the reports specified in~~  
25 ~~subsection (d).~~

26 ~~(f) Rate change limitations.— Nothing in this chapter shall~~  
27 ~~be construed to limit the requirement of section 1301 (relating~~  
28 ~~to rates to be just and reasonable) that rates shall be just and~~  
29 ~~reasonable. The annual rate change limitations set forth in a~~  
30 ~~local exchange telecommunications company's effective~~

1 ~~commission approved alternative form of regulation plan or any~~  
2 ~~other commission approved annual rate change limitation shall~~  
3 ~~remain applicable.~~

4 ~~(g) Small business customers. Local exchange~~  
5 ~~telecommunications companies operating under an alternative form~~  
6 ~~of regulation plan with small business customers defined as~~  
7 ~~"three lines or less" shall amend such definition to "four or~~  
8 ~~fewer lines."~~

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

14 ~~§ 3016. Competitive services.~~

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

21 ~~(1) The local exchange telecommunications company may~~  
22 ~~petition the commission for a determination of whether a~~  
23 ~~service is competitive. The commission shall enter an order~~  
24 ~~approving or disapproving the petition within 60 days of the~~  
25 ~~filing date or 90 days where a protest is timely filed, or~~  
26 ~~the petition shall be deemed approved. In making the~~  
27 ~~determination, the commission shall consider all relevant~~  
28 ~~information submitted to it.~~

29 ~~(2) Simultaneously with the filing by the local exchange~~  
30 ~~telecommunications company of a petition with the commission~~



~~for a declaration of a service as competitive, the local exchange telecommunications company shall serve a copy of the petition on the Office of Consumer Advocate and the Office of Small Business Advocate and give notice to the public of the filing of its petition in a newspaper or newspapers of general circulation in the company's service territory.~~

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

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

~~(b) Optional declaration of nonprotected services as competitive. Notwithstanding the provisions of subsection (a), a local exchange telecommunications company that has filed an amended network modernization plan pursuant to section 3014(b)(1), (2) or (3) (relating to network modernization plans), at its option, may declare services which are not protected as competitive by filing notice of its election of this option with the commission.~~

~~(c) Rural exchange specific pricing.~~

~~(1) When an alternative service provider is providing local exchange telecommunications services within an exchange of a rural telecommunications carrier that has filed an amended network modernization plan under section 3014(b)(1), (2) or (3), the rural telecommunications carrier may petition the commission for approval to begin pricing its services in~~

1 ~~the exchange at its discretion.~~

2 ~~(2) The commission, following public notice, shall~~  
3 ~~approve the petition within 60 days if shown by the rural~~  
4 ~~telecommunications carrier that the alternative service~~  
5 ~~provider is providing local exchange telecommunications~~  
6 ~~services in the exchange.~~

7 ~~(3) Any party with standing shall have the right to~~  
8 ~~challenge the lawfulness of any petition filed or of any rate~~  
9 ~~change pursuant to section 701 (relating to complaints).~~

10 ~~(4) Following approval of a petition, the rural~~  
11 ~~telecommunications carrier shall tariff any changes in~~  
12 ~~noncompetitive rates effective one day after filing.~~

13 ~~(5) The rural telecommunications carrier shall give~~  
14 ~~notice to all customers impacted by any rate increases in the~~  
15 ~~form of a bill insert, bill message, written notice or~~  
16 ~~newspaper notice at least ten days prior to the tariff~~  
17 ~~filing.~~

18 ~~(d) Reclassification.—~~

19 ~~(1) The commission may reclassify a telecommunications~~  
20 ~~service or other service or business activity that has~~  
21 ~~previously been found to be competitive if, after notice and~~  
22 ~~hearing, it determines, upon application of the criteria set~~  
23 ~~forth in this chapter, that:~~

24 ~~(i) sufficient competition is no longer present;~~

25 ~~(ii) the local exchange telecommunications company~~  
26 ~~has engaged in unfair competition with respect to the~~  
27 ~~service; or~~

28 ~~(iii) the local exchange telecommunications company~~  
29 ~~has failed to provide nondiscriminatory access in the~~  
30 ~~provision of the service.~~

1           ~~(2) If the commission finds that a reclassification is~~  
2           ~~necessary, the commission shall determine whether the rate~~  
3           ~~for the telecommunications service or other service or~~  
4           ~~business activity is just and reasonable in accordance with~~  
5           ~~section 1301 (relating to rates to be just and reasonable).~~

6           ~~(3) If the telecommunications service or other service~~  
7           ~~or business activity subsequently becomes competitive, the~~  
8           ~~local exchange telecommunications company shall petition the~~  
9           ~~commission to make a determination of competitiveness for the~~  
10          ~~service under the provisions of this chapter.~~

11          ~~(4) The burden of proving that a competitive service~~  
12          ~~should be declared noncompetitive rests on the party seeking~~  
13          ~~to have the service declared noncompetitive.~~

14          ~~(c) Additional requirements.—~~

15          ~~(1) The prices which a local exchange telecommunications~~  
16          ~~company charges for competitive services shall not be less~~  
17          ~~than the costs to provide the services.~~

18          ~~(2) The commission may not require tariffs for~~  
19          ~~competitive service offerings to be filed with the~~  
20          ~~commission.~~

21          ~~(3) A local exchange telecommunications company, at its~~  
22          ~~option, may tariff its rates, subject to rules and~~  
23          ~~regulations applicable to the provision of competitive~~  
24          ~~services.~~

25          ~~(4) The commission may require a local exchange~~  
26          ~~telecommunications company to maintain price lists with the~~  
27          ~~commission applicable to its competitive services.~~

28          ~~(f) Pricing flexibility and bundling.—~~

29          ~~(1) Subject to the requirements of subsection (c)(1), a~~  
30          ~~local exchange telecommunications company may price~~

1 ~~competitive services at the company's discretion.~~

2 ~~(2) A local exchange telecommunications company may~~  
3 ~~offer and bill to customers on one bill bundled packages of~~  
4 ~~services which include nontariffed, competitive,~~  
5 ~~noncompetitive or protected services, including services of~~  
6 ~~an affiliate, in combinations and at a single price selected~~  
7 ~~by the company.~~

8 ~~(3) If a customer subscribes to a bundled package of~~  
9 ~~services which include nontariffed, competitive,~~  
10 ~~noncompetitive or protected services as provided in paragraph~~  
11 ~~(2) and does not make payment on a billing due date, the~~  
12 ~~local exchange telecommunications company may first suspend~~  
13 ~~all of the customer's services subscribed to in the bundled~~  
14 ~~package following written notice to the customer of such~~  
15 ~~suspension at least seven days prior to the suspension and~~  
16 ~~thereafter may terminate all the customer's bundled package~~  
17 ~~services following written notice to the customer of such~~  
18 ~~termination at least ten days prior to the termination.~~

19 ~~(g) Prohibitions.—~~

20 ~~(1) A local exchange telecommunications company shall be~~  
21 ~~prohibited from using revenues earned or expenses incurred in~~  
22 ~~conjunction with protected services to subsidize competitive~~  
23 ~~services.~~

24 ~~(2) Paragraph (1) shall not be construed to prevent the~~  
25 ~~marketing and billing of noncompetitive and competitive~~  
26 ~~services as packages to customers.~~

27 ~~§ 3017. Access charges.~~

28 ~~(a) General rule.— The commission may not require a local~~  
29 ~~exchange telecommunications company to reduce access rates~~  
30 ~~except on a revenue neutral basis and may not order decreases in~~

1 ~~access rates for a nonrural telecommunications carrier more than~~  
2 ~~once every two years.~~

3 ~~(b) Refusal to pay access charges prohibited. No person or~~  
4 ~~entity may refuse to pay tariffed access charges for~~  
5 ~~interexchange services provided by a local exchange~~  
6 ~~telecommunications company.~~

7 ~~(c) Limitation. No telecommunications carrier providing~~  
8 ~~competitive local exchange telecommunications service may charge~~  
9 ~~access rates higher than those charged by the incumbent local~~  
10 ~~exchange telecommunications company in the same service~~  
11 ~~territory, unless such carrier can demonstrate, by substantial~~  
12 ~~evidence, that the higher access rates are cost justified.~~

13 ~~§ 3018. Interexchange telecommunications carriers.~~

14 ~~(a) Competitive and noncompetitive services. Interexchange~~  
15 ~~services provided by interexchange telecommunications carriers~~  
16 ~~shall continue to be competitive services after December 31,~~  
17 ~~2003, except for the provision of the following interexchange~~  
18 ~~services which shall be noncompetitive services unless declared~~  
19 ~~otherwise by the commission pursuant to section 3016 (relating~~  
20 ~~to competitive services):~~

21 ~~(1) Interexchange service to aggregator telephones.~~

22 ~~(2) Optional calling plans required by the commission to~~  
23 ~~be offered when justified by usage over an interexchange~~  
24 ~~route.~~

25 ~~(b) Rate regulation.~~

26 ~~(1) The commission may not fix or prescribe the rates,~~  
27 ~~tolls, charges, rate structures, rate base, rate of return,~~  
28 ~~operating margin or earnings for interexchange competitive~~  
29 ~~services or otherwise regulate interexchange competitive~~  
30 ~~services except as set forth in this chapter.~~

1           ~~(2) An interexchange telecommunications carrier may file~~  
2           ~~and maintain tariffs or price lists with the commission for~~  
3           ~~competitive telecommunications services.~~

4           ~~(3) Nothing in this chapter shall be construed to limit~~  
5           ~~the authority of the commission to regulate the privacy of~~  
6           ~~interexchange service and the ordering, installation,~~  
7           ~~restoration and disconnection of interexchange service to~~  
8           ~~customers.~~

9           ~~(c) Reclassification. The commission may reclassify~~  
10          ~~telecommunications services provided by an interexchange~~  
11          ~~telecommunications carrier as noncompetitive if, after notice~~  
12          ~~and hearing, it determines, upon application of the criteria set~~  
13          ~~forth in this chapter, that sufficient competition is no longer~~  
14          ~~present.~~

15          ~~(d) Construction. Nothing in this chapter shall be~~  
16          ~~construed:~~

17                 ~~(1) To limit the authority of the commission to resolve~~  
18                 ~~complaints regarding the quality of interexchange~~  
19                 ~~telecommunications carrier service.~~

20                 ~~(2) To limit the authority of the commission to~~  
21                 ~~determine whether an interexchange telecommunications carrier~~  
22                 ~~should be extended the privilege of operating within this~~  
23                 ~~Commonwealth or to order the filing of such reports,~~  
24                 ~~documents and information as may be necessary to monitor the~~  
25                 ~~market for and competitiveness of interexchange~~  
26                 ~~telecommunications services.~~

27          ~~§ 3019. Additional powers and duties.~~

28                 ~~(a) General rule. The commission may certify more than one~~  
29                 ~~telecommunications carrier to provide local exchange~~  
30                 ~~telecommunications service in a specific geographic location.~~

1 ~~The certification shall be granted upon a showing that it is in~~  
2 ~~the public interest and that the applicant possesses sufficient~~  
3 ~~technical, financial and managerial resources.~~

4 ~~(b) Powers and duties retained. The commission shall retain~~  
5 ~~the following powers and duties relating to the regulation of~~  
6 ~~all telecommunications carriers and interexchange~~  
7 ~~telecommunications carriers:~~

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

17 ~~(2) To review and revise quality of service standards~~  
18 ~~contained in 52 Pa. Code (relating to public utilities) that~~  
19 ~~address the safety, adequacy, reliability and privacy of~~  
20 ~~telecommunications services and the ordering, installation,~~  
21 ~~suspension, termination and restoration of any~~  
22 ~~telecommunications service. Any review or revision shall take~~  
23 ~~into consideration the emergence of new industry~~  
24 ~~participants, technological advancements, service standards~~  
25 ~~and consumer demand.~~

26 ~~(3) Subject to the provisions of section 3015(d)~~  
27 ~~(relating to alternative forms of regulation), to establish~~  
28 ~~such additional requirements as are consistent with this~~  
29 ~~chapter as the commission determines to be necessary to~~  
30 ~~ensure the protection of customers.~~

1           ~~(4) Condition the sale, merger or acquisition of a local~~  
2 ~~exchange telecommunications company or any facilities used to~~  
3 ~~provide telecommunications services to ensure that there is~~  
4 ~~no reduction in the advanced service or broadband deployment~~  
5 ~~obligations for the sold, merged or acquired property.~~

6 ~~(c) Privacy of customer information.—~~

7           ~~(1) Except as otherwise provided in this subsection, a~~  
8 ~~telecommunications carrier may not disclose to any person~~  
9 ~~information relating to any customer's patterns of use,~~  
10 ~~equipment and network information and any accumulated records~~  
11 ~~about customers.~~

12           ~~(2) A telecommunications carrier may disclose such~~  
13 ~~information:~~

14                 ~~(i) Pursuant to a court order or where otherwise~~  
15 ~~required by law.~~

16                 ~~(ii) To the carrier's affiliates, agents,~~  
17 ~~contractors or vendors and other telecommunications~~  
18 ~~carriers or interexchange telecommunications carriers, as~~  
19 ~~permitted by law.~~

20                 ~~(iii) Where the information consists of aggregate~~  
21 ~~data which does not identify individual customers.~~

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 ~~to 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 after the effective date of this section~~  
23 ~~any new Lifeline service discount that is not fully~~  
24 ~~subsidized by the Federal Universal Service Fund.~~

25 ~~(f) Caller identification service.—~~

26 ~~(1) A telecommunications carrier that offers a caller~~  
27 ~~identification service that identifies the name and telephone~~  
28 ~~number of a caller for an additional fee may not charge a~~  
29 ~~residential customer within this Commonwealth more than \$3.50~~  
30 ~~per month for basic caller identification service that~~

1 ~~identifies the name and the telephone number of a caller~~  
2 ~~unless:~~

3 ~~(i) the telecommunications carrier requests a waiver~~  
4 ~~from the monthly dollar limitation set forth in this~~  
5 ~~paragraph; and~~

6 ~~(ii) the commission determines that the monthly~~  
7 ~~dollar limitation set forth in this paragraph is not just~~  
8 ~~and reasonable in relation to the actual cost to the~~  
9 ~~telecommunications carrier for the service.~~

10 ~~(2) Paragraph (1) shall not apply to the bundling or~~  
11 ~~pricing of multiple services that include caller~~  
12 ~~identification service in a single offer.~~

13 ~~(g) Method for fixing rates. The commission may not fix or~~  
14 ~~prescribe the rates, tolls, charges, rate structures, rate base,~~  
15 ~~rate of return or earnings of competitive services or otherwise~~  
16 ~~regulate competitive services except as set forth in this~~  
17 ~~chapter.~~

18 ~~(h) Implementation. The terms of a local exchange~~  
19 ~~telecommunications company's alternative form of regulation and~~  
20 ~~network modernization plans shall govern the regulation of the~~  
21 ~~local exchange telecommunications company and, consistent with~~  
22 ~~the provisions of this chapter, shall supersede any conflicting~~  
23 ~~provisions of this title or other laws of this Commonwealth and~~  
24 ~~shall specifically supersede all provisions of Chapter 13~~  
25 ~~(relating to rates and rate making) other than sections 1301~~  
26 ~~(relating to rates to be just and reasonable), 1302 (relating to~~  
27 ~~tariffs; filing and inspection), 1303 (relating to adherence to~~  
28 ~~tariffs), 1304 (relating to discrimination in rates), 1305~~  
29 ~~(relating to advance payment of rates; interest on deposits),~~  
30 ~~1309 (relating to rates fixed on complaint; investigation of~~

1 ~~costs of production) and 1312 (relating to refunds).~~

2 ~~(i) Protection of employees.~~

3 ~~(1) No telecommunications carrier may discharge,~~  
4 ~~threaten, discriminate or retaliate against an employee~~  
5 ~~because the employee made a good faith report to the~~  
6 ~~commission, the Office of Consumer Advocate or the Office of~~  
7 ~~Attorney General regarding wrongdoing, waste or a potential~~  
8 ~~violation of the commission's orders or regulations or of~~  
9 ~~this title.~~

10 ~~(2) A person who alleges a violation of this section~~  
11 ~~must bring a civil action in a court of competent~~  
12 ~~jurisdiction for appropriate injunctive relief or damages~~  
13 ~~within 180 days after the occurrence of the alleged~~  
14 ~~violation.~~

15 ~~§ 3019.1. Voice Over Internet Protocol regulation exemption.~~

16 ~~Voice Over Internet Protocol service shall not be subject to~~  
17 ~~commission regulation, nor shall any provider of VOIP service be~~  
18 ~~a public utility subject to commission regulation by virtue of~~  
19 ~~providing such service. However, this exemption from commission~~  
20 ~~regulation shall not affect the rights and obligations of any~~  
21 ~~entity related to the payment of switched network access rates~~  
22 ~~or other intercarrier compensation, if any, related to VOIP~~  
23 ~~service.~~

24 ~~§ 3019.2. Voice Over Internet Protocol tax exemption.~~

25 ~~The provision of Voice Over Internet Protocol services by any~~  
26 ~~person or corporation and the provision of telecommunications~~  
27 ~~services used to provide VOIP services shall be exempt from the~~  
28 ~~following taxes and fees commencing on the effective date of~~  
29 ~~this section.~~

30 ~~(1) Notwithstanding the act of December 31, 1965~~

1 ~~(P.L.1257, No.511), known as The Local Tax Enabling Act, no~~  
2 ~~political subdivision shall impose or collect any tax, charge~~  
3 ~~or other fee upon the provision of VOIP services.~~

4 ~~(2) Notwithstanding Article XXXI B of the act of July~~  
5 ~~28, 1953 (P.L.723, No.230), known as the Second Class County~~  
6 ~~Code, and the act of June 5, 1991 (P.L.9, No.6), known as the~~  
7 ~~Pennsylvania Intergovernmental Cooperation Authority Act for~~  
8 ~~Cities of the First Class, no local sales and use tax shall~~  
9 ~~be imposed on any VOIP services.~~

10 ~~§ 3020. Expiration of chapter.~~

11 ~~(a) Expiration. Except as provided in subsection (b), this~~  
12 ~~chapter shall expire on December 31, 2015.~~

13 ~~(b) Exception. A local exchange telecommunications~~  
14 ~~company's alternative form of regulation in effect on December~~  
15 ~~31, 2015, and the VOIP exemption from commission regulation~~  
16 ~~under section 3019.1 (relating to Voice Over Internet Protocol~~  
17 ~~regulation exemption) shall not expire on December 31, 2015.~~

18 ~~Section 3. The provisions of this act are severable. If any~~  
19 ~~provision of this act or its application to any person or~~  
20 ~~circumstance is held invalid, the invalidity shall not affect~~  
21 ~~other provisions or applications of this act which can be given~~  
22 ~~effect without the invalid provision or application.~~

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

26 ~~Section 5. This act shall take effect January 1, 2004, or~~  
27 ~~immediately, whichever occurs later.~~

28 SECTION 1. SECTIONS 1325, 3001, 3002, 3003, 3004, 3005, <—  
29 3006, 3007, 3008 AND 3009 OF TITLE 66 OF THE PENNSYLVANIA  
30 CONSOLIDATED STATUTES ARE REPEALED.

1 SECTION 2. TITLE 66 IS AMENDED BY ADDING SECTIONS TO READ:

2 § 3010. (RESERVED).

3 § 3011. DECLARATION OF POLICY.

4 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS THE POLICY  
5 OF THIS COMMONWEALTH TO:

6 (1) STRIKE A BALANCE BETWEEN MANDATED DEPLOYMENT AND  
7 MARKET-DRIVEN DEPLOYMENT OF BROADBAND FACILITIES AND ADVANCED  
8 SERVICES THROUGHOUT THIS COMMONWEALTH AND TO CONTINUE  
9 ALTERNATIVE REGULATION OF LOCAL EXCHANGE TELECOMMUNICATIONS  
10 COMPANIES.

11 (2) MAINTAIN UNIVERSAL TELECOMMUNICATIONS SERVICE AT  
12 AFFORDABLE RATES WHILE ENCOURAGING THE ACCELERATED PROVISION  
13 OF ADVANCED SERVICES AND DEPLOYMENT OF A UNIVERSALLY  
14 AVAILABLE, STATE-OF-THE-ART, INTERACTIVE BROADBAND  
15 TELECOMMUNICATIONS NETWORK IN RURAL, SUBURBAN AND URBAN  
16 AREAS, INCLUDING DEPLOYMENT OF BROADBAND FACILITIES IN OR  
17 ADJACENT TO PUBLIC RIGHTS-OF-WAY ABUTTING PUBLIC SCHOOLS,  
18 INCLUDING THE ADMINISTRATIVE OFFICES SUPPORTING PUBLIC  
19 SCHOOLS, INDUSTRIAL PARKS AND HEALTH CARE FACILITIES.

20 (3) ENSURE THAT CUSTOMERS PAY ONLY REASONABLE CHARGES  
21 FOR PROTECTED SERVICES, WHICH SHALL BE AVAILABLE ON A  
22 NONDISCRIMINATORY BASIS.

23 (4) ENSURE THAT RATES FOR PROTECTED SERVICES DO NOT  
24 SUBSIDIZE THE COMPETITIVE VENTURES OF TELECOMMUNICATIONS  
25 CARRIERS.

26 (5) PROVIDE DIVERSITY IN THE SUPPLY OF EXISTING AND  
27 FUTURE TELECOMMUNICATIONS SERVICES AND PRODUCTS IN  
28 TELECOMMUNICATIONS MARKETS THROUGHOUT THIS COMMONWEALTH BY  
29 ENSURING THAT RATES, TERMS AND CONDITIONS FOR PROTECTED  
30 SERVICES ARE REASONABLE AND DO NOT IMPEDE THE DEVELOPMENT OF

1 COMPETITION.

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

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

9 (8) PROMOTE AND ENCOURAGE THE PROVISION OF COMPETITIVE  
10 SERVICES BY A VARIETY OF SERVICE PROVIDERS ON EQUAL TERMS  
11 THROUGHOUT ALL GEOGRAPHIC AREAS OF THIS COMMONWEALTH WITHOUT  
12 JEOPARDIZING THE PROVISION OF UNIVERSAL TELECOMMUNICATIONS  
13 SERVICE AT AFFORDABLE RATES.

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

16 (10) ENCOURAGE JOINT VENTURES BETWEEN LOCAL EXCHANGE  
17 TELECOMMUNICATIONS COMPANIES AND OTHER ENTITIES WHERE SUCH  
18 JOINT VENTURES ACCELERATE, IMPROVE OR OTHERWISE ASSIST A  
19 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY IN IMPLEMENTING ITS  
20 NETWORK MODERNIZATION PLAN.

21 (11) ESTABLISH A BONA FIDE RETAIL REQUEST PROGRAM TO  
22 AGGREGATE AND MAKE ADVANCED SERVICES AVAILABLE IN AREAS WHERE  
23 SUFFICIENT MARKET DEMAND EXISTS AND TO SUPPLEMENT EXISTING  
24 NETWORK MODERNIZATION PLANS.

25 (12) PROMOTE AND ENCOURAGE THE PROVISION OF ADVANCED  
26 SERVICES AND BROADBAND DEPLOYMENT IN THE SERVICE TERRITORIES  
27 OF LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES WITHOUT  
28 JEOPARDIZING THE PROVISION OF UNIVERSAL SERVICE.

29 (13) RECOGNIZE THAT THE REGULATORY OBLIGATIONS IMPOSED  
30 UPON THE INCUMBENT LOCAL EXCHANGE TELECOMMUNICATIONS

1 COMPANIES SHOULD BE REDUCED TO LEVELS MORE CONSISTENT WITH  
2 THOSE IMPOSED UPON COMPETING ALTERNATIVE SERVICE PROVIDERS.  
3 § 3012. DEFINITIONS.

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

7 "ADVANCED SERVICE." A RETAIL TELECOMMUNICATIONS SERVICE  
8 THAT, REGARDLESS OF TRANSMISSION MEDIUM OR TECHNOLOGY, IS  
9 CAPABLE OF SUPPORTING A MINIMUM SPEED OF 200 KILOBITS PER SECOND  
10 (KBPS) IN AT LEAST ONE DIRECTION AT THE NETWORK DEMARCATION  
11 POINT OF THE CUSTOMER'S PREMISES.

12 "AGGREGATOR TELEPHONE." A TELEPHONE WHICH IS MADE AVAILABLE  
13 TO THE TRANSIENT PUBLIC, CUSTOMERS OR PATRONS, INCLUDING, BUT  
14 NOT LIMITED TO, COIN TELEPHONES, CREDIT CARD TELEPHONES AND  
15 TELEPHONES LOCATED IN HOTELS, MOTELS, HOSPITALS AND  
16 UNIVERSITIES.

17 "ALTERNATIVE FORM OF REGULATION." A FORM OF REGULATION OF  
18 TELECOMMUNICATIONS SERVICES OTHER THAN THE TRADITIONAL RATE BASE  
19 OR RATE OF RETURN REGULATION, INCLUDING A STREAMLINED FORM OF  
20 REGULATION, AS APPROVED BY THE COMMISSION.

21 "ALTERNATIVE SERVICE PROVIDER." AN ENTITY THAT PROVIDES  
22 TELECOMMUNICATIONS SERVICES IN COMPETITION WITH A LOCAL EXCHANGE  
23 TELECOMMUNICATIONS COMPANY.

24 "BONA FIDE RETAIL REQUEST." A WRITTEN REQUEST FOR SERVICE  
25 WHICH MEETS THE REQUIREMENTS OF SECTION ~~3014(C)(1)~~ 3014(C) ←  
26 (RELATING TO NETWORK MODERNIZATION PLANS), IS RECEIVED BY A  
27 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY, AND THROUGH WHICH END  
28 USERS COMMIT TO SUBSCRIBE TO AN ADVANCED SERVICE.

29 "BONA FIDE RETAIL REQUEST PROGRAM." A PROGRAM ESTABLISHED BY  
30 A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY PURSUANT TO SECTION

1 3014(C) (RELATING TO NETWORK MODERNIZATION PLANS).

2 "BROADBAND." A COMMUNICATION CHANNEL USING ANY TECHNOLOGY  
3 AND HAVING A BANDWIDTH EQUAL TO OR GREATER THAN 1.544 MEGABITS  
4 PER SECOND (MBPS) IN THE DOWNSTREAM DIRECTION AND EQUAL TO OR  
5 GREATER THAN 128 KILOBITS PER SECOND (KBPS) IN THE UPSTREAM  
6 DIRECTION.

7 "BROADBAND AVAILABILITY." ACCESS TO BROADBAND SERVICE BY A  
8 RETAIL TELEPHONE CUSTOMER OF A LOCAL EXCHANGE TELECOMMUNICATIONS  
9 COMPANY.

10 "BROADBAND OUTREACH AND AGGREGATION PROGRAM." A PROGRAM  
11 ESTABLISHED BY THE DEPARTMENT OF COMMUNITY AND ECONOMIC  
12 DEVELOPMENT PURSUANT TO SECTION 3014(I) (RELATING TO NETWORK  
13 MODERNIZATION PLANS).

14 "BUSINESS ATTRACTION OR RETENTION PROGRAM." A PROGRAM  
15 ESTABLISHED BY A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY  
16 PURSUANT TO SECTION 3014(D) (RELATING TO NETWORK MODERNIZATION  
17 PLANS).

18 "CENTRAL OFFICE." A LOCAL EXCHANGE TELECOMMUNICATIONS  
19 COMPANY SWITCH USED TO PROVIDE LOCAL EXCHANGE TELECOMMUNICATIONS  
20 SERVICE.

21 "COMMUNITY." THOSE CUSTOMERS OF A LOCAL EXCHANGE  
22 TELECOMMUNICATIONS COMPANY SERVED BY AN EXISTING OR PLANNED  
23 REMOTE TERMINAL OR, WHERE NO REMOTE TERMINAL EXISTS OR IS  
24 PLANNED, A CENTRAL OFFICE SWITCH.

25 "COMPETITIVE SERVICE." A SERVICE OR BUSINESS ACTIVITY  
26 DETERMINED TO BE COMPETITIVE BY THE COMMISSION ON OR PRIOR TO  
27 DECEMBER 31, 2003, AND A SERVICE OR BUSINESS ACTIVITY DETERMINED  
28 OR DECLARED TO BE COMPETITIVE PURSUANT TO SECTION 3016 (RELATING  
29 TO COMPETITIVE SERVICES).

30 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC



1 DEVELOPMENT OF THE COMMONWEALTH.

2 "EDUCATION TECHNOLOGY FUND" OR "E-FUND." THE FUND  
3 ESTABLISHED UNDER SECTION 3015(D) (RELATING TO ALTERNATIVE FORMS  
4 OF REGULATION).

5 "EDUCATION TECHNOLOGY PROGRAM." THE PROGRAM ESTABLISHED BY  
6 THE DEPARTMENT OF EDUCATION PURSUANT TO SECTION 3014(J)  
7 (RELATING TO NETWORK MODERNIZATION PLANS).

8 "ELIGIBLE TELECOMMUNICATIONS CARRIER." A CARRIER DESIGNATED  
9 BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION PURSUANT TO 47 CFR  
10 54.201 (RELATING TO DEFINITION OF ELIGIBLE TELECOMMUNICATIONS  
11 CARRIERS, GENERALLY) OR SUCCESSOR REGULATION, AS ELIGIBLE TO  
12 RECEIVE SUPPORT FROM THE FEDERAL UNIVERSAL SERVICE FUND.

13 "ELIGIBLE TELECOMMUNICATIONS CUSTOMER." A CUSTOMER OF AN  
14 ELIGIBLE TELECOMMUNICATIONS CARRIER WHO QUALIFIES FOR LIFELINE  
15 SERVICE DISCOUNTS PURSUANT TO THE REQUIREMENTS OF 47 CFR 54.409  
16 (RELATING TO CONSUMER QUALIFICATION FOR LIFELINE) OR SUCCESSOR  
17 REGULATION.

18 "FUND." THE BROADBAND OUTREACH AND AGGREGATION FUND  
19 ESTABLISHED UNDER SECTION 3015(C) (RELATING TO ALTERNATIVE FORMS  
20 OF REGULATION).

21 "GROSS DOMESTIC PRODUCT PRICE INDEX" OR "GDP-PI." THE GROSS  
22 DOMESTIC PRODUCT FIXED WEIGHT PRICE INDEX AS CALCULATED BY THE  
23 UNITED STATES DEPARTMENT OF COMMERCE OR A SUCCESSOR PRICE INDEX.

24 "HEALTH CARE FACILITY." THE TERM SHALL HAVE THE SAME MEANING  
25 GIVEN TO IT IN THE ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN  
26 AS THE HEALTH CARE FACILITIES ACT.

27 "INDUSTRIAL DEVELOPMENT AGENCY." AN INDUSTRIAL DEVELOPMENT  
28 AGENCY UNDER THE ACT OF MAY 17, 1956 (1955 P.L.1609, NO.537),  
29 KNOWN AS THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY ACT,  
30 THAT HAS BEEN CERTIFIED BY THE PENNSYLVANIA INDUSTRIAL

1 DEVELOPMENT AUTHORITY UNDER SECTION 5.2 OF THAT ACT.

2 "INFLATION OFFSET." THE PART OF THE PRICE CHANGE FORMULA IN  
3 THE PRICE STABILITY MECHANISM THAT REFLECTS AN OFFSET TO THE  
4 GROSS DOMESTIC PRODUCT PRICE INDEX OR SUCCESSOR PRICE INDEX.

5 "INTEREXCHANGE SERVICES." THE TRANSMISSION OF INTERLATA OR  
6 INTRALATA TOLL MESSAGES OR DATA OUTSIDE THE LOCAL CALLING AREA.

7 "INTEREXCHANGE TELECOMMUNICATIONS CARRIER." A CARRIER OTHER  
8 THAN A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY AUTHORIZED BY  
9 THE COMMISSION TO PROVIDE INTEREXCHANGE SERVICES.

10 "LIFELINE SERVICE." A DISCOUNTED RATE LOCAL SERVICE  
11 OFFERING, AS DEFINED IN 47 CFR 54.401 (RELATING TO LIFELINE  
12 DEFINED) OR SUCCESSOR REGULATION, BUT EXCLUDING ANY OFFERING  
13 FUNDED IN PART BY FEDERAL UNIVERSAL SERVICE FUND TIER THREE  
14 FUNDING UNDER 47 CFR 54.403 (RELATING TO LIFELINE SUPPORT  
15 AMOUNT) OR SUCCESSOR REGULATION.

16 "LOCAL DEVELOPMENT DISTRICT." A MULTICOUNTY ECONOMIC AND ←  
17 COMMUNITY DEVELOPMENT ORGANIZATION ESTABLISHED UNDER THIS TITLE  
18 TO PROVIDE REGIONAL PLANNING AND DEVELOPMENT SERVICES TO IMPROVE  
19 THE ECONOMY AND QUALITY OF LIFE IN A PARTICULAR REGION THROUGH A  
20 VARIETY OF ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, THE  
21 FOSTERING OF PUBLIC AND PRIVATE PARTNERSHIPS AND PROVIDING  
22 ASSISTANCE TO BUSINESSES.

23 "LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY." AN INCUMBENT  
24 CARRIER AUTHORIZED BY THE COMMISSION TO PROVIDE LOCAL EXCHANGE  
25 TELECOMMUNICATIONS SERVICES. THE TERM INCLUDES A RURAL  
26 TELECOMMUNICATIONS CARRIER AND A NONRURAL TELECOMMUNICATIONS  
27 CARRIER.

28 "LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE." THE  
29 TRANSMISSION OF MESSAGES OR COMMUNICATIONS THAT ORIGINATE AND  
30 TERMINATE WITHIN A PRESCRIBED LOCAL CALLING AREA.

1       "NETWORK MODERNIZATION PLAN." A PLAN FOR THE DEPLOYMENT OF  
2       BROADBAND SERVICE BY A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY  
3       UNDER THIS CHAPTER OR ANY PRIOR LAW OF THIS COMMONWEALTH.

4       "NONCOMPETITIVE SERVICE." A REGULATED TELECOMMUNICATIONS  
5       SERVICE OR BUSINESS ACTIVITY THAT HAS NOT BEEN DETERMINED OR  
6       DECLARED TO BE COMPETITIVE.

7       "NONPROTECTED SERVICE." ANY TELECOMMUNICATIONS SERVICE  
8       PROVIDED BY A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY THAT IS  
9       NOT A PROTECTED SERVICE.

10       "NONRURAL TELECOMMUNICATIONS CARRIER." A LOCAL EXCHANGE  
11       TELECOMMUNICATIONS COMPANY THAT IS NOT A RURAL TELEPHONE COMPANY  
12       AS DEFINED IN SECTION 3 OF THE TELECOMMUNICATIONS ACT OF 1996  
13       (PUBLIC LAW 104-104, 110 STAT. 56).

14       "OPTIONAL CALLING PLAN." A DISCOUNTED TOLL PLAN OFFERED BY  
15       EITHER A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OR AN  
16       INTEREXCHANGE TELECOMMUNICATIONS CARRIER.

17       "POLITICAL SUBDIVISION." ANY COUNTY, CITY, BOROUGH,  
18       INCORPORATED TOWN, TOWNSHIP, MUNICIPALITY, MUNICIPAL AUTHORITY  
19       OR COUNTY INSTITUTION DISTRICT.

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 HAS DETERMINED THE SERVICE TO BE  
27       COMPETITIVE:

28               (1) SERVICE PROVIDED TO RESIDENTIAL CONSUMERS OR  
29       BUSINESS CONSUMERS THAT IS NECESSARY TO ORIGINATE COMPLETE A <—  
30       LOCAL EXCHANGE CALL.

- 1           (2) TOUCH-TONE SERVICE.
- 2           (3) SWITCHED ACCESS SERVICE.
- 3           (4) SPECIAL ACCESS SERVICE.
- 4           (5) ORDERING, INSTALLATION, RESTORATION AND
- 5           DISCONNECTION OF THESE SERVICES.

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.

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          "SCHOOL ENTITY." AN INTERMEDIATE UNIT, SCHOOL DISTRICT,  
15          JOINT SCHOOL DISTRICT, AREA VOCATIONAL-TECHNICAL SCHOOL,  
16          INDEPENDENT SCHOOL, LICENSED PRIVATE ACADEMIC SCHOOL, ACCREDITED  
17          SCHOOL AND ANY OTHER PUBLIC OR NONPUBLIC SCHOOL SERVING STUDENTS  
18          IN ANY GRADE FROM KINDERGARTEN THROUGH 12TH GRADE.

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

25          "SWITCHED ACCESS SERVICE." A SERVICE WHICH PROVIDES FOR THE  
26          USE OF COMMON TERMINATING, SWITCHING AND TRUNKING FACILITIES OF  
27          A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S PUBLIC SWITCHED  
28          NETWORK. THE TERM INCLUDES, BUT IS NOT LIMITED TO, THE RATES FOR  
29          LOCAL SWITCHING, COMMON AND DEDICATED TRANSPORT AND THE CARRIER  
30          CHARGE.

1 "TELECOMMUNICATIONS ACT OF 1996." THE TELECOMMUNICATIONS ACT  
2 OF 1996 (PUBLIC LAW 104-104, 110 STAT. 56).

3 "TELECOMMUNICATIONS CARRIER." AN ENTITY THAT PROVIDES  
4 TELECOMMUNICATIONS SERVICES SUBJECT TO THE JURISDICTION OF THE  
5 COMMISSION.

6 "TELECOMMUNICATIONS SERVICE." THE OFFERING OF THE  
7 TRANSMISSION OF MESSAGES OR COMMUNICATIONS FOR A FEE TO THE  
8 PUBLIC.

9 "UNIVERSAL BROADBAND AVAILABILITY." ACCESS TO BROADBAND  
10 SERVICE BY EACH TELEPHONE CUSTOMER OF A LOCAL EXCHANGE  
11 TELECOMMUNICATIONS COMPANY.

12 ~~"VOICE OVER INTERNET PROTOCOL APPLICATION." THE USE OF~~ ←  
13 ~~SOFTWARE, HARDWARE OR NETWORK EQUIPMENT FOR REAL TIME TWO WAY OR~~  
14 ~~MULTIDIRECTIONAL VOICE COMMUNICATIONS OVER THE PUBLIC INTERNET~~  
15 ~~OR A PRIVATE NETWORK UTILIZING INTERNET PROTOCOL, OR ANY~~  
16 ~~SUCCESSOR PROTOCOL, IN WHOLE OR IN PART, TO CONNECT USERS~~  
17 ~~NOTWITHSTANDING THE FOLLOWING:~~

18 ~~(1) THE UNDERLYING TRANSMISSION TECHNOLOGY USED TO~~  
19 ~~TRANSMIT THE COMMUNICATIONS.~~

20 ~~(2) WHETHER THE PACKETIZING AND DEPACKETIZING OF THE~~  
21 ~~COMMUNICATIONS OCCURS AT THE CUSTOMER PREMISES OR NETWORK~~  
22 ~~LEVEL.~~

23 ~~(3) THE SOFTWARE, HARDWARE OR NETWORK EQUIPMENT USED TO~~  
24 ~~CONNECT USERS.~~

25 ~~THE TERM DOES NOT INCLUDE AN APPLICATION THAT IS USED FOR VOICE~~  
26 ~~COMMUNICATIONS THAT BOTH ORIGINATE AND TERMINATE ON THE PUBLIC~~  
27 ~~SWITCHED TELEPHONE NETWORK.~~

28 § 3013. CONTINUATION OF COMMISSION-APPROVED ALTERNATIVE  
29 REGULATION AND NETWORK MODERNIZATION PLANS.

30 (A) GENERAL RULE.--AN ALTERNATIVE FORM OF REGULATION PLAN

1 AND NETWORK MODERNIZATION PLAN APPROVED BY THE COMMISSION FOR A  
2 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY AS OF DECEMBER 31,  
3 2003, SHALL REMAIN VALID AND EFFECTIVE, EXCEPT AS MAY BE AMENDED  
4 AT THE ELECTION OF THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY  
5 AS AUTHORIZED BY THIS CHAPTER. THE COMMISSION SHALL ALLOW A  
6 PREVIOUSLY APPROVED PLAN TO BE AMENDED TO CONFORM TO ANY CHANGES  
7 MADE UNDER THIS CHAPTER, AND SHALL NOT REQUIRE ANY OTHER CHANGES  
8 TO THE PLAN.

9 (B) LIMITATION ON CHANGES TO PLANS.--EXCEPT FOR CHANGES TO  
10 EXISTING ALTERNATIVE FORM OF REGULATION AND NETWORK  
11 MODERNIZATION PLANS AS AUTHORIZED BY THIS CHAPTER, NO CHANGE TO  
12 ANY ALTERNATIVE FORM OF REGULATION OR NETWORK MODERNIZATION PLAN  
13 MAY BE MADE WITHOUT THE EXPRESS AGREEMENT OF BOTH THE COMMISSION  
14 AND THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY.

15 (C) GRANDFATHER PROVISION.--ALL SERVICES PREVIOUSLY  
16 DETERMINED TO BE COMPETITIVE AS OF DECEMBER 31, 2003, SHALL  
17 REMAIN COMPETITIVE SERVICES UNLESS RECLASSIFIED BY THE  
18 COMMISSION UNDER SECTION 3016(C) (RELATING TO COMPETITIVE  
19 SERVICES.)

20 (D) COMMISSION OVERSIGHT.--THE COMMISSION WILL CONTINUE TO  
21 EXERCISE OVERSIGHT OF ALTERNATIVE FORM OF REGULATION AND NETWORK  
22 MODERNIZATION PLANS FOR LOCAL EXCHANGE TELECOMMUNICATIONS  
23 COMPANIES AS PROVIDED IN THIS CHAPTER.

24 § 3014. NETWORK MODERNIZATION PLANS.

25 (A) CONTINUATION OF APPROVED PLAN.--A LOCAL EXCHANGE  
26 TELECOMMUNICATIONS COMPANY THAT DOES NOT ELECT AN OPTION UNDER  
27 SUBSECTION (B) SHALL REMAIN SUBJECT TO ITS NETWORK MODERNIZATION  
28 PLAN IN EFFECT AS OF DECEMBER 31, 2003, WITHOUT REVISION OR  
29 MODIFICATION EXCEPT BY AGREEMENT UNDER SECTION 3013(B) (RELATING  
30 TO CONTINUATION OF COMMISSION-APPROVED ALTERNATIVE REGULATION

1 AND NETWORK MODERNIZATION PLANS) AND AS PROVIDED IN THIS  
2 SECTION, THROUGH DECEMBER 31, 2015.

3 (B) OPTIONS FOR AMENDMENT OF NETWORK MODERNIZATION PLAN.--  
4 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES SHALL HAVE THE  
5 FOLLOWING OPTIONS:

6 (1) (I) A RURAL TELECOMMUNICATIONS CARRIER THAT ELECTS  
7 TO AMEND ITS NETWORK MODERNIZATION PLAN PURSUANT TO THIS  
8 SUBSECTION SHALL REMAIN SUBJECT TO THE CARRIER'S NETWORK  
9 MODERNIZATION PLAN IN EFFECT AS OF DECEMBER 31, 2003, AS  
10 AMENDED PURSUANT TO THIS SUBSECTION, THROUGH DECEMBER 31,  
11 2008. PRIOR TO IMPLEMENTATION OF SUCH ELECTION, THE RURAL  
12 TELECOMMUNICATIONS CARRIER SHALL COMPLY WITH THE  
13 NOTIFICATION REQUIREMENTS OF SUBSECTION (E).

14 (II) THE RURAL TELECOMMUNICATIONS CARRIER SHALL  
15 COMMIT TO ACCELERATE 100% BROADBAND AVAILABILITY BY  
16 DECEMBER 31, 2008, IN ITS AMENDED NETWORK MODERNIZATION  
17 PLAN. ANY RURAL TELECOMMUNICATIONS CARRIER ELECTING THIS  
18 OPTION SHALL NOT BE REQUIRED TO OFFER A BONA FIDE RETAIL  
19 REQUEST PROGRAM OR A BUSINESS ATTRACTION OR RETENTION  
20 PROGRAM.

21 (2) (I) A RURAL TELECOMMUNICATIONS CARRIER THAT ELECTS  
22 TO AMEND ITS NETWORK MODERNIZATION PLAN PURSUANT TO THIS  
23 SUBSECTION SHALL REMAIN SUBJECT TO THE CARRIER'S NETWORK  
24 MODERNIZATION PLAN IN EFFECT AS OF DECEMBER 31, 2003, AS  
25 AMENDED PURSUANT TO THIS SUBSECTION, THROUGH DECEMBER 31,  
26 2013 OR DECEMBER 31, 2015, AS APPLICABLE. PRIOR TO  
27 IMPLEMENTATION OF SUCH ELECTION, THE RURAL  
28 TELECOMMUNICATIONS CARRIER SHALL COMPLY WITH THE  
29 NOTIFICATION REQUIREMENTS OF SUBSECTION (E).

30 (II) THE RURAL TELECOMMUNICATIONS CARRIER SHALL

1           COMMIT:

2                   (A) TO ACCELERATE BROADBAND AVAILABILITY TO AT  
3                   LEAST 80% OF ITS TOTAL RETAIL ACCESS LINES IN ITS  
4                   DISTRIBUTION NETWORK BY DECEMBER 31, 2010, AND 100%  
5                   OF ITS TOTAL RETAIL ACCESS LINES IN ITS DISTRIBUTION  
6                   NETWORK BY DECEMBER 31, 2013; OR

7                   (B) TO ACCELERATE BROADBAND AVAILABILITY TO AT  
8                   LEAST 80% OF ITS TOTAL RETAIL ACCESS LINES IN ITS  
9                   DISTRIBUTION NETWORK BY DECEMBER 31, 2010, AND 100%  
10                   OF ITS TOTAL RETAIL ACCESS LINES IN ITS DISTRIBUTION  
11                   NETWORK BY DECEMBER 31, 2015; AND

12                   (C) TO OFFER A BONA FIDE RETAIL REQUEST PROGRAM  
13                   AND A BUSINESS ATTRACTION OR RETENTION PROGRAM  
14                   PURSUANT TO SUBSECTIONS (C) AND (D). UNDER NO  
15                   CIRCUMSTANCES MAY THE RURAL TELECOMMUNICATIONS  
16                   CARRIER REDUCE ITS EXISTING BROADBAND AVAILABILITY  
17                   COMMITMENT.

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

28                   (II) THE NONRURAL ~~LOCAL EXCHANGE~~ TELECOMMUNICATIONS       <—  
29           CARRIER SHALL COMMIT:

30                   (A) TO PROVIDE BROADBAND AVAILABILITY TO 100% OF



1           ITS TOTAL RETAIL ACCESS LINES IN ITS DISTRIBUTION  
2           NETWORK BY DECEMBER 31, 2013 OR DECEMBER 31, 2015;  
3           AND

4           (B) TO OFFER A BONA FIDE RETAIL REQUEST PROGRAM  
5           AND A BUSINESS ATTRACTION OR RETENTION PROGRAM  
6           PURSUANT TO SUBSECTIONS (C) AND (D). UNDER NO  
7           CIRCUMSTANCES MAY SUCH NONRURAL LOCAL EXCHANGE           ←  
8           TELECOMMUNICATIONS CARRIER REDUCE ITS EXISTING  
9           BROADBAND AVAILABILITY COMMITMENT.

10          (4) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY THAT  
11          ELECTS UNDER PARAGRAPH (1), (2) OR (3) SHALL ALSO COMMIT TO  
12          UNIVERSAL BROADBAND DEPLOYMENT IN OR ADJACENT TO PUBLIC  
13          RIGHTS-OF-WAY ABUTTING ALL PUBLIC SCHOOLS, INCLUDING THE  
14          ADMINISTRATION OFFICES SUPPORTING PUBLIC SCHOOLS, INDUSTRIAL  
15          PARKS AND HEALTH CARE FACILITIES IN ITS SERVICE TERRITORY ON  
16          OR BEFORE DECEMBER 31, 2005, EXCEPT THAT A LOCAL EXCHANGE  
17          TELECOMMUNICATIONS COMPANY SERVING MORE THAN TEN EXCHANGES IN  
18          THIS COMMONWEALTH MAY ELECT TO EXTEND THIS COMMITMENT FROM  
19          DECEMBER 31, 2005, TO DECEMBER 31, 2006, FOR ANY EXCHANGE  
20          WITH LESS THAN 4,000 ACCESS LINES.

21          (5) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY THAT  
22          ELECTS UNDER PARAGRAPH (1), (2) OR (3) MAY AMEND ITS NETWORK  
23          MODERNIZATION PLAN TO EXTEND THE PERIOD OF TIME WITHIN WHICH  
24          BROADBAND SERVICE MUST BE MADE AVAILABLE TO A CUSTOMER TO UP  
25          TO TEN BUSINESS DAYS AFTER THE CUSTOMER'S REQUEST FOR  
26          BROADBAND SERVICE.

27          (6) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY  
28          OPERATING UNDER AN AMENDED NETWORK MODERNIZATION PLAN MAY  
29          SUBSEQUENTLY PETITION THE COMMISSION FOR APPROVAL OF FURTHER  
30          MODIFICATION OF ITS AMENDED NETWORK MODERNIZATION PLAN, WHICH

1 THE COMMISSION MAY GRANT UPON GOOD CAUSE SHOWN.

2 (7) A RURAL TELECOMMUNICATIONS CARRIER SERVING LESS THAN <—  
3 50,000 ACCESS LINES IN THIS COMMONWEALTH MAKING AN ELECTION  
4 PURSUANT TO PARAGRAPH (1) AND FILING ITS AMENDED NETWORK  
5 MODERNIZATION PLAN WITH THE COMMISSION PURSUANT TO SUBSECTION  
6 ~~(D)~~ (E) SHALL BE GRANTED BY THE COMMISSION A SUSPENSION OF <—  
7 SECTION 251(C)(2), (3), (4), (5) AND (6) OBLIGATIONS UNDER  
8 THE TELECOMMUNICATIONS ACT OF 1996. THIS SUSPENSION OF  
9 OBLIGATIONS SHALL EXPIRE DECEMBER 31, 2008, UNLESS EXTENDED  
10 BY THE COMMISSION. SHOULD THE COMMISSION, FOLLOWING A  
11 HEARING, DETERMINE THAT THE RURAL TELECOMMUNICATIONS CARRIER  
12 HAS FAILED TO TIMELY MEET ITS COMMITMENTS PURSUANT TO THIS  
13 PARAGRAPH, THE SUSPENSION OF OBLIGATIONS SHALL EXPIRE UPON  
14 ENTRY OF THE COMMISSION ORDER MAKING SUCH DETERMINATION.  
15 EXPIRATION OF THE SUSPENSION OF OBLIGATIONS SHALL NOT IMPACT  
16 THE RURAL TELEPHONE COMPANY EXEMPTION OF THE RURAL  
17 TELECOMMUNICATIONS CARRIER UNDER SECTION 251(F)(1) OF THE  
18 TELECOMMUNICATIONS ACT OF 1996.

19 ~~(7)~~ (8) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY MAY <—  
20 ACCELERATE ITS BROADBAND AVAILABILITY COMMITMENT BY ELECTING  
21 AN ADDITIONAL OPTION PURSUANT TO PARAGRAPH (1), (2) OR (3),  
22 AS APPLICABLE, AT A LATER DATE. THE LOCAL EXCHANGE  
23 TELECOMMUNICATIONS COMPANY SHALL BE SUBJECT TO THE APPLICABLE  
24 MODIFIED INFLATION OFFSET IN ITS PRICE STABILITY MECHANISM AS  
25 SET FORTH IN SECTION 3015(A)(1) (RELATING TO ALTERNATIVE  
26 FORMS OF REGULATION), EFFECTIVE UPON THE FILING OF AN AMENDED  
27 NETWORK MODERNIZATION PLAN UNDER SUBSECTION (E).

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)(2) OR (3) SHALL NO

1 LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF ITS AMENDED PLAN  
2 IMPLEMENT A BONA FIDE RETAIL REQUEST PROGRAM IN AREAS WHERE IT  
3 DOES NOT PROVIDE BROADBAND. NOT LATER THAN 30 DAYS IN ADVANCE OF  
4 PROGRAM IMPLEMENTATION, THE LOCAL EXCHANGE TELECOMMUNICATIONS  
5 COMPANY SHALL FILE WITH THE COMMISSION AND PROVIDE THE  
6 DEPARTMENT WITH A WRITTEN DESCRIPTION OF THE PROGRAM, A SAMPLE  
7 REQUEST FOR ADVANCED SERVICES FORM FOR USE IN THE PROGRAM AND  
8 THE FORM OF ANY ADVANCED SERVICES TERM SUBSCRIPTION AGREEMENTS  
9 CUSTOMERS WILL BE REQUIRED TO EXECUTE IN CONNECTION WITH  
10 RECEIVING THE REQUESTED SERVICES. A BONA FIDE RETAIL REQUEST  
11 PROGRAM SHALL CONSIST OF THE FOLLOWING:

12 (1) ANY PERSON, BUSINESS, LOCAL DEVELOPMENT DISTRICT, ←  
13 INDUSTRIAL DEVELOPMENT AGENCY OR OTHER ENTITY SEEKING  
14 ADVANCED SERVICES PURSUANT TO A BONA FIDE RETAIL REQUEST  
15 PROGRAM SHALL SUBMIT A WRITTEN REQUEST FOR SUCH SERVICES TO  
16 THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OR TO THE  
17 DEPARTMENT IN ACCORDANCE WITH SUBSECTION (D). THE WRITTEN  
18 REQUEST MAY BE IN THE FORM OF A PETITION WHICH INCLUDES THE  
19 INFORMATION REQUIRED BY PARAGRAPH (2), OR IN THE FORM  
20 PROVIDED BY THE DEPARTMENT UNDER SUBSECTION (D) WHICH  
21 INCLUDES THE INFORMATION REQUIRED BY PARAGRAPH (2), OR IN THE  
22 FORM OF INDIVIDUAL REQUESTS EACH OF WHICH INCLUDES THE  
23 INFORMATION REQUIRED BY PARAGRAPH (2). IF INDIVIDUAL REQUESTS  
24 ARE RECEIVED, THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY  
25 SHALL AGGREGATE REQUESTS FOR THE SAME SERVICE AND INITIATE  
26 APPROPRIATE ACTION PURSUANT TO THIS SUBSECTION WHEN THE  
27 REQUIRED NUMBER OF REQUESTS HAVE BEEN RECEIVED.

28 (2) TO BE CONSIDERED A BONA FIDE RETAIL REQUEST, THE  
29 WRITTEN REQUEST MUST INCLUDE:

30 (1) A REQUEST THAT A MINIMUM OF 50 RETAIL ACCESS

1 LINES, OR 25% OF RETAIL ACCESS LINES WITHIN A COMMUNITY,  
2 WHICHEVER IS LESS, EACH BE PROVIDED THE SAME ADVANCED  
3 SERVICE OR COMPARABLE ADVANCED SERVICES HAVING A  
4 BANDWIDTH WITHIN 100 KILOBITS PER SECOND (KBPS) OF EACH  
5 OTHER. NOTWITHSTANDING THE FOREGOING COMPARABLE BANDWIDTH  
6 LIMITATION, WHERE A REQUEST INCLUDES INDIVIDUAL CUSTOMER  
7 REQUESTS FOR ADVANCED SERVICES HAVING EQUAL TO OR LESS  
8 THAN 1.544 MEGABITS PER SECOND (MBPS) BANDWIDTH IN THE  
9 DOWNSTREAM DIRECTION, ALL LINES IN THE REQUEST SHALL BE  
10 COUNTED IN MEETING THE MINIMUM LINE REQUIREMENT OF THIS  
11 SUBPARAGRAPH;

12 (II) THE NAME, ADDRESS, TELEPHONE NUMBER AND  
13 SIGNATURE OF EACH EXISTING RETAIL CUSTOMER REQUESTING THE  
14 ADVANCED SERVICE, THE ADVANCED SERVICE BEING REQUESTED  
15 AND THE NUMBER OF ACCESS LINES FOR WHICH THE ADVANCED  
16 SERVICE IS BEING REQUESTED;

17 (III) THE NAME, ADDRESS AND TELEPHONE NUMBER OF A  
18 DESIGNATED CONTACT PERSON, WHERE THE REQUEST IS MADE BY  
19 OR ON BEHALF OF MORE THAN ONE PERSON OR BUSINESS; AND

20 (IV) A COMMITMENT BY EACH CUSTOMER WHO SIGNS THE  
21 REQUEST TO SUBSCRIBE TO THE REQUESTED SERVICE FOR ONE  
22 YEAR, SUBJECT TO THE LOCAL EXCHANGE TELECOMMUNICATIONS  
23 COMPANY'S IDENTIFICATION OF THE PRICE AND TERMS OF THE  
24 SERVICE AND THE CUSTOMER'S AGREEMENT TO THE PRICE AND  
25 TERMS.

26 (3) IN ADMINISTERING THE BONA FIDE RETAIL REQUEST  
27 PROGRAM, THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL:

28 (I) ESTABLISH AN INTERNET WEBSITE AND TOLL-FREE  
29 TELEPHONE NUMBER TO ADDRESS CUSTOMER INQUIRIES REGARDING  
30 THE PROGRAM;

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

2           (III) CONFIRM ITS RECEIPT OF ANY COMPLETED REQUEST  
3 IN WRITING TO THE CUSTOMER AND IDENTIFY THE SERVICE  
4 REQUESTED;

5           (IV) AS PART OF THE WRITTEN CONFIRMATION, IF  
6 AVAILABLE, OR IN A SUBSEQUENT WRITTEN COMMUNICATION TO  
7 THE CUSTOMER, PROVIDE THE CUSTOMER THE APPLICABLE RATE,  
8 THE CONTRACT TERM, THE STATUS OF THE REQUEST AND A TERM  
9 SUBSCRIPTION AGREEMENT FOR EXECUTION; AND

10          (V) NOTIFY THE CUSTOMERS IN A COMMUNITY, WITHIN 30  
11 DAYS OF RECEIPT OF A BONA FIDE REQUEST, OF THE EXPECTED  
12 DATE OF THE AVAILABILITY OF THE REQUESTERS' SERVICE.

13          (4) WHEN A BONA FIDE RETAIL REQUEST HAS BEEN RECEIVED  
14 THAT MEETS THE REQUIREMENTS OF PARAGRAPH (2), THE LOCAL  
15 EXCHANGE TELECOMMUNICATIONS COMPANY SHALL PROVIDE THE  
16 REQUESTED ADVANCED SERVICE, OR OTHER REASONABLY COMPARABLE  
17 SERVICE HAVING A BANDWIDTH WITHIN 100 KILOBITS PER SECOND  
18 (KBPS) OF THE REQUESTED SERVICE, TO THE COMMUNITY AS SOON AS  
19 PRACTICABLE, BUT IN NO EVENT LATER THAN 365 DAYS OF THE DATE  
20 THE REQUIREMENTS OF PARAGRAPH (2) HAVE BEEN MET OR WITHIN THE  
21 PERIOD APPROVED BY THE COMMISSION UNDER PARAGRAPH (5) OR (6)

22 WHERE:

23          (I) THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY  
24 PROVIDES THE REQUESTED ADVANCED SERVICE TO OTHER  
25 CUSTOMERS IN ITS SERVICE TERRITORY;

26          (II) NO SERVICE IS AVAILABLE TO THE REQUESTING  
27 CUSTOMERS FROM AN ALTERNATIVE SERVICE PROVIDER AT OR  
28 WITHIN 100 KILOBITS PER SECOND (KBPS) OF THE DATA SPEED  
29 REQUESTED OR SUCH SERVICE IS AVAILABLE AT A PRICE THAT  
30 EXCEEDS THE THEN CURRENT PRICE OFFERED BY THE LOCAL

1           EXCHANGE TELECOMMUNICATIONS COMPANY BY MORE THAN 50%;

2           (III) THE COMMUNITY IS SITUATED WITHIN THE SERVICE  
3           TERRITORY OF THE LOCAL EXCHANGE TELECOMMUNICATIONS  
4           COMPANY; AND

5           (IV) THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY  
6           DOES NOT HAVE TO PROVIDE FIBER TO THE CUSTOMER'S PREMISES  
7           TO FURNISH THE REQUESTED ADVANCED SERVICE.

8           (5) WHERE, AS A RESULT OF PROPERTY ACQUISITION,  
9           INCLUDING ACQUIRING RIGHTS-OF-WAY, OR NEW CONSTRUCTION A  
10           LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY IS UNABLE TO  
11           PROVIDE THE REQUESTED ADVANCED SERVICE WITHIN THE ONE-YEAR  
12           PERIOD SET FORTH IN PARAGRAPH (4), THE COMPANY MAY PETITION  
13           THE COMMISSION FOR AN EXTENSION OF UP TO SIX MONTHS, WITH  
14           SERVICE UPON THE CUSTOMER OR CUSTOMERS WHO MADE THE BONA FIDE  
15           RETAIL REQUEST AND THE DEPARTMENT IF THE DEPARTMENT SUBMITTED  
16           THE REQUEST ON BEHALF OF THE CUSTOMER OR CUSTOMERS. THE  
17           COMMISSION MAY DELEGATE ITS AUTHORITY TO RULE ON SUCH  
18           PETITIONS TO A BUREAU DIRECTOR OR OTHER APPROPRIATE EMPLOYEE  
19           WHO SHALL GRANT THE PETITION FOR GOOD CAUSE SHOWN.

20           (6) WHERE THE TOTAL NUMBER OF BONA FIDE RETAIL REQUESTS  
21           RECEIVED BY ANY LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OR  
22           AFFILIATED COMPANIES THAT MEET THE REQUIREMENTS OF PARAGRAPHS  
23           (2) AND (4) EXCEED 40 REQUESTS IN ANY 12-MONTH PERIOD, OR  
24           WHERE THERE ARE MORE THAN 20 SUCH REQUESTS THAT REQUIRE  
25           PROPERTY ACQUISITION, INCLUDING ACQUIRING RIGHTS-OF-WAY, OR  
26           NEW CONSTRUCTION IN ANY 12-MONTH PERIOD, THE LOCAL EXCHANGE  
27           TELECOMMUNICATIONS COMPANY OR COMPANIES MAY PROVIDE A  
28           VERIFIED CERTIFICATION TO THE COMMISSION THAT ONE OR BOTH OF  
29           THE PREVIOUSLY STATED CRITERIA ARE MET, WITH SERVICE UPON THE  
30           CUSTOMER OR CUSTOMERS WHO MADE THE ADDITIONAL REQUESTS AND

<—

1 UPON THE DEPARTMENT IF THE DEPARTMENT SUBMITTED ANY SUCH  
2 REQUESTS. UPON RECEIPT OF THE CERTIFICATION, THE COMMISSION,  
3 OR THE COMMISSION THROUGH ITS DESIGNATED STAFF, SHALL PERMIT  
4 THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OR COMPANIES TO  
5 EXTEND THE TIME FOR SUCH DEPLOYMENTS FOR A PERIOD OF NO MORE  
6 THAN 12 MONTHS UNLESS THE COMMISSION DETERMINES AN ADDITIONAL  
7 TIME PERIOD TO BE JUST AND REASONABLE. IF A DEPLOYMENT IS  
8 EXTENDED, IT SHALL BE COUNTED IN DETERMINING THE MAXIMUM  
9 NUMBER OF DEPLOYMENTS PROVIDED FOR UNDER THIS SUBSECTION IN  
10 ANY 12-MONTH PERIOD COVERING THE MONTH TO WHICH IT IS  
11 EXTENDED.

12 (7) NO ADVANCED SERVICE REQUESTED AND DEPLOYED BY A  
13 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY UNDER THE BONA FIDE  
14 RETAIL REQUEST PROGRAM WHICH HAS A BANDWIDTH OF LESS THAN  
15 1.544 MEGABITS PER SECOND (MBPS) IN THE DOWNSTREAM DIRECTION  
16 SHALL BE COUNTED AS A CREDIT TOWARD THE LOCAL EXCHANGE  
17 TELECOMMUNICATIONS COMPANY'S BROADBAND DEPLOYMENT OBLIGATION  
18 UNDER ITS NETWORK MODERNIZATION PLAN AMENDED PURSUANT TO  
19 SUBSECTION (B)(2) OR (3).

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

24 (9) LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES WITH  
25 BONA FIDE RETAIL REQUEST PROGRAMS SHALL PROVIDE SEMIANNUAL  
26 REPORTS TO THE COMMISSION AND THE DEPARTMENT OF THE NUMBER OF  
27 REQUESTS FOR ADVANCED SERVICES RECEIVED DURING THE REPORTING  
28 PERIOD BY EXCHANGE OR DENSITY CELL AND THE ACTION TAKEN ON  
29 REQUESTS MEETING THE REQUIREMENTS OF THIS SUBSECTION.

30 (10) A LOCAL EXCHANGE TELECOMMUNICATION COMPANY'S BONA

1 FIDE RETAIL REQUEST PROGRAM ESTABLISHED UNDER THIS SUBSECTION  
2 SHALL CONTINUE THROUGH DECEMBER 31, 2015, OR SUCH EARLIER  
3 DATE AS THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY <—  
4 ACHIEVES 100% BROADBAND AVAILABILITY THROUGHOUT ITS SERVICE  
5 TERRITORY.

6 (11) IN ADDITION TO ADJUDICATING ANY COMPLAINTS BROUGHT  
7 BY CUSTOMERS UNDER PARAGRAPH (8), THE COMMISSION SHALL  
8 MONITOR AND ENFORCE THE COMPLIANCE OF PARTICIPATING LOCAL  
9 EXCHANGE TELECOMMUNICATIONS COMPANIES WITH THEIR OBLIGATIONS  
10 UNDER THIS SUBSECTION.

11 (D) BUSINESS ATTRACTION OR RETENTION PROGRAM.--

12 (1) NOT LATER THAN 90 DAYS AFTER AMENDING ITS NETWORK  
13 MODERNIZATION PLAN UNDER SUBSECTION (B)(2) OR (3), THE LOCAL  
14 EXCHANGE TELECOMMUNICATIONS COMPANY SHALL ESTABLISH A  
15 BUSINESS ATTRACTION OR RETENTION PROGRAM TO PERMIT THE <—  
16 DEPARTMENT TO AGGREGATE CUSTOMER DEMAND WHERE NECESSARY AND  
17 FACILITATE THE DEPLOYMENT OF ADVANCED OR BROADBAND SERVICES <—  
18 TO QUALIFYING BUSINESSES WHICH THE DEPARTMENT SEEKS TO  
19 ATTRACT TO OR RETAIN IN THIS COMMONWEALTH AND WHICH SUBMIT <—  
20 REQUESTS FOR SUCH SERVICES WHOSE REQUESTS FOR SUCH SERVICES <—  
21 ARE SUBMITTED BY OR THROUGH THE DEPARTMENT.

22 ~~(2) THE DEPARTMENT SHALL WORK WITH INDUSTRIAL~~ <—  
23 ~~DEVELOPMENT AGENCIES AND OTHER ECONOMIC DEVELOPMENT ENTITIES~~  
24 ~~IN THIS COMMONWEALTH TO AGGREGATE BUSINESS CUSTOMER DEMAND~~  
25 ~~WHERE NECESSARY AND SOLICIT THE SUBMISSION OF REQUESTS FOR~~  
26 ~~ADVANCED SERVICES THROUGH THE DEPARTMENT TO PARTICIPATING~~  
27 ~~LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES, GIVING PRIORITY~~  
28 ~~ATTENTION TO BUSINESSES THAT THE DEPARTMENT WISHES TO ATTRACT~~  
29 ~~TO OR RETAIN IN KEYSTONE OPPORTUNITY ZONES, KEYSTONE~~  
30 ~~OPPORTUNITY EXPANSION ZONES, KEYSTONE OPPORTUNITY IMPROVEMENT~~



1 ~~ZONES, ENTERPRISE ZONES AND OTHER AREAS IDENTIFIED BY THE~~  
2 ~~DEPARTMENT AS LACKING ADEQUATE ADVANCED SERVICES ACCESS TO~~  
3 ~~PROMOTE ECONOMIC DEVELOPMENT.~~

4 ~~(3) EACH LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY WHICH~~  
5 ~~AMENDS ITS NETWORK MODERNIZATION PLAN UNDER SUBSECTION (B)(2)~~  
6 ~~OR (3) NOT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF ITS~~  
7 ~~AMENDED PLAN SHALL DESIGNATE A SINGLE POINT OF CONTACT TO~~  
8 ~~RECEIVE ALL WRITTEN ADVANCED SERVICES REQUESTS FORWARDED BY~~  
9 ~~THE DEPARTMENT, PROVIDE ASSOCIATED CONTACT INFORMATION TO THE~~  
10 ~~DEPARTMENT AND PROVIDE THE DEPARTMENT AND THE COMMISSION WITH~~  
11 ~~A WRITTEN DESCRIPTION OF ITS PARTICIPATION IN THE PROGRAM AND~~  
12 ~~A SAMPLE REQUEST FOR ADVANCED SERVICES FORM FOR USE IN THE~~  
13 ~~PROGRAM.~~

14 ~~(4) BUSINESSES, WHICH ALONE OR COLLECTIVELY QUALIFY TO~~  
15 ~~SUBMIT A BONA FIDE RETAIL REQUEST, MAY SUBMIT WRITTEN~~  
16 ~~REQUESTS FOR ADVANCED SERVICES TO THE DEPARTMENT. THE~~  
17 ~~DEPARTMENT SHALL FORWARD EACH REQUEST TO THE LOCAL EXCHANGE~~  
18 ~~TELECOMMUNICATIONS COMPANY'S SINGLE POINT OF CONTACT. THE~~  
19 ~~LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL DETERMINE~~  
20 ~~WHETHER THE REQUEST CAN BETTER BE PROCESSED AS A DEPARTMENT-~~  
21 ~~ORIGINATED BONA FIDE RETAIL REQUEST OR, IF IT DEEMS THE~~  
22 ~~DEMAND LARGE OR VARIED ENOUGH, AS A MAJOR ADVANCED SERVICES~~  
23 ~~ORDER THAT SHOULD BE PROCESSED OUTSIDE OF THE BONA FIDE~~  
24 ~~RETAIL REQUEST PROGRAM. THE SINGLE POINT OF CONTACT SHALL~~  
25 ~~ADVISE THE DEPARTMENT AND THE QUALIFYING BUSINESS OR~~  
26 ~~BUSINESSES OF THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S~~  
27 ~~DECISION.~~

28 ~~(2) EACH LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY WHICH~~ ←  
29 ~~AMENDS ITS NETWORK MODERNIZATION PLAN UNDER SUBSECTION (B)(2)~~  
30 ~~OR (3) NOT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF ITS~~

1 AMENDED PLAN SHALL DESIGNATE A SINGLE POINT OF CONTACT TO  
2 RECEIVE ALL WRITTEN ADVANCED OR BROADBAND SERVICE REQUESTS  
3 FORWARDED BY THE DEPARTMENT, PROVIDE ASSOCIATED CONTACT  
4 INFORMATION TO THE DEPARTMENT AND PROVIDE THE DEPARTMENT AND  
5 THE COMMISSION WITH A WRITTEN DESCRIPTION OF ITS  
6 PARTICIPATION IN THE PROGRAM AND A SAMPLE REQUEST FOR  
7 ADVANCED OR BROADBAND SERVICES FORM FOR USE IN THE PROGRAM.

8 (3) THE DEPARTMENT MAY SUBMIT A REQUEST TO THE  
9 APPLICABLE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY BY OR ON  
10 BEHALF OF QUALIFYING BUSINESSES IN AREAS THAT THE DEPARTMENT  
11 DEEMS PRIORITY AREAS FOR ECONOMIC DEVELOPMENT, INCLUDING AND  
12 GIVING PREFERENCE TO KEYSTONE OPPORTUNITY ZONES, KEYSTONE  
13 OPPORTUNITY EXPANSION ZONES, ENTERPRISE ZONES, KEYSTONE  
14 OPPORTUNITY IMPROVEMENT ZONES AND OTHER AREAS IDENTIFIED BY  
15 THE DEPARTMENT AS LACKING ADEQUATE ACCESS TO ADVANCED OR  
16 BROADBAND SERVICES WHICH WOULD BE IMPORTANT IN ORDER TO  
17 PROMOTE ECONOMIC DEVELOPMENT PROJECTS IN THOSE AREAS.

18 (4) THE DEPARTMENT SHALL ESTABLISH AN ADVISORY COMMITTEE  
19 THAT SHALL CONSIST OF REPRESENTATIVES OF EACH LOCAL EXCHANGE  
20 TELECOMMUNICATIONS COMPANY WITH A BUSINESS ATTRACTION OR  
21 RETENTION PROGRAM, LOCAL DEVELOPMENT DISTRICTS AND OTHER  
22 LOCAL ECONOMIC AND INDUSTRIAL DEVELOPMENT AGENCIES TO ASSIST  
23 THE DEPARTMENT IN DEVELOPING PROTOCOLS AND PROCEDURES FOR  
24 IMPLEMENTING THESE PROGRAMS PURSUANT TO THIS SUBSECTION.

25 (5) QUALIFYING BUSINESS OR BUSINESSES' REQUESTS FOR  
26 ADVANCED SERVICES SUBMITTED BY THE DEPARTMENT THAT ARE  
27 PROVISIONED THROUGH THE BONA FIDE RETAIL REQUEST PROGRAM  
28 SHALL BE PROCESSED IN ACCORDANCE WITH SUBSECTION (C) AND  
29 SHALL BE ALLOCATED 50% OF THE MAXIMUM NUMBER OF ANNUAL  
30 DEPLOYMENTS REFERENCED IN SUBSECTION (C)(6). OTHER REQUESTS

1 SHALL BE ALLOCATED 50% OF THE NUMBER OF SUCH DEPLOYMENTS,  
2 PROVIDED, HOWEVER, THAT ANY ALLOCATED DEPLOYMENTS THAT ARE  
3 UNUSED MAY BE UTILIZED BY THE DEPARTMENT OR NONDEPARTMENT  
4 APPLICANTS, AS APPLICABLE.

5 (6) FOR QUALIFYING BUSINESS OR BUSINESSES WHOSE REQUEST  
6 FOR ADVANCED SERVICES IS DETERMINED BY THE LOCAL EXCHANGE <—  
7 TELECOMMUNICATIONS COMPANY TO BE BETTER PROCESSED OUTSIDE OF  
8 THE BONA FIDE RETAIL REQUEST PROGRAM, THE LOCAL EXCHANGE  
9 TELECOMMUNICATIONS COMPANY SHALL MAKE A PROPOSAL TO THE  
10 REQUESTING BUSINESS OR BUSINESSES TO PROVIDE THE REQUESTED  
11 ADVANCED SERVICE OR SERVICES OR BROADBAND SERVICE, AND <—  
12 SUBSEQUENTLY SHALL PROVISION SUCH SERVICE OR SERVICES WITHIN <—  
13 ONE YEAR AFTER THE BUSINESS OR BUSINESSES SIGN A CONTRACT FOR  
14 THE SERVICE OR SERVICES, SERVICE. THE LOCAL EXCHANGE <—  
15 TELECOMMUNICATIONS COMPANY SHALL ADVISE THE DEPARTMENT AND  
16 THE BUSINESS OR BUSINESSES WITHIN 30 DAYS OF THE DATE THE  
17 CONTRACT IS SIGNED OF THE DATE BY WHICH THE REQUESTED  
18 ADVANCED OR BROADBAND SERVICE WILL BE PROVIDED, WHICH DATE  
19 SHALL BE NOT LATER THAN ONE YEAR AFTER THE DATE THE CONTRACT  
20 IS SIGNED, UNLESS THE BUSINESS OR BUSINESSES AGREE TO A  
21 LONGER PERIOD, OR THE LOCAL EXCHANGE TELECOMMUNICATIONS  
22 COMPANY OBTAINS COMMISSION APPROVAL OF AN EXTENSION UNDER THE  
23 SAME PROCEDURE SET FORTH IN SUBSECTION (C)(5).

24 (7) NO ADVANCED SERVICE REQUESTED OF AND DEPLOYED BY A <—  
25 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY UNDER THE BUSINESS  
26 ATTRACTION OR RETENTION PROGRAM WHICH HAS A BANDWIDTH OF LESS  
27 THAN 1.544 MEGABITS PER SECOND (MBPS) IN THE DOWNSTREAM  
28 DIRECTION SHALL BE COUNTED AS A CREDIT TOWARD THE LOCAL  
29 EXCHANGE TELECOMMUNICATION COMPANY'S BROADBAND DEPLOYMENT  
30 OBLIGATION UNDER ITS NETWORK MODERNIZATION PLAN AMENDED UNDER

1 SUBSECTION (B)(2) OR (3).

2 (8) EACH LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY,  
3 WHICH IS REQUIRED TO PARTICIPATE IN THE DEPARTMENT'S BUSINESS  
4 ATTRACTION OR RETENTION PROGRAM, SHALL CONTINUE ITS  
5 PARTICIPATION THROUGH DECEMBER 31, 2015, OR SUCH EARLIER DATE  
6 AS IT ACHIEVES 100% BROADBAND AVAILABILITY THROUGHOUT ITS  
7 SERVICE TERRITORY.

8 (9) THE DEPARTMENT SHALL OVERSEE LOCAL EXCHANGE  
9 TELECOMMUNICATIONS COMPANY PARTICIPATION IN THE BUSINESS  
10 ATTRACTION OR RETENTION PROGRAM, INCLUDING THE TIMELY  
11 COMPLETION OF QUALIFYING ADVANCED SERVICES REQUESTS SUBMITTED <—  
12 OR BROADBAND SERVICES REQUESTS SUBMITTED BY OR THROUGH THE <—  
13 DEPARTMENT, WHICH ARE PROCESSED WITHIN OR OUTSIDE OF THE  
14 PARTICIPATING LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES'  
15 BONA FIDE RETAIL REQUEST PROGRAMS.

16 (10) THE COMMISSION SHALL MONITOR AND ENFORCE THE  
17 COMPLIANCE OF PARTICIPATING LOCAL EXCHANGE TELECOMMUNICATIONS  
18 COMPANIES WITH THEIR OBLIGATIONS UNDER THE BUSINESS  
19 ATTRACTION OR RETENTION PROGRAM.

20 (E) NOTICE OF FILING OF AMENDMENTS.--A LOCAL EXCHANGE  
21 TELECOMMUNICATIONS COMPANY THAT ELECTS TO AMEND ITS NETWORK  
22 MODERNIZATION PLAN UNDER SUBSECTION (B) SHALL NOTIFY THE  
23 COMMISSION IN WRITING OF SUCH ELECTION AND, WITHIN 60 DAYS  
24 FOLLOWING SUCH NOTIFICATION, FILE ITS AMENDED NETWORK  
25 MODERNIZATION PLAN WITH THE COMMISSION. COPIES OF THE WRITTEN  
26 NOTICE OF ELECTION AND OF THE AMENDED NETWORK MODERNIZATION PLAN  
27 SHALL BE SERVED BY THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY  
28 ON THE OFFICE OF CONSUMER ADVOCATE AND THE OFFICE OF SMALL  
29 BUSINESS ADVOCATE. CONCURRENT WITH THE FILING OF THE AMENDED  
30 PLAN WITH THE COMMISSION, THE LOCAL EXCHANGE TELECOMMUNICATIONS

1 COMPANY SHALL PUBLISH NOTICE OF SUCH FILING IN A NEWSPAPER OR  
2 NEWSPAPERS OF GENERAL CIRCULATION IN ITS SERVICE TERRITORY OR BY  
3 BILL MESSAGE OR INSERT. ~~THE AMENDED NETWORK MODERNIZATION PLAN~~ <—  
4 ~~SHALL BECOME EFFECTIVE UPON FILING WITH THE COMMISSION. AN~~ <—  
5 AMENDED PLAN COMPLIANT WITH THE REQUIREMENTS OF THIS CHAPTER  
6 SHALL BE APPROVED BY THE COMMISSION WITHIN 100 DAYS OF ITS  
7 FILING. IF THE COMMISSION FAILS TO ACT WITHIN 100 DAYS, THE  
8 AMENDED PLAN SHALL BE DEEMED APPROVED.

9 (F) NETWORK MODERNIZATION PLAN REPORT.--

10 (1) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY  
11 OPERATING UNDER A NETWORK MODERNIZATION PLAN SHALL CONTINUE  
12 TO FILE WITH THE COMMISSION, BIENNIAL REPORTS ON ITS  
13 PROVISION OF BROADBAND AVAILABILITY IN THE FORM AND DETAIL  
14 REQUIRED BY THE COMMISSION AS OF JULY 1, 2004, UNLESS SUCH  
15 REPORTING REQUIREMENTS ARE SUBSEQUENTLY REDUCED BY THE  
16 COMMISSION.

17 (2) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO  
18 IMPEDE THE ABILITY OF THE COMMISSION TO REQUIRE THE  
19 SUBMISSION OF FURTHER INFORMATION TO SUPPORT THE ACCURACY OF  
20 OR TO SEEK AN EXPLANATION OF THE REPORTS SPECIFIED IN THIS  
21 SUBSECTION.

22 (3) UNDER NO CIRCUMSTANCES SHALL THE COMMISSION COMPEL  
23 THE PUBLIC RELEASE OF MAPS OR OTHER INFORMATION DESCRIBING  
24 THE ACTUAL LOCATION OF A LOCAL EXCHANGE COMMUNICATIONS <—  
25 TELECOMMUNICATIONS COMPANY'S FACILITIES. <—

26 (G) ASSISTANCE TO POLITICAL SUBDIVISIONS.--A LOCAL EXCHANGE  
27 TELECOMMUNICATIONS COMPANY SHALL COMMIT, IN ITS AMENDED NETWORK  
28 MODERNIZATION PLAN, TO MAKE TECHNICAL ASSISTANCE AVAILABLE TO  
29 POLITICAL SUBDIVISIONS LOCATED IN ITS SERVICE TERRITORY IN  
30 PURSUING THE DEPLOYMENT OF ADDITIONAL TELECOMMUNICATIONS

1 INFRASTRUCTURE OR SERVICES BY THE LOCAL EXCHANGE  
2 TELECOMMUNICATIONS COMPANY.

3 (H) PROHIBITION AGAINST POLITICAL SUBDIVISION ADVANCED AND  
4 BROADBAND SERVICES DEPLOYMENT.--

5 (1) EXCEPT AS OTHERWISE PROVIDED FOR UNDER PARAGRAPH  
6 (2), A POLITICAL SUBDIVISION OR ANY ENTITY ESTABLISHED BY A  
7 POLITICAL SUBDIVISION MAY NOT PROVIDE TO THE PUBLIC FOR  
8 COMPENSATION ANY TELECOMMUNICATIONS SERVICES, INCLUDING  
9 ADVANCED AND BROADBAND SERVICES, WITHIN THE SERVICE TERRITORY  
10 OF A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OPERATING  
11 UNDER A NETWORK MODERNIZATION PLAN.

12 (2) A POLITICAL SUBDIVISION MAY OFFER ADVANCED OR  
13 BROADBAND SERVICES IF THE POLITICAL SUBDIVISION HAS SUBMITTED  
14 A WRITTEN REQUEST FOR THE DEPLOYMENT OF SUCH SERVICE TO THE  
15 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SERVING THE AREA  
16 AND, WITHIN TWO MONTHS OF RECEIPT OF THE REQUEST, THE LOCAL  
17 EXCHANGE TELECOMMUNICATIONS COMPANY OR ONE OF ITS AFFILIATES  
18 HAS NOT AGREED TO PROVIDE THE DATA SPEEDS REQUESTED. IF THE  
19 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OR ONE OF ITS  
20 AFFILIATES AGREES TO PROVIDE THE DATA SPEEDS REQUESTED, THEN  
21 IT MUST DO SO WITHIN 14 MONTHS OF RECEIPT OF THE REQUEST.

22 (3) THE PROHIBITION IN PARAGRAPH (1) SHALL NOT BE  
23 CONSTRUED TO PRECLUDE THE CONTINUED PROVISION OR OFFERING OF  
24 TELECOMMUNICATIONS SERVICES BY A POLITICAL SUBDIVISION OF THE  
25 SAME TYPE AND SCOPE AS WERE BEING PROVIDED ON THE EFFECTIVE  
26 DATE OF THIS SECTION.

27 (I) BROADBAND OUTREACH AND AGGREGATION PROGRAM.--

28 (1) THE DEPARTMENT SHALL ESTABLISH A BROADBAND OUTREACH  
29 AND AGGREGATION PROGRAM FOR THE PURPOSE OF MAKING  
30 EXPENDITURES AND PROVIDING GRANTS FROM THE BROADBAND OUTREACH

1 AND AGGREGATION FUND ESTABLISHED UNDER SECTION 3015(C)

2 (RELATING TO ALTERNATIVE FORMS OF REGULATION) FOR:

3 (I) OUTREACH PROGRAMS FOR POLITICAL SUBDIVISIONS,  
4 ECONOMIC DEVELOPMENT ENTITIES, SCHOOLS, HEALTH CARE  
5 FACILITIES, BUSINESSES AND RESIDENTIAL CUSTOMERS  
6 CONCERNING THE BENEFITS, USE AND PROCUREMENT OF BROADBAND  
7 SERVICES; AND

8 (II) SEED GRANTS TO AGGREGATE CUSTOMER DEMAND FOR  
9 BROADBAND SERVICES IN COMMUNITIES OR POLITICAL  
10 SUBDIVISIONS WITH LIMITED ACCESS TO SUCH SERVICES AND TO ←  
11 PERMIT CUSTOMERS IN SUCH COMMUNITIES OR POLITICAL  
12 SUBDIVISIONS TO REQUEST SUCH SERVICES FROM A  
13 TELECOMMUNICATIONS PROVIDER.

14 (2) THE DEPARTMENT SHALL ANNUALLY REPORT TO THE  
15 COMMISSION ON ALL PAYMENTS TO AND EXPENDITURES FROM THE  
16 BROADBAND OUTREACH AND AGGREGATION FUND AND THE COMMISSION  
17 SHALL VERIFY THE ACCURACY OF THE CONTRIBUTIONS FROM THE  
18 PARTICIPATING LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES.

19 (J) EDUCATION TECHNOLOGY PROGRAM.--

20 (1) THE DEPARTMENT OF EDUCATION SHALL ESTABLISH AN  
21 EDUCATION TECHNOLOGY PROGRAM FOR THE PURPOSE OF PROVIDING  
22 GRANTS TO SCHOOL ENTITIES FROM THE EDUCATION TECHNOLOGY FUND  
23 (E-FUND) ESTABLISHED UNDER SECTION 3015(D).

24 (2) THE DEPARTMENT OF EDUCATION SHALL AUTHORIZE GRANTS  
25 FROM THE E-FUND FOR THE FOLLOWING PURPOSES:

26 (I) PURCHASE OR LEASE OF TELECOMMUNICATIONS  
27 SERVICES, INFRASTRUCTURE OR FACILITIES TO ESTABLISH AND  
28 SUPPORT BROADBAND NETWORKS BETWEEN, AMONG AND WITHIN  
29 SCHOOL ENTITIES AND NOT FOR THE PROVISION OF  
30 TELECOMMUNICATIONS SERVICES TO THE PUBLIC FOR

1           COMPENSATION.

2           (II) PURCHASE OR LEASE OF PREMISES  
3           TELECOMMUNICATIONS NETWORK EQUIPMENT AND END-USER  
4           EQUIPMENT TO ENABLE THE EFFECTIVE USE OF BROADBAND  
5           NETWORKS BETWEEN, AMONG AND WITHIN SCHOOL ENTITIES AND  
6           NOT FOR THE PROVISION OF TELECOMMUNICATIONS SERVICES TO  
7           THE PUBLIC FOR COMPENSATION.

8           (III) DISTANCE LEARNING INITIATIVES THAT USE THE  
9           FOREGOING BROADBAND NETWORKS.

10          (IV) TECHNICAL SUPPORT SERVICES FOR THE ACTIVITIES  
11          DESCRIBED IN SUBPARAGRAPHS (I) THROUGH (III).

12          (3) EACH APPLICANT SCHOOL ENTITY SHALL BE REQUIRED TO  
13          PROVIDE 100% MATCHING FUNDS TO SUPPORT EACH E-FUND GRANT  
14          REQUEST. FUNDS RECEIVED FROM FEDERAL TECHNOLOGY PROGRAMS SUCH  
15          AS THE UNIVERSAL SERVICE SUPPORT MECHANISM FOR SCHOOLS AND  
16          LIBRARIES SET FORTH IN 47 CFR PT. 54 (RELATING TO UNIVERSAL  
17          SERVICE OR SUCCESSOR REGULATIONS), IN-KIND CONTRIBUTIONS AND ←  
18          ANY OTHER TECHNOLOGY EXPENDITURES SHALL BE APPLIED TOWARD THE  
19          MATCHING FUND REQUIREMENT.

20          (4) NO LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF  
21          THIS SECTION, THE DEPARTMENT OF EDUCATION SHALL PRESCRIBE THE  
22          GRANT PROCESS AND THE FORM AND MANNER OF THE E-FUND  
23          APPLICATION. GRANTS SHALL BE LIMITED TO THE FUNDS AVAILABLE  
24          IN THE EDUCATION TECHNOLOGY FUND. IN AWARDING GRANTS, THE  
25          DEPARTMENT OF EDUCATION SHALL GIVE PRIORITY TO APPLICATIONS:

26                (I) THAT ARE SUBMITTED BY SCHOOL ENTITIES THAT SEEK  
27                FUNDS FOR DISCOUNTED BROADBAND SERVICES UNDER SUBSECTION  
28                (L) OR FOR BROADBAND INFRASTRUCTURE, FACILITIES OR  
29                EQUIPMENT FROM LOCAL EXCHANGE TELECOMMUNICATIONS  
30                COMPANIES WHICH CONTRIBUTE TO THE E-FUND;



1           (II) THAT SEEK FUNDS FOR REGIONAL NETWORKS THAT  
2           SERVE MULTIPLE SCHOOL DISTRICTS WHICH ARE FILED ON BEHALF  
3           OF MULTIPLE SCHOOL DISTRICTS AND SCHOOL ENTITIES; OR

4           ~~(III) THAT SEEK FUNDS FOR TELECOMMUNICATIONS~~           <—  
5           ~~SERVICES, INFRASTRUCTURE OR FACILITIES THAT PROVIDE~~  
6           ~~BROADBAND BANDWIDTHS OF GREATER THAN 1.544 MEGABITS PER~~  
7           ~~SECOND (MBPS).~~

8           (III) THAT ARE SUBMITTED BY SCHOOL ENTITIES THAT DO           <—  
9           NOT HAVE BROADBAND SERVICE, PROVIDED, HOWEVER, THAT  
10          NOTHING IN THIS SUBSECTION SHALL PRECLUDE THE DEPARTMENT  
11          FROM AWARDING FUNDS TO SCHOOL ENTITIES FOR  
12          TELECOMMUNICATIONS SERVICES, INFRASTRUCTURE OR FACILITIES  
13          THAT PROVIDE BANDWIDTHS GREATER THAN 1.544 MEGABITS PER  
14          SECOND (MBPS).

15          THE DEPARTMENT OF EDUCATION SHALL ASSURE THAT THE  
16          APPLICATIONS FUNDED EACH YEAR ARE GEOGRAPHICALLY DISPERSED  
17          THROUGHOUT THE COMMONWEALTH.

18          (K) BALANCED DEPLOYMENT.--A LOCAL EXCHANGE  
19          TELECOMMUNICATIONS COMPANY SHALL REASONABLY BALANCE DEPLOYMENT  
20          OF ITS BROADBAND NETWORK BETWEEN RURAL, URBAN AND SUBURBAN AREAS  
21          WITHIN ITS SERVICE TERRITORY, AS THOSE AREAS ARE APPLICABLE, IN  
22          ACCORDANCE WITH ITS APPROVED NETWORK MODERNIZATION PLAN.

23          (L) BROADBAND DISCOUNTS TO SCHOOLS.--EACH LOCAL EXCHANGE  
24          TELECOMMUNICATIONS COMPANY THAT ELECTS TO AMEND ITS NETWORK  
25          MODERNIZATION PLAN PURSUANT TO THIS SECTION:

26               (1) SHALL OFFER SCHOOL CUSTOMERS WHICH MEET THE  
27               ELIGIBILITY STANDARDS DESCRIBED IN 47 CFR 54.501 (RELATING TO  
28               ELIGIBILITY FOR SERVICES PROVIDED BY TELECOMMUNICATIONS  
29               CARRIERS) AND WHICH AGREE TO ENTER INTO A MINIMUM THREE-YEAR  
30               CONTRACT, A 30% DISCOUNT, OR GREATER DISCOUNT AT THE LOCAL

1 EXCHANGE TELECOMMUNICATIONS COMPANY'S DISCRETION, IN THE  
2 OTHERWISE APPLICABLE TARIFFED DISTANCE SENSITIVE PER-MILE  
3 RATE ELEMENT AND ALSO WILL WAIVE THE ASSOCIATED NONRECURRING  
4 CHARGES FOR AVAILABLE INTRASTATE BROADBAND SERVICES WHERE  
5 USED FOR EDUCATIONAL PURPOSES AND NOT FOR THE PROVISION OF  
6 TELECOMMUNICATIONS SERVICES TO THE PUBLIC FOR COMPENSATION.  
7 THE DISCOUNT OR WAIVER SHALL NOT BE REQUIRED WHERE  
8 APPLICATION OF IT TO A PARTICULAR SERVICE WOULD CONFLICT WITH  
9 APPLICABLE LAW.

10 (2) WILL ASSIST SCHOOL CUSTOMERS IN APPLYING FOR E-RATE  
11 FUNDING UNDER 47 CFR 54.505 (RELATING TO DISCOUNTS).

12 (M) INVENTORY OF AVAILABLE SERVICES.--

13 (1) THE DEPARTMENT SHALL COMPILE, PERIODICALLY UPDATE  
14 AND PUBLISH, INCLUDING AT ITS INTERNET WEBSITE, A LISTING OF  
15 ADVANCED AND BROADBAND SERVICES, BY GENERAL LOCATION,  
16 AVAILABLE FROM ALL ADVANCED AND BROADBAND SERVICE PROVIDERS  
17 OPERATING IN THIS COMMONWEALTH IRRESPECTIVE OF THE TECHNOLOGY  
18 USED.

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

21 (3) THE DEPARTMENT MAY NOT DISCLOSE MAPS OR OTHER  
22 INFORMATION DESCRIBING THE SPECIFIC LOCATION OF ANY  
23 TELECOMMUNICATIONS CARRIER'S OR ALTERNATIVE SERVICE  
24 PROVIDER'S FACILITIES.

25 (N) 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.--

7           (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (2) AND  
8           (3), A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY WITH AN  
9           ALTERNATIVE FORM OF REGULATION CONTAINING A PRICE STABILITY  
10           MECHANISM THAT FILES AN AMENDED NETWORK MODERNIZATION PLAN  
11           UNDER SECTION 3014(B)(1), (2) OR (3) (RELATING TO NETWORK  
12           MODERNIZATION PLANS) SHALL BE SUBJECT TO A MODIFIED INFLATION  
13           OFFSET IN ITS PRICE STABILITY MECHANISM IN ADJUSTING ITS  
14           RATES FOR NONCOMPETITIVE SERVICES, EFFECTIVE UPON THE FILING  
15           OF AN AMENDED NETWORK MODERNIZATION PLAN UNDER SECTION  
16           3014(E), AS FOLLOWS:

17           (I) IF A NONRURAL TELECOMMUNICATIONS CARRIER FILES  
18           AN AMENDED NETWORK MODERNIZATION PLAN UNDER SECTION  
19           3014(B)(3) THAT COMMITS TO DEPLOY 100% BROADBAND  
20           AVAILABILITY BY DECEMBER 31, 2013, THEN THE CARRIER'S  
21           INFLATION OFFSET SHALL BE ZERO.

22           (II) IF A NONRURAL TELECOMMUNICATIONS CARRIER FILES  
23           AN AMENDED NETWORK MODERNIZATION PLAN UNDER SECTION  
24           3014(B)(3) THAT COMMITS TO DEPLOY 100% BROADBAND  
25           AVAILABILITY BY DECEMBER 31, 2015, THEN THE CARRIER'S  
26           INFLATION OFFSET SHALL BE EQUAL TO 0.5%.

27           (III) IF A RURAL TELECOMMUNICATIONS CARRIER FILES AN  
28           AMENDED NETWORK MODERNIZATION PLAN UNDER SECTION  
29           3014(B)(1) THAT COMMITS TO DEPLOY 100% BROADBAND  
30           AVAILABILITY BY DECEMBER 31, 2008, OR UNDER SECTION

1           3014(B)(2)(II)(A) THAT COMMITS TO DEPLOY 100% BROADBAND  
2           AVAILABILITY BY DECEMBER 31, 2013, THEN THE CARRIER'S  
3           INFLATION OFFSET SHALL BE ZERO.

4           (IV) IF A RURAL TELECOMMUNICATIONS CARRIER FILES AN  
5           AMENDED NETWORK MODERNIZATION PLAN UNDER SECTION  
6           3014(B)(2)(II)(B) THAT COMMITS TO DEPLOY 100% BROADBAND  
7           AVAILABILITY BY DECEMBER 31, 2015, THEN THE CARRIER'S  
8           INFLATION OFFSET SHALL BE EQUAL TO 0.5%.

9           (2) UTILIZING NETWORK MODERNIZATION PLAN REPORTS FILED       <—  
10          WITH THE COMMISSION BY LOCAL EXCHANGE TELECOMMUNICATIONS  
11          COMPANIES UNDER SECTION 3014(F), THE COMMISSION SHALL MONITOR  
12          AND ENFORCE COMPANIES' COMPLIANCE WITH THEIR INTERIM AND  
13          FINAL 100% COMMITMENTS FOR BROADBAND AVAILABILITY IN THEIR  
14          AMENDED NETWORK MODERNIZATION PLANS. IN THE EVENT THAT A  
15          LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY IS FOUND BY THE  
16          COMMISSION, AFTER NOTICE AND EVIDENTIARY HEARINGS, TO HAVE       <—  
17          FAILED TO MEET ITS COMMITMENT FOR BROADBAND AVAILABILITY  
18          UNDER ITS AMENDED NETWORK MODERNIZATION PLAN, HELD ON AN       <—  
19          EXPEDITED BASIS, TO HAVE FAILED TO MEET SUCH AN INTERIM OR  
20          FINAL 100% COMMITMENT, THEN THE COMMISSION SHALL REQUIRE THE  
21          LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY TO REFUND TO  
22          CUSTOMERS IN ITS NEXT PRICE STABILITY FILING, AN AMOUNT THAT  
23          IS JUST AND REASONABLE UNDER THE CIRCUMSTANCES, BUT NOT TO.       <—  
24          SUCH AMOUNT SHALL NOT EXCEED AN AMOUNT DETERMINED BY  
25          MULTIPLYING THE PERCENTAGE SHORTFALL OF THE BROADBAND  
26          AVAILABILITY COMMITMENT ON AN ACCESS LINE BASIS REQUIRED TO       <—  
27          BE MET DURING THE PERIOD FROM THE START OF THE AMENDED PLAN  
28          OR FROM THE DATE OF THE LAST PRIOR INTERIM COMMITMENT, AS  
29          APPLICABLE, TIMES THE INCREASED REVENUE THAT WAS OBTAINED  
30          DURING THIS PERIOD AS A RESULT OF THE MODIFIED INFLATION       <—

1 OFFSET PROVIDED IN THIS SECTION THAT REDUCED THE INFLATION  
2 OFFSET APPLICABLE IN THE LOCAL EXCHANGE TELECOMMUNICATIONS  
3 COMPANY'S ALTERNATIVE REGULATION PLAN IN EFFECT ON THE  
4 EFFECTIVE DATE OF THIS SECTION, PLUS INTEREST CALCULATED  
5 UNDER SECTION 1308(D) (RELATING TO VOLUNTARY CHANGES IN  
6 RATES). ANY SUCH REFUND REQUIRED UNDER THIS SUBSECTION SHALL <—  
7 BE SEPARATE FROM AND IN ADDITION TO ANY CIVIL OR OTHER  
8 PENALTIES THAT THE COMMISSION MAY IMPOSE ON A LOCAL EXCHANGE  
9 TELECOMMUNICATIONS COMPANY UNDER CHAPTER 33.

10 (3) WHERE ANNUAL RATE ADJUSTMENTS MADE UNDER A NONRURAL  
11 TELECOMMUNICATIONS CARRIER'S PRICE STABILITY MECHANISM ARE  
12 CALCULATED USING ~~ONLY~~ REVENUES FROM PROTECTED SERVICES, AN <—  
13 AVERAGE RATE ADJUSTMENT FOR PROTECTED RESIDENTIAL CUSTOMER  
14 LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE LINES SHALL BE  
15 DETERMINED BY DIVIDING THE TOTAL PROTECTED SERVICE REVENUES  
16 ASSOCIATED WITH SUCH LINES, AS ADJUSTED BY THE PRICE  
17 STABILITY FORMULA, BY THE NUMBER OF SUCH LINES, AND THE RATE  
18 ADJUSTMENT FOR ANY INDIVIDUAL LINE SHALL NOT VARY FROM THIS  
19 AVERAGE RATE ADJUSTMENT BY MORE THAN 20%.

20 (B) RATE CHANGES FOR RURAL TELECOMMUNICATIONS CARRIERS.--

21 (1) IN ADDITION TO THE RATE CHANGE PROVISIONS IN ITS  
22 ALTERNATIVE FORM OF REGULATION PLAN, A RURAL  
23 TELECOMMUNICATIONS CARRIER OPERATING WITHOUT A PRICE  
24 STABILITY MECHANISM THAT FILES WITH THE COMMISSION AN AMENDED  
25 NETWORK MODERNIZATION PLAN UNDER SECTION 3014(B)(1) OR (2)  
26 SHALL BE PERMITTED AT ANY TIME TO FILE PROPOSED TARIFF  
27 CHANGES WITH THE COMMISSION, EFFECTIVE 45 DAYS AFTER FILING,  
28 SETTING FORTH MISCELLANEOUS CHANGES, INCLUDING INCREASES AND  
29 DECREASES, IN RATES FOR NONCOMPETITIVE SERVICES, EXCLUDING  
30 BASIC RESIDENTIAL AND BUSINESS RATES, PROVIDED SUCH RATE

1 CHANGES DO NOT INCREASE THE RURAL TELECOMMUNICATIONS  
2 CARRIER'S ANNUAL INTRASTATE REVENUES BY MORE THAN 3%.

3 (2) THE COMMISSION TARIFF FILING REQUIREMENTS AND REVIEW  
4 ASSOCIATED WITH SUCH PROPOSED RATE CHANGES SHALL BE LIMITED  
5 TO SCHEDULES SUBMITTED BY THE RURAL TELECOMMUNICATIONS  
6 CARRIER DETAILING THE IMPACT OF THE RATE CHANGES ON THE  
7 CARRIER'S ANNUAL INTRASTATE REVENUES.

8 (3) A RURAL TELECOMMUNICATIONS CARRIER THAT IMPLEMENTS  
9 NONCOMPETITIVE RATE CHANGES CONSISTENT WITH THE PROCEDURE SET  
10 FORTH IN ITS ALTERNATIVE FORM OF REGULATION PLAN SHALL BE  
11 REQUIRED ONLY TO FILE SUCH FINANCIAL AND COST DATA WITH THE  
12 COMMISSION TO JUSTIFY SUCH CHANGES AS IS REQUIRED UNDER ITS  
13 COMMISSION-APPROVED ALTERNATIVE FORM OF REGULATION PLAN.

14 (4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1), (2)  
15 OR (3), FOR ANY RURAL TELECOMMUNICATIONS CARRIER SERVING LESS  
16 THAN 50,000 ACCESS LINES IN THIS COMMONWEALTH AND OPERATING  
17 UNDER AN ALTERNATIVE FORM OF REGULATION PLAN, A FORMAL  
18 COMPLAINT TO DENY RATE CHANGES FOR NONCOMPETITIVE SERVICES,  
19 UNLESS SIGNED BY AT LEAST 20 CUSTOMERS OF THE RURAL  
20 TELECOMMUNICATIONS CARRIER, SHALL NOT PREVENT IMPLEMENTATION  
21 OF THE RATE CHANGES PENDING THE ADJUDICATION OF THE FORMAL  
22 COMPLAINT BY THE COMMISSION.

23 (C) BROADBAND OUTREACH AND AGGREGATION FUND.--

24 (1) THERE IS HEREBY ESTABLISHED WITHIN THE STATE  
25 TREASURY A SPECIAL FUND TO BE KNOWN AS THE BROADBAND OUTREACH  
26 AND AGGREGATION FUND FOR THE PURPOSES ENUMERATED IN SECTION  
27 3014(I).

28 (2) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY THAT  
29 FILES AN AMENDED NETWORK MODERNIZATION PLAN UNDER SECTION  
30 3014(B)(2) OR (3) SHALL ~~CONTRIBUTE TO THE FUND~~ BE ASSESSED BY <—

1 THE COMMISSION FOR CONTRIBUTION TO THE FUND AND TO THE E-FUND  
2 ESTABLISHED UNDER SUBSECTION (D) AN AMOUNT UP TO, BUT NOT  
3 MORE THAN, ~~10%~~ 20% OF THE FIRST YEAR'S ANNUAL REVENUE EFFECT: <—

4 (I) OF ANY RATE INCREASE PERMITTED BY THE  
5 ELIMINATION OR REDUCTION OF THE OFFSET UNDER SUBSECTION  
6 (A) AND PLACED INTO EFFECT; OR

7 (II) OF ANY RATE INCREASE PLACED INTO EFFECT UNDER  
8 SUBSECTION (B)(1), IF THE LOCAL EXCHANGE  
9 TELECOMMUNICATIONS COMPANY IS OPERATING WITHOUT A PRICE  
10 STABILITY MECHANISM.

11 ~~(3) THE CONTRIBUTION SHALL BE PAYABLE IN EQUAL QUARTERLY~~ <—  
12 ~~INSTALLMENTS AND CALCULATED ON PROJECTED INCREASED REVENUES~~  
13 ~~FOR THE FIRST YEAR OF THE RATE CHANGE. THE CONTRIBUTIONS~~  
14 ~~SHALL ALSO BE MADE IN CONNECTION WITH EACH SUBSEQUENT~~  
15 ~~NONCOMPETITIVE SERVICE RATE INCREASE UNTIL THE LOCAL EXCHANGE~~  
16 ~~TELECOMMUNICATIONS COMPANY ACHIEVES 100% BROADBAND~~  
17 ~~AVAILABILITY THROUGHOUT ITS SERVICE TERRITORY.~~

18 (3) AN AMOUNT NOT TO EXCEED 50% OF SUCH ASSESSMENT SHALL <—  
19 BE ALLOCATED TO THE FUND. THE REMAINDER OF THE ASSESSMENT  
20 SHALL BE ALLOCATED TO THE E-FUND PROVIDED FOR UNDER  
21 SUBSECTION (D) UNTIL ITS TERMINATION ON JUNE 30, 2011. AFTER  
22 THE E-FUND TERMINATION, THE MAXIMUM ASSESSMENT PERCENTAGE  
23 SHALL BE REDUCED FROM 20% TO 10%, AND CONTRIBUTIONS SHALL BE  
24 MADE ONLY TO THE FUND UNTIL THE LOCAL EXCHANGE  
25 TELECOMMUNICATIONS COMPANY ACHIEVES 100% BROADBAND  
26 AVAILABILITY. CONTRIBUTIONS OF ALLOCATED AMOUNTS SHALL BE  
27 PAID TO THE FUND AND THE E-FUND BY THE LOCAL EXCHANGE  
28 TELECOMMUNICATIONS COMPANY IN EQUAL QUARTERLY INSTALLMENTS.

29 (4) IN NO EVENT SHALL THE TOTAL AMOUNT OF THE FUND  
30 EXCEED \$5,000,000 ANNUALLY AND IN THE EVENT OF SUCH

1 OVERFUNDING, THE DEPARTMENT SHALL CREDIT THE OVERCOLLECTION  
2 TO THE NEXT YEAR'S CONTRIBUTION AMOUNT.

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

7 (6) THE MONEYS IN THE BROADBAND OUTREACH AND AGGREGATION  
8 FUND ARE HEREBY APPROPRIATED, UPON APPROVAL OF THE GOVERNOR,  
9 TO THE DEPARTMENT FOR THE PURPOSES ENUMERATED IN PARAGRAPH  
10 (1). THE DEPARTMENT MAY USE UP TO 3% OF THE MONEY IN THE FUND  
11 FOR ADMINISTRATION.

12 (7) THE FUND SHALL CONTINUE UNTIL JULY 1, 2016, AT WHICH  
13 TIME THE FUND SHALL TERMINATE, AND THE DEPARTMENT SHALL  
14 RETURN ANY FUNDS REMAINING IN THE FUND, ON A PRO RATA BASIS,  
15 TO THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES THAT  
16 CONTRIBUTED TO THE FUND.

17 (D) EDUCATION TECHNOLOGY FUND (E-FUND).--

18 (1) THERE IS HEREBY ESTABLISHED WITHIN THE STATE  
19 TREASURY A SPECIAL FUND TO BE KNOWN AS THE EDUCATION  
20 TECHNOLOGY FUND (E-FUND) FOR THE PURPOSES ENUMERATED IN  
21 PARAGRAPH (4).

22 (2) ~~ALL ASSESSMENTS COLLECTED BY THE COMMISSION UNDER E-~~ <—  
23 FUND ASSESSMENTS IMPOSED BY THE COMMISSION UNDER SUBSECTION  
24 (C)(2) AND PARAGRAPH (3), MONEYS SPECIFICALLY APPROPRIATED BY  
25 THE GENERAL ASSEMBLY FOR THE PURPOSES OF THIS SUBSECTION, AND  
26 ANY FUNDS, CONTRIBUTIONS OR PAYMENTS WHICH MAY BE MADE  
27 AVAILABLE TO THE FUND BY THE FEDERAL GOVERNMENT, ANOTHER  
28 STATE AGENCY OR ANY PUBLIC OR PRIVATE SOURCE FOR THE PURPOSE  
29 OF IMPLEMENTING THIS SUBSECTION SHALL BE DEPOSITED IN THE E-  
30 FUND.



1           (3) BEGINNING IN 2005 AND CONTINUING THROUGH 2010, THE  
2           COMMISSION SHALL, NO LATER THAN JUNE 30, ANNUALLY ASSESS EACH  
3           NONRURAL TELECOMMUNICATIONS CARRIER THAT FILES AN AMENDED  
4           NETWORK MODERNIZATION PLAN UNDER SECTION 3014(B)(3), AN  
5           AMOUNT TO BE DEPOSITED IN THE E-FUND. EACH CARRIER'S ANNUAL  
6           ASSESSMENT SHALL BE PAYABLE IN TWO EQUAL INSTALLMENTS DUE ON  
7           OCTOBER 31 OF EACH YEAR, AND JANUARY 31 OF THE FOLLOWING  
8           YEAR, AND SHALL BE BASED ON THE RELATIVE PROPORTION OF THE  
9           RETAIL ACCESS LINES SERVED BY THE NONRURAL TELECOMMUNICATIONS  
10           CARRIER IN RELATION TO THE NUMBER OF RETAIL ACCESS LINES  
11           SERVED BY ALL NONRURAL TELECOMMUNICATIONS CARRIERS THAT HAVE  
12           FILED AN AMENDED NETWORK MODERNIZATION PLAN UNDER SECTION  
13           3014(B)(3). A RURAL TELECOMMUNICATIONS CARRIER SHALL NOT BE <—  
14           REQUIRED TO CONTRIBUTE TO THE E FUND. FOR FISCAL YEARS 2005  
15           AND 2006, FOR FISCAL YEARS 2005-2006 AND 2006-2007, THE TOTAL <—  
16           ANNUAL ASSESSMENT AMOUNT SHALL BE \$7,000,000. FOR FISCAL  
17           YEARS 2007 THROUGH 2010 2007-2008, 2008-2009, 2009-2010 AND <—  
18           2010-2011, THE TOTAL ANNUAL ASSESSMENT AMOUNT SHALL BE THE  
19           DIFFERENCE BETWEEN \$7,000,000 AND ANY AMOUNT REMAINING IN THE  
20           E-FUND FROM PRIOR FISCAL YEARS WHICH REMAINS UNENCUMBERED OR  
21           UNEXPENDED. A NONRURAL TELECOMMUNICATIONS CARRIER'S  
22           ASSESSMENTS REQUIRED UNDER THIS PARAGRAPH MAY NOT BE  
23           RECOVERED VIA A SURCHARGE ON CUSTOMERS' BILLS OR IN RATES FOR  
24           NONCOMPETITIVE SERVICES AS EXOGENOUS CHANGE ADJUSTMENT UNDER  
25           THE PROVISIONS OF THE CARRIER'S PRICE STABILITY MECHANISM AND  
26           SUBSECTION (A)(3) WHERE APPLICABLE.

27           (4) ADDITIONAL LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY <—  
28           CONTRIBUTIONS TO THE E-FUND SHALL BE MADE PURSUANT TO THE  
29           PROVISIONS OF SUBSECTIONS (C)(2) AND (3).

30           ~~(4)~~ (5) THE DEPARTMENT OF EDUCATION SHALL EXPEND THE <—

1 MONEYS OF THE E-FUND FOR THE PURPOSE OF PROVIDING GRANTS TO  
2 SCHOOL ENTITIES AS PRESCRIBED BY SECTION 3014(J).

3 ~~(5)~~ (6) THE MONEYS OF THE EDUCATION TECHNOLOGY FUND ARE <—  
4 HEREBY APPROPRIATED, UPON APPROVAL OF THE GOVERNOR, TO THE  
5 DEPARTMENT OF EDUCATION FOR THE PURPOSES ENUMERATED IN  
6 PARAGRAPH (4). THE DEPARTMENT OF EDUCATION MAY USE UP TO 3%  
7 OF THE MONEY FOR ADMINISTRATION. APPROPRIATIONS BY THE  
8 GENERAL ASSEMBLY TO THE FUND SHALL BE CONTINUING  
9 APPROPRIATIONS AND SHALL NOT LAPSE AT THE CLOSE OF ANY FISCAL  
10 YEAR.

11 ~~(6)~~ (7) THE E-FUND SHALL CONTINUE UNTIL JUNE 30, 2011, <—  
12 AT WHICH TIME THE FUND SHALL TERMINATE AND THE DEPARTMENT OF  
13 EDUCATION SHALL RETURN ANY FUNDS REMAINING THEREIN, ON A PRO  
14 RATA BASIS, TO THE LOCAL EXCHANGE TELECOMMUNICATIONS  
15 COMPANIES THAT CONTRIBUTED TO THE FUND.

16 (E) GENERAL FILING AND AUDIT REQUIREMENTS.--THE COMMISSION'S <—  
17 FILING REQUIREMENTS FOR A LOCAL EXCHANGE TELECOMMUNICATIONS  
18 COMPANY THAT IS OPERATING UNDER AN AMENDED NETWORK MODERNIZATION  
19 PLAN SHALL BE LIMITED TO THE FOLLOWING:

20 (1) NETWORK MODERNIZATION PLAN REPORTS FILED PURSUANT TO  
21 SECTION 3014(F).

22 (2) AN ANNUAL FINANCIAL REPORT CONSISTING OF A BALANCE  
23 SHEET AND INCOME STATEMENT.

24 (3) AN ANNUAL DEAF, SPEECH-IMPAIRED AND HEARING-IMPAIRED  
25 RELAY INFORMATION REPORT.

26 (4) AN ANNUAL SERVICE REPORT.

27 (5) UNIVERSAL SERVICE REPORTS.

28 (6) AN ANNUAL ACCESS LINE REPORT.

29 (7) AN ANNUAL STATEMENT OF GROSS INTRASTATE OPERATING  
30 REVENUES FOR PURPOSES OF CALCULATING ASSESSMENTS FOR

1 REGULATORY EXPENSES.

2 (8) AN ANNUAL STATE TAX ADJUSTMENT COMPUTATION FOR YEARS  
3 IN WHICH A TAX CHANGE HAS OCCURRED, IF APPLICABLE.

4 (9) FOR THOSE COMPANIES WITH A BONA FIDE RETAIL REQUEST  
5 PROGRAM, A BONA FIDE RETAIL REQUEST REPORT UNDER SECTION  
6 3014(C)(9). THESE REPORTS SHALL BE SUBMITTED IN THE FORM  
7 DETERMINED BY THE COMMISSION.

8 (F) OTHER REPORTS.--

9 (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE TO  
10 THE CONTRARY, NO REPORT, STATEMENT, FILING OR OTHER DOCUMENT  
11 OR INFORMATION, EXCEPT AS SPECIFIED IN SUBSECTION (E), SHALL  
12 BE REQUIRED OF ANY LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY  
13 UNLESS THE COMMISSION, UPON NOTICE TO THE AFFECTED LOCAL  
14 EXCHANGE TELECOMMUNICATIONS COMPANY AND AN OPPORTUNITY TO BE  
15 HEARD, HAS FIRST MADE SPECIFIC WRITTEN FINDINGS SUPPORTING  
16 CONCLUSIONS IN AN ENTERED ORDER THAT:

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

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

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

30 (G) RATE CHANGE LIMITATIONS.--NOTHING IN THIS CHAPTER SHALL

1 BE CONSTRUED TO LIMIT THE REQUIREMENT OF SECTION 1301 (RELATING  
2 TO RATES TO BE JUST AND REASONABLE) THAT RATES SHALL BE JUST AND  
3 REASONABLE. THE ANNUAL RATE CHANGE LIMITATIONS SET FORTH IN A  
4 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S EFFECTIVE  
5 COMMISSION-APPROVED ALTERNATIVE FORM OF REGULATION PLAN OR ANY  
6 OTHER COMMISSION-APPROVED ANNUAL RATE CHANGE LIMITATION SHALL  
7 REMAIN APPLICABLE AND SHALL BE DEEMED JUST AND REASONABLE UNDER  
8 SECTION 1301.

9 (H) CONFORMANCE OF PLAN.--UPON THE FILING BY A LOCAL  
10 EXCHANGE TELECOMMUNICATIONS COMPANY OF NETWORK MODERNIZATION  
11 PLAN AMENDMENTS PURSUANT TO SECTION 3014(E), THE LOCAL EXCHANGE  
12 TELECOMMUNICATIONS COMPANY'S ALTERNATIVE FORM OF REGULATION PLAN  
13 SHALL BE DEEMED AMENDED CONSISTENT WITH THIS SECTION.

14 § 3016. COMPETITIVE SERVICES.

15 (A) COMMISSION DETERMINATION OF PROTECTED, ~~NONPROTECTED AND~~ <—  
16 RETAIL NONPROTECTED AND RETAIL NONCOMPETITIVE SERVICES AS <—  
17 COMPETITIVE.--

18 (1) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY MAY  
19 PETITION THE COMMISSION FOR A DETERMINATION OF WHETHER A  
20 PROTECTED OR RETAIL NONCOMPETITIVE SERVICE OR OTHER BUSINESS <—  
21 ACTIVITY IN ITS SERVICE TERRITORY OR A PARTICULAR GEOGRAPHIC  
22 AREA, EXCHANGE OR GROUP OF EXCHANGES, OR DENSITY CELL WITHIN  
23 ITS SERVICE TERRITORY IS COMPETITIVE BASED ON THE  
24 DEMONSTRATED AVAILABILITY OF LIKE OR SUBSTITUTE SERVICES OR  
25 OTHER BUSINESS ACTIVITIES PROVIDED OR OFFERED BY ALTERNATIVE  
26 SERVICE PROVIDERS. THE COMMISSION, AFTER NOTICE AND HEARING,  
27 SHALL ENTER AN ORDER GRANTING OR DENYING THE PETITION WITHIN  
28 60 DAYS OF THE FILING DATE, OR WITHIN ~~90~~ 150 DAYS OF THE <—  
29 FILING DATE WHERE A PROTEST IS TIMELY FILED, OR THE PETITION  
30 SHALL BE DEEMED GRANTED.

1           (2) THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL  
2           SERVE A COPY OF ITS PETITION ON THE OFFICE OF CONSUMER  
3           ADVOCATE, THE OFFICE OF SMALL BUSINESS ADVOCATE AND EACH OF  
4           THE PARTIES TO THE COMMISSION'S PROCEEDING IN WHICH THE  
5           COMPANY'S NETWORK MODERNIZATION PLAN THAT WAS IN EFFECT ON  
6           DECEMBER 31, 2003, WAS APPROVED BY THE COMMISSION.

7           (3) IN MAKING ITS DETERMINATION, THE COMMISSION SHALL  
8           CONSIDER ALL RELEVANT INFORMATION SUBMITTED TO IT, INCLUDING  
9           THE AVAILABILITY OF LIKE OR SUBSTITUTE SERVICES OR OTHER  
10          BUSINESS ACTIVITIES, AND SHALL LIMIT ITS DETERMINATION TO THE  
11          SERVICE TERRITORY OR THE PARTICULAR GEOGRAPHIC AREA, EXCHANGE  
12          OR GROUP OF EXCHANGES OR DENSITY CELL IN WHICH THE SERVICE OR  
13          OTHER BUSINESS ACTIVITY HAS BEEN PROVED TO BE COMPETITIVE.

14          (4) THE BURDEN OF PROVING THAT A PROTECTED OR RETAIL       <—  
15          NONCOMPETITIVE SERVICE OR OTHER BUSINESS ACTIVITY IS  
16          COMPETITIVE RESTS ON THE LOCAL EXCHANGE TELECOMMUNICATIONS  
17          COMPANY.

18          (B) DECLARATION OF RETAIL NONPROTECTED SERVICES AS       <—  
19          COMPETITIVE.--NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A),  
20          A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY MAY DECLARE ANY  
21          RETAIL NONPROTECTED SERVICE AS COMPETITIVE BY FILING ITS       <—  
22          DECLARATION WITH THE COMMISSION AND SERVING IT ON THE OFFICE OF  
23          CONSUMER ADVOCATE, OFFICE OF SMALL BUSINESS ADVOCATE AND EACH OF  
24          THE PARTIES TO THE COMMISSIONS PROCEEDING IN WHICH THE COMPANY'S  
25          NETWORK MODERNIZATION PLAN THAT WAS IN EFFECT ON DECEMBER 31,  
26          2003, WAS APPROVED BY THE COMMISSION, PROVIDED THAT A LOCAL  
27          EXCHANGE TELECOMMUNICATIONS COMPANY MAY NOT USE THIS DECLARATION  
28          PROCESS FOR ANY SERVICE THAT THE COMMISSION PREVIOUSLY HAS  
29          RECLASSIFIED AS NONCOMPETITIVE UNDER EITHER SUBSECTION (C) OR  
30          PRIOR LAW. A DECLARATION OF A RETAIL NONPROTECTED SERVICE AS       <—

1 COMPETITIVE SHALL BE EFFECTIVE UPON FILING BY THE LOCAL EXCHANGE  
2 TELECOMMUNICATIONS COMPANY WITH THE COMMISSION.

3 (C) RECLASSIFICATION.--

4 (1) A PARTY MAY PETITION THE COMMISSION FOR A  
5 DETERMINATION OF WHETHER A SERVICE OR OTHER BUSINESS ACTIVITY  
6 PREVIOUSLY DETERMINED OR DECLARED TO BE COMPETITIVE IS  
7 NONCOMPETITIVE. THE COMMISSION, AFTER NOTICE AND HEARING,  
8 SHALL ENTER AN ORDER DECIDING THE PETITION WITHIN 60 DAYS OF  
9 THE FILING DATE OR 90 DAYS OF THE FILING DATE WHERE A PROTEST  
10 IS TIMELY FILED, OR THE PETITION SHALL BE APPROVED.

11 (2) THE PETITIONER SHALL SERVE A COPY OF THE PETITION ON  
12 THE AFFECTED LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY, IF  
13 THE PETITIONER IS NOT THE COMPANY, THE OFFICE OF CONSUMER  
14 ADVOCATE, THE OFFICE OF SMALL BUSINESS ADVOCATE, AND EACH OF  
15 THE PARTIES TO THE COMMISSION'S PROCEEDING IN WHICH THE  
16 COMPANY'S NETWORK MODERNIZATION PLAN THAT WAS IN EFFECT ON  
17 DECEMBER 31, 2003, WAS APPROVED BY THE COMMISSION.

18 (3) IN MAKING ITS DETERMINATION, THE COMMISSION SHALL  
19 CONSIDER ALL RELEVANT INFORMATION SUBMITTED TO IT, INCLUDING  
20 THE AVAILABILITY OF LIKE OR SUBSTITUTE SERVICES OR OTHER  
21 BUSINESS ACTIVITIES, AND SHALL LIMIT ITS DETERMINATION TO THE  
22 PARTICULAR GEOGRAPHIC AREA, EXCHANGE OR DENSITY CELL IN WHICH  
23 THE SERVICE OR OTHER BUSINESS ACTIVITY HAS BEEN PROVED TO BE  
24 NONCOMPETITIVE.

25 (4) THE BURDEN OF PROVING THAT A COMPETITIVE SERVICE OR  
26 OTHER BUSINESS ACTIVITY SHOULD BE RECLASSIFIED AS  
27 NONCOMPETITIVE RESTS ON THE PARTY SEEKING THE  
28 RECLASSIFICATION.

29 (5) IF THE COMMISSION RECLASSIFIES A SERVICE OR OTHER  
30 BUSINESS ACTIVITY AS NONCOMPETITIVE, THE COMMISSION SHALL

1 DETERMINE A JUST AND REASONABLE RATE FOR THE RECLASSIFIED  
2 SERVICE OR BUSINESS ACTIVITY IN ACCORDANCE WITH SECTION 1301  
3 (RELATING TO RATES TO BE JUST AND REASONABLE).

4 (D) ADDITIONAL REQUIREMENTS.--

5 (1) THE PRICES WHICH A LOCAL EXCHANGE TELECOMMUNICATIONS  
6 COMPANY CHARGES FOR COMPETITIVE SERVICES SHALL NOT BE LESS  
7 THAN THE COSTS TO PROVIDE THE SERVICES.

8 (2) THE COMMISSION MAY NOT REQUIRE TARIFFS FOR  
9 COMPETITIVE SERVICE OFFERINGS TO BE FILED WITH THE  
10 COMMISSION.

11 (3) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY, AT ITS  
12 OPTION, MAY TARIFF ITS RATES, SUBJECT TO RULES AND  
13 REGULATIONS APPLICABLE TO THE PROVISION OF COMPETITIVE  
14 SERVICES.

15 (4) THE COMMISSION MAY REQUIRE A LOCAL EXCHANGE  
16 TELECOMMUNICATIONS COMPANY TO MAINTAIN PRICE LISTS WITH THE  
17 COMMISSION APPLICABLE TO ITS COMPETITIVE SERVICES. PRICE  
18 CHANGES THAT ARE FILED IN A COMPANY'S TARIFF FOR COMPETITIVE  
19 SERVICES WILL GO INTO EFFECT ON A ONE-DAY NOTICE.

20 (E) PRICING FLEXIBILITY AND BUNDLING.--

21 (1) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (D)(1), A  
22 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY MAY PRICE  
23 COMPETITIVE SERVICES AT THE COMPANY'S DISCRETION.

24 (2) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY MAY  
25 OFFER AND BILL TO CUSTOMERS ON ONE BILL BUNDLED PACKAGES OF  
26 SERVICES WHICH INCLUDE NONTARIFFED, COMPETITIVE,  
27 NONCOMPETITIVE OR PROTECTED SERVICES, INCLUDING SERVICES OF  
28 AN AFFILIATE, IN COMBINATIONS AND AT A SINGLE PRICE SELECTED  
29 BY THE COMPANY. A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY  
30 MAY FILE AN INFORMATIONAL TARIFF FOR A BUNDLED PACKAGE

1 EFFECTIVE ON A ONE-DAY NOTICE.

2 ~~(3) IF A CUSTOMER SUBSCRIBES TO A BUNDLED PACKAGE OF~~ <—  
3 ~~SERVICES WHICH INCLUDE NONTARIFFED, COMPETITIVE,~~  
4 ~~NONCOMPETITIVE OR PROTECTED SERVICES AS PROVIDED IN PARAGRAPH~~  
5 ~~(2) AND DOES NOT MAKE PAYMENT OF THE PACKAGE CHARGES ON OR~~  
6 ~~BEFORE A BILLING DUE DATE, THE LOCAL EXCHANGE~~  
7 ~~TELECOMMUNICATIONS COMPANY MAY SUSPEND ALL OF THE CUSTOMER'S~~  
8 ~~SERVICES SUBSCRIBED TO IN THE BUNDLED PACKAGE FOLLOWING~~  
9 ~~WRITTEN NOTICE TO THE CUSTOMER OF SUCH SUSPENSION AT LEAST~~  
10 ~~SEVEN DAYS PRIOR TO THE SUSPENSION AND THEREAFTER MAY~~  
11 ~~TERMINATE ALL THE CUSTOMER'S BUNDLED PACKAGE SERVICES~~  
12 ~~FOLLOWING WRITTEN NOTICE TO THE CUSTOMER OF SUCH TERMINATION~~  
13 ~~AT LEAST TEN DAYS PRIOR TO THE TERMINATION, PROVIDED THAT THE~~  
14 ~~CUSTOMER HAS NOT ADVISED THE LOCAL EXCHANGE~~  
15 ~~TELECOMMUNICATIONS COMPANY THAT THE CUSTOMER IS REASONABLY~~  
16 ~~DISPUTING ALL OR PART OF THE PACKAGE CHARGES. IN THE EVENT~~  
17 ~~THAT THE CUSTOMER LODGES SUCH A DISPUTE, THE LOCAL EXCHANGE~~  
18 ~~TELECOMMUNICATIONS COMPANY SHALL NOT INITIATE OR CONTINUE~~  
19 ~~SUSPENSION OR TERMINATION ACTION PENDING RESOLUTION OF THE~~  
20 ~~DISPUTE.~~

21 ~~(4)~~ (3) WHEN AN ALTERNATIVE SERVICE PROVIDER IS OFFERING  
22 LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES WITHIN AN EXCHANGE  
23 OF A RURAL TELECOMMUNICATIONS CARRIER, THE RURAL  
24 TELECOMMUNICATIONS CARRIER MAY REDUCE ITS PRICES ON SERVICES  
25 OFFERED WITHIN THE EXCHANGE BELOW THE RATES SET FORTH IN ITS  
26 OTHERWISE APPLICABLE TARIFF IN ORDER TO MEET SUCH  
27 COMPETITION. A RURAL TELECOMMUNICATIONS CARRIER MAY NOT  
28 OFFSET REVENUE REDUCTIONS RESULTING FROM SUCH COMPETITIVE  
29 PRICING BY INCREASING RATES CHARGED TO OTHER CUSTOMERS  
30 THROUGH ITS PRICE STABILITY MECHANISM OR OTHERWISE.



1 (F) PROHIBITIONS.--

2 (1) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL BE  
3 PROHIBITED FROM USING REVENUES EARNED OR EXPENSES INCURRED IN  
4 CONJUNCTION WITH NONCOMPETITIVE SERVICES TO SUBSIDIZE  
5 COMPETITIVE SERVICES.

6 (2) PARAGRAPH (1) SHALL NOT BE CONSTRUED TO PREVENT THE  
7 MARKETING AND BILLING OF PACKAGES CONTAINING BOTH  
8 NONCOMPETITIVE AND COMPETITIVE SERVICES TO CUSTOMERS.

9 § 3017. ACCESS CHARGES.

10 (A) GENERAL RULE.--THE COMMISSION MAY NOT REQUIRE A LOCAL  
11 EXCHANGE TELECOMMUNICATIONS COMPANY TO REDUCE ACCESS RATES  
12 EXCEPT ON A REVENUE-NEUTRAL BASIS. ~~AND MAY NOT ORDER DECREASES~~ <—  
13 ~~IN ACCESS RATES FOR A NONRURAL TELECOMMUNICATIONS CARRIER.~~

14 (B) REFUSAL TO PAY ACCESS CHARGES PROHIBITED.--NO PERSON OR  
15 ENTITY MAY REFUSE TO PAY TARIFFED ACCESS CHARGES FOR  
16 INTEREXCHANGE SERVICES PROVIDED BY A LOCAL EXCHANGE  
17 TELECOMMUNICATIONS COMPANY.

18 (C) LIMITATION.--NO TELECOMMUNICATIONS CARRIER PROVIDING  
19 COMPETITIVE LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE MAY CHARGE  
20 ACCESS RATES HIGHER THAN THOSE CHARGED BY THE INCUMBENT LOCAL  
21 EXCHANGE TELECOMMUNICATIONS COMPANY IN THE SAME SERVICE  
22 TERRITORY, UNLESS SUCH CARRIER CAN DEMONSTRATE THAT THE HIGHER  
23 ACCESS RATES ARE COST JUSTIFIED.

24 § 3018. INTEREXCHANGE TELECOMMUNICATIONS CARRIERS.

25 (A) COMPETITIVE AND NONCOMPETITIVE SERVICES.--INTEREXCHANGE  
26 SERVICES PROVIDED BY INTEREXCHANGE TELECOMMUNICATIONS CARRIERS  
27 SHALL BE COMPETITIVE SERVICES.

28 (B) RATE REGULATION.--

29 (1) THE COMMISSION MAY NOT FIX OR PRESCRIBE THE RATES,  
30 TOLLS, CHARGES, RATE STRUCTURES, RATE BASE, RATE OF RETURN,

1 OPERATING MARGIN OR EARNINGS FOR INTEREXCHANGE COMPETITIVE  
2 SERVICES OR OTHERWISE REGULATE INTEREXCHANGE COMPETITIVE  
3 SERVICES EXCEPT AS SET FORTH IN THIS CHAPTER.

4 (2) AN INTEREXCHANGE TELECOMMUNICATIONS CARRIER MAY FILE  
5 AND MAINTAIN TARIFFS OR PRICE LISTS WITH THE COMMISSION FOR  
6 COMPETITIVE TELECOMMUNICATIONS SERVICES.

7 (3) NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO LIMIT  
8 THE AUTHORITY OF THE COMMISSION TO REGULATE THE PRIVACY OF  
9 INTEREXCHANGE SERVICE AND THE ORDERING, INSTALLATION,  
10 RESTORATION AND DISCONNECTION OF INTEREXCHANGE SERVICE TO  
11 CUSTOMERS.

12 (C) RECLASSIFICATION.--THE COMMISSION MAY RECLASSIFY  
13 TELECOMMUNICATIONS SERVICES PROVIDED BY AN INTEREXCHANGE  
14 TELECOMMUNICATIONS CARRIER AS NONCOMPETITIVE IF, AFTER NOTICE  
15 AND HEARING, IT DETERMINES, UPON APPLICATION OF THE CRITERIA SET  
16 FORTH IN THIS CHAPTER, THAT SUFFICIENT COMPETITION IS NO LONGER  
17 PRESENT.

18 (D) CONSTRUCTION.--NOTHING IN THIS CHAPTER SHALL BE  
19 CONSTRUED:

20 (1) TO LIMIT THE AUTHORITY OF THE COMMISSION TO RESOLVE  
21 COMPLAINTS REGARDING THE QUALITY OF INTEREXCHANGE  
22 TELECOMMUNICATIONS CARRIER SERVICE.

23 (2) TO LIMIT THE AUTHORITY OF THE COMMISSION TO  
24 DETERMINE WHETHER AN INTEREXCHANGE TELECOMMUNICATIONS CARRIER  
25 SHOULD BE EXTENDED THE PRIVILEGE OF OPERATING WITHIN THIS  
26 COMMONWEALTH OR TO ORDER THE FILING OF SUCH REPORTS,  
27 DOCUMENTS AND INFORMATION AS MAY BE NECESSARY TO MONITOR THE  
28 MARKET FOR AND COMPETITIVENESS OF INTEREXCHANGE  
29 TELECOMMUNICATIONS SERVICES.

30 § 3019. ADDITIONAL POWERS AND DUTIES.

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

7       (B) POWERS AND DUTIES RETAINED.--THE COMMISSION SHALL RETAIN  
8 THE FOLLOWING POWERS AND DUTIES RELATING TO THE REGULATION OF  
9 ALL TELECOMMUNICATIONS CARRIERS AND INTEREXCHANGE  
10 TELECOMMUNICATIONS CARRIERS, INCLUDING THE POWER TO SEEK  
11 INFORMATION NECESSARY TO FACILITATE THE EXERCISE OF THESE POWERS  
12 AND DUTIES:

13           (1) TO AUDIT THE ACCOUNTING AND REPORTING SYSTEMS OF  
14 TELECOMMUNICATIONS CARRIERS RELATING TO THEIR TRANSACTIONS  
15 WITH AFFILIATES PURSUANT TO CHAPTER 21 (RELATING TO RELATIONS  
16 WITH AFFILIATED INTERESTS). A TELECOMMUNICATIONS CARRIER  
17 SHALL FILE AFFILIATED INTEREST AND AFFILIATED TRANSACTION  
18 AGREEMENTS UNLESS SUCH AGREEMENTS INVOLVE SERVICES DECLARED  
19 TO BE COMPETITIVE. THE FILINGS SHALL CONSTITUTE NOTICE TO THE  
20 COMMISSION ONLY AND SHALL NOT REQUIRE APPROVAL BY THE  
21 COMMISSION.

22           (2) TO REVIEW AND REVISE QUALITY OF SERVICE STANDARDS  
23 CONTAINED IN 52 PA. CODE (RELATING TO PUBLIC UTILITIES) THAT  
24 ADDRESS THE SAFETY, ADEQUACY, RELIABILITY AND PRIVACY OF  
25 TELECOMMUNICATIONS SERVICES AND THE ORDERING, INSTALLATION,  
26 SUSPENSION, TERMINATION AND RESTORATION OF ANY  
27 TELECOMMUNICATIONS SERVICE. ANY REVIEW OR REVISION SHALL TAKE  
28 INTO CONSIDERATION THE EMERGENCE OF NEW INDUSTRY  
29 PARTICIPANTS, TECHNOLOGICAL ADVANCEMENTS, SERVICE STANDARDS  
30 AND CONSUMER DEMAND.

1           (3) SUBJECT TO THE PROVISIONS OF SECTION 3015(E)  
2           (RELATING TO ALTERNATIVE FORMS OF REGULATION), TO ESTABLISH  
3           SUCH ADDITIONAL REQUIREMENTS AS ARE CONSISTENT WITH THIS  
4           CHAPTER AS THE COMMISSION DETERMINES TO BE NECESSARY TO  
5           ENSURE THE PROTECTION OF CUSTOMERS.

6           (4) TO CONDITION THE SALE, MERGER OR ACQUISITION,           <—  
7           ACQUISITION OR OTHER TRANSACTION REQUIRED TO BE APPROVED  
8           UNDER SECTION 1102(A)(3) OF A LOCAL EXCHANGE           <—  
9           TELECOMMUNICATIONS COMPANY OR ANY FACILITIES USED TO PROVIDE  
10          TELECOMMUNICATIONS SERVICES TO ENSURE THAT THERE IS NO  
11          REDUCTION IN THE ADVANCED SERVICE OR BROADBAND DEPLOYMENT  
12          OBLIGATIONS FOR THE SOLD, MERGED OR ACQUIRED PROPERTY.           <—  
13          AFFECTED PROPERTY OR FACILITIES.           <—

14          ~~(C) AUDITS OF NONRURAL TELECOMMUNICATIONS CARRIERS. AUDITS~~           <—  
15          ~~OF NONRURAL TELECOMMUNICATIONS CARRIERS SHALL BE CONDUCTED ONCE~~  
16          ~~EVERY FOUR YEARS UNLESS THE COMMISSION FINDS THAT A SPECIFIC~~  
17          ~~AUDIT IS UNNECESSARY, BUT IN NO EVENT SHALL SUCH AUDITS BE~~  
18          ~~CONDUCTED LESS THAN ONCE EVERY SEVEN YEARS. AUDITS OF NONRURAL~~  
19          ~~TELECOMMUNICATIONS CARRIERS SHALL INCLUDE AN EXAMINATION OF THE~~  
20          ~~COMPANIES' COMPLIANCE WITH COMMISSION ORDERS AND REGULATIONS,~~  
21          ~~AND AT LEAST ONE SUCH AUDIT SHALL BE CONDUCTED FOR EACH COMPANY~~  
22          ~~BEFORE THE COMPLETION OF THE COMPANY'S NETWORK MODERNIZATION~~  
23          ~~PLAN, UNLESS AN AUDIT OF THE COMPANY HAS BEEN COMPLETED WITHIN~~  
24          ~~ONE YEAR PRIOR TO THE COMPANY'S COMPLETION OF ITS PLAN.~~  
25          ~~NOTWITHSTANDING ANY LAW TO THE CONTRARY, RURAL~~  
26          ~~TELECOMMUNICATIONS CARRIERS AS DEFINED IN SECTION 3012 (RELATING~~  
27          ~~TO DEFINITIONS) SHALL NOT BE SUBJECT TO ANY AUDIT. A SUMMARY OF~~  
28          ~~THE AUDITS MANDATED BY THIS SUBSECTION SHALL BE RELEASED TO THE~~  
29          ~~PUBLIC, AND A COMPLETE COPY OF THE AUDITS SHALL BE PROVIDED TO~~  
30          ~~THE OFFICE OF TRIAL STAFF AND THE OFFICE OF CONSUMER ADVOCATE,~~

1 ~~OFFICE OF SMALL BUSINESS ADVOCATE, THE CHAIRMAN OF THE CONSUMER~~  
2 ~~PROTECTION AND PROFESSIONAL LICENSURE COMMITTEE OF THE SENATE~~  
3 ~~AND CHAIRMAN OF THE CONSUMER AFFAIRS COMMITTEE OF THE HOUSE OF~~  
4 ~~REPRESENTATIVES.~~

5 (C) (RESERVED).

<—

6 (D) PRIVACY OF CUSTOMER INFORMATION.--

7 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A  
8 TELECOMMUNICATIONS CARRIER MAY NOT DISCLOSE TO ANY PERSON  
9 INFORMATION RELATING TO ANY CUSTOMER'S PATTERNS OF USE,  
10 EQUIPMENT AND NETWORK INFORMATION AND ANY ACCUMULATED RECORDS  
11 ABOUT CUSTOMERS WITH THE EXCEPTION OF NAME, ADDRESS AND  
12 TELEPHONE NUMBER.

13 (2) A TELECOMMUNICATIONS CARRIER MAY DISCLOSE SUCH  
14 INFORMATION:

15 (I) PURSUANT TO A COURT ORDER OR WHERE OTHERWISE  
16 REQUIRED BY FEDERAL OR STATE LAW.

17 (II) TO THE CARRIER'S AFFILIATES, AGENTS,  
18 CONTRACTORS OR VENDORS AND OTHER TELECOMMUNICATIONS  
19 CARRIERS OR INTEREXCHANGE TELECOMMUNICATIONS CARRIERS, AS  
20 PERMITTED BY FEDERAL OR STATE LAW.

21 (III) WHERE THE INFORMATION CONSISTS OF AGGREGATE  
22 DATA WHICH DOES NOT IDENTIFY INDIVIDUAL CUSTOMERS.

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

29 (F) LIFELINE SERVICE.--

30 (1) ALL ELIGIBLE TELECOMMUNICATIONS CARRIERS

1 CERTIFICATED TO PROVIDE LOCAL EXCHANGE TELECOMMUNICATIONS  
2 SERVICE SHALL PROVIDE LIFELINE SERVICE TO ALL ELIGIBLE  
3 TELECOMMUNICATIONS CUSTOMERS WHO SUBSCRIBE TO SUCH SERVICE.

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

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

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

23 (5) WHEN A PERSON ENROLLS IN A LOW-INCOME PROGRAM  
24 ADMINISTERED BY THE DEPARTMENT OF PUBLIC WELFARE THAT  
25 QUALIFIES THE PERSON FOR LIFELINE SERVICE, THE DEPARTMENT OF  
26 PUBLIC WELFARE SHALL AUTOMATICALLY NOTIFY THAT PERSON AT THE  
27 TIME OF ENROLLMENT OF HIS OR HER ELIGIBILITY FOR LIFELINE  
28 SERVICE. THIS NOTIFICATION ALSO SHALL PROVIDE INFORMATION  
29 ABOUT LIFELINE SERVICE INCLUDING A TELEPHONE NUMBER OF AND  
30 LIFELINE SUBSCRIPTION FORM FOR THE PERSON'S CURRENT ELIGIBLE

1 TELECOMMUNICATIONS CARRIER OR, IF THE PERSON DOES NOT HAVE  
2 TELEPHONE SERVICE, TELEPHONE NUMBERS OF ELIGIBLE  
3 TELECOMMUNICATIONS CARRIERS SERVING THE PERSON'S AREA, THAT  
4 THE PERSON CAN CALL TO OBTAIN LIFELINE SERVICE. ELIGIBLE  
5 TELECOMMUNICATIONS CARRIERS SHALL PROVIDE THE DEPARTMENT OF  
6 PUBLIC WELFARE WITH LIFELINE SERVICE DESCRIPTIONS AND  
7 SUBSCRIPTION FORMS, CONTACT TELEPHONE NUMBERS, AND A LISTING  
8 OF THE GEOGRAPHIC AREA OR AREAS THEY SERVE, FOR USE BY THE  
9 DEPARTMENT OF PUBLIC WELFARE IN PROVIDING THE NOTIFICATIONS  
10 REQUIRED BY THIS PARAGRAPH.

11 (6) NO ELIGIBLE TELECOMMUNICATIONS CARRIER SHALL BE  
12 REQUIRED TO PROVIDE AFTER THE EFFECTIVE DATE OF THIS SECTION  
13 ANY NEW LIFELINE SERVICE DISCOUNT THAT IS NOT FULLY  
14 SUBSIDIZED BY THE FEDERAL UNIVERSAL SERVICE FUND.

15 (G) METHOD FOR FIXING RATES.--THE COMMISSION MAY NOT FIX OR  
16 PRESCRIBE THE RATES, TOLLS, CHARGES, RATE STRUCTURES, RATE BASE,  
17 RATE OF RETURN OR EARNINGS OF COMPETITIVE SERVICES OR OTHERWISE  
18 REGULATE COMPETITIVE SERVICES EXCEPT AS SET FORTH IN THIS  
19 CHAPTER.

20 (H) IMPLEMENTATION.--THE TERMS OF A LOCAL EXCHANGE  
21 TELECOMMUNICATIONS COMPANY'S ALTERNATIVE FORM OF REGULATION AND  
22 NETWORK MODERNIZATION PLANS SHALL GOVERN THE REGULATION OF THE  
23 LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY AND, CONSISTENT WITH  
24 THE PROVISIONS OF THIS CHAPTER, SHALL SUPERSEDE ANY CONFLICTING  
25 PROVISIONS OF THIS TITLE OR OTHER LAWS OF THIS COMMONWEALTH AND  
26 SHALL SPECIFICALLY SUPERSEDE ALL PROVISIONS OF CHAPTER 13  
27 (RELATING TO RATES AND RATE MAKING) OTHER THAN SECTIONS 1301  
28 (RELATING TO RATES TO BE JUST AND REASONABLE), 1302 (RELATING TO  
29 TARIFFS; FILING AND INSPECTION), 1303 (RELATING TO ADHERENCE TO  
30 TARIFFS), 1304 (RELATING TO DISCRIMINATION IN RATES), 1305

1 (RELATING TO ADVANCE PAYMENT OF RATES; INTEREST ON DEPOSITS),  
2 1309 (RELATING TO RATES FIXED ON COMPLAINT; INVESTIGATION OF  
3 COSTS OF PRODUCTION) AND 1312 (RELATING TO REFUNDS).

4 (I) PROTECTION OF EMPLOYEES.--

5 (1) NO TELECOMMUNICATIONS CARRIER MAY DISCHARGE,  
6 THREATEN, DISCRIMINATE OR RETALIATE AGAINST AN EMPLOYEE  
7 BECAUSE THE EMPLOYEE MADE A GOOD FAITH REPORT TO THE  
8 COMMISSION, THE OFFICE OF CONSUMER ADVOCATE OR THE OFFICE OF  
9 ATTORNEY GENERAL REGARDING WRONGDOING, WASTE OR A POTENTIAL  
10 VIOLATION OF THE COMMISSION'S ORDERS OR REGULATIONS OR OF  
11 THIS TITLE.

12 (2) A PERSON WHO ALLEGES A VIOLATION OF THIS SECTION  
13 MUST BRING A CIVIL ACTION IN A COURT OF COMPETENT  
14 JURISDICTION FOR APPROPRIATE INJUNCTIVE RELIEF OR DAMAGES  
15 WITHIN 180 DAYS AFTER THE OCCURRENCE OF THE ALLEGED  
16 VIOLATION. THE EVIDENTIARY BURDENS UPON SUCH PERSON AND THE <—  
17 PERSON'S TELECOMMUNICATIONS CARRIER IN SUCH ACTION SHALL BE  
18 AS SET FORTH IN SECTION 3316(D) AND (E), PROVIDED, HOWEVER,  
19 THAT UPON AN EMPLOYEE'S MEETING THE EMPLOYEE'S BURDEN OF  
20 PROOF UNDER SECTION 3316(D), A REBUTTABLE PRESUMPTION SHALL  
21 ARISE THAT THE ALLEGED REPRISAL BY THE EMPLOYER CONSTITUTES A  
22 VIOLATION OF THIS SECTION.

23 ~~§ 3020. VOICE OVER INTERNET PROTOCOL REGULATION EXEMPTION.~~ <—

24 ~~A PROVIDER OF VOIP SERVICE SHALL NOT BE A PUBLIC UTILITY NOR~~  
25 ~~OTHERWISE SUBJECT TO COMMISSION REGULATION, EXCEPT WHERE~~  
26 ~~REQUIRED OR EXPRESSLY PERMITTED BY FEDERAL LAW OR REGULATION.~~  
27 ~~HOWEVER, THIS EXEMPTION FROM COMMISSION REGULATION SHALL NOT~~  
28 ~~AFFECT ANY RIGHTS AND OBLIGATIONS THAT ANY ENTITY HAD AS OF THE~~  
29 ~~EFFECTIVE DATE OF THIS SECTION PERTAINING TO THE PAYMENT OF~~  
30 ~~SWITCHED NETWORK RATES OR OTHER INTERCARRIER COMPENSATION~~



1 ~~RELATED TO VOIP SERVICE. IN NO EVENT SHALL ANY SUCH INTERCARRIER~~  
2 ~~COMPENSATION BE REQUIRED TO BE PAID BY VOIP PROVIDERS FOR VOIP~~  
3 ~~CALLS WHICH DO NOT USE THE PUBLIC SWITCHED TELEPHONE NETWORK.~~

4 ~~§ 3021. VOICE OVER INTERNET PROTOCOL TAX EXEMPTION.~~

5 ~~THE PROVISION OF VOIP SERVICES BY ANY PERSON OR CORPORATION~~  
6 ~~AND THE PROVISION OF TELECOMMUNICATIONS SERVICES USED TO PROVIDE~~  
7 ~~VOIP SERVICES SHALL BE EXEMPT FROM THE FOLLOWING TAXES AND FEES~~  
8 ~~COMMENCING ON THE EFFECTIVE DATE OF THIS SECTION.~~

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

13 ~~(2) NOTWITHSTANDING ARTICLE XXXI B OF THE ACT OF JULY~~  
14 ~~28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND CLASS COUNTY~~  
15 ~~CODE, AND THE ACT OF JUNE 5, 1991 (P.L.9, NO.6), KNOWN AS THE~~  
16 ~~PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY ACT FOR~~  
17 ~~CITIES OF THE FIRST CLASS, NO LOCAL SALES AND USE TAX SHALL~~  
18 ~~BE IMPOSED ON ANY VOIP SERVICES.~~

19 SECTION 3. THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY  
20 PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR  
21 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT  
22 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT, WHICH CAN BE GIVEN  
23 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

24 SECTION 4. SECTION 2471 OF THE ACT OF FEBRUARY 1, 1966 (1965  
25 P.L.1656, NO.581), KNOWN AS THE BOROUGH CODE, IS REPEALED TO THE  
26 EXTENT IT IS INCONSISTENT WITH THIS ACT.

27 SECTION 5. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.